



State of Wisconsin
2009 - 2010 LEGISLATURE

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ASSEMBLY AMENDMENT 3,
TO 2009 ASSEMBLY BILL 696

March 24, 2010 - Offered by Representative ZEPNICK.

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

2 ✓ 1. Page 2, line 9: delete lines 9 to 11 and substitute "telecommunications
3 switched access service rates, and interconnected voice over Internet protocol
4 service".

5 ✓ 2. Page 2, line 12: delete "an appropriation".

6 ✓ 3. Page 7, line 1: delete lines 1 to 4.

7 ✓ 4. Page 8, line 8: after "(j) 1." insert "a."

8 ✓ 5. Page 9, line 19: delete the material beginning with that line and ending with
9 page 14, line 9, and substitute:

10 196.191 Telecommunications utility and alternative
11 telecommunications utility tariffs. (1) Notwithstanding anything in this

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1 chapter to the contrary, any telecommunications utility, including an alternative
2 telecommunications utility, may do any of the following:

3 (a) Retain on file with the commission tariffs already on file with the
4 commission as of the effective date of this paragraph [LRB inserts date], showing
5 the rates, tolls, and charges which the telecommunications utility, including an
6 alternative telecommunications utility, has established as of the effective date of this
7 paragraph [LRB inserts date], for some or all of the services performed by the
8 telecommunications utility, including an alternative telecommunications utility,
9 within the state or for any service in connection therewith or performed by any
10 telecommunications utility, including an alternative telecommunications utility,
11 controlled or operated by the telecommunications utility, including an alternative
12 telecommunications utility.

13 (b) Withdraw or change the rates, terms, or conditions of a tariff on file with
14 the commission.

15 (c) File with the commission new tariffs showing the rates, tolls, and charges
16 which the telecommunications utility, including an alternative telecommunications
17 utility, has established, as provided in the tariff filings, for some or all of the services
18 performed by the telecommunications utility, including an alternative
19 telecommunications utility, within the state or for any service in connection
20 therewith or performed by any telecommunications utility, including an alternative
21 telecommunications utility, controlled or operated by the telecommunications utility,
22 including an alternative telecommunications utility. If a telecommunications utility,
23 including an alternative telecommunications utility, files a new tariff under this
24 paragraph, all of the following apply:



1 1. The new tariff shall become effective on the date specified in the tariff, unless
2 the commission suspends the operation of the new tariff upon serving a written
3 notice of the suspension on the telecommunications utility, including an alternative
4 telecommunications utility, within 10 days after the date of filing. The notice shall
5 include a statement of the reason under subd. 2. upon which the commission believes
6 the tariff may be modified.

7 2. The commission may modify the new tariff after an opportunity for a hearing,
8 only to the extent permitted by ss. 196.203 and 196.50 (2) (i) and (j).


9 3. If the commission does not conduct a hearing under subd. 2., the commission
10 shall issue its final order within 60 days after issuing the notice of suspension under
11 subd. 1. If the commission conducts a hearing, the commission shall issue its final
12 order within 120 days after issuing the notice of suspension under subd. 1. If a final
13 order is not issued within the time limits specified in this subdivision, the new tariff
14 becomes effective as filed.

15 **(2)** Nothing in this section shall give the commission jurisdiction over the rates
16 or terms and conditions of any service that is not subject to a tariff under sub. (1).

17 **(3)** Every telecommunications utility, including an alternative
18 telecommunications utility, that files a tariff with the commission under this section
19 shall include all terms and conditions that apply to the services specified in the tariff
20 and the rates charged or to be charged.

21 **(4)** A telecommunications utility, including an alternative telecommunications
22 utility, may withdraw a tariff for any service by providing notice to the commission.

23 **(5)** (a) Except as provided in par. (b), a proposed change in a tariff shall be
24 effective at the time specified in the tariff as filed with the commission.



1 (b) No change in a tariff which constitutes an increase in switched access
2 service rates may be made unless the change is consistent with the public interest
3 factors set forth in s. 196.03 (6) and the commission by order, after investigation and
4 opportunity for a hearing, approves the change, except that an increase in switched
5 access service rates to mirror interstate switched access service rates shall go into
6 effect on the 10th day after the change in the tariff is filed, unless the commission,
7 before that day, suspends the rate increase and initiates an investigation under this
8 paragraph.

9 (6) Nothing in this chapter prohibits a tariff for a service which permits a
10 telecommunications utility, including an alternative telecommunications utility, to
11 enter into an individual contract with an individual customer for that tariffed service
12 that includes rates, terms, and conditions that are different from those in the tariff.

13 (7) Except as provided in sub. (6), no telecommunications utility, including an
14 alternative telecommunications utility, may charge, demand, collect, or receive more
15 or less compensation for any service for which a tariff is filed under this section than
16 is specified in the tariff, as may at the time be in force, or demand, collect, or receive
17 any rate, toll, or charge for such service not specified in the tariff.

18 (8) A copy of the tariffs filed under this section shall be made available to
19 consumers in a form and place readily accessible to the public.


20 ✓ **6.** Page 14, line 10: delete the material ~~beginning~~ with that line and ending
21 with page 15, line 8, and substitute:

22 "SECTION 13m. 196.194 (1) of the statutes is repealed.

23 SECTION 13q. 196.194 (2) (title) of the statutes is repealed.

↓

1 **SECTION 13s.** 196.194 (2) of the statutes is renumbered 196.194 and amended
2 to read:

3 **196.194 Public Gas utility individual contracts.** Nothing in ss. 196.03,
4 196.19, 196.20, 196.21, 196.22, 196.37, 196.60, 196.604 and 196.625 prohibits the
5 commission from approving the filing of a tariff which permits a gas utility to enter
6 into an individual contract with an individual customer if the term of the contract
7 is no more than 5 years, or a longer period approved by the commission, and if the
8 commission determines that substitute gas services are available to customers or
9 potential customers of the gas utility and the absence of such a tariff will cause the
10 gas utility to be disadvantaged in competing for business. A tariff filed under this
11 ~~subsection~~ section shall include the condition that any such contract shall be
12 compensatory. The tariff shall include any other condition and procedure required
13 by the commission in the public interest. Within 20 days after a contract authorized
14 under this ~~subsection~~ section or an amendment to such a contract has been executed,
15 the gas utility shall submit the contract to the commission. The commission shall
16 give notice to any person, upon request, that a contract authorized under this
17 ~~subsection~~ section has been received by the commission. The notice shall identify the
18 gas utility that has entered into the contract. Within 6 months after receiving
19 substantial evidence that a contract may be noncompensatory, or upon its own
20 motion, the commission shall investigate and determine whether the contract is
21 compensatory. If the commission determines that the contract is noncompensatory,
22 the commission may make appropriate adjustments in the rates or tariffs of the gas
23 utility that has entered into the contract, in addition to other remedies under this
24 chapter. The dollar amount of the adjustment may not be less than the amount by
25 which the contract was found to be noncompensatory. 

END OF INS 15-9



1 ✓ 7. Page 15, line 18: delete "tariffing requirements under s. 196.194 (1) or".

2 ✓ 8. Page 18, line 5: delete "ss. 196.193, and 196.195" and substitute "ss. s.

3 → 196.193, 196.195" *Y*

4 ✓ 9. Page 18, line 6: delete "(12) and 196.196" and substitute "(12) and 196.196". *move*

5 ✓ 10. Page 18, line 20: delete "subject to s." and substitute "subject to s. ss.".

6 ✓ 11. Page 18, line 20: after "196.025 (6)" insert "and 196.206 and may elect to

7 subject itself to s. 196.191, ~~and except that only with respect to its switched access~~

8 services an alternative telecommunications utility is subject to ss. 196.03 and

9 196.37".

10 ✓ 12. Page 19, line 9: after "(j) 1" insert ".a".

11 ✓ 13. Page 19, line 21: delete lines 21 and 22.

12 ✓ 14. Page 19, line 22: after that line insert:

13 SECTION 36m. 196.203 (2) (c) of the statutes is created to read:

14 196.203 (2) (c) An alternative telecommunications utility may provide notice

15 to the commission to maintain certification as an alternative telecommunications

16 utility but to recertify the alternative telecommunications utility and impose on the

17 alternative telecommunications utility only those provisions of this chapter specified

18 in sub. (4m) that are ~~imposed~~ on all alternative telecomm~~unications~~ utilities under

19 sub. (3). No later than 30 days after receiving notice under this paragraph, the

20 commission shall issue an order granting recertification and imposing on the

21 alternative telecommunications utility only those provisions of this chapter specified

22 in sub. (4m) ^(a) that are imposed on all alternative telecommunications utilities under

23 sub. (3). An alternative telecommunications utility for which an order of

INS 15-6

INS 18-20

INS 19-23

In this paragraph

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1 recertification is issued is subject to sub. (1g). The granting of the recertification
 2 shall operate to terminate the alternative telecommunications utility's prior
 3 certification, and all regulatory requirements related to the prior certification,
 4 including all such requirements imposed by the certification and all requirements
 5 imposed by the commission, whether by statute or commission rule or order, on the
 6 alternative telecommunications utility are terminated on the effective date of the
 7 order.".

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8 ✓ **15.** Page 19, line 23: on lines 23 and 24, delete "(c)" and substitute "(d)".

9 ✓ **16.** Page 20, line 8: delete "any provision of ch. 201 or a provision of this
 10 chapter" and substitute "any a provision of ch. 201 or this chapter".

11 ✓ **17.** Page 20, line 16: delete lines 16 and 17 and substitute "same provision at
 12 the same level of regulation on all other alternative telecommunications utilities".

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13 ✓ **18.** Page 21, line 3: before "(3) (a)" insert "(2r)".

14 ✓ **19.** Page 21, line 3: delete "(h)".

15 ✓ **20.** Page 21, line 5: delete "or 196.858" and substitute "196.858, or 196.859".

16 ✓ **21.** Page 22, line 18: delete lines 18 to 24 and substitute:

17 ✓ **SECTION 55m.** 196.205 of the statutes is repealed.

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18 **22.** Page 23, line 3: after "in this section" insert "and except as provided in
 19 ss. ^{196.016,} 196.025 (6), 196.218 (3), and 196.859, and except as required for the commission
 20 to enforce ss. ^{196.016,} 196.025 (6), 196.218 (3), and 196.859".

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21 ✓ **23.** Page 23, line 4: delete "telecommunications provider" and substitute
 22 "communications provider, as defined in s. 196.025 (6) (a) 1..".

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1 ✓ ✓ **24.** Page 23, line 14: delete lines 14 and 15 and substitute "interconnected
2 voice over Internet protocol services shall be subject to intrastate access charges to
3 the same extent that telecommunications services are subject to such charges."

4 ✓ ✓ **25.** Page 23, line 16: delete the material beginning with that line and ending
5 with page 24, line 14.

6 ✓ **26.** Page 24, line 21: delete lines 21 to 23.

7 ✓ **27.** Page 25, line 8: delete lines 8 and 9 and substitute:

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8 ✓ "196.218 (3) (f) ~~Notwithstanding ss. 196.196 (1) and (5) (d) 2., 196.20 (2m), (5)~~
9 and (6), 196.213 and 196.215, a A telecommunications utility that provides local".

10 ✓ **28.** Page 26, line 1: delete lines 1 to 3.

11 ✓ **29.** Page 26, line 8: delete "and price" and substitute "and price".

12 ✓ **30.** Page 26, line 9: delete "regulation and" and substitute "regulation and".

13 ✓ **31.** Page 26, line 13: delete lines 13 to 21.

14 ✓ **32.** Page 27, line 1: before that line insert:

15 INS 27-1 ✓ **SECTION 71e.** 196.219 (2) (a) of the statutes is amended to read:

16 196.219 (2) (a) Notwithstanding any exemptions identified in this chapter
17 except s. ss. 196.202, 196.203, 196.206, and 196.50, a telecommunications utility or
18 provider shall provide protection to its consumers under this section unless
19 exempted in whole or in part by rule or order of the commission under this section.
20 The commission shall promulgate rules that identify the conditions under which
21 provisions of this section may be suspended.

22 **SECTION 71m.** 196.219 (2r) of the statutes is created to read:

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27-1 cont.

1 196.219 (2r) SWITCHED ACCESS SERVICE RATES. Any reduction in switched access
2 service rates ordered by the commission prior to the effective date of this subsection
3 ... [LRB inserts date], including any reduction ordered pursuant to s. 196.195, shall
4 remain effective unless modified by the commission in a subsequent order.

5 SECTION 71s. 196.219 (3) (h) of the statutes is repealed.

6 ✓ ✓ 33. Page 27, line 16: delete lines 16 and 17 and substitute "rates, tolls or
7 charges without the approval of the commission, ~~except as provided in s. 196.205 or~~
8 ~~196.215 (2).~~".

9 ✓ 34. Page 28, line 1: after that line insert:

10 "SECTION 80m. 196.50 (title) of the statutes is amended to read:

11 196.50 (title) **Competing public utilities; indeterminate permits,**
12 **telecommunications; telecommunications utility certification**".

13 ✓ 35. Page 28, line 6: after "(j) L." insert "a".

14 ✓ 36. Page 28, line 7: after that line insert:

15 ✓ "SECTION 83m. 196.50 (2) (b) of the statutes is amended to read:

16 196.50 (2) (b) A certificate, franchise, license or permit, indeterminate or
17 otherwise, in effect on September 1, 1994, for a telecommunications utility shall
18 remain in effect and shall have the effect of a certificate of authority. A
19 telecommunications utility is not required to apply for a new certificate of authority
20 to continue offering or providing service to the extent of the prior authorization. Each
21 telecommunications utility, including telecommunications cooperatives and
22 unincorporated telecommunications cooperative associations, shall have on file with
23 the commission under s. 196.19 a tariff that sets forth the rates, terms and conditions

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for all services provided and a map that defines the geographical limits of the service territory that the telecommunications utility is obliged to serve.

37. Page 28, line 21: after "exempt from" insert "all provisions of ch. 201 and".

38. Page 28, line 21: after "196.02 (2)," insert "196.03,".

39. Page 28, line 23: delete that line and substitute "196.78 and 196.79,

except that with respect only to its switched access services, a telecommunications utility certified under this subsection with 50,000 or less access lines in this state is not exempt from s. 196.03 and, with respect only to its switched access services, a telecommunications utility certified under this subsection with more than 50,000 and less than 150,000 access lines in this state is not exempt from ss. 196.03 and 196.37. The intrastate access service rates of a telecommunications utility with 150,000 or more access lines in this state may not exceed the telecommunications utility's interstate access service rates for similar access services, except that such a telecommunications utility shall not assess an intrastate carrier common line charge or a substitute charge. Except to enforce this paragraph, the commission may not review or set the access rates for a telecommunications utility with 150,000 or more access lines."

40. Page 28, line 24: delete the material beginning with that line and ending with page 29, line 2.

41. Page 29, line 4: delete "(j)" and substitute "(j) 1.".

42. Page 29, line 6: delete "1." and substitute "a.".

43. Page 29, line 9: delete "issuing" and substitute "granting".

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28-20
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period
except as provided in subds. 4. and 5.)

1 **44.** Page 29, line 10: delete "196.203 and terminating" and substitute

2 "196.203. ~~The granting of such certification shall operate to terminate~~" *INS 29-10*

3 **45.** Page 29, line 14. delete lines 14 to 19 and substitute:

4 "b. Provide notice to the commission to recertify the telecommunications utility

5 under this subsection and impose on the telecommunications utility only those

6 provisions of this chapter specified in ~~s. 196.203 (4m)~~ that are imposed on all

7 alternative telecommunications utilities under s. 196.203 (3). ~~No later than 30 days~~ *this paragraph*

8 after receiving notice under this subd. 1. b., the commission shall issue an order

9 granting recertification under this subsection and imposing on the

10 telecommunications utility ^(a) ~~only~~ those provisions of this chapter specified in s.

11 196.203 (4m) that are imposed on all alternative telecommunications utilities under

12 s. 196.203 (3). The telecommunications utility shall be exempt from all provisions

13 of ch. 201 and this chapter, except ss. 196.025 (6) and 196.206, ~~and except as provided~~ *INS 11-13 at 955*

14 in the order under this subd. 1. b.; and except that, if the telecommunications utility

15 has 50,000 or less access lines in this state, then, only with respect to its switched

16 access services, the telecommunications utility is not exempt from s. 196.03; and

17 except that, if the telecommunications utility has more than 50,000 and less than

18 150,000 access lines in this state, then, only with respect to its switched access

19 services, the telecommunications utility is not exempt from ss. 196.03 and 196.37.

20 ~~The granting of the recertification shall operate to terminate the~~

21 telecommunications utility's prior certification, and all regulatory requirements

22 related to the prior certification, including all such requirements imposed by the

23 certification and all requirements imposed by the commission, whether by statute

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Except as provided in subds. 4. and 5.)

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1 or commission rule or order, on the telecommunications utility are terminated on the
2 effective date of the order.

3 2. Issuance of a commission order under subd. 1. shall operate as a limited
4 waiver of the telecommunications utility's right to an exemption under 47 USC 251
5 (f) (1), which shall apply only to all of the following:

- 6 a. The requirements of 47 USC 251 (c) (1) and (2).
- 7 b. The requirements of 47 USC 251 (c) (5), but only with respect to the
- 8 requirements of 47 CFR 51.325 (a) (1) and (2).

9 3. Issuance of a commission order under subd. 1. shall operate as a limited
10 waiver of the telecommunications utility's right to petition the commission for
11 suspension or modification under 47 USC 251 (f) (2), which shall apply only to all of
12 the following:

- 13 a. The requirements of 47 USC 251 (b) and (c) (1) and (2).
- 14 b. The requirements of 47 USC 251 (c) (5), but only with respect to the
- 15 requirements of 47 CFR 51.325 (a) (1) and (2).

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16 ✓ **46.** Page 32, line 11: delete "is amended" and substitute "is renumbered
17 196.975 (1r) and amended".

18 ✓ **47.** Page 32, line 12: delete "(1)" and substitute "(1r)".

19 ✓ **48.** Page 32, line 12: delete ", as defined in s. 196.213" and substitute ", as
20 defined in s. 196.213".

21 ✓ **49.** Page 32, line 13: delete "196.215 (1) (a) 1.," and substitute "(1) (a) 1.,".

22 ✓ **50.** Page 32, line 22: delete the material beginning with that line and ending
23 with page 33, line 4, and substitute:

24 ✓ **SECTION 102e.** 196.975 (1g) of the statutes is created to read:

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196.975 (1g) In this section, “consumer” means a person billed for one or more
2 local telecommunications service access lines not to exceed one person per access
3 line. A person billed for more than one access line may not be considered a consumer
4 for each access line for which he or she is billed.

5 **SECTION 102m.** 196.975 (2) of the statutes is amended to read:

6 196.975 (2) After receiving a petition under sub. (1) (1r), the commission shall
7 schedule a public hearing, to be held in the local exchange area of the petitioners,
8 serving to receive testimony on the contents of the petition and any other matters
9 deemed relevant by the commission. The commission shall publish a class 1 notice
10 under ch. 985 in a newspaper serving the local exchange area at least 20 days prior
11 to the hearing.

12 **SECTION 102s.** 201.15 of the statutes is repealed.”

13 ✓ **51.** Page 33, line 6: delete that line.

14 ✓ **52.** Page 33, line 7: delete that line and substitute:

15 “(1m) In this section:”.

16 ✓ **53.** Page 33, line 8: delete “1.” and substitute “(a)”.

17 ✓ **54.** Page 33, line 9: delete “2.” and substitute “(b)”.

18 ✓ **55.** Page 33, line 11: after that line insert:

19 ✓ “(c) “Telecommunications utility” has the meaning given in section 196.01 (10)
20 of the statutes”.

21 ✓ **56.** Page 33, line 12: delete “(b) On the effective date of this paragraph” and
22 substitute “(2) Except as provided in section 196.219 (2r) of the statutes, as created
23 by this act, on the effective date of this subsection”.

24 ✓ **57.** Page 33, line 15: after that line insert:

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(3) Except as provided in section 196.219 (2r) of the statutes, as created by this act, on the effective date of this subsection, any requirement imposed on a telecommunications utility under section 196.203, 2007 stats., or section 196.50, 2007 stats., whether by statute or commission rule or order, that is inconsistent with sections 196.203 or 196.50 (2) of the statutes, as affected by this act, is terminated.

(END)

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ASSEMBLY AMENDMENT 4,
TO 2009 ASSEMBLY BILL 696

April 19, 2010 - Offered by Representatives SMITH and ZEPNICK.

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

2 ✓ 1. Page 2, line 8: after "utilities," insert "telecommunications provider of last
3 ✓ resort obligations".

4 ✓ 2. Page 29, line 19: after that line insert:

5 ✓ "SECTION 88m. 196.503 of the statutes is created to read:

6 **196.503 Telecommunications provider of last resort obligations. (1)**

7 DEFINITIONS. In this section:

8 (a) "Basic voice service" means the provision to residential and small business
9 customers of 2-way voice communication within a local calling area. "Basic voice
10 service" includes extended community calling and extended area service. "Basic
11 voice service" does not include the offering of Internet access service or any
12 discretionary or optional services that may be provided to a residential or small
13 business customer.

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1 (b) “Incumbent local exchange carrier” has the meaning given in 47 USC 251
2 (h).

3 (c) “Small business customer” means a business having 3 or fewer telephone
4 numbers assigned to it.


5 **(2) INCUMBENT LOCAL EXCHANGE CARRIER OBLIGATIONS.** (a) Notwithstanding any
6 other provision in this chapter, and except as provided in sub. (3), an incumbent local
7 exchange carrier shall make basic voice service available to all residential and small
8 business customers within a local exchange area in which it operates as an
9 incumbent local exchange carrier. In making basic voice service available to a
10 customer under this paragraph, an incumbent local exchange carrier shall provide
11 the customer the ability to utilize a dial-up Internet access service or an equivalent
12 service and an incumbent local exchange carrier may, but is not required to, offer
13 Internet access service or any discretionary or optional services in a bundle or a
14 package.

15 (b) An incumbent local exchange carrier may satisfy its obligations under par.
16 (a) through an affiliate and through the use of interconnected voice over Internet
17 protocol service or any available technology or mode.

18 **(3) WAIVERS.** (a) An incumbent local exchange carrier may apply to the
19 commission for a waiver from compliance with sub. (2) (a) in a local exchange area.

20 (b) The commission shall grant a waiver requested under par. (a) for a local
21 exchange area if any of the following are satisfied:

22 1. The commission finds that the incumbent local exchange carrier
23 demonstrates that the waiver is in the public interest or that effective competition
24 exists for basic voice service in the local exchange.





State of Wisconsin
2009 - 2010 LEGISLATURE

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ASSEMBLY AMENDMENT 1,
TO ASSEMBLY AMENDMENT 3,
TO 2009 ASSEMBLY BILL 696

March 30, 2010 – Offered by Representatives ZEPNICK and ZIGMUNT.

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).

10 2. The service is subject to regulation by the commission under this chapter.

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

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

3 4r. Page 8, line 21: after that line insert:

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

5 **196.016 Relationship to certain federal telecommunications law.**

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

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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 the material beginning with that line and ending with
14 "sub. (3)" on line 19 and substitute "in this paragraph".

15 4. Page 6, line 21: delete "only".

16 5. Page 6, line 22: after "(4m)" insert "(a)".

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

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20 7. Page 7, line 10: after that line insert:

21 "16m. Page 20, line 14: after "provision" insert "of this chapter specified in sub.
22 (4m) (a)".

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23 8. Page 7, line 12: after that line insert:

24 "17m. Page 21, line 1: after "**(4m)**" insert "(a)".

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

2 ✓ "20m. Page 21, line 5: after that line insert:

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

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

8 (d) An alternative telecommunications utility certified pursuant to s. 196.50 (2)
9 (j) 1. a. shall be subject, with respect only to wholesale telecommunications services,
10 to all provisions in pars. (a) and (c).".

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11 ✓ **10.** Page 7, line 19: before "196.025 (6)" insert "196.016,".

12 ✓ **11.** Page 7, line 20: before "196.025 (6)" insert "196.016,".

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

14 ✓ **SECTION 71g.** 196.219 (2m) of the statutes is repealed.

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

16 ✓ "32m. Page 27, line 7: delete that line and substitute:

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

18 ✓ 196.28 (4) This section does not apply to rates, tolls or charges of a
19 telecommunications cooperative, an unincorporated telecommunications
20 cooperative association, or a small telecommunications utility ~~except as provided in~~
21 s. 196.205 or 196.215 (2).".

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

23 ✓ "33m. Page 27, line 18: delete that line and substitute:

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

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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).~~”.

15. 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;”.

INS
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A

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

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

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

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

20. Page 11, line 10: delete “only”.

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

22. Page 11, line 13: after “196.206,” insert “and except as provided in subds. 4. and 5.”.

INS 11-13 a 1955

1 ✓ **23.** Page 11, line 20: delete “The granting” and substitute “Except as provided
2 in subds. 4. and 5., the granting”.

3 ✓ **24.** Page 12, line 15: delete “(2).” and substitute “(2).”.

4 ✓ **25.** Page 12, line 15: after that line insert:

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

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

12 (END)

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29-20B

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4724/lins
MDK:.....

as passed by the
assembly on April 20,
2010,

(B) (I)
← Engrossment information:

The text of Engrossed 2009 Assembly Bill 696 consists of the following documents adopted in the assembly on April 20, 2010: the bill as affected by Assembly Amendment 3 (as affected by Assembly Amendment 1 thereto) and Assembly Amendment 4. In engrossing, Section 6m was renumbered Section 5r and relocated to correct the order of sections.

(B) (I) ← Content of Engrossed 2009 Assembly Bill 696:

The bill does all of the following: 1) makes changes to the authority of the Public Service Commission (PSC) over telecommunications utilities; 2) specifies the PSC's authority over switched access and wholesale telecommunications service; 3) creates requirements for telecommunications utility tariffs; 4) specifies the PSC's authority over interconnected voice over Internet protocol (VOIP) service; 5) makes changes to the PSC's authority for ensuring universal access to telecommunications service; 6) imposes requirements regarding the availability of basic voice service; and 7) makes other changes, including repealing provisions regarding access services and discrimination in favor of telecommunications affiliates.

TELECOMMUNICATIONS UTILITY REGULATION

Under current law, a telecommunications provider that provides basic local exchange service is defined to be a telecommunications utility. The PSC's authority over a telecommunications utility depends on whether the PSC has certified the telecommunications utility as a telecommunications utility (TU) or an alternative telecommunications utility (ATU). In general, the PSC has certified as TUs those telecommunications providers that are incumbent local exchange carriers (ILECs) under federal law, which are telecommunications providers that resulted from the breakup of the Bell System pursuant to a federal antitrust action. In general, the PSC has certified as ATUs those telecommunications providers that are competitive local exchange carriers (CLECs) under federal law, which are telecommunications providers that compete with ILECs to provide basic local exchange service.

Under current law, TUs are subject to varying degrees of regulation by the PSC, depending on certain factors, such as whether the TU has elected price regulation, under which the PSC regulates the rates charged by a TU, but not the TU's rate of return. The degree of PSC regulation also depends on whether a TU is a cooperative association, or whether the TU is a "small TU," which is a TU that had fewer than 50,000 access lines in this state on January 1, 1984. With certain exceptions, current law exempts an ATU from PSC regulation, except that, if certain conditions are satisfied, the PSC may impose on an ATU a requirement that otherwise applies to a TU or other public utility. In addition, ATUs, like certain other persons who provide active retail voice communications service, must collect from customers and remit to the PSC a monthly police and fire protection fee that is used for shared revenue payments.

ATUs. The bill limits the requirements the PSC may impose on an ATU. Under the bill, the PSC may impose requirements that relate only to the following: 1) submission of stockholder and other business management information; 2) PSC

examination of accounting and other business records; 3) use of and connection to transmission equipment and property by other telecommunications providers; 4) confidential treatment of records by the PSC; 5) rates and costs of unbundled network elements; 6) interconnection agreements and other interconnection requirements; 7) telephone caller identification, pay-per-call, and toll-free services; 8) PSC privacy rules; 9) universal service and contributions to the state universal service fund; 10) impairment of speed, quality or efficiency of services, products, or facilities offered to consumers; 11) access to telecommunications emergency services; 12) compliance with price lists, contracts, and PSC rules and orders regarding providing consumers with service, products, or facilities; 13) restrictions on resale or sharing certain services, products, and facilities; 14) violations of rules of the Department of Agriculture, Trade and Consumer Protection, regarding advertising and sales and collection practices; 15) transfer of local exchange customers to other telecommunications providers; 16) late payment charges; 17) PSC questionnaires and other information requests; 18) PSC hearings on consumer complaints; 19) changes to PSC orders and reopening PSC cases; 20) PSC-required tests; 21) conditional, emergency, and supplemental PSC orders; 22) timing of effect of PSC orders; 23) court review of PSC orders; 24) injunction procedures; 25) enforcement duties of the PSC, the attorney general, and district attorneys and related court venues; 26) penalties related to information and record requests; 27) forfeitures; 28) abandonment or discontinuance of lines, services, and rights-of-way; 29) assessments for reimbursement of PSC expenses; 30) assessments for telephone relay service; and 31) assessments for enforcement of certain consumer protection requirements by ~~the department of agriculture, trade and consumer protection~~

(DATCP)

The bill provides that if the PSC imposes any of the foregoing requirements on an ATU, the PSC must impose the same requirement at the same level of regulation on all other ATUs. In addition, the bill provides that an ATU that provides interconnected VOIP service is subject to the requirements described below. Also, the bill allows an ATU to elect to subject itself to the tariff requirements described below. The bill also provides that, except for a local government ATU, certification as an ATU is on a statewide basis and that any ATU certification issued by the PSC before the bill's effective date is considered amended to be a statewide certification. In addition, with certain exceptions, the bill allows the PSC to deny certification as an ATU if the PSC finds that the applicant for certification does not have the financial, managerial, or technical capabilities to provide service or comply with requirements applicable to ATUs.

The bill also allows an ATU to require the PSC to grant recertification as an ATU. Upon recertification, the ATU is subject to the requirements for ATUs described above. However, the recertification terminates all regulatory requirements related to the prior certification that were previously imposed on the ATU by the PSC.

TUs. The bill exempts TUs from requirements relating to all of the following: 1) PSC classification of public utility service; 2) PSC valuation of utility property; 3) accounting requirements, including depreciation rates and new construction

accounting; 4) reporting of expenses, profit, and other items; 5) PSC reports of utility property values and other financial data; 6) filing of rates and PSC approval of rates; 7) PSC investigations of rates and services; 8) construction, installation, or operation of new facilities; 9) PSC approval of certain contracts; 10) certain municipal authority to regulate public utilities; 11) dissolution and reorganization; and 12) issuance of securities. However, as discussed below, some of the foregoing exemptions do not apply to wholesale telecommunications service or switched access service. The bill makes changes to current law to ensure that small TUs, and TUs that are cooperatives, are subject to the foregoing exemptions. In addition, the bill repeals the requirements that apply to TUs under current law that apply to the following: 1) offering new telecommunications services, or services jointly offered with other TUs; 2) classification of TU service; 3) promotional rates; 4) PSC authority regarding contracts between TUs and individual customers; and 5) consolidations and mergers. Also, the bill repeals price regulation of TUs and terminates any requirements imposed by the PSC on price-regulated TUs.

The bill also allows a TU to terminate its certification as a TU and require the PSC to certify the TU as an ATU and issue an order terminating all regulatory requirements related to the TU certification, except for certain requirements regarding wholesale telecommunications service as discussed below. Upon certification as an ATU, the formerly certified TU is subject to the same requirements as an ATU. In addition, the bill allows a TU to require the PSC to issue an order recertifying the TU as a TU, but regulating the TU like an ATU. Such a recertification terminates the TU's prior certification, and all regulatory requirements related to the prior certification, with the same exception for wholesale telecommunications service.

If the PSC issues an order certifying a TU as an ATU, or recertifying a TU as a TU that is regulated like an ATU, the order operates as a limited waiver of the TU's right to the following: 1) an exemption from interconnection requirements under federal law that apply to ILECs that are rural telephone companies; and 2) suspension or modification of certain interconnection requirements under federal law. The bill provides that, except for the foregoing limited waivers, the state's telecommunications law is not intended to reduce or expand the scope and application of federal telecommunications law, including the PSC's authority under federal law. The bill also provides that certification of a TU as an ATU, or recertification of a TU as a TU that is regulated like an ATU, does not terminate any PSC order regarding interconnection, unbundling, collocation, or any obligation under federal interconnection law or regarding wholesale telecommunications services.

SWITCHED ACCESS AND WHOLESALE TELECOMMUNICATIONS SERVICE

The bill creates requirements that apply to switched access and wholesale telecommunications service provided by ATUs and TUs. The bill defines "wholesale telecommunications service" as a service, other than a switched access service, that is: 1) provided by one telecommunications provider to another who is not an affiliate; 2) subject to regulation by the commission; and 3) subsequently used in the provision of a telecommunications service to retail end user customers. The bill does not define

“switched access service,” but that term refers to a service by which one TU or ATU provides access to its switched network to a second TU or ATU so that customers of the second TU or ATU can complete calls to customers of first TU or ATU.

Switched access service. The bill allows the PSC to impose on an ATU, but only with respect to switched access services, requirements under current law regarding the duty to provide reasonable service at reasonable and just rates (reasonable service and rates duty) and the authority of the PSC to issue orders regarding unreasonable or inadequate service (PSC unreasonable service authority). If the ATU required the PSC to recertify the ATU as an ATU as described above, the PSC may impose the foregoing requirements only if required by the public interest.

X With respect to a TU, including a TU that recertifies as a TU but is regulated like an ATU, the following requirements apply: 1) if the TU has 50,000 or less access lines in the state, the TU is subject to the reasonable service and rates duty, but only with respect to the TU’s switched access service; 2) if the TU has more than 50,000 and less than 150,000 access lines in this state, the TU is subject to the reasonable service and rates duty and the PSC unreasonable service authority, but only with respect to the TU’s switched access service.

If a TU has 150,000 or more access lines in this state, the TU’s intrastate access service rates may not exceed the TU’s interstate access service rates for similar access services, except that the TU is not allowed to assess an intrastate carrier common line charge or a substitute charge. Except to enforce the foregoing requirements, the bill provides that the PSC may not review or set the access rates for a TU with 150,000 or more access lines in this state. In addition, the foregoing requirements regarding a TU with 150,000 or more access lines in this state do not apply to a TU that recertifies as a TU but is regulated like an ATU.

X In addition, the bill provides that any reduction in switched access service rates ordered by the PSC prior to the bill’s effective date remain effective unless modified by the PSC in a subsequent order.

Wholesale telecommunications service. The bill allows the PSC to impose on an ATU, but only with respect to wholesale telecommunications service, the reasonable service and rates duty and the PSC unreasonable service authority, as well as requirements under current law regarding the PSC’s enforcement authority for certain consumer protection requirements (PSC consumer enforcement authority) and the PSC’s investigative authority. If the ATU required the PSC to recertify the ATU as an ATU as described above, the PSC may impose the foregoing requirements only if required by the public interest.

to In addition, if an ATU is a former TU that recertified as an ATU under the bill, the ATU is subject, with respect to only wholesale telecommunications services, the requirements that the PSC is allowed to impose on an ATU. Those requirements apply with respect to wholesale telecommunications service even if the PSC does not impose them on such an ATU. Also, those requirements apply to a TU with respect to wholesale telecommunications service, regardless of whether the TU elects to certify as an ATU or recertify as a TU that is regulated like an ATU.

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TARIFFS

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The bill allows a TU or ATU to do any of the following: 1) retain on file with PSC tariffs showing the service rates, tolls, and charges the TU or ATU has established; 2) withdraw or change the rates, terms, or conditions of a tariff filed with the PSC; or 3) file new tariffs with the PSC. If a TU or ATU files a new tariff, the tariff must include all terms and conditions that apply to services specified in the tariff, as well as the service rates. In addition, the new tariff is effective as specified in the tariff, unless the PSC, with 10 days after the filing, suspends the new tariff. The PSC may modify the new tariff only to the extent permitted by the PSC's authority over the TU or ATU, and only after granting the TU or ATU an opportunity for a hearing. If the PSC fails to comply with deadlines in the bill regarding the new tariff, the new tariff is effective as filed.

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The bill also provides that a proposed change in a tariff is effective as specified in the tariff, except for changes that constitute increases in switched access service rates. If an increase mirrors interstate switched access service rates, the increase goes into effect on the 10th day after the change in the tariff is filed, unless the PSC suspends the rate increase and initiates an investigation. Other increases in switched access rates are not effective until the PSC approves the increase, based on specified public interest factors, after an opportunity for hearing.

In addition, the bill allows a tariff for a service which permits a TU or ATU to enter into an individual contract with an individual customer under rates, terms, or conditions that are different from those specified for the service in the tariff. Except for such an individual contract, the bill prohibits a TU or ATU from receiving for a service more or less compensation than that specified for the service in the tariff, and prohibits a TU or ATU from receiving compensation for a service that is not specified in a tariff. Also, copies of tariffs filed under the bill must be made available to consumers in a form and place readily accessible to the public.

INTERCONNECTED VOIP SERVICE

With certain exceptions, the bill provides that interconnected VOIP service is exempt from PSC regulation. The bill provides that interconnected VOIP has the same meaning as under federal law, which is a service requiring a broadband connection and Internet protocol-compatible customer premises equipment that allows the user to engage in real-time, two-way communication over the public switched telephone network. One exception to the exemption is that a person who provides active retail voice communications service, who also provides interconnected VOIP service, must make contributions to the state universal service fund based on its revenues from providing the service. The bill specifies the methods for calculating the revenues. Another exception is that, unless otherwise provided under federal law, interconnected VOIP services are subject to intrastate access charges to the same extent as telecommunications utilities are subject to the charges. Under additional exceptions, providers of interconnected VOIP service must impose the monthly police and fire protection fee on its customers and pay assessments for DATCP enforcement of certain consumer protection requirements.

UNIVERSAL SERVICE

Current law requires the PSC to promulgate rules that define a basic set of essential telecommunications services that must be available to all customers at affordable prices and that are a necessary component of universal service. Current law also requires the PSC to promulgate rules that define a set of advanced service capabilities that must be available to all areas of this state at affordable prices within a reasonable time and that are a necessary component of universal service. The essential services and advanced service capabilities must be based on market, social, economic development, and infrastructure development principles rather than on specific technologies or providers.

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This bill repeals the foregoing requirements and requires instead that certain telecommunications providers must make available to their customers all essential telecommunications services. The bill defines "essential telecommunications services" as services or functionalities determined by the FCC to be eligible for support by federal universal service support mechanisms. The bill's requirement ~~applies~~ to a telecommunications provider that provides basic local exchange service or that is designated under federal law as a telecommunications carrier eligible to receive support from the federal universal service fund. Also, the bill provides that a telecommunications provider may provide essential telecommunications services itself or through an affiliate or through the use of any available technology or mode.

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BASIC VOICE SERVICE

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The bill requires an ILEC to make basic voice service available to all residential and small business customers within the ILEC's local exchange area. "Basic voice service" is defined, in part, as ⁽²⁾way voice communication service within a local calling area, and "small business customer" is defined as a business with ⁽³⁾or fewer telephone lines. In providing basic voice service, an ILEC must also provide a customer the ability to utilize a dial-up Internet access service or an equivalent service. The bill allows an ILEC to provide basic voice service through an affiliate, or through the use of interconnected VOIP service or any available technology or mode.

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The bill also allows an ILEC to apply to the PSC for a waiver from the foregoing requirements. The PSC must grant a waiver if the waiver is in the public interest or effective competition exists in the local exchange area. If the PSC fails to meet a 120-day deadline based on the filing of a waiver request, the PSC is considered to have granted the waiver. In addition, the PSC must grant a waiver if the PSC previously found that effective competition existed. However, the PSC may not grant a waiver based on a previous finding until after May 1, 2011. The bill also provides that decisions of the PSC prior to the effective date of the bill that eliminate an ILEC's provider of last resort obligations remain in force and effect. Finally, the bill provides that none of the bill's basic voice service requirements apply after April 30, 2015.

OTHER CHANGES

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The bill repeals a requirement under current law for TUs and other telecommunications providers to provide, with certain exceptions, access services under tariffs under the same rates, terms and conditions to all telecommunications providers. "Access service" is defined under current law, in part, as the provision of

switched or dedicated access to a local exchange network for the purpose of enabling a telecommunications provider to originate or terminate telecommunications service. The bill also repeals a prohibition under current law on a TU, with respect to its regulated services, or a telecommunications provider, with respect to its offering of local exchange services, from giving preference or discriminating in the provision of services, products, or facilities to an affiliate or to the consumer retail department of the TU, telecommunications provider, or affiliate. Under current law, the foregoing prohibition applies to the extent the preference or discrimination is prohibited under federal law or the PSC's rules.

Barman, Mike

From: Hanaman, Cathlene
Sent: Thursday, April 22, 2010 8:14 AM
To: Martin, Dick; Barman, Mike
Cc: Inabnet, Kay; Renk, Jeff
Subject: RE: AB 696 Engrossed

We are still completing the printing-engrossed procedure.

From: Martin, Dick
Sent: Thursday, April 22, 2010 8:13 AM
To: Barman, Mike; Hanaman, Cathlene
Cc: Inabnet, Kay; Renk, Jeff
Subject: AB 696 Engrossed

Cathlene and Mike,
I am looking for AB 696 Engrossed in the Docbase and cannot find it. Do you know where it is?

Thanks,

Dick Martin
Legislative Technology Services Bureau
608-283-1830

