

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1901/P2dn  
MDK:wlj:jf

April 18, 2011

Rep. Honadel:

Please review this draft to make sure it achieves your intent. In particular, please note the following:

1. Why does s. 196.212 (4) (b) and (c) include exceptions for the PSC to enforce ss. 196.191 (2) (d) 2. and 196.219 (2r), and s. 196.212 (4) (a) does not include such an exception? For the sake of consistency, shouldn't s. 196.212 (4) (a) be revised to include the exception? If the exception is not included, the result would appear to be that s. 196.219 (2r) does not apply to large nonincumbents, new nonincumbents, and large ILECs. However, I'm not sure what results with respect to s. 196.191 (2) (d) 2., as s. 196.191 (2) (intro.) says that s. 196.191 (2) (d) 2. applies "notwithstanding anything in this chapter to the contrary," and s. 196.212 (4) (a) also says "notwithstanding any other provision of this chapter." So, the two provisions both claim to supercede each other. I kept the bill as a preliminary draft because I think you should resolve this logical inconsistency before the draft is introduced.
2. I revised s. 196.212 (2) (b) 1. to refer to an exception under s. 196.191 (3) (b), as well as under s. 196.191 (2) (d) 2. a.
3. Section 196.191 (1) prohibits a telecommunications utility (TU) or alternative telecommunications utility (ATU) from withdrawing a tariff for intrastate switched access rates, and s. 196.191 (2) (d) 2. allows for certain changes in such tariffs. However, s. 196.191 (3) (b) also allows a TU or an ATU to file certain new tariffs for intrastate switched access rates. How does such a new tariff interact with a prior tariff, which the TU or ATU is prohibited from withdrawing? I think you need language to address this situation, for example, creating an exception to the prohibition on withdrawing a tariff.
4. Section 196.212 (5) allows the PSC to enforce payment of intrastate switched access rates set forth in a tariff required under s. 196.191 (1). Shouldn't the PSC also be allowed to enforce payment of rates under a new tariff filed under s. 196.191 (2) (b) for increases allowed under s. 196.191 (3) (b)? Also, is it clear that the PSC can enforce payment of increases if a tariff required under s. 196.191 (1) is revised under s. 196.191 (2) (d) 2.?
5. Section 196.191 (2) (d) 1. refers to terms and conditions, along with rates, tolls, and charges, but s. 196.191 (2) (a) and (b), (4), and (6) refers to rates, tolls, and charges, without also referring to terms and conditions. Is that okay?

6. In order to consistently refer to an ATU certified under s. 196.203 pursuant to s. 196.50 (2) (j) 1. a., I made changes to the following: ss. 196.01 (1d) (g), 196.203 (1g) (b) and (2) (a) (as renumbered), 196.212 (1) (d), and 196.50 (2) (j) 1. a.

7. In s. 196.203 (3) (as renumbered), which allows the PSC to impose a requirement on an ATU if in the public interest, you deleted the sentence that says the PSC may consider certain specified factors. As I read the resulting language, the PSC can still consider those factors, as the only factor remaining is the public interest, which the PSC can broadly interpret to include the eliminated factors. Is that your intent, or do you want instead to prohibit the PSC from considering the eliminated factors?

8. I revised the text that recreates s. 196.195 to refer to a TU, rather than a telecommunications provider because, under current law, s. 196.195 applies to TUs, not telecommunications providers.

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