

2009 DRAFTING REQUEST

Assembly Amendment (AA-AA3-AB696)

Received: 03/29/2010

Received By: **mkunkel**

Wanted: **As time permits**

Companion to LRB:

For: **Josh Zepnick (608) 266-1707**

By/Representing: **Lloyd Clark**

May Contact:

Drafter: **mkunkel**

Subject: **Public Util. - telco**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Zepnick@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Wholesale services

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mkunkel 03/29/2010	csicilia 03/30/2010		_____			
/P1			phenry 03/30/2010	_____	sbasford 03/30/2010		
/1	mkunkel 03/30/2010	csicilia 03/30/2010	phenry 03/30/2010	_____	lparisi 03/30/2010	lparisi 03/30/2010	

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/?	mkunkel 03/29/2010	csicilia 03/30/2010					
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/P1		phenry 03/30/2010			sbasford 03/30/2010		
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FE Sent For:

1 y's 2/30
10
3/30 ph
ph/mo
<END>

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/?	mkunkel		3/30 ph	3/30 ph/TS			

FE Sent For:

<END>

Kunkel, Mark

From: Clark3, Lloyd
Sent: Monday, March 29, 2010 4:13 PM
To: Kunkel, Mark
Subject: Amendment For AB 696

Attachments: New Revisions to amendment 3-29-10.doc

PRIORITY

Hi Mark, this bill is being heard tomorrow morning – sorry for the delay in getting you the draft changes.

Please let me know if you have any questions. If you have them tomorrow, please contact Ryan in our office (its his bill).

Thanks,



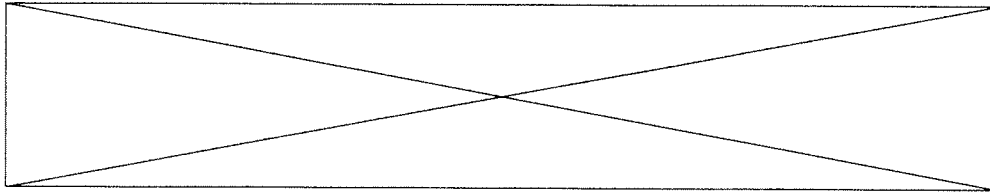
New Revisions to
amendment 3-2...

Lloyd Clark

Office of State Representative Josh Zepnick
9th Assembly District
608-266-1707

AA to AA3 to
AB696

2009 Special Session
2009 - 2010 LEGISLATURE



Wholesale services

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

**SENATE AMENDMENT ,
TO SENATE AMENDMENT 2,
TO 2009 SENATE BILL 469**

At the locations indicated, amend the amendment as follows:

1. Page 1, line 7: after that line insert:

"4g. Page 8, line 11: after that line insert:

"SECTION 5m. 196.01 (12w) of the statutes is created to read:

196.01 (12w) (a) "Wholesale telecommunications service" means, except as provided in par. (b), a service that satisfies all of the following:

1. The service is provided by a telecommunications provider to another telecommunications provider other than an affiliated interest, as defined in s. 196.52 (1).

2. The service ~~may be regulated by the commission under this chapter.~~

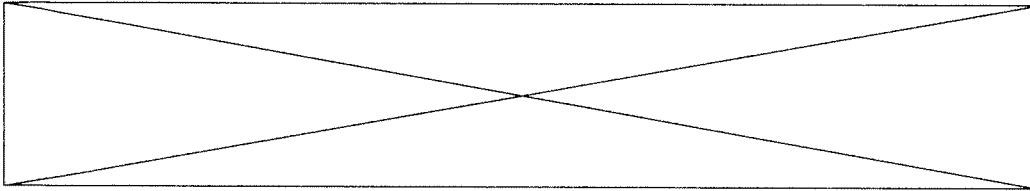
3. The service is subsequently used in the provision of a telecommunications service to retail end user customers.

Deleted: is required to be provided under the federal Telecommunications Act of 1996, P.L. 104-104, or

Deleted: .

Deleted: as defined in s. 196.025 (6) (a) 2.,

1



(b) "Wholesale telecommunications service" does not include switched access service."

4r. Page 8, line 21: after that line insert:

"SECTION 6m. 196.016 of the statutes is created to read:

196.016 Relationship to certain federal telecommunications law.

Except as provided in s. 196.50(2)(j)2. and 3. nothing in this chapter is intended to either reduce or expand the scope and application of the federal Telecommunications Act of 1996, P.L. 104-104, including the jurisdiction and authority granted to the commission thereunder, and the Commission is hereby granted the authority necessary to take any action for which it is authorized under the federal Telecommunications Act of 1996, P.L. 104-104."

Deleted: N

Deleted: 47 USC 251 and 252

2. Page 6, line 7: delete the material beginning with ", and except that" and ending with "196.37" on line 9.

3. Page 6, line 18: delete the material beginning with "in sub. (4m)" and ending with "sub. (3)" on line 19 and substitute: "in this paragraph".

Deleted: lines 18 and 19 and substitute "in sub. (4m) which are required by the public interest. No later than 30 days after receiving notice under this paragraph, the".

4. Page 6, line 21: delete the word "only".

4m. Page 6, line 22: after "in sub. (4m)" insert: "(a)".

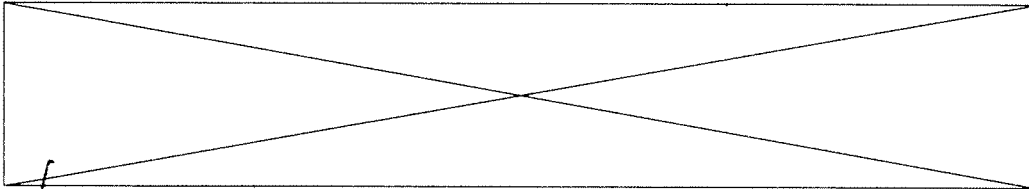
Deleted: 2

4r. Page 6, line 23: after "sub. (3)" insert: "The Commission may impose a provision specified in subs. (4m)(b) and (c) if required by the public interest."

Deleted: lines 22 and 23 and substitute "in sub. (4m) which are required by the public interest. An alternative telecommunications utility for which an order of".

5. Page 7, line 10: after line 10, insert:

Deleted: 1



~~16m. Page 20, line 14, after "provision" insert "of this chapter specified in sub. (4m)(a)."~~

~~5m. Page 7, line 12: after that line insert:~~

~~17m. Page 21, line 1: after "196.203(4m)" insert "(a)."~~

6. Page 7, line 15: after that line insert:

20m. Page 21, line 5: after that line insert:

(b) The commission may, with respect only to switched access services, impose s. 196.03 (1) or (6) or 196.37, on an alternative telecommunications utility.

(c) The commission may, with respect only to wholesale telecommunications service, impose ss. 196.03(1) or (6), 196.219(4), 196.28, or 196.37, on an alternative telecommunications utility certified under subs. (2)(c) and (3).

(d) An alternative telecommunications utility certified under s. 196.50(2)(j)1.a. shall be subject, with respect only to wholesale telecommunications services, to all provisions in subs. (4m)(a) and (c)."

7. Page 7, line 19: before "196.025 (6)" insert "196.016,".

8. Page 7, line 20: before "196.025 (6)" insert "196.016,".

8m Page 9, line 4: after that line insert:

Section 71r, 196.219(2m) of the statutes is repealed.

9. Page 9, line 5: after that line insert:

32m. Page 27, line 7: delete that line and substitute:

- Deleted: alternative sources
- Formatted: Font: 12 pt, Not Bold
- Deleted: "Except with respect to provisions applicable only to switched access services"
- Deleted:
- Deleted: delete lines 11 and 12 and substitute
- Deleted: "
- Deleted: :
- Deleted: "17m. Page 20, line 14: delete the material beginning with "If the commission" and ending with "utilities," on line 17."¶
- Formatted: Font: 12 pt, Not Bold
- Formatted: Font: 12 pt, Not Bold
- Deleted: "alternative telecommunications utility" insert "; and may.
- Deleted: or wholesale telecommunications services
- Deleted: , and may, with respect only to wholesale telecommunications services, impose s. 196.219 (4) or 196.28.

- Formatted: Font: 12 pt, Not Bold
- Formatted: Font: 12 pt, Not Bold
- Formatted: Font: 12 pt, Not Bold
- Formatted: Font: 12 pt, Not Bold
- Formatted: Font: 16 pt, Bold

Wrong place after page 8, line 21

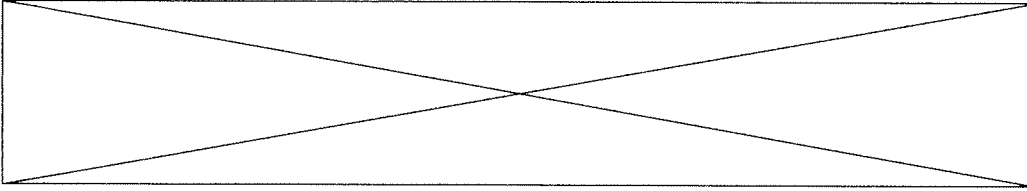
A-NOTE

C-NOTE

(3)

does not refer to certifying

3



SECTION 74m. 196.28 (4) of the statutes is amended to read:

196.28 (4) This section does not apply to rates, tolls or charges of a telecommunications cooperative, an unincorporated telecommunications cooperative association, or a small telecommunications utility ~~except as provided in s. 196.205 or 196.215 (2).~~”.

10. Page 9, line 8: after that line insert:

“33m. Page 27, line 18: delete that line and substitute:

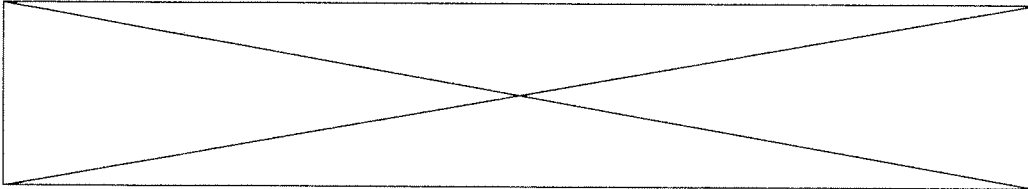
SECTION 77m. 196.37 (4) of the statutes is amended to read:

196.37 (4) This section does not apply to rates, tolls or charges of a telecommunications cooperative, an unincorporated telecommunications cooperative association, or a small telecommunications utility ~~except as provided in s. 196.205 or 196.215 (2).~~”.

11. Page 10, line 3: delete lines 3 and 4 and substitute:

“37m. Page 28, line 21: delete lines 21 and 22 and substitute “exempt from all provisions of ch. 201 and is exempt from ss. 196.02 (2); 196.03, except with respect to wholesale telecommunications services; 196.05; 196.06; 196.07; 196.09; 196.10; 196.12; 196.13; 196.19; 196.20; 196.21; 196.22; 196.28, except with respect to wholesale telecommunications services; 196.37, except with respect to wholesale telecommunications services; 196.49; 196.52; 196.58; 196.60;”.

4



12. Page 10, line 5: delete "196.78, and 196.79," and substitute "196.78; and 196.79;"

13. Page 10, line 8: delete "196.03 and" and substitute "196.03; and except that".

14. Page 11, line 2: delete "The granting" and substitute "Except as provided in subs. 4 and 5, the granting".

15. Page 11, line 6: delete the material beginning with "s. 196.203(4m)" on line 6 and ending with "s. 196.203(3)" on line 7 and substitute "this paragraph"

16. Page 11, line 10: delete the word "only".

16m. Page 11, line 11: after "196.203(4m)" insert "(a)".

17. Page 11, line 13: after "196.206," insert "and except as provided in subs. 4 and 5."

18. Page 11, line 20: delete "The granting" and substitute "Except as provided in subs. 4 and 5, the granting".

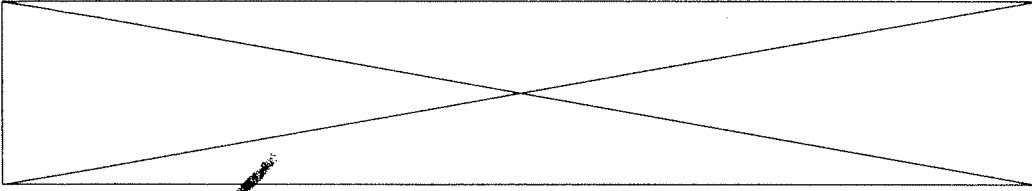
19. Page 12, line 16; before that line insert:

"4. Regardless of whether a telecommunications utility certified under this subsection takes an action allowed under subd. 1., the telecommunications utility is subject, with respect to its wholesale telecommunications services, to all provisions specified in s. 196.203 (4m)(a) and (c).

get rid of quote mark on 12-15

5

Deleted: 2m
Deleted: 3m
Deleted: lines 6 and 7 and substitute "provisions of this chapter specified in s. 196.203 (4m)
Deleted: which are required by the public interest. No later than 30 days
Deleted: later than 30 days". ¶
Formatted: Font: 12 pt, Not Bold
Formatted: Font: 12 pt, Not Bold
Formatted: Font: 12 pt, Not Bold
Formatted: Font: 12 pt, Not Bold
Deleted: 16. Page 11, line 11: delete lines 11 and 12 and substitute
Deleted: "196.203 (1g) and if required by the public interest those provisions of this chapter specified in sub. (4m), except that if the telecommunications utility has 50,000 or less access lines in this state, then the telecommunications utility shall with respect to its switched access services continue to be exempt from s. 196.37.
Deleted: (4m) which are required by the public interest. The telecommunications utility shall be exempt from all provisions
Deleted: The telecommunications utility shall be exempt from a [... [1]
Deleted: "
Deleted: ¶
Deleted: 2m
Deleted: 3m
Deleted: 2m
Deleted: 3m
Deleted: 3
Deleted: delete lines 3 to 15 [... [2]
Deleted: 2m



Deleted: 3m

5. This paragraph does not terminate any order of the commission regarding interconnection, unbundling, collocation, or any other obligation under 47 USC 251, or regarding wholesale telecommunications services.”

(END)

6

The telecommunications utility shall be exempt from all provisions of ch. 201 and this chapter, except as provided in the order under this subd. 1.b.,

delete lines 3 to 15 and substitute

A handwritten number '7' is centered on the page, enclosed within a hand-drawn circle.

Kunkel, Mark

From: Kunkel, Mark
Sent: Monday, March 29, 2010 8:24 PM
To: Schroeder, Ryan; Clark3, Lloyd
Subject: FW: Amendment For AB 696

Ryan and Lloyd:

Because time is an issue, I prepared a preliminary draft of an amendment (LRBa1955/P1) that includes a drafter's note that describes all the issues I raised below. You should receive that preliminary draft by 9 am tomorrow. You can ignore the emails below and focus on the drafter's note, if you want to.

Once the issues raised in the drafter's note are resolved, I can quickly redraft the amendment so that it may be introduced. If the issues are not resolved, you may decide to have me redraft the amendment so that it can be introduced, and attempt to resolve the issues later.

-- Mark

From: Kunkel, Mark
Sent: Monday, March 29, 2010 7:12 PM
To: Schroeder, Ryan
Cc: Clark3, Lloyd
Subject: FW: Amendment For AB 696

Ryan, see my emails to Lloyd below.

From: Kunkel, Mark
Sent: Monday, March 29, 2010 7:09 PM
To: Clark3, Lloyd
Subject: RE: Amendment For AB 696

Another issue.

On page 3, you have a new s. 196.203 (4m) (d), which says that an alt. telco. util. is subject, with respect to wholesale services, to all provisions in subs. (4m) (a) and (c). Similar language appears on the bottom of page 5, in your s. 196.50 (2) (j) 5.

However, sub. (4m) (a) and (c) allow, but do require, the PSC to impose specified provisions. (Both provisions say the PSC "may" impose.)

So, for purposes of s. 196.203 (4m) (d) and 196.50 (2) (j) 5., do you mean that those provisions in (4m) (a) and (c) apply even if the PSC does not impose them, or do you mean that the provisions apply only if the PSC imposes them?

From: Kunkel, Mark
Sent: Monday, March 29, 2010 6:53 PM
To: Clark3, Lloyd
Subject: RE: Amendment For AB 696

I looked at the issue on page 3 mentioned below. Here's another problem. The proposed language refers to an alt. telco. util. certified under s. 196.203 (3). However, s. 196.203 (3) does not give the PSC the power to certify. Instead, s. 196.203 (3) says the PSC may impose a provision of ch. 196 on a person proposing to provide service as an alt. telco. util. and s. 196.203 (3) says nothing about certification. So I'm not sure what you're trying to get at here.

From: Clark3, Lloyd
Sent: Monday, March 29, 2010 4:46 PM
To: Kunkel, Mark
Subject: RE: Amendment For AB 696

Hi Mark,

I'm finding out. It may be Ryan getting back to you though (I am just the messenger on this one).

Lloyd Clark

Office of State Representative Josh Zepnick
9th Assembly District
608-266-1707

From: Kunkel, Mark
Sent: Monday, March 29, 2010 4:44 PM
To: Clark3, Lloyd
Subject: RE: Amendment For AB 696

A few questions:

Page 1 of attachment includes: "The service may be regulated by the commission under this chapter." What does that mean? Are you intending to use a definition of "wholesale service" to grant the PSC the power to regulate wholesale service? If so, then I wouldn't use a definition to do that. Or are you saying that the service is subject to PSC regulation under the chapter? If so, to what extent of regulation? Different services are subject to different degrees of regulation. Or do you mean something else?

Page 2 of the attachment includes, "and the commission is hereby granted the authority necessary...." I would simply the say, "and the commission may...." Saying "hereby" in the statutes I unnecessary. However, is the reference to the authority that is "necessary" intended to limit PSC authority to only that authority that is necessary? In other words, are you intentionally leaving open the door to arguments over what is necessary, or am I reading too much into that?

Page 3 refers to an alternative telecommunications utility "certified under subs. (2) (c) **and** (3)" (emphasis added). Should "and" be "or"? I can figure this out as I sort through the amendment, but I thought I'd flag it right away.

I may have more questions as I review the changes. Amendments to amendments can be difficult to figure out.

-- Mark

From: Clark3, Lloyd
Sent: Monday, March 29, 2010 4:13 PM
To: Kunkel, Mark
Subject: Amendment For AB 696

PRIORITY

Hi Mark, this bill is being heard tomorrow morning – sorry for the delay in getting you the draft changes.

Please let me know if you have any questions. If you have them tomorrow, please contact Ryan in our office (its his bill).

Thanks,
<< File: New Revisions to amendment 3-29-10.doc >>

Lloyd Clark

Office of State Representative Josh Zepnick
9th Assembly District
608-266-1707



State of Wisconsin
2009 - 2010 LEGISLATURE

From

LRB 1894/1

MDK: rwn & lmf: rad

J
g's

O-NOTE

TUES
3-30
9am

~~SENATE AMENDMENT~~
~~TO SENATE AMENDMENT 2,~~
~~TO 2009 SENATE BILL 469~~

a 1955/PI

(RM NOT
RUN

AA to AA3 to AB696

SA ✓ bill link

1 At the locations indicated, amend the amendment as follows:

2 1. Page 1, line 7: after that line insert:

3 "4g. Page 8, line 11: after that line insert:

4 "SECTION 5m. 196.01 (12w) of the statutes is created to read:

5 196.01 (12w) (a) "Wholesale telecommunications service" means, except as
6 provided in par. (b), a service that satisfies all of the following:

7 1. The service is provided by a telecommunications provider to another
8 telecommunications provider other than an affiliated interest, as defined in s. 196.52

9 (1).

may be regulated

10 2. The service ~~is required to be provided under the federal telecommunications~~

11 ~~Act of 1996, PL 164-104~~ by the commission

under this chapter

telecommunications

1 3. The service is subsequently used in the provision of a ~~communications~~
2 service ~~as defined in s. 196.025 (6) (a) 2~~ to retail end user customers.

3 (b) "Wholesale telecommunications service" does not include switched access
4 service."

no 8
except as provided in
s. 196.50 (2) (j)
2. and 3.5
nothing

5 4r. Page 8, line 21: after that line insert:

6 "SECTION 6m. 196.016 of the statutes is created to read:

7 **196.016 Relationship to certain federal telecommunications law.**

8 ~~Nothing~~ in this chapter is intended to either reduce or expand the scope and
9 application of ~~the USC 251 and 252~~ the federal Telecommunications Act of 1996,
10 to the commission thereunder". INSERT 2-10

POLO
= 104-104

11 2. Page 6, line 7: delete the material beginning with "and except that" and
12 ending with "196.37" on line 9.

13 3. Page 6, line 18: delete lines 18 and 19 and substitute "in sub. (4m) which
14 are required by the public interest. No later than 30 days after receiving notice under
15 this paragraph, the".
16 4. Page 6, line 22: delete lines 22 and 23 and substitute "in sub. (4m) which
17 are required by the public interest. An alternative telecommunications utility for
18 which an order of"

19 5. Page 7, line 11: delete lines 11 and 12 and substitute:

20 "17m. Page 20, line 14: delete the material beginning with "if the commission"
21 and ending with "utilities." on line 17"

INSERT 2-22

22 6. Page 7, line 15: after that line insert:

23 "~~20m. Page 21, line 5: after alternative telecommunications utility insert ;~~
24 and may, with respect only to switched access services or wholesale

INSERT 2-12

INSERT 2-21

INSERT 3-5

1 telecommunications services, impose s. 196.03 (1) or (6) or 196.37, and may, with
2 respect only to wholesale telecommunications services, impose s. 196.219 (4) or
3 196.28, on an alternative telecommunications utility” ”

4 **7.** Page 7, line 19: before “196.025 (6)” insert “196.016,”.

5 **8.** Page 7, line 20: before “196.025 (6)” insert “196.016,”.

6 **9.** Page 9, line 5: after that line insert:

7 “32m. Page 27, line 7: delete that line and substitute:

8 “**SECTION 74m.** 196.28 (4) of the statutes is amended to read:

9 196.28 (4) This section does not apply to rates, tolls or charges of a
10 telecommunications cooperative, an unincorporated telecommunications
11 cooperative association, or a small telecommunications utility ~~except as provided in~~
12 ~~s. 196.205 or 196.215 (2).~~”.

13 **10.** Page 9, line 8: after that line insert:

14 “33m. Page 27, line 18: delete that line and substitute:

15 “**SECTION 77m.** 196.37 (4) of the statutes is amended to read:

16 196.37 (4) This section does not apply to rates, tolls or charges of a
17 telecommunications cooperative, an unincorporated telecommunications
18 cooperative association, or a small telecommunications utility ~~except as provided in~~
19 ~~s. 196.205 or 196.215 (2).~~”.

20 **11.** Page 10, line 3: delete lines 3 and 4 and substitute:

21 “37m. Page 28, line 21: delete lines 21 and 22 and substitute “exempt from all
22 provisions of ch. 201 and is exempt from ss. 196.02 (2); 196.03, except with respect
23 to wholesale telecommunications services; 196.05; 196.06; 196.07; 196.09; 196.10;
24 196.12; 196.13; 196.19; 196.20; 196.21; 196.22; 196.28, except with respect to

INSERT 4-8

1 wholesale telecommunications services; 196.37, except with respect to wholesale
2 telecommunications services; 196.49; 196.52; 196.58; 196.60;”.

3 **12.** Page 10, line 5: delete “196.78, and 196.79,” and substitute “196.78; and
4 196.79;”.

5 **13.** Page 10, line 8: delete “196.03 and” and substitute “196.03; and except
6 that”.

7 **14.** Page 11, line 2: delete “The granting” and substitute “Except as provided
8 in subds. ~~2(a)~~ and ~~3(a)~~, the granting”.

9 **15.** Page 11, line 6: delete lines 6 and 7 and substitute “provisions of this
10 chapter specified in s. 196.203 (4m) which are required by the public interest. No
11 later than 30 days”.

12 **16.** Page 11, line 11: delete lines 11 and 12 and substitute “196.203 (4m) which
13 are required by the public interest. The telecommunications utility shall be exempt
14 from all provisions”.

15 **17.** Page 11, line 13: after “196.206,” insert “and except as provided in subds.
16 ~~2(a)~~ and ~~3(a)~~.”.

17 **18.** Page 11, line 20: delete “The granting” and substitute “Except as provided
18 in subds. ~~2(a)~~ and ~~3(a)~~, the granting”.

19 **19.** Page 12, line 3: delete lines 3 to 15 and substitute:
20 ~~2(a)~~ ^{stays} ~~2(b)~~ ⁽⁴⁾ Regardless of whether a telecommunications utility certified under this
21 subsection takes an action allowed under subd. 1., the telecommunications utility is
22 subject, with respect to its wholesale telecommunications services, to all provisions
23 specified in s. 196.203 (4m).

(a) and (c) ✓

INSERT 4-18

1 ^{5,}
2 ~~3m.~~ This paragraph does not terminate any order of the commission regarding
3 interconnection, unbundling, collocation, or any other obligation under 47 USC 251,
4 or regarding wholesale telecommunications services.”.

(END)

to take

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INSERT 2-10:

and the commission may take any action for which ^{e that} the commission is authorized)
under that federal act

INSERT 2-12:

- 1. Page 6, line 18: delete the material beginning with that line and ending with "sub. (3)" on line 19 and substitute "in this paragraph". ✓
- 2. Page 6, line 21: delete "only". ✓
- 3. Page 6, line 22: after "(4m)" insert "(a)".
- 4. Page 6, line 23: after "sub. (3)." insert "The commission may impose a provision of this chapter specified in sub. (4m) (b) or (c) if required by the public interest." ✓

- 5. Page 7, line 10: after that line insert:
13 → "16m. Page 20, line 14: after "provisiⁱon" insert "of this chapter specified in sub.
14 (4m) (a)". ✓ ⊙

INSERT 2-21:

- 6. Page 7, line 12: after that line insert:
17 → "17m. Page 21, line 1: after "(4m)" insert "(a)". ✓ ⊙

INSERT 2-22:

- 19 → "20m. Page 21, line 5: after that line insert:
20 "(b) The commission may, with respect only to switched access services, impose
21 s. 196.03 (1) or (6) or 196.37 on an alternative telecommunications utility.

LPS:
make sure
correct frz
component has been used

1 (c) The commission may, with respect only to wholesale telecommunications
2 service, impose s. 196.03 (1) or (6), 196.219 (4), 196.28, or 196.37, on an alternative
3 telecommunications utility certified under subs. (2) (c) and (3).

4 (d) An alternative telecommunications utility certified under s. 196.50 (2) (j)
5 1. a. shall be subject, with respect only to wholesale telecommunications services, to
6 all provisions in sub. (4m) (a) and (c).".

7 sub. (4m)
pars.

INSERT 3-5:

8 **7.** Page 8, line 21: after that line insert:

9 "SECTION 71g. 196.219 (2m) of the statutes is repealed."

INSERT 4-8:

11 **8.** Page 11, line 6: delete the material beginning with "s. 196.203" and ending
12 with "s. 196.203 (3)" on line 7 and substitute "this paragraph".

13 **9.** Page 11, line 10: delete "only".

14 **10.** Page 11, line 11: after "(4m)" insert "(a)".

INSERT 4-18:

16 **11.** Page 12, line 15: delete "(2).". and substitute "(2).".

17 **12.** Page 12, line 15: after that line insert:

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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I made this a preliminary draft because I have the following questions:

1. Section 196.01 (12w) (a) 2. uses the following language: "the service may be regulated by the commission under this chapter." I'm not sure what is meant by "may be regulated." Are you authorizing the PSC to regulate the service, or are you referring to service that the PSC regulates under ch. 196? Also note that the PSC has varying degrees of regulatory authority over certain services. Are you referring to any regulatory authority? ✓

2. I changed the language inserted at the end of s. 196.016. Please review. ✓

3. Section 196.203 (4m) (c) refers to an alternative telecommunications utility (ATU) certified under s. 196.203 (2) (c) and (3). However, s. 196.203 (3) does not mention certification. Instead, s. 196.203 (3) allows the PSC to impose provisions of ch. 196 on a person providing or proposing to provide service as an ATU. As a result, I'm not sure what you're trying to achieve with the reference to s. 196.203 (3). ✓

4. Section 196.203 (4m) (d) provides that an ATU certified under s. 196.50 (2) (j) 1. a. is subject, with respect to its wholesale telecommunications services, all provisions in s. 196.203 (4m) (a) and (c). However, s. 196.203 (4m) (a) and (c) allow, but do not require, the PSC to impose specified provisions. Is your intent that the specified provisions apply, even if the PSC does not impose them under s. 196.203 (4m) (a) or (c)? Or is your intent that the provisions apply only if the PSC has imposed them under s. 196.203 (4m) (a) or (c)? Also, shouldn't s. 196.203 (4m) (d) refer to an ATU certified *pursuant* to s. 196.50 (2) (j) 1. a., rather than *under* s. 196.50 (2) (j) 1. a.? Note that s. 196.50 (2) (j) 1. a. allows the PSC to certify a telecommunications utility as an ATU "under s. 196.203." ✓

5. Section 196.50 (2) (j) 4. provides that a telecommunications utility is subject to all provisions specified in s. 196.203 (4m) (a) and (c). As noted above, s. 196.203 (4m) (a) and (c) allow, but do not require the PSC to impose provisions. Therefore, I have the same question about your intent that is described in item 4 of this drafter's note.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1955/P1dn
MDK:cjs:ph

March 30, 2010

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March 30, 2010

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State of Wisconsin
2009 - 2010 LEGISLATURE

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO ASSEMBLY AMENDMENT 3,
TO 2009 ASSEMBLY BILL 696

1 At the locations indicated, amend the amendment as follows:

2 1. Page 1, line 7: after that line insert:

3 "4g. Page 8, line 11: after that line insert:

4 "SECTION 5m. 196.01 (12w) of the statutes is created to read:

5 196.01 (12w) (a) "Wholesale telecommunications service" means, except as
6 provided in par. (b), a service that satisfies all of the following:

7 1. The service is provided by a telecommunications provider to another
8 telecommunications provider other than an affiliated interest, as defined in s. 196.52

9 (1).

is subject to regulation
~~may be regulated~~

10 2. The service ~~may be regulated~~ by the commission under this chapter.

1 3. The service is subsequently used in the provision of a telecommunications
2 service to retail end user customers.

3 (b) “Wholesale telecommunications service” does not include switched access
4 service.”.

5 4r. Page 8, line 21: after that line insert:

6 “SECTION 6m. 196.016 of the statutes is created to read:

7 **196.016 Relationship to certain federal telecommunications law.**

8 Except as provided in s. 196.50 (2) (j) 2. and 3., nothing in this chapter is intended
9 to either reduce or expand the scope and application of the federal
10 Telecommunications Act of 1996, P.L. 104–104, including the jurisdiction and
11 authority granted to the commission thereunder and the commission may take any
12 action that the commission is authorized to take under that federal act.”.

13 **2.** Page 6, line 7: delete the material beginning with “and except that” and
14 ending with “196.37” on line 9.

15 **3.** Page 6, line 18: delete the material beginning with that line and ending with
16 “sub. (3)” on line 19 and substitute “in this paragraph”.

17 **4.** Page 6, line 21: delete “only”.

18 **5.** Page 6, line 22: after “(4m)” insert “(a)”.

19 **6.** Page 6, line 23: after “sub. (3).” insert “The commission may impose a
20 provision of this chapter specified in sub. (4m) (b) or (c) if required by the public
21 interest.”.

22 **7.** Page 7, line 10: after that line insert:

23 “16m. Page 20, line 14: after “provision” insert “of this chapter specified in sub.
24 (4m) (a).”.

1 **8.** Page 7, line 12: after that line insert:

2 “17m. Page 21, line 1: after “**(4m)**” insert “(a)”.”.

3 **9.** Page 7, line 15: after that line insert:

4 “20m. Page 21, line 5: after that line insert:

5 “(b) The commission may, with respect only to switched access services, impose
6 s. 196.03 (1) or (6) or 196.37 on an alternative telecommunications utility.

7 (c) The commission may, with respect only to wholesale telecommunications
8 service, impose s. 196.03 (1) or (6), 196.219 (4), 196.28, or 196.37, on an alternative
9 telecommunications utility certified under sub. (2) (c) ~~196.03~~.

(a) or

10 (d) An alternative telecommunications utility certified ~~196.03~~ s. 196.50 (2) (j)
11 1. a. shall be subject, with respect only to wholesale telecommunications services, to
12 all provisions in pars. (a) and (c).”.”.

pursuant to

13 **10.** Page 7, line 19: before “196.025 (6)” insert “196.016,”.

14 **11.** Page 7, line 20: before “196.025 (6)” insert “196.016,”.

15 **12.** Page 8, line 21: after that line insert:

16 “SECTION 71g. 196.219 (2m) of the statutes is repealed.”.

17 **13.** Page 9, line 5: after that line insert:

18 “32m. Page 27, line 7: delete that line and substitute:

19 “SECTION 74m. 196.28 (4) of the statutes is amended to read:

20 196.28 (4) This section does not apply to rates, tolls or charges of a
21 telecommunications cooperative, an unincorporated telecommunications
22 cooperative association, or a small telecommunications utility ~~except as provided in~~
23 ~~s. 196.205 or 196.215 (2).~~”.”.

24 **14.** Page 9, line 8: after that line insert:

1 “33m. Page 27, line 18: delete that line and substitute:

2 “**SECTION 77m.** 196.37 (4) of the statutes is amended to read:

3 196.37 (4) This section does not apply to rates, tolls or charges of a
4 telecommunications cooperative, an unincorporated telecommunications
5 cooperative association, or a small telecommunications utility ~~except as provided in~~
6 ~~s. 196.205 or 196.215 (2).~~”.

7 **15.** Page 10, line 3: delete lines 3 and 4 and substitute:

8 “37m. Page 28, line 21: delete lines 21 and 22 and substitute “exempt from all
9 provisions of ch. 201 and is exempt from ss. 196.02 (2); 196.03, except with respect
10 to wholesale telecommunications services; 196.05; 196.06; 196.07; 196.09; 196.10;
11 196.12; 196.13; 196.19; 196.20; 196.21; 196.22; 196.28, except with respect to
12 wholesale telecommunications services; 196.37, except with respect to wholesale
13 telecommunications services; 196.49; 196.52; 196.58; 196.60;”.

14 **16.** Page 10, line 5: delete “196.78, and 196.79,” and substitute “196.78; and
15 196.79;”.

16 **17.** Page 10, line 8: delete “196.03 and” and substitute “196.03; and except
17 that”.

18 **18.** Page 11, line 2: delete “The granting” and substitute “Except as provided
19 in subds. 4. and 5., the granting”.

20 **19.** Page 11, line 6: delete the material beginning with “s. 196.203” and ending
21 with “s. 196.203 (3)” on line 7 and substitute “this paragraph”.

22 **20.** Page 11, line 10: delete “only”.

23 **21.** Page 11, line 11: after “(4m)” insert “(a)”.

