

1 **Section 1.** 93.01 (1m) of the statutes is amended to read:

2 93.01 (1m) “Business” includes any business, except that of banks, savings
3 banks, credit unions, savings and loan associations, and insurance companies.
4 “Business” includes public utilities and telecommunications carriers to the extent
5 that their activities, beyond registration, notice, and reporting activities, are not
6 regulated by the public service commission and includes public utility and
7 telecommunications carrier methods of competition or trade and advertising
8 practices that are exempt from regulation by the public service commission under
9 s. 196.195, ~~196.196~~, 196.202, 196.203, 196.206, 196.219, ~~or 196.499~~, 196.50(2)(i),
10 or by other action of the commission.

11 **Section 2.** 133.07 (2) of the statutes is amended to read:

12 133.07 (2) This chapter does not prohibit activities of any public utility, as
13 defined in s. 196.01 (5), or telecommunications carrier, as defined in s. 196.01
14 (8m), which are required by ch. 196 or rules or orders under ch. 196, activities
15 necessary to comply with that chapter or those rules or orders or activities that are
16 actively supervised by the public service commission. This subsection does not
17 apply to activities of a public utility or telecommunications carrier that are exempt
18 from public service commission regulation under s. 196.195, ~~196.196~~, 196.202,
19 196.203, 196.206, 196.219, ~~or 196.499~~, 196.50(2)(i) or by other action by the
20 commission.

1 **Section 3.** 182.017 (1g) (cq) of the statutes is created to read:

2 182.017 **(1g)** (cq) “Telecommunications service” means the offering for sale
3 of the conveyance of voice, data, or other information, including the sale of service
4 for collection, storage, forwarding, switching, and delivery incidental to such
5 communication regardless of technology or mode.

6 **Section 4.** 196.01 (1d) (g) of the statutes is created to read:

7 196.01 **(1d)** (g) A telecommunications utility that provides notice to the
8 commission under s. 196.50 (2) (j) 1. a.

9 **Section 5.** 196.01 (2s) of the statutes is created to read:

10 196.01 **(2s)** “Incumbent local exchange carrier” has the meaning given in 47
11 USC 251 (h).

12 **Section 6.** 196.01 (3a) of the statutes is created to read:

13 196.01 **(3a)** “Interconnected voice over Internet protocol service” has the
14 meaning given in 47 CFR 9.3.

15
16 ~~196.01 (3f) of the statutes is created to read:~~

17 ~~196.01 **(3f)** “Internet protocol enabled service” means any service,~~
18 ~~capability, functionality, or application provided using Internet protocol, or any~~
19 ~~successor protocol, that enables an end user to send or receive a voice, data, or~~
20 ~~video communication in Internet protocol format or any successor format. “Internet~~

1 ~~protocol enabled service” includes interconnected voice over Internet protocol~~
2 ~~service.~~

3 **Section 7.** 196.01 (8d) of the statutes is created to read:

4 196.01 (8d) “Switched access rates” means the rates, rate elements, and rate
5 structure, including all applicable fixed and traffic sensitive charges, that a
6 telecommunications provider charges for the provision of switched access services.

7 **Section 8.** 196.01 (8e) of the statutes is created to read:

8 196.01 (8e) “Switched access service” means the offering of switched
9 access to a local exchange network for the purpose of enabling an entity to
10 originate or terminate telecommunications service within the local exchange.

11 **Section 9.** 196.01 (9m) of the statutes is amended to read:

12 196.01 (9m) “Telecommunications service” means the offering for sale of
13 the conveyance of voice, ~~data or other information~~ communication, including the
14 sale of service for collection, storage, forwarding, switching and delivery
15 incidental to such communication regardless of technology or mode. ~~and including~~
16 ~~the regulated sale of customer premises equipment.~~ “Telecommunications service”
17 does not include cable service or broadcast service. “Telecommunications service”
18 includes switched access service.

19 **Section 10.** 196.01 (12w) of the statutes is created to read:

20 196.01 (12w) (a) “Wholesale telecommunications service” means, except as

1 provided in par. (b), a service that satisfies all of the following:

2 1. The service is provided by a telecommunications provider to another
3 telecommunications provider other than an affiliate as defined in s. 196.212(1)(a).

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

5 3. The service is subsequently used in the provision of a
6 telecommunications service to retail end users.

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

9 **Section 11.** 196.016 of the statutes is created to read:

10 **196.016 Relationship to certain federal telecommunications law.** Except
11 as provided in s. 196.50 (2) (j) 2. and 3., nothing in this chapter is intended to
12 either reduce or expand the scope and application of the federal
13 Telecommunications Act of 1996, P.L. 104-104, including the jurisdiction and
14 authority granted to the commission thereunder, and the commission may take any
15 action that the commission is authorized to take under that federal act.

16 **Section 12.** 196.02 (2) of the statutes is amended to read:

17 196.02 (2) DEFINITION; CLASSIFICATION. ~~In this subsection, "public utility"~~
18 ~~does not include a telecommunications cooperative, an unincorporated~~
19 ~~telecommunications cooperative association, or a small telecommunications utility~~
20 ~~except as provided under s. 196.205 or 196.215 (2) and does not include an~~

1 ~~alternative telecommunications utility.~~ The commission shall provide for a
2 comprehensive classification of service for each public utility. The classification
3 may take into account the quantity used, the time when used, the purpose for which
4 used, and any other reasonable consideration. Each public utility shall conform its
5 schedules of rates, tolls and charges to such classification.

6 **Section 13. [NOTE TO LRB: IS THIS NUMBERING RIGHT?]**

7 196.04 (1) (a) 1. of the statutes is renumbered 196.04 (1) (a) 4. and
8 amended to read:

9 196.04 (1) (a) 4. "Transmission equipment and property" means any
10 conduit, subway, pole, tower, transmission wire, cable, or other equipment on, over
11 or under any right-of-way owned or controlled by a political subdivision, street, or
12 highway.

13 **Section 14.** 196.04 (1) (a) 3. of the statutes is created to read:

14 196.04 (1) (a) 3. "Political subdivision" means any county, city, village, or
15 town or public utility owned or operated by any county, city, village, or town.

16 **Section 15.** 196.04 (1) (b) 1. of the statutes is amended to read:

17 196.04 (1) (b) 1. Any person who owns transmission equipment and
18 property shall permit, for reasonable compensation, the use of the transmission
19 equipment and property, including an attachment to a pole, by any public utility,
20 video service provider, or telecommunications provider if public convenience and

1 necessity require such use and if the use will not result in irreparable injury to any
2 owner or user of the transmission equipment and property or in any substantial
3 detriment to the service to be rendered by the owner or user.

4 **Section 16.** 196.04 (2) of the statutes is amended to read:

5 196.04 (2) If there is a failure to agree upon the use of transmission
6 equipment and property under sub. (1) or the conditions or compensation for the
7 use, or if there is a failure to agree upon the physical connections or the terms and
8 conditions upon which the physical connections shall be made, any public utility,
9 ~~any~~ video service provider telecommunications provider, or ~~any~~ other interested
10 person ~~interested~~ may apply to the commission. If, after investigation, the
11 commission determines that public convenience and necessity require the use of
12 the transmission equipment and property or the physical connections and that the
13 use or physical connections will not result in irreparable injury to the owner or
14 other users of the transmission equipment and property or of the facilities of the
15 public utility, video service provider, or telecommunications provider or in any
16 substantial detriment to the service to be rendered by the owner or the public
17 utility, video service provider, telecommunications provider, or other users of the
18 transmission equipment and property or facilities, the commission, by order, shall
19 direct that the use of the transmission equipment and property be permitted and
20 that the physical connections be made. The commission shall prescribe reasonable

1 conditions and compensation for the use of the transmission equipment and
2 property and shall determine how and within what time the physical connections
3 shall be made and by whom the expense of making and maintaining the physical
4 connections shall be paid. An order under this subsection may be revised by the
5 commission.

6 **Section 17.** 196.09 (1) of the statutes is amended to read:

7 196.09 (1) ~~In this section, “public utility” does not include a~~
8 ~~telecommunications cooperative or an unincorporated telecommunications~~
9 ~~cooperative association except as provided under s.196.205. In subs. (2) to (7),~~
10 ~~“public utility” does not include a telecommunications utility. Subsection (9) only~~
11 ~~applies to a telecommunications utility.~~ Every public utility shall file with the
12 commission, within such time as may be required by the commission, its estimate
13 of the annual rate of depreciation required for each of its classes of fixed capital
14 used for public utility purposes, and of the composite annual rate of depreciation
15 required for such fixed capital as an aggregate, which shall constitute the public
16 utility's estimates of the amount which should be returned to it out of its rates for
17 service, to meet the depreciation of its property.

18 **Section 18.** 196.09 (9) of the statutes is repealed.

19 **Section 19.** 196.13 (2) of the statutes is amended to read:

20 196.13 (2) The commission shall publish in its reports the value of all the

1 property actually used and useful for the convenience of the public of a public
2 utility, ~~other than a telecommunications utility~~, if the commission has held a
3 hearing on the public utility's rates, charges, service or regulations or if the
4 commission has otherwise determined the value of the public utility's property.

5 **Section 20.** 196.19 (lm) of the statutes is repealed.

6 **Section 21.** 196.19 (5) of the statutes is repealed.

7 **Section 22.** 196.191 of the statutes is created to read:

8 **196.191 Telecommunications utility and alternative telecommunications**
9 **utility tariffs.**

10 (1) No later than 90 days after the effective date of this subsection [LRB
11 inserts date] any telecommunications utility or alternative telecommunications
12 utility that provides intrastate switched access service within this state shall at all
13 times have on file with the commission a tariff showing all rates, tolls and charges
14 which it has established and which are in force at the time for such intrastate
15 switched access service. The absence of such a tariff during this 90-day period
16 shall not prohibit a telecommunications utility or alternative telecommunications
17 utility from charging intrastate switched access rates for any intrastate switched
18 access service that it provides, or limit or excuse any entity from its obligation to
19 pay intrastate switched access rates, provided that such intrastate switched access
20 rates comply with the requirements of s. 196.219(2r) and 196.212. A

1 telecommunications utility or alternative telecommunications utility may not
2 withdraw a tariff for switched access service once in effect. Except if permitted
3 in this section or to comply with the requirements of s. 196.219(2r) and 196.212,
4 the telecommunications utility or alternative telecommunications carrier may not
5 file to change the rates, tolls and charges shown in such a tariff.

6

7 (2) Notwithstanding anything to the contrary, any telecommunications
8 utility or alternative telecommunications utility may do any of the following:

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

19 (b) File with the commission new tariffs showing the rates, tolls, and
20 charges which the telecommunications utility or alternative telecommunications

1 utility has established, as provided in the tariff filings, for some or all of the
2 services performed by the telecommunications utility or alternative
3 telecommunications utility within the state or for any service in connection
4 therewith or performed by any telecommunications utility or alternative
5 telecommunications utility controlled or operated by the telecommunications utility
6 or alternative telecommunications utility.

7 (c) Except as provided in sub. (1), a telecommunications utility or
8 alternative telecommunications utility may withdraw a tariff for any service by
9 providing notice to the commission.

10 (d) 1. Except as provided in subd. 2., a telecommunications utility or
11 alternative telecommunications utility may change the rates, tolls and charges and
12 the terms and conditions of a tariff on file with the commission by filing a revised
13 tariff with the commission. Except as provided in subd. 2., a proposed change in a
14 tariff shall be effective at the time specified in the revised tariff as filed with the
15 commission.

16 2. No change in a tariff which constitutes an increase in intrastate switched
17 access rates may be made unless the change is consistent with the public interest
18 factors set forth in s. 196.03 (6) and does not violate s. 196.212 and 196.219(2r)
19 and the commission by order, after investigation and opportunity for a hearing,
20 approves the change, except that an increase in intrastate switched access rates

1 shall be effective at the time specified in the revised tariff as filed with the
2 commission, if either of the following conditions is met:

3 a. The increase results in the intrastate switched access rates mirroring
4 the interstate switched access rates for the telecommunications utility or alternative
5 telecommunications utility.

6 b. For a small telecommunications utility only, the increase does not
7 violate s. 196.212 or 196.219(2r) and does not exceed, in any 12-month period,
8 the percentage increase in the U.S. consumer price index for all urban consumers,
9 U.S. city average, for the previous year and is not greater than the corresponding
10 increase in interstate switched access rates for a small telecommunications utility.

11 **(3)** (a) Except as provided in para. (b), if a telecommunications utility or
12 alternative telecommunications utility files a new tariff under section 2(b), all of
13 the following apply:

14 1. The new tariff shall become effective on the date specified in the tariff,
15 unless the commission suspends the operation of the new tariff upon serving a
16 written notice of the suspension on the telecommunications utility or alternative
17 telecommunications utility within 10 days after the date of filing. The notice shall
18 include a statement of the reason under par. (b). upon which the commission
19 believes the tariff may be modified.

20 2. The commission may modify the new tariff after an opportunity for a

1 hearing, only to the extent that the tariff violates ss. 196.209, 196.212 and 196.219
2 to the extent such sections are applicable to the telecommunications utility or
3 alternative telecommunications utility filing the new tariff.

4 3. If the commission does not conduct a hearing under par. (b), the
5 commission shall issue its final order within 60 days after issuing the notice of
6 suspension under par. (a). If the commission conducts a hearing, the commission
7 shall issue its final order within 120 days after issuing the notice of suspension
8 under par. (a). If a final order is not issued within the time limits specified in this
9 subdivision, the new tariff becomes effective as filed.

10 (b) If a telecommunications utility or alternative telecommunications utility
11 files a new tariff under section (2) (b) for intrastate switched access service which
12 constitutes an increase in intrastate switched access rates, the tariff shall not be
13 effective unless the new intrastate switched access service tariff is consistent with
14 the public interest factors set forth in s. 196.03 (6) and does not violate s. 196.212
15 or 196.219(2r) and the commission by order, after investigation and opportunity
16 for a hearing, approves the new tariff and rates, except that an increase in
17 intrastate switched access rates shall be effective at the time specified in the new
18 tariff as filed with the commission, if either of the conditions set forth in section
19 (2) (d) 2. a. or b. is met.

20 (4) Nothing in this section shall give the commission jurisdiction over the

1 rates, tolls and charges or the terms and conditions of any service that is not subject
2 to a tariff under this section.

3 (5) Every telecommunications utility or alternative telecommunications
4 utility that files a tariff with the commission under this section shall include all
5 rates, tolls and charges and all terms and conditions that apply to the services
6 specified in the tariff.

7 (6) Nothing in this chapter prohibits a tariff for a service which permits a
8 telecommunications utility or alternative telecommunications utility to enter into a
9 contract with a customer for that tariffed service that includes rates, tolls and
10 charges and terms and conditions that are different from those in the tariff.

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

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

19 **Section 23.** 196.194 (title) of the statutes is repealed.

20 **Section 24.** 196.194 (1) of the statutes is repealed.

1 **Section 25.** 196.194 (2) of the statutes is renumbered 196.194 and

2 amended to read:

3 **196.194 Gas ~~utilities~~ 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 is

7 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

15 executed, the gas utility shall submit the contract to the commission. The

16 commission shall give notice to any person, upon request, that a contract

17 authorized under this ~~subsection~~ section has been received by the commission. The

18 notice shall identify the gas utility that has entered into the contract. Within 6

19 months after receiving substantial evidence that a contract may be

20 noncompensatory, or upon its own motion, the commission shall investigate and

1 determine whether the contract is compensatory. If the commission determines that
2 the contract is noncompensatory, the commission may make appropriate
3 adjustments in the rates or tariffs of the gas utility that has entered into the
4 contract, in addition to other remedies under this chapter. The dollar amount of the
5 adjustment may not be less than the amount by which the contract was found to be
6 noncompensatory.

7

8 **Section 26.** 196.195 of the statutes is repealed and recreated to read:

9 196.195 Alternative Regulation. Any telecommunications provider that as
10 of the effective date of this section [LRB insert date] is subject to an alternative
11 regulation plan approved by the commission shall remain regulated pursuant to
12 such alternative regulation plan to the extent that the alternative regulation plan is
13 not inconsistent with ss. 196.191 and 196.212, unless the telecommunications
14 provider terminates the alternative regulation plan pursuant to its terms and
15 conditions. If such an inconsistency exists, the requirements of ss. 196.191 and
16 196.212 shall control the intrastate switched access rates and intrastate switched
17 access service tariff filings of such a telecommunications provider.

18 **Section 27.** 196.196 of the statutes is repealed.

19 **Section 28.** 196.198 (2) (a) of the statutes is renumbered 196.198

20 (2) and amended to read:

1 196.198 (2) Except as provided in sub. (3), a telecommunications utility that
2 has more than 150,000 access lines in use in this state or a telecommunications
3 provider that has more than 150,000 access lines in use in this state may not charge
4 a residential customer for basic local exchange service based on the duration of a
5 call or on the time of day that a call is made. This ~~paragraph~~ subsection does not
6 apply to an extended community telephone service.

7 **Section 29.** 196.198 (2) (b) of the statutes is repealed.

8 **Section 30.** 196.198 (3) (intro.) of the statutes is amended to read:

9 196.198 (3) (intro.) The commission may suspend the application of sub. (2)
10 ~~(a)~~ in a particular geographical area for a telecommunications utility or a
11 telecommunications provider if, after a contested case hearing, the commission
12 determines that all of the following apply:

13 **Section 31.** 196.198 (3) (a) of the statutes is amended to read:

14 196.198 (3) (a) Failure to suspend the application of sub. (2) ~~(a)~~ makes
15 competition in that geographical area impractical.

16 **Section 32.** 196.198 (3) (b) (intro.) of the statutes is amended to
17 read:

18 196.198 (3) (b) (intro.) Suspending the application of sub. (2) ~~(a)~~ is
19 beneficial to all of the following groups:

20 **Section 33.** 196.20 (1) of the statutes is amended to read:

1 196.20 (1) The rate schedules of any public utility shall include all rules
2 applicable to the rendition or discontinuance of the service to which the rates
3 specified in the schedules are applicable. No change may be made by any public
4 utility in its schedules except by filing the change as proposed with the commission.
5 ~~Except for a telecommunications utility, no~~ No change in any public utility rule
6 which purports to curtail the obligation or undertaking of service of the public
7 utility shall be effective without the written approval of the commission after
8 hearing, except that the commission, by emergency order, may make the rule, as
9 filed, effective from the date of the order, pending final approval of the rule after
10 hearing.

11 **Section 34.** 196.20 (lm) of the statutes is repealed.

12 **Section 35.** 196.20 (2) (a) (intro.) of the statutes is amended to
13 read:

14 196.20 (2) (a) (intro.) ~~Except for a telecommunications utility, a~~ A proposed
15 change which constitutes a decrease in rates shall be effective at the time specified
16 in the change as filed but not earlier than 10 days after the date of filing the change
17 with the commission, unless any of the following occurs:

18 **Section 36.** 196.20 (2) (am) of the statutes is repealed.

19 **Section 37.** 196.20 (2m) of the statutes is amended to read:

20 196.20 (2m) Except as provided under sub. ~~(5) and ss. s.~~ s. 196.193, ~~196.195~~

1 ~~(12) and 196.196~~, no change in schedules which constitutes an increase in rates to
2 consumers may be made except by order of the commission, after an investigation
3 and opportunity for hearing. ~~The commission may waive a hearing under this~~
4 ~~subsection for a proposed change in a telecommunications utility schedule. By~~
5 ~~rule or order, the commission shall specify the notice and procedural requirements~~
6 ~~applicable to a telecommunications utility proposal for which a hearing is waived.~~

7 **Section 38.** 196.20 (2r) of the statutes is repealed.

8 **Section 39.** 196.20 (3) of the statutes is repealed.

9 **Section 40.** 196.20 (5) of the statutes is repealed.

10 **Section 41.** 196.20 (6) of the statutes is repealed.

11 **Section 42.** 196.202 (2) of the statutes is amended to read:

12 196.202 (2) SCOPE OF REGULATION. A commercial mobile radio service
13 provider is not subject to ~~ch. 201~~ or this chapter, except as provided in sub. (5), and
14 except that a commercial mobile radio service provider is subject to ss. 196.025 (6),
15 196.218 (3), and 196.859, and shall respond, subject to the protection of the
16 commercial mobile radio service provider's competitive information, to all
17 reasonable requests for information about its operations in this state from the
18 commission necessary to administer ss. 196.025 (6), 196.218 (3), and 196.859.

19 **Section 43.** 196.203 (1) of the statutes is renumbered 196.203 (1g)

20 and amended to read:

1 196.203 (1g) Alternative telecommunications utilities are exempt from all
2 provisions of ~~ch. 201~~ and this chapter, except as provided in this section, and
3 except that an alternative telecommunications utility is subject to ~~s-~~ ss. 196.01,
4 196.016, 196.025 (6), 196.191, 196.206, and 196.212; and except that an
5 alternative telecommunications utility certified pursuant to s. 196.50(2)(j)1.a. is
6 subject to s. 196.219(2r), 196.503 and, with respect only to wholesale
7 telecommunications services, to ss. 196.03 (1) and (6), 196.219(4), 196.28, and
8 196.37; and except that if such an alternative telecommunications utility was
9 regulated as a price regulated utility prior to the effective date of this section . . .
10 [LRB to insert date] then its intrastate dedicated access rates shall mirror its
11 interstate dedicated access rates; and except that an alternative
12 telecommunications utility that is a local government telecommunications utility,
13 ~~as defined in s. 196.204 (5) (ag) 1.,~~ is subject to s. 196.204 (5).

14 **Section 44.** 196.203 (1d) of the statutes is created to read:

15 196.203 (1d) In this section, “local government telecommunications utility”
16 has the meaning given in s. 196.204 (1m) (a).

17 **Section 45.** 196.203 (2) of the statutes is renumbered 196.203 (2)

18 (a) and amended to read:

19 196.203 (2) (a) No person may commence providing service as an
20 alternative telecommunications utility unless the person petitions for and the

1 commission issues a ~~determination~~ certification that the person is an alternative
2 telecommunications utility or unless the person is a telecommunications utility for
3 which the commission issues an order under s. 196.50 (2) (j) 1. a.

4 **(6)** The commission shall maintain information on ~~authorized~~ certified
5 alternative telecommunications utilities and on applicants for alternative
6 telecommunications utility ~~status~~ certification and make that information available
7 to any person, upon request.

8 **Section 46.** 196.203 (2) (b) of the statutes is created to read:

9 196.203 (2) (b) Except for an alternative telecommunications utility that is a
10 local government telecommunications utility, certification as an alternative
11 telecommunications utility shall be on a statewide basis and any certification
12 issued by the commission before the effective date of this paragraph [LRB
13 inserts date], to an alternative telecommunications utility that is not a local
14 government telecommunications utility is considered amended to be a statewide
15 certification.

16 **Section 47.** 196.203 (2) (c) of the statutes is created to read:

17 196.203 (2) (c) An alternative telecommunications utility may provide
18 notice to the commission to maintain certification as an alternative
19 telecommunications utility but to recertify the alternative telecommunications
20 utility and impose on the alternative telecommunications utility only those

1 provisions of this chapter specified in this paragraph. No later than 30 days after
2 receiving notice under this paragraph, the commission shall issue an order
3 granting recertification and imposing on the alternative telecommunications utility
4 those provisions of this chapter specified in sub. (4m) (a) that are imposed on all
5 alternative telecommunications utilities under sub. (3). The commission may
6 impose a provision of this chapter specified in sub. (4m) (b) or (c) if in the public
7 interest. An alternative telecommunications utility for which an order of
8 recertification is issued is subject to sub. (1g). The granting of the recertification
9 shall operate to terminate the alternative telecommunications utility's prior
10 certification. All regulatory requirements in or related to the prior certification
11 that are inconsistent with the requirements of or level of regulation allowed by
12 this section, including all such requirements imposed by the certification and all
13 such requirements imposed by the commission, whether by statute or commission
14 rule or order, on the alternative telecommunications utility are terminated on the
15 effective date of the order, unless in its notice to the commission seeking
16 recertification under this section the alternative telecommunications utility
17 requests to remain subject to one or more requirements of its prior certification,
18 provided that those requirements do not violate the alternative
19 telecommunications utility's requirements or obligations under this Chapter and
20 provided that the commission does not deny the request to remain subject to those

1 requirements in the recertification order.

2

3 **Section 48.** 196.203 (2) (d) of the statutes is created to read:

4 196.203 **(2)** (d) The commission may deny a petition for certification as an
5 alternative telecommunications utility described in s. 196.01 (1d) (f) only if the
6 commission finds that the petitioner does not have the financial, managerial, or
7 technical capabilities to provide its proposed services or to comply with conditions
8 that the commission is authorized to impose under sub. (3).

9 **Section 49.** 196.203 (3) (a) of the statutes is renumbered 196.203

10 (3) and amended to read:

11 196.203 **(3)** In response to a petition from any interested person, or upon its
12 own motion, the commission shall determine whether the public interest requires
13 that any a provision of ~~ch. 201~~ or this chapter specified in sub. (4m) be imposed on
14 a person providing or proposing to provide service as an alternative
15 telecommunications utility ~~in a relevant market. In making this determination, the~~
16 ~~commission may consider factors including the quality of service, customer~~
17 ~~complaints, concerns about the effect on customers of local exchange~~
18 ~~telecommunications utilities and the extent to which similar services are available~~
19 ~~from alternative sources. If the commission imposes a provision of this chapter~~
20 specified in sub. (4m) (a) on an alternative telecommunications utility under this

1 subsection, the commission shall impose the same provision at the same level of
2 regulation on all other alternative telecommunications utilities.

3 **Section 50.** 196.203 (3) (b) of the statutes is repealed.

4 **Section 51.** 196.203 (3) (c) of the statutes is repealed.

5 **Section 52.** 196.203 (3) (d) of the statutes is repealed.

6 **Section 53.** 196.203 (3) (dm) of the statutes is repealed.

7 **Section 54.** 196.203 (3) (e) of the statutes is repealed.

8 **Section 55.** 196.203 (4) of the statutes is repealed.

9 **Section 56.** 196.203 (4m) of the statutes is created to read:

10 196.203 **(4m)** (a) The commission may impose s. 196.02 (1), (4), or (5),
11 196.04, 196.135, 196.14, 196.197, 196.199, 196.207, 196.208, 196.209, 196.218,
12 196.219 (1), (2) (b), (c), or (d), (2r), (3) (a), (d), (j), (m), (n), or (o), 196.25, 196.26,
13 196.39, 196.40, 196.41, 196.43, 196.44, 196.65, 196.66, 196.81, 196.85, 196.858, or
14 196.859 on an alternative telecommunications utility.

15 (b) In addition to the requirements under s. 196.212, the commission may,
16 with respect only to intrastate switched access services, impose s. 196.03 (1) or (6)
17 or 196.37 on an alternative telecommunications utility, except that the commission
18 may not review or set the rates for intrastate switched access services of alternative
19 telecommunications utilities subject to 196.212 (2) or (3) except as required to
20 enforce those sections.

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

5 **Section 57.** 196.203 (5) of the statutes is amended to read:

6 196.203 (5) The commission may establish a reasonable fee schedule and
7 may assess an alternative telecommunications utility to cover the cost of ~~making a~~
8 certification, recertification or other determinations made under this section.

9 **Section 58.** 196.204 (title) of the statutes is repealed and recreated
10 to read:

11 **196.204 (title) Local government telecommunications utilities.**

12 **Section 59.** 196.204 (1) of the statutes is repealed.

13 **Section 60.** 196.204 (2) of the statutes is repealed.

14 **Section 61.** 196.204 (3) of the statutes is repealed.

15 **Section 62.** 196.204 (4) of the statutes is repealed.

16 **Section 63.** 196.204 (5) (ag) of the statutes is renumbered 196.204
17 (1m), and 196.204 (1m) (intro.), as renumbered, is amended to read:

18 196.204 (1m) (intro.) In this ~~subsection~~ section:

19 **Section 64.** 196.204 (5) (ar) of the statutes is renumbered 196.204
20 (2m), and 196.204 (2m) (a), (b) (intro.) and (c) (intro.), as renumbered,

1 are amended to read:

2 196.204 (2m) (a) ~~In addition to the other requirements of this section, each~~
3 Each telecommunications service, relevant group of services, and basic network
4 function offered or used by a local government telecommunications utility shall be
5 priced to exceed its total service long-run incremental cost. ~~The commission may~~
6 ~~waive the applicability of this subdivision to a nongovernmental~~
7 ~~telecommunications utility's basic local exchange service if the commission~~
8 ~~determines that a waiver is consistent with the factors under s. 196.03 (6).~~

9 (b) (intro.) For purposes of ~~subd. 1. par. (a)~~, the total service long-run
10 incremental cost of a local government telecommunications utility shall take into
11 account, by imputation or allocation, equivalent charges for all taxes, pole rentals,
12 rights-of-way, licenses, and similar costs that are incurred by nongovernmental
13 telecommunications utilities. This ~~subdivision~~ paragraph does not apply to a local
14 government telecommunications utility that is subject to the exemption under s.
15 66.0422 (3n). This ~~subdivision~~ paragraph also does not apply to a
16 telecommunications service, relevant group of services, or basic network function
17 if all of the following conditions apply:

18 (c) (intro.) ~~Subdivision 2. Paragraph (b)~~ does not apply to a
19 telecommunications service, relevant group of services, or basic network function;
20 that is used to provide broadband service and that is offered by a municipal

1 telecommunications utility, if all of the following apply:

2 **Section 65.** 196.204 (5) (b) of the statutes is repealed.

3 **Section 66.** 196.204 (6) of the statutes is repealed.

4 **Section 67.** 196.205 of the statutes is repealed.

5 **Section 68.** 196.206 of the statutes is created to read:

6 **196.206 Interconnected voice over Internet protocol service. (1)**

7 EXEMPTIONS. An interconnected voice over Internet protocol service is not
8 subject to this chapter, except as provided in this section, and except that an
9 interconnected voice over Internet protocol service is subject to ss. 196.01,
10 196.016, 196.025 (6), 196.199, 196.218 (3), 196.858 and 196.859, to the same
11 extent that any telecommunications service is subject to these provisions of law,
12 and except as required for the commission to administer and enforce this section.

13 **(2) UNIVERSAL SERVICE FUND.** An entity that provides interconnected voice
14 over Internet protocol service in this state shall make contributions to the
15 universal service fund based on its revenues from providing intrastate
16 interconnected voice over Internet protocol service. The revenues shall be
17 calculated using the entity's actual intrastate revenues, a provider-specific traffic
18 study approved by the commission or federal communications commission, or the
19 inverse of the interstate jurisdictional allocation established by the federal
20 communications commission for the purpose of federal universal service

1 assessments. To the extent applicable, the calculation of the intrastate revenues of
2 an entity that provides interconnected voice over Internet protocol service shall be
3 based on the primary physical service address identified by the customer.

4 **(3) Intrastate Switched Access Rates.**

5 (a) Unless otherwise provided under federal law, an entity that provides an
6 interconnected voice over Internet protocol service shall pay intrastate switched
7 access rates in connection with the interconnected voice over internet protocol
8 services that it provides to the same extent that any telecommunications provider is
9 obligated to pay intrastate switched access rates in connection with the
10 telecommunications services that it provides.

11 (b) Unless otherwise provided under federal law, an entity that provides an
12 intrastate switched access service in connection with interconnected voice over
13 Internet protocol services shall be subject to s. 196.191 with respect to such
14 intrastate switched access service and may charge intrastate switched access rates
15 to the same extent that any telecommunications provider may charge intrastate
16 switched access rates in connection with the intrastate switched access services that
17 it provides.

18

19 **Section 69.** 196.212 of the statutes is created to read:

20 **196.212 Switched access rates. (1) DEFINITIONS.** In this section:

1 (a) "Affiliate" means any person, corporation, company, cooperative,
2 unincorporated cooperative association, partnership, association, or other entity
3 that is controlled by, or is under common control with, a telecommunications
4 provider or telecommunications utility.

5 (b) "Large incumbent local exchange carrier" means an incumbent local
6 exchange carrier that, with any affiliates that are incumbent local exchange carriers
7 operating in the state, in total had 150,000 or more access lines in use in this state
8 as of January 1, 2010.

9 (c) "Large Nonincumbent" means a telecommunications provider that is not
10 an incumbent local exchange carrier and had 10,000 or more access lines in use in
11 this state as of January 1, 2010.

12 (d) "New Nonincumbent" means a telecommunications provider
13 that is not an incumbent local exchange carrier and that was not
14 granted an initial certification by the commission pursuant to either s.
15 196.203 or 196.50, prior to January 1, 2011. New nonincumbent does
16 not include an alternative telecommunications utility certificated
17 pursuant to s. 196.50(2)(j) 1. a.

18
19 (e) "Small Nonincumbent" means a telecommunications provider that is not

1 an incumbent local exchange carrier and that had fewer than 10,000 access lines in
2 use in this state as of January 1, 2010.

3
4 (f) "Small incumbent local exchange carrier" means an incumbent local
5 exchange carrier that, with any affiliates that are incumbent local exchange carriers
6 operating in the state, in total had fewer than 150,000 access lines in use in this
7 state as of January 1, 2010.

8 (2) REQUIREMENTS FOR NONINCUMBENTS. (a) Within 30 days of
9 the effective date of this section . . . [LRB to insert date], a new nonincumbent may
10 not charge intrastate switched access rates that are higher than its interstate
11 switched access rates.

12 (b) Except as provided in 196.191(2)(d) 2 a, a large nonincumbent may not
13 increase its intrastate switched access rates or charge intrastate switched access
14 rates higher than the amount the large nonincumbent charged for intrastate
15 switched access services on January 1, 2011. Large nonincumbents certificated
16 prior to January 1, 2011 shall reduce their intrastate switched access rates as
17 provided in paras. (1)-(3) .

18 1. No later than four years after the effective date of this paragraph
19 [LRB inserts date], the large nonincumbent shall reduce its intrastate switched
20 access rates by an amount equal to 33 percent of the difference between its

1 intrastate switched access rates in effect prior to the reduction and its interstate
2 switched access rates in effect prior to the reduction.

3 2. No later than five years after the effective date of this paragraph
4 [LRB inserts date], the large nonincumbent shall further reduce its intrastate
5 switched access rates by an amount equal to 50 percent of the difference between
6 its intrastate switched access rates in effect prior to the reduction and its interstate
7 switched access rates in effect prior to the reduction.

8 3. No later than six years after the effective date of this paragraph
9 [LRB inserts date], the large nonincumbent shall reduce its intrastate switched
10 access rates to mirror its interstate switched access rates in effect prior to the
11 reduction and, beginning no later than that date, may not charge intrastate switched
12 access rates that are higher than its interstate switched access rates.

13 **(3) REDUCTIONS FOR LARGE INCUMBENT LOCAL EXCHANGE**
14 **CARRIERS.** A large incumbent local exchange carrier shall reduce its intrastate
15 switched access rates to no higher than the large incumbent local exchange
16 carrier's rates for interstate switched access services as follows:

17 (a) Beginning on the effective date of this paragraph [LRB inserts date],
18 the large incumbent local exchange carrier may not increase its intrastate switched
19 access rates or charge intrastate switched access rates higher than the amount it

1 charged for intrastate switched access services on January 1, 2011.

2 (b) No later than one year after the effective date of this paragraph [LRB
3 inserts date], the large incumbent local exchange carrier shall reduce its intrastate
4 switched access rates by an amount equal to 25 percent of the difference between
5 its intrastate switched access rates in effect prior to the reduction and its interstate
6 switched access rates in effect prior to the reduction.

7 (c) No later than 2 years after the effective date of this paragraph [LRB
8 inserts date], the large incumbent local exchange carrier shall further reduce its
9 intrastate switched access rates by an amount equal to 33 percent of the difference
10 between its intrastate switched access rates in effect prior to the reduction and its
11 interstate switched access rates in effect prior to the reduction.

12 (d) No later than 3 years after the effective date of this paragraph [LRB
13 inserts date], the large incumbent local exchange carrier shall further reduce its
14 intrastate switched access rates by an amount equal to 50 percent of the difference
15 between its intrastate switched access rates in effect prior to the reduction and its
16 interstate switched access rates in effect prior to the reduction.

17 (e) No later than 4 years after the effective date of this paragraph [LRB
18 inserts date], the large incumbent local exchange carrier shall reduce its intrastate
19 switched access rates to mirror its interstate switched access rates in effect prior to

1 the reduction and, beginning no later than that date, may not charge intrastate
2 switched access rates that are higher than its interstate switched access rates.

3 **(4) COMMISSION REVIEW LIMITED.** (a) Notwithstanding any other
4 provision of this chapter, subs. (2) and (3) govern the rates that large
5 nonincumbents, new nonincumbents and large incumbent local exchange carriers
6 may charge for intrastate switched access services. Except as required to enforce
7 this section, the commission may not review or set the rates for intrastate switched
8 access services of large nonincumbents, new nonincumbents and large incumbent
9 local exchange carriers.

10 (b) Notwithstanding any other provision of this chapter except to enforce
11 196.191(2)(d) 2. and 196.219(2r), during the 4-year period beginning on the
12 effective date of this paragraph [LRB inserts date], the commission may not
13 review or set the rates for intrastate switched access services of small incumbent
14 local exchange carriers.

15 (c) Notwithstanding any other provision of this chapter except to enforce
16 196.191(2)(d) 2. a. and 196.219(2r), during the 3-year period beginning on the
17 effective date of this paragraph [LRB inserts date], the commission may not
18 review or set the rates for intrastate switched access services of small
19 nonincumbents.

20

1 (5) Enforcement. Notwithstanding any other provision of this chapter, the
2 commission shall have jurisdiction to enforce payment of intrastate switched
3 access rates set forth in a tariff required pursuant to s. 196.191(1) or a contract for
4 intrastate switched access service allowed by 196.191(6).

5 **Section 70.** 196.213 of the statutes is repealed.

6 **Section 71.** 196.215 of the statutes is repealed.

7 **Section 72.** 196.218 (1) (a) of the statutes is created to read:

8 196.218 (1) (a) "Essential telecommunications services" means the services
9 or functionalities listed in 47 CFR 54.101 (a) as of January 1, 2010.

10 **Section 73.** 196.218 (3) (a) 3m. of the statutes is amended to read:

11 196.218 (3) (a) 3m. Contributions under this paragraph may be based only
12 on the gross operating revenues from the provision of broadcast services identified
13 by the commission under subd. 2. and on intrastate telecommunications services
14 in this state of the telecommunications providers subject to the contribution.
15 Contributions based on revenues from interconnected voice over Internet protocol
16 service shall be calculated as provided under s. 196.206 (2).

17 **Section 74.** 196.218 (3) (f) of the statutes is amended to read:

18 196.218 (3) (f) ~~Notwithstanding ss. 196.196 (1) and (5) (d) 2., 196.20 (2m),~~
19 ~~(5) and (6), 196.213 and 196.215,~~ a A telecommunications utility that provides
20 local exchange service may make adjustments to local exchange service rates for

1 the purpose of recovering its contributions to the universal service fund required
2 under this subsection. A telecommunications utility that adjusts local exchange
3 service rates for the purpose of recovering such contributions shall identify on
4 customer bills a single amount that is the total amount of the adjustment. The
5 public service commission shall provide telecommunications utilities the
6 information necessary to identify such amounts on customer bills.

7 **Section 75.** 196.218 (4) of the statutes is repealed and recreated to
8 read:

9 196.218 (4) ESSENTIAL TELECOMMUNICATION SERVICES. (a) Each
10 telecommunications provider that is designated as an eligible telecommunications
11 carrier pursuant to 47 USC 214 (e) (2) shall make available to its customers all
12 essential telecommunications services. A telecommunications provider may satisfy
13 this paragraph by providing essential telecommunications services itself or through
14 an affiliate and in either case may provide essential telecommunications services
15 through the use of any available technology or mode.

16 (b) Notwithstanding par. (a), if a commercial mobile radio service provider
17 is designated or seeks designation as an eligible telecommunications carrier
18 pursuant to 47 USC 214 (e) for the purpose of federal universal service funding and
19 not for the purpose of state universal service funding, the commercial mobile radio
20 service provider is not subject to any eligible telecommunications carrier

1 requirements imposed by the commission and shall be subject only to the eligible
2 telecommunications carrier requirements imposed by 47 USC 214 (e) (1) and
3 regulations and orders of the federal communications commission implementing
4 47 USC 214 (e) (1).

5 **Section 76.** 196.218 (5r) (a) 4. of the statutes is amended to read:

6 196.218 (5r) (a) 4. An assessment of how ~~successful investments identified~~
7 ~~in s. 196.196 (5) (f)~~, assistance provided by the universal service fund, ~~and price~~
8 ~~regulation~~ and other alternative incentive regulations of telecommunications
9 utilities designed to promote competition have been in advancing the public
10 interest goals identified under s. 196.03 (6), and recommendations for further
11 advancing those goals.

12 **Section 77.** 196.219 (1) (b) of the statutes is amended to read:

13 196.219 (1) (b) "Local exchange service" ~~has the meaning given in s.~~
14 ~~196.50 (1) (b) 1.~~ includes access service, basic local exchange service, and
15 business access line and usage service within a local calling area.

16 **Section 78.** 196.219 (2) (a) of the statutes is amended to read:

17 196.219 (2) (a) Notwithstanding any exemptions identified in this chapter
18 except ~~s.~~ ss. 196.202, 196.203, 196.206, and 196.50, a telecommunications utility
19 or provider shall provide protection to its consumers under this section unless
20 exempted in whole or in part by rule or order of the commission under this section.

1 The commission shall promulgate rules that identify the conditions under which
2 provisions of this section may be suspended.

3 **Section 79.** 196.219 (2m) of the statutes is repealed.

4 **Section 80.** 196.219 (2r) of the statutes is created to read:

5 196.219 (2r) SWITCHED ACCESS RATES. Any reduction in intrastate switched
6 access rates ordered by the commission prior to the effective date of this subsection
7 [LRB inserts date], including any reduction ordered pursuant to s. 196.195,

8 **[NOTE TO LRB: WE'RE REFERENCING 196.195 PRIOR TO**
9 **ENACTMENT, HOW DO WE APPROPRIATELY DO THAT?]** shall remain
10 effective unless modified by the commission in a subsequent order, or unless the
11 ordered reduction is inconsistent with the requirements of s. 196.212.

12 **Section 81.** 196.219 (3) (h) of the statutes is repealed.

13 **SECTION 82. 196.25 of the statutes is repealed and recreated to read:**

14 196.25 Questionnaires. (1) If a public utility, other than a
15 telecommunications provider, receives from the commission any
16 questionnaire, the public utility shall respond fully, specifically and
17 correctly to each question. If a public utility is unable to answer any
18 question, the public utility shall give a good and sufficient reason for its
19 failure. Every answer by a public utility under this section shall be verified
20 under oath by a manager of the public utility and returned to the commission

1 at its office within the period fixed by the commission.

2 (2) If required by the commission, a public utility, other than a
3 telecommunications provider, shall deliver to the commission the original or a
4 copy of any map, profile, contract or engineer's report and any other document,
5 book, account, paper or record with a complete inventory of all its property, in
6 such form as the commission directs.

7 (3) If a telecommunications provider receives a questionnaire from the
8 commission, the telecommunications provider shall respond specifically, correctly
9 and fully to each question that relates to a matter over which the commission has
10 jurisdiction. If a telecommunications provider is unable to answer any question,
11 the telecommunications provider shall give a good and sufficient reason for its
12 failure. Answers shall be verified under oath by manager of the
13 telecommunications provider. A completed questionnaire shall be returned to the
14 commission within the time period specified by the commission.

15 **Section 83.** 196.26 (1) (a) of the statutes is amended to read:

16 196.26 (1) (a) A complaint filed with the commission that any rate, toll,
17 charge, or schedule, joint rate, regulation, measurement, act, or practice relating to
18 the provision of heat, light, water, or power, ~~or telecommunications service~~ is
19 unreasonable, inadequate, unjustly discriminatory, or cannot be obtained.

20 **Section 84.** 196.26 (4) of the statutes is repealed.

1 **Section 85.** 196.28 (4) of the statutes is amended to read:

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

6 **Section 86.** 196.31 (1m) of the statutes is amended to read:

7 196.31 **(1m)** The commission shall compensate any consumer group or
8 consumer representative for all reasonable costs of participating in a hearing under
9 s. ~~196.196 (1) (g) or~~ 196.198.

10 **Section 87.** 196.37 (3) of the statutes is amended to read:

11 196.37 **(3)** Any public utility to which an order under this section applies
12 shall make such changes in schedules on file under s. 196.19 to make the schedules
13 conform to the order. The public utility may not make any subsequent change in
14 rates, tolls or charges without the approval of the commission, ~~except as provided~~
15 ~~in s. 196.205 or 196.215 (2).~~

16 **Section 88.** 196.37 (4) of the statutes is amended to read:

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

1 **Section 89.** 196.49 (1) (ag) of the statutes is repealed.

2 **Section 90.** 196.49 (3) (b) (intro.) of the statutes is amended to

3 read:

4 196.49 (3) (b) (intro.) ~~Except as provided in par. (d), the~~ The commission
5 may require by rule or special order under par. (a) that no project may proceed
6 until the commission has certified that public convenience and necessity require
7 the project. The commission may refuse to certify a project if it appears that the
8 completion of the project will do any of the following:

9 **Section 91.** 196.49 (3) (d) of the statutes is repealed.

10 **Section 92.** 196.50 (title) of the statutes is amended to read:

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

13 **Section 93.** 196.50 (1) (b) 1. and 2. of the statutes are repealed.

14 **Section 94.** 196.50 (1) (b) 3. of the statutes is renumbered 196.50

15 (1) (b).

16 **Section 95.** 196.50 (2) (b) of the statutes is amended to read:

17 196.50 (2) (b) A certificate, franchise, license or permit, indeterminate or
18 otherwise, in effect on September 1, 1994, for a telecommunications utility shall
19 remain in effect and shall have the effect of a certificate of authority. A
20 telecommunications utility is not required to apply for a new certificate of

1 authority to continue offering or providing service to the extent of the prior
2 authorization. Each telecommunications utility, ~~including telecommunications~~
3 ~~cooperatives and unincorporated telecommunications cooperative associations,~~
4 shall have on file with the commission ~~under s. 196.19 a tariff that sets forth the~~
5 ~~rates, terms and conditions for all services provided and~~ a map that defines the
6 geographical limits of the service territory that the telecommunications utility is
7 obliged to serve.

8 **Section 96.** 196.50 (2) (e) 1. of the statutes is amended to read:

9 196.50 (2) (e) 1. Pending the determination on an application for a certificate
10 of authority or an amended certificate of authority, the commission may issue,
11 without notice and hearing, a temporary license for a period not to exceed one year
12 ~~and may temporarily exempt the applicant from requirements of this chapter~~
13 ~~identified in s. 196.195 (5) if the exemption is in the public interest.~~ The issuance
14 of a temporary license does not bind the commission in the final determination on
15 the application.

16 **Section 97.** 196.50 (2) (f) of the statutes is amended to read:

17 196.50 (2) (f) The commission shall issue a certificate of authority or an
18 amended certificate of authority if it finds, after notice and opportunity for hearing,
19 that the applicant possesses sufficient technical, financial and managerial resources
20 to provide telecommunications service to any person within the identified

1 geographic area. In making this determination, the commission shall consider the
2 factors identified in s. 196.03 (6). ~~The commission may order the applicant to~~
3 ~~satisfy any conditions that the commission considers to be necessary to protect the~~
4 ~~public interest, including structural safeguards.~~

5 **Section 98.** 196.50 (2) (g) 3. of the statutes is repealed.

6 **Section 99.** 196.50 (2) (h) of the statutes is repealed.

7 **Section 100.** 196.50 (2) (i) of the statutes is created to read:

8 196.50 (2) (i) A telecommunications utility certified under this subsection is
9 exempt from s. 196.02 (2) and (6); 196.05, 196.06, 196.07, 196.08, 196.09, 196.10,
10 196.12, 196.13, 196.16, 196.18, 196.19, 196.20, 196.21, 196.219 (3) (c), (e), (g),
11 (L), (4), except with respect to wholesale telecommunications services[**NOTE TO**
12 **LRB: INTENT HERE IS THAT THE PRECEDING “EXCEPT”**
13 **LIMITATION APPLIES ONLY TO (4)],** (4d), (4m), (5), 196.24, 196.395,
14 196.49, 196.52, 196.58, 196.60, 196.64, 196.78, and 196.79..

15 **Section 101.** 196.50 (2) (j) of the statutes is created to read:

16 196.50 (2) (j) 1. A telecommunications utility certified under this subsection
17 may do any of the following:

18 a. Provide notice to the commission to terminate the certification under this
19 subsection and certify the telecommunications utility as an alternative
20 telecommunications utility under s. 196.203. No later than 30 days after receiving

1 notice under this subd. 1. a., the commission shall issue an order granting a
2 certification under s. 196.203. The granting of such certification shall operate to
3 terminate the certification under this subsection. All regulatory requirements in or
4 related to the certification under this subsection that are inconsistent with the
5 requirements of or level of regulation allowed by s. 196.203, including all such
6 requirements imposed by the certification and all such requirements imposed by
7 the commission, whether by statute or commission rule or order, on the
8 telecommunications utility are terminated on the effective date of the order,
9 unless in its notice to the commission seeking recertification under s. 196.203 the
10 telecommunications utility requests to remain subject to one or more
11 requirements of its prior certification, provided that those requirements do no
12 violate the telecommunications utility's requirements or obligations under this
13 Chapter and provided that the commission does not deny the request to remain
14 subject to those requirements in the recertification order.

15 b. Provide notice to the commission to recertify the telecommunications
16 utility under this subsection and impose on the telecommunications utility only
17 those provisions of this chapter specified in this paragraph. No later than 30 days
18 after receiving notice under this subd. 1. b., the commission shall issue an order
19 granting recertification under this subsection imposing on the telecommunications
20 utility only those provisions of this chapter specified in this subd. The

1 telecommunications utility shall be exempt from all provisions of this chapter,
2 except ss. 196.01, 196.016, 196.025 (6), 196.191, 196.206, 196.212, 196.219(2r),
3 and 196.503; and except those provisions in s. 196.203 (4m) (a) that are imposed
4 on all alternative telecommunications utilities under s. 196.203 (3); and except,
5 with respect to its wholesale telecommunications services only, to ss. 196.03 (1)
6 and (6), 196.219(4), 196.28, and 196.37. If required by the public interest, the
7 commission may, with respect only to intrastate switched access services, impose
8 on the telecommunications utility s. 196.03 (1) and (6) and 196.37, provided that
9 the commission may not impose s. 196.03(1) or (6) without also imposing s.
10 196.37 on the telecommunications utility. The granting of the recertification shall
11 operate to terminate the telecommunications utility's prior certification. All
12 regulatory requirements related to the prior certification that are inconsistent with
13 the requirements of or level of regulation allowed by this subd., including all such
14 requirements imposed by the certification, and all such requirements imposed by
15 the commission, whether by statute or commission rule or order, on the
16 telecommunications utility are terminated on the effective date of the order,
17 unless in its notice to the commission seeking recertification under this section
18 the telecommunications utility requests to remain subject to one or more
19 requirements of its prior certification, provided that those requirements do no
20 violate the telecommunications utility's requirements or obligations under this

1 Chapter and provided that the commission does not deny the request to remain
2 subject to those requirements in the recertification 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
12 of 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).

16 **Section 102.** 196.503 of the statutes is created to read:

17 **196.503 Telecommunications provider of last-resort obligations. (1)**

18 DEFINITIONS. In this section: “basic voice service” means the provision to
19 residential customers of 2-way voice communication within a local calling area.

20 “Basic voice service” includes extended community calling and extended area

1 service. "Basic voice service" does not include the offering of internet access
2 service or any discretionary or optional services that are provided to a residential
3 customer, even if provided in a bundle or package with basic voice service.

4 **(2) INCUMBENT LOCAL EXCHANGE CARRIER OBLIGATIONS. (a)**

5 Notwithstanding any other provision in this chapter, and except as provided in sub.
6 (3), an incumbent local exchange carrier shall make basic voice service available to
7 all residential customers within a local exchange area in which it operates as an
8 incumbent local exchange carrier.

9 (b) An incumbent local exchange carrier may satisfy its obligations under
10 par. (a) through an affiliate and through the use of any available technology or
11 mode.

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

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

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

19 2. The commission has made a previous finding of effective competition
20 under s. 196.195 (2) for basic local exchange service in the local exchange. The

1 commission may not grant a waiver under this subdivision until after June 1, 2012,
2 or the effective date of this subdivision [LRB inserts date], whichever is later.

3 (c) The commission's review of a waiver requested under par. (a) shall be
4 strictly limited to determining whether any of the criteria specified in par. (b) 1. or
5 2. is satisfied.

6 (d) 1. Within 120 days of the filing of a waiver request based on par. (b) 1.,
7 the commission shall grant or deny the request and, if denied, the commission shall
8 issue a written decision identifying the reasons for its denial. If the commission
9 fails to grant or deny the waiver request within 120 days of its filing, the waiver
10 request is considered granted by operation of law.

11 2. The commission shall grant a waiver based on par. (b) 2. as soon as the
12 commission verifies that the commission has previously made the finding specified
13 in par. (b) 2., but no later than 20 days after the filing of the waiver request. If the
14 commission fails to grant a waiver request based on par. (b) 2. within 20 days of its
15 filing, the waiver request is considered granted by operation of law. If the
16 commission denies a waiver based on par. (b) 2., the commission shall issue a
17 written decision identifying the reasons for its denial.

18 **(4) EFFECT ON OTHER REQUIREMENTS.** (a) Notwithstanding any other
19 provision of this chapter, a commission decision prior to the effective date of this
20 paragraph [LRB inserts date], eliminating an incumbent local exchange carrier's

1 provider of last-resort obligations, by operation of law or otherwise, remains in
2 force and in effect as to the elimination of those obligations.

3 (b) Except to enforce this section, nothing in this section provides the
4 commission with any authority to regulate, or any jurisdiction over, incumbent
5 local exchange carriers and the rates, terms, and conditions of their services that
6 the commission does not otherwise have under this chapter.

7 **(5) SUNSET.** This section does not apply after April 30, 2013.

8 **Section 103.** 196.52 (3) (b) 1. of the statutes is amended to read:

9 196.52 **(3)** (b) 1. The requirement for written approval under par. (a) shall
10 not apply to any contract or arrangement if the ~~amount of consideration involved~~ is
11 not in excess of \$25,000 or 5% of the equity of the public utility, whichever is
12 smaller. The requirement under par. (a) also does not apply ~~to a~~
13 ~~telecommunications utility contract or arrangement~~ or to contracts or arrangements
14 with joint local water authorities under s. 66.0823. Regularly recurring payments
15 under a general or continuing arrangement which aggregate a greater annual
16 amount may not be broken down into a series of transactions to come within the
17 exemption under this paragraph. Any transaction exempted under this paragraph
18 shall be valid or effective without commission approval under this section.

19 **Section 104.** 196.52 (3) (c) (intro.) of the statutes is amended to
20 read:

1 196.52 (3) (c) (intro.) If the value of a contract or arrangement between an
2 affiliated interest and a public utility, ~~other than a telecommunications utility,~~
3 exceeds \$1,000,000, the commission:

4 **Section 105.** 196.52 (5) (a) of the statutes is renumbered 196.52
5 (5).

6 **Section 106.** 196.52 (5) (b) of the statutes is repealed.

7 **Section 107.** 196.52 (6) of the statutes is amended to read:

8 196.52 (6) If the commission finds upon investigation that a public utility;
9 ~~other than a telecommunications utility,~~ is giving effect to a contract or
10 arrangement without the commission's approval under this section, the commission
11 shall issue a summary order directing that public utility to cease and desist from
12 making any payments, receiving compensation, providing any service or otherwise
13 giving any effect to the contract or arrangement until the contract or arrangement
14 receives the approval of the commission. The circuit court of Dane County may
15 enforce the order to cease and desist by appropriate process, including the issuance
16 of a preliminary injunction, upon the suit of the commission.

17 **Section 108.** 196.52 (9) (e) of the statutes is amended to read:

18 196.52 (9) (e) Notwithstanding sub. (5)~~-(a)~~, the commission may not modify
19 or terminate a leased generation contract approved under sub. (3) except as
20 specified in the leased generation contract or the commission's order approving the

1 leased generation contract.

2 **Section 109.** 196.60 (1) (a) of the statutes is amended to read:

3 196.60 (1) (a) ~~Except as provided under sub. (2), no~~ No public utility and no
4 agent, as defined in s. 196.66 (3) (a), or officer of a public utility, directly or
5 indirectly, may charge, demand, collect or receive from any person more or less
6 compensation for any service rendered or to be rendered by it in or affecting or
7 relating to the production, transmission, delivery or furnishing of heat, light, water,
8 ~~telecommunications service~~ or power or for any service in connection therewith,
9 than that prescribed in the published schedules or tariffs then in force, or
10 established under this chapter, or than it charges, demands, collects or receives
11 from any other person for a like contemporaneous service.

12 **Section 110.** 196.60 (2) of the statutes is repealed.

13 **Section 111.** 196.604 of the statutes is amended to read:

14 **196.604 Rebates, concessions and discriminations unlawful.** No person
15 may knowingly solicit, accept or receive any rebate, concession or discrimination
16 from a public utility for any service in or affecting or relating to the production,
17 transmission, delivery or furnishing of heat, light, water or power ~~or the conveying~~
18 ~~of telecommunications messages~~ within this state or for any connected service
19 whereby the service is rendered or is to be rendered free or at a rate less than the
20 rate named in the schedules and tariffs in force, or whereby any other service or

1 advantage is received. Any person violating this section shall be fined not less than
2 \$50 nor more than \$5,000 for each offense.

3 **Section 112.** 196.77 of the statutes is repealed.

4 **Section 113.** 196.79 (1) of the statutes is renumbered 196.79 and
5 amended to read:

6 **196.79 Reorganization subject to commission approval.** ~~Except as~~
7 ~~provided in sub. (2), the~~ The reorganization of any public utility shall be subject to
8 the supervision and control of the commission. No reorganization may take effect
9 without the written approval of the commission. The commission may not approve
10 any plan of reorganization unless the applicant for approval establishes that the
11 plan of reorganization is consistent with the public interest.

12 **Section 114.** 196.79 (2) of the statutes is repealed.

13 **Section 115.** 196.805 of the statutes is repealed.

14 **Section 116.** 196.975 (1) of the statutes is renumbered 196.975

15 (1r) and amended to read:

16 196.975 (1r) One hundred fifty or more consumers, ~~as defined in s. 196.213~~
17 ~~(1) (a) 1.~~, who are residents of the same local exchange area for
18 telecommunications service may file with the commission a petition requesting
19 that commission staff, in cooperation with the affected telecommunications utilities
20 and telecommunications carriers, petition the appropriate federal district court to

1 include their local exchange area in a different local access and transport area. The
2 petitioners shall include with the petition information explaining why the current
3 boundaries of the local access and transport area which includes their local
4 exchange area does not adequately reflect areas of common social, economic and
5 other concerns.

6 **Section 117.** 196.975 (1g) of the statutes is created to read:

7 196.975 **(1g)** In this section, “consumer” means a person billed for one or
8 more local telecommunications service access lines not to exceed one person per
9 access line. A person billed for more than one access line may not be considered a
10 consumer for each access line for which he or she is billed.

11 **Section 118.** 196.975 (2) of the statutes is amended to read:

12 196.975 **(2)** After receiving a petition under sub. ~~(1)~~ (1r), the commission
13 shall schedule a public hearing, to be held in the local exchange area of the
14 petitioners, serving to receive testimony on the contents of the petition and any
15 other matters deemed relevant by the commission. The commission shall publish a
16 class 1 notice under ch. 985 in a newspaper serving the local exchange area at least
17 20 days prior to the hearing.

18 **Section 119.** 201.15 of the statutes is repealed.

19 **Section 120. Nonstatutory provisions.**

20 (1) In this section:

1 (a) "Commission" means the public service commission.

2 (b) "Price-regulated telecommunications utility" means a
3 telecommunications utility that elected to become a price-regulated
4 telecommunications utility under section 196.196 (1) or (4), 2009 stats.

5 (c) "Telecommunications utility" has the meaning given in section 196.01
6 (10) of the statutes.

7 (2) Except as provided in section 196.219 (2r) and 196.195 of the statutes,
8 as created by this act, on the effective date of this subsection, any requirement
9 imposed by the commission under section 196.195 (5), 2009 stats., or section
10 196.196, 2009 stats., whether by statute or commission rule or order, on a price-
11 regulated telecommunications utility is terminated.

12 (3) Except as provided in section 196.219 (2r) of the statutes, as created by
13 this act, on the effective date of this subsection, any requirement imposed on a
14 telecommunications utility or alternative telecommunications utility under section
15 196.203, 2009 stats., or section 196.50, 2009 stats., whether by statute or
16 commission rule or order, that is inconsistent with sections 196.203 or 196.50 (2)
17 of the statutes, as affected by this act, is terminated.

18 (END)