

1

INSERT 9A:

✓ This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

2

INSERT 9-1:

3

SECTION 1. ^x 66.0420 (2) ^{ug} (k) of the statutes is created to read:

4

66.0420 (2) ^{ug} (k) "Telecommunications service" ✓ means the offering for sale of the

5

conveyance of voice, data, ↓ or other information at any frequency over any part of the

6

electromagnetic spectrum, including the sale of service for collection, storage,

7

forwarding, switching, ↓ and delivery incidental to such communication and including

8

the regulated sale of customer premises equipment. "Telecommunications service" ✓

9

does not include cable service or broadcast service, ✓ as defined in s. 196.01 (1m). ✓

****NOTE: The above definition may be necessary because s. 66.0420 (2) (v) ✓ uses the term "telecommunications service" as defined in s. 196.01 (9m) ✓ under current law in the definition of "telecommunications video service provider." See below. This bill amends s. 196.01 (9m) ✓ to limit "telecommunications service" to voice communication. ✓ If it is okay to incorporate that limitation to the definition of "telecommunications video service provider" in s. 66.0420 (2) (v), then the above definition is not necessary. However, if it is not okay to incorporate that limitation, then the above definition is necessary. Please let me know what you think.

definition
****NOTE: The following other statutes use the definition of "telecommunications service" as defined in s. 196.01 (9m): ss. 66.0422 (1) (c), 100.195 (1) (g), 100.207 (1), 100.52 (1) (g), 134.49 (1) (a) 10. (intro.), 196.795 (6m) (a) 2. g., and 943.45 (1) (intro.). ✓ I could be wrong, but it seems okay to me to limit those statutes to voice communication. ✓ Please review those statutes and let me know what you think. ✓

10

SECTION 2. ^x 66.0420 (2) (v) of the statutes is amended to read:

11

66.0420 (2) (v) "Telecommunications video service provider" means a video

12

service provider that uses facilities for providing telecommunications service, ✓ as

13

defined in s. 196.01 (9m), also to provide video service.

14

History: 2007 a. 42 ss. 6, 8; 2009 a. 178, 180.

INSERT 10-17:

****NOTE: I added "used to make such offering." ✓ See my similar change to the amendment of s. 196.01 (9m). ✓

(end ins)

INSERT 12-3:

SECTION 3. 196.01 (9m)^X of the statutes is amended to read:

196.01 (9m) "Telecommunications service" means the offering for sale of the conveyance of voice, ~~data or other information at any frequency over any part of the electromagnetic spectrum~~ communication[✓], including the sale of service for collection, storage, forwarding, switching, and delivery incidental to such communication ~~and including the regulated sale of customer premises equipment.~~ "Telecommunications service" ~~does not include~~[✓] ~~cable service or broadcast service, regardless of the technology or mode used to make such offering.~~[✓] "Telecommunications service" includes switched access service.[✓]

History: 1977 c. 29, 418; 1981 c. 390; 1983 a. 27, 53, 76, 192, 425, 538; 1985 a. 79, 1985 a. 297 ss. 14 to 22, 39; 1987 a. 27; 1989 a. 344; 1993 a. 121, 496; 1995 a. 46, 409; 1997 a. 184, 218, 229; 1999 a. 9, 32, 53; 1999 a. 150 s. 672; 2001 a. 16; 2005 a. 441; 2007 a. 42.

***NOTE: I added "used to make such offering."[✓]

***NOTE: The bill amends "telecommunications service" to refer only to voice communication.[✓] "Broadcast service" and "cable service" are defined as services that do not involve voice communication. Therefore, the exemptions are no longer logically necessary and I struck them. Is that okay?

INSERT 15-17:

^{NO} (1) No later than the 90th[✓] day beginning after the effective date of this[✓] subsection
.... [LRB inserts date], any telecommunications utility or alternative
telecommunications utility that provides intrastate switched access service[✓] within
this state shall at all times have on file with the commission a tariff showing all rates,
tolls, and charges ^{that} ~~which~~ it has established and ^{that} ~~which~~ are in force at the time for such
intrastate switched access service. The absence of such a tariff before the 90th day
beginning after the effective date of this subsection[✓] [LRB inserts date], shall not
prohibit a telecommunications utility or alternative telecommunications utility from
charging intrastate switched access rates[✓] for any intrastate switched access service[✓]
that it provides, or limit or excuse any entity from its obligation to pay intrastate



1 switched access rates, provided that such intrastate switched access rates comply
 2 with the requirements of ss. 196.212[✓] and 196.219 (2r)[✓]. A telecommunications utility
 3 or alternative telecommunications utility may not withdraw a tariff for switched
 4 access service once the tariff is in effect. Except as allowed under this section or to
 5 comply with ss. 196.212[✓] and 196.219 (2r)[✓], a telecommunications utility or alternative
 6 telecommunications utility may not change the rates, tolls, and charges shown in a
 7 tariff for switched access service.[✓]

****NOTE: What does "at the time" mean in the following: "... and ^{that} ~~which~~ are in force
 at the time for such intrastate switched access service"? At what time? At the time the
 service is provided? At the time the tariff is filed? If the phrase doesn't add anything to
 the meaning, why not delete it? *

****NOTE: In the last sentence, I assume you want to prohibit changes, rather than
 simply the filing of changes with the PSC. Is that okay?

8

INSERT 15-19:

****NOTE: You wanted to revise the above to say "notwithstanding anything to the
 contrary..." I don't know what you are trying to accomplish with such language. The
 state cannot notwithstand federal law requirements, and the only state law requirements
 that could apply would be pursuant to ch. 196.[✓] Therefore, I retained "notwithstanding
 anything in this chapter to the contrary."

9

INSERT 16-15:

10 ~~ff~~ (c) Except as provided in sub. (1),[✓] a telecommunications utility or alternative
 11 telecommunications utility may withdraw a tariff for any service by providing notice
 12 to the commission.

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

18 2. No change in a tariff ^{e that} ~~which~~ constitutes an increase in intrastate switched
 19 access rates may be made unless the change is consistent with the public interest



1 factors set forth in s. 196.03 (6) and does not violate ss. 196.212 and 196.219 (2r) and
2 the commission by order, after investigation and opportunity for a hearing, approves
3 the change, except that an increase in intrastate switched access rates shall be
4 effective at the time specified in the revised tariff as filed with the commission, if
5 either of the following is satisfied:

6 a. The increase results in the intrastate switched access rates mirroring the
7 interstate switched access rates for the telecommunications utility or alternative
8 telecommunications utility.

9 b. If the telecommunications utility or alternative telecommunications utility
10 is a small telecommunications utility, the increase does not violate s. 196.212 or
11 196.219 (2r), does not exceed, in any 12-month period, the percentage increase in the
12 U.S. consumer price index for all urban consumers, U.S. city average, for the
13 previous year, and is not greater than the corresponding increase in interstate
14 switched access rates for the small telecommunications utility.

****NOTE: What is "the corresponding increase in interstate switched access rates"?
How do increases in intrastate rates correspond to increases in interstate rates? Perhaps
additional language is necessary to achieve your intent on this point.

15 (3) (a) Except as provided in par. (b),

16 **INSERT 16-23:**

****NOTE: Your language refers to a statement of the reason under par. (b), which
I assume is a typo, so I referred to subd. 2. instead.

17 **INSERT 16-25:**

18 only to the extent that the tariff violates s. 196.209, 196.212, or 196.219 and only to
19 the extent that s. 196.209, 196.212, or 196.219 applies to the telecommunications
20 utility or alternative telecommunications utility

21 **INSERT 17-6:**



****NOTE: Your language refers to a hearing under par. (b), which appears to be a typo, so I changed the reference to subd. 2. Likewise, I assume the reference to a notice of suspension under par. (a) should instead refer to subd. 1.

1 (b) If a telecommunications utility or alternative telecommunications utility
2 files a new tariff under sub. (2) (b) for intrastate switched access service which
3 constitutes an increase in intrastate switched access rates, the tariff shall not be
4 effective unless the new tariff is consistent with the public interest factors set forth
5 in s. 196.03 (6) and does not violate s. 196.212 or 196.219 (2r) and the commission by
6 order, after investigation and opportunity for a hearing, approves the new tariff and
7 rates, except that an increase in intrastate switched access rates shall be effective
8 at the time specified in the new tariff as filed with the commission if sub. (2) (d) 2.
9 a. is satisfied or, if the telecommunications utility or alternative telecommunications
10 utility is a small telecommunications utility, sub. (2) (d) 2. a. or b. is satisfied. *e that*

****NOTE: I revised the language your provided for the end of the above sentence.

11 **INSERT 19-10:**

12 **SECTION 4.** 196.195 of the statutes is repealed and recreated to read:

13 **196.195 Alternative telecommunications regulation plans.** Any

14 telecommunications provider that as of the effective date of this section [LRB
15 insert (5) (3) date] is subject to an alternative regulation plan approved by the commission
16 under s. 196.195, 2009 stats., shall remain regulated pursuant to such alternative
17 regulation plan to the extent that the alternative regulation plan is not inconsistent
18 with ss. 196.191 and 196.212, unless the telecommunications provider terminates
19 the alternative regulation plan pursuant to the terms and conditions of the plan. If
20 such an inconsistency exists, the requirements of ss. 196.191 and 196.212 shall apply
21 to the intrastate switched access rates and intrastate switched access service tariff
22 filings of such a telecommunications provider.



****NOTE: Given the above new language, is it still okay to strike the cross reference to s. 196.195 (12) in s. 196.20 (2m), or should that cross reference be amended to refer to s. 196.195? *

****NOTE: I added the reference to prior law, i.e., s. 196.195, 2009 stats. Is that okay, or should the above refer to a specific provision of s. 196.195, such as, for example, s. 196.195 (12)?

****NOTE: Instead of saying that ss. 196.191 and 196.212 "shall control," I drafted the above to say that ss. 196.191 and 196.212 "shall apply."

1

INSERT 21-7:

****NOTE: See the first NOTE following the repeal and recreation of s. 196.195.

2

INSERT 21-19:

3

SECTION 5. 196.203 (1) of the statutes is renumbered 196.203 (1g) (intro.) and

4

amended to read:

5

196.203 (1g) Alternative telecommunications utilities are exempt from all

6

provisions of ~~ch. 201~~ and this chapter, except as provided in this section, and except

7

that an for all of the following:

8

(a) An alternative telecommunications utility is subject to s. ss. 196.01,

9

196.016, 196.025 (6), and except that an 196.191, 196.206, and 196.212.

****NOTE: I don't think it is necessary to include s. 196.01. However, you indicated that the PSC has imposed s. 196.01 in certification orders and the inclusion of s. 196.01 in the above list (as well as in other lists set forth in the bill) is consistent with those certification orders.

****NOTE: I restructured s. 196.203 (1g) to make it easier to read.

10

(c) An alternative telecommunications utility that is a local government

11

telecommunications utility, as defined in s. 196.204 (5) (a) 1., is subject to s. 196.204

12

(5). (end ins 21-19)

INSERT 22-5

History: 1985 a. 297; 1993 a. 496; 1997 a. 140; 1999 a. 150; 2003 a. 126, 278; 2007 a. 42; 2009 a. 28.

13

SECTION 6. 196.203 (1g) (b) of the statutes is created to read:

14

196.203 (1g) (b) An alternative telecommunications utility certified pursuant

15

to s. 196.50 (2) (j) 1. a. is subject to ss. 196.219 (2r) and 196.503, and, with respect

16

only to wholesale telecommunications services, is subject to ss. 196.03 (1) and (6),

17

196.219 (4), 196.28, and 196.37; and, if such an alternative telecommunications



CONT

1 utility was regulated as a price-regulated telecommunications utility prior to the
2 effective date of this paragraph ✓.... [LRB (to) insert^s date], the alternative
3 telecommunications utility's intrastate dedicated access rates shall mirror its
4 interstate dedicated access rates. (end ins 22-5)

INSERT 23-9:

5
6 ~~NO~~ The commission may impose a provision of this chapter specified in sub. (4m) (b) or
7 (c) ✓ if in the public interest. ~~NO~~

INSERT 23-12:

8
9 ~~NO~~ that are inconsistent with the requirements of or regulation allowed under this
10 section ~~NO~~

INSERT 23-16:

11
12 ~~NO~~, unless the alternative telecommunications utility, in its notice to the commission
13 seeking recertification under this paragraph ✓, requests to remain subject to ✓ one or
14 more requirements of its prior certification ~~which~~ ^{e that} do not violate the alternative
15 telecommunications utility's requirements and obligations under this ✓ chapter and
16 the commission does not deny the request in the commission's recertification order ~~NO~~

INSERT 23-17:

17
****NOTE: I made changes to the language added at the end of the last sentence. ✓

INSERT 24-12:

18
****NOTE: You revised s. 196.203 (2) (c) ✓ to allow the PSC ✓ to impose statutes specified
in s. 196.203 (4m) (b) or (c) ✓ on an ATU. The last sentence in the above refers only to
statutes specified in s. 196.203 (4m) (a) ✓. Is that okay?

INSERT 25-3:

19
20 ~~NO~~, except that the commission may not investigate, review, or set the rates for
21 intrastate switched access services ✓ of an alternative telecommunications utility that
22 is subject to s. 196.212 (2) or (3) ✓ except as required to enforce s. 196.212 (2) or (3) ~~NO~~



****NOTE: I added "investigate." ✓

INSERT 27-20:

196.206 Interconnected voice over Internet protocol service. ✓ (1)

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

(2) UNIVERSAL SERVICE FUND. ✓ An entity that provides ✓ interconnected voice over Internet protocol service in this state shall make contributions to the universal service fund based on its revenues from providing intrastate interconnected voice over Internet protocol service. ✓ The revenues shall be calculated using the entity's actual intrastate revenues, a provider-specific ✓ traffic study approved by the ✓ commission or federal communications commission, or the inverse of the interstate jurisdictional allocation established by the federal ✓ communications commission for the purpose of federal universal service assessments. To the extent applicable, the calculation of the intrastate revenues of an entity that provides interconnected voice over Internet protocol service shall be based on the primary physical service address identified by the customer. ✓

(3) INTRASTATE SWITCHED ACCESS RATES. ✓ (a) Unless otherwise provided under federal law, an entity that provides an interconnected voice over Internet protocol service shall pay intrastate switched access rates ✓ in connection with the interconnected voice over Internet protocol services that it provides to the same



1 extent that any telecommunications provider is obligated to pay intrastate switched
2 access rates in connection with the telecommunications services that it provides.

3 (b) Unless otherwise provided under federal law, an entity that provides an
4 intrastate switched access service[✓] in connection with interconnected voice over
5 Internet protocol services shall be subject to s. 196.191 with respect to such
6 intrastate switched access service and may charge intrastate switched access rates
7 to the same extent that any telecommunications provider may charge intrastate
8 switched access rates in connection with the intrastate switched access services that
9 it provides.[✓]

10 **INSERT 28-5:**

11 (c) "Large nonincumbent"[✓] means a telecommunications provider that is not an
12 incumbent local exchange carrier, that had 10,000[✓] or more access lines in use in this
13 state as of January 1, 2010[✓], and that was granted an initial certification by the
14 commission pursuant to s. 196.203[✓] or 196.50[✓] before January 1, 2011.[✓]

*[✓] ****NOTE: I added the reference to January 1, 2011[✓] to distinguish large
nonincumbents from new nonincumbents.[✓]

15 (d) "New nonincumbent"[✓] means a telecommunications provider, other than an
16 alternative telecommunications utility certified pursuant to s. 196.50 (2) (j) 1. a., that
17 is not an incumbent local exchange carrier and that was granted an initial
18 certification by the commission pursuant to s. 196.203[✓] or 196.50[✓] on or after January
19 1, 2011.[✓]

[✓] ****NOTE: I restructured the exception for ATUs.[✓] Is that okay? Also, the exception
for ATUs will only apply to a TU that is initially certified as a TU on or after January 1,
2011[✓], and, subsequent to such initial certification as a TU, terminates the TU certification
and certifies as an ATU under s. 196.50 (2) (j) 1. a.[✓] Is that okay?

INSERT 28-10 (end ins 28-5)

20

f (e) "Small nonincumbent" means a telecommunications provider that is not an
21 incumbent local exchange carrier, that had fewer than 10,000[✓] access lines in use in



1 this state as of January 1, 2010, and that was granted an initial certification by the
2 commission pursuant to s. 196.203 or 196.50 before January 1, 2011.

****NOTE: I added the reference to January 1, 2011 to distinguish small nonincumbents from new nonincumbents. *

INSERT 28-11:

3
4 (a) *New nonincumbents.* Within 30 days of the effective date of this paragraph ...
5 [LRB to insert date], a new nonincumbent may not charge intrastate switched access
6 rates that are higher than its interstate switched access rates.

7 (b) *Large nonincumbents.* 1. Except for an increase approved by the
8 commission under s. 196.191 (2) (d) 2. a, a large nonincumbent may not increase its
9 intrastate switched access rates or charge intrastate switched access rates higher
10 than the amount the large nonincumbent charged for intrastate switched access
11 services on January 1, 2011.

INSERT 30-16:

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

INSERT 30-17:

18
19 Notwithstanding any other provision of this chapter except to enforce ss. 196.191 (2)
20 (d) 2. and 196.219 (2r),

INSERT 30-20:

****NOTE: You referred to s. 196.191 (2) (d) 2. a., but for the sake of consistency with par. (b), I referred instead to s. 196.191 (2) (d) 2.



INS 30-20
CONT

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

5 **INSERT 33-13:**

****NOTE: I added the reference to 2009 stats. to clarify the reference to law in effect
prior to enactment of the bill.

6 **INSERT 33-14:**

7 **SECTION 7.** 196.25 (1) of the statutes is amended to read:

8 196.25 (1) If a public utility, other than a public utility that is a
9 telecommunications provider, receives from the commission any questionnaire, the
10 public utility shall respond fully, specifically and correctly to each question. If a
11 public utility is unable to answer any question, the public utility shall give a good and
12 sufficient reason for its failure. Every answer by a public utility under this section
13 shall be verified under oath by ~~the president, secretary, superintendent or general~~
14 a manager of the public utility and returned to the commission at its office within the
15 period fixed by the commission.

History: 1983 a. 53; 1993 a. 496.

16 **SECTION 8.** 196.25 (2) of the statutes is amended to read:

17 196.25 (2) If required by the commission, a public utility, other than a public
18 utility that is a telecommunications provider, shall deliver to the commission the
19 original or a copy of any map, profile, contract or engineer's report and any other
20 document, book, account, paper or record with a complete inventory of all its
21 property, in such form as the commission directs.

History: 1983 a. 53; 1993 a. 496.

22 **SECTION 9.** 196.25 (3) of the statutes is amended to read:



1 196.25 (3) If a telecommunications provider receives a questionnaire from the
 2 commission, the telecommunications provider shall respond specifically, correctly
 3 and fully to each question that relates to a matter over which the commission has
 4 jurisdiction.[✓] If a telecommunications provider is unable to answer any question, the
 5 telecommunications provider shall give a good and sufficient reason for its failure.
 6 Answers shall be verified under oath by ~~the president, secretary, superintendent or~~
 7 ~~general~~ a manager of the telecommunications provider. A completed questionnaire
 8 shall be returned to the commission within the time period specified by the
 9 commission.

History: 1983 a. 53; 1993 a. 496.

INSERT 36-18:

10
 11 ~~NO~~ 196.219 (3) (c),[✓] (e),[✓] (g),[✓] and (L),[✓] (4d),[✓] (4m),[✓] and (5),[✓] 196.24,[✓] 196.395,[✓] ~~NO~~

INSERT 36-21:

12
 13 ~~NO~~ and, except with respect to wholesale telecommunications service, is exempt from s.
 14 196.219 (4).[✓]

INSERT 37-21:

15
 16 ~~NO~~ that are inconsistent with the requirements of or regulation allowed under s. 196.203[✓] ~~NO~~

INSERT 37-23:

17
 18 ~~NO~~ and all such requirements imposed by the commission,[✓] whether by statute or
 19 commission rule or order, on the telecommunications utility are terminated on the
 20 effective date of the order, unless the telecommunications utility, in its notice to the
 21 commission seeking certification under s. 196.203,[✓] requests to remain subject to one
 22 or more requirements of its prior certification under this subsection ~~which~~ ^{that} do not
 23 violate the telecommunications utility's requirements or obligations under this



1 chapter and the commission does not deny the request in its certification order under
2 this [✓]subd. 1. a.

****NOTE: Instead of using the term "recertification" in the above, I referred to
* "certification" under s. 196.203. [✓]I think my approach is consistent with the different
terminology used in s. 196.50 (2) (j) 1. a. and ^Q1 b.

3 **INSERT 38-7:**

4 ^{NS} and except those provisions in s. 196.203 (4m) (a) [✓]that are imposed on all alternative
5 telecommunications utilities under s. 196.203 (3); [✓]and except, with respect to its
6 wholesale telecommunications services [✓]only, ss. 196.03 (1) [✓]and (6), [✓]196.219 (4),
7 196.28, [✓]and 196.37. [✓]If required by the public interest, the commission may, with
8 respect only to intrastate switched access services, impose on the
9 telecommunications utility s. 196.03 (1) [✓]and (6) [✓]and 196.37, [✓]except that the
10 commission may not impose s. 196.03 (1) [✓]or (6) [✓]without also imposing s. 196.37 on the
11 telecommunications utility. [✓]

12 **INSERT 38-18:**

13 ^{NS} that are inconsistent with the requirements of or regulation allowed under this [✓]subd.
14 1. b. ^{NS}

15 **INSERT 38-21:**

16 ^{NS} unless the telecommunications utility, in its notice to the commission seeking
17 recertification under this subd. 1. b., [✓]requests to remain subject to one [✓]or more
18 requirements of its prior certification ~~which~~ ^{that} do not violate the telecommunications
19 utility's requirements or obligations under this chapter and the commission does not
20 deny the request in its recertification order ^{NS}

21 **INSERT 45-21:**

22 ^{NS} (a) "Alternative telecommunications utility" has the meaning given in section
23 196.01 (1d) of the statutes, as affected by this act. [✓]

(end ins)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1901/P1dn

MDK:~j...

date

JLD

Rep. Honadel: ✓

This preliminary draft makes the changes you requested to LRB-1625/2. ✓ Please review the NOTES embedded in the text. After the NOTES are resolved, I will draft an analysis for a bill that can be introduced.

Mark D. Kunkel
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1901/P1dn
MDK:jld:ph

Apr 14, 2011

Rep. Honadel:

This preliminary draft makes the changes you requested to LRB-1625/2. Please review the NOTES embedded in the text. After the NOTES are resolved, I will draft an analysis for a bill that can be introduced.

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Kunkel, Mark

From: CHORZEMPA, DAVID J (Legal) [dc1928@att.com]
Sent: Friday, April 15, 2011 10:01 AM
To: Vick, Jason
Cc: Kunkel, Mark
Subject: Responses
Attachments: Section 196.205 (00858013).doc; Section 196.218 (00859044).doc; Response to Drafter's Notes.DOC

Attached (last document) are responses to the drafter's notes from the industry participants. The responses also list some minor revisions based on our review. The other two documents are attachments referenced in the responses. I am available all day at 312 727 4585.

Jsaon, although this does not affect the process of finalizing the bill for introduction, we were wondering about how to procedurally get legislative intent attached to a bill if we wanted to do that down the road? That question is secondary to getting the bill ready for introduction.

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Section 196.205 doc.

SECTION 18m. 196.11(2) of the statutes is amended to read:

(2) Any arrangement under this section shall be under the supervision and regulation of the commission. The commission may order any rate, charge or regulation which the commission deems necessary to give effect to the arrangement. The commission may make any change in a rate, charge or regulation as the commission determines is necessary and reasonable and may revoke its approval and amend or rescind all orders relative to any arrangement. This subsection does not apply to telecommunications cooperatives, unincorporated telecommunications cooperative associations, or telecommunications utilities except as provided in s. 196.205.

SECTION 67. 196.205 of the statutes is amended to read:

196.205 Election of rate regulation of telecommunications cooperatives. (1m) A telecommunications cooperative or an unincorporated telecommunications cooperative association may elect to be subject to ss. 196.28 and 196.37 as they apply to any rate, toll or charge and to ss. ~~196.02 (2), 196.05 (1), 196.11 (2), 196.20 and 196.26~~ in any of the following ways:

(a) By amendment of the articles of incorporation of the cooperative under s. 185.51 or the articles of organization of the association under s. 193.221.

(be) By a majority of the voting members of the board of directors of the cooperative or association.

~~(2) Notwithstanding sub. (1m), a telecommunications cooperative or an unincorporated telecommunications cooperative association shall be subject to s. 196.26 if it is a party in a proceeding on a complaint specified in s. 196.26 (1) (b) or (c).~~

SECTION 85. 196.28 (4) of the statutes is amended to read:

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

SECTION 88. 196.37 (4) of the statutes is amended to read:

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

also 196.37(3) ? Yes

196.218 Universal service fund. (1) DEFINITIONS. In this section:

(bm) "Local exchange service" means basic local exchange service or business access line and usage service.

(c) "Universal service" includes the availability of a basic set of essential telecommunications services ~~and access to advanced service capabilities of a modern telecommunications infrastructure~~ anywhere in this state. ✓

(d) "Universal service fund" means the trust fund established under s. 25.95.

(2) FUND ADMINISTRATION. The commission shall do all of the following:

(c) Contract for the administration of the universal service fund.

(d) Obtain an annual independent audit of the universal service fund.

(3) CONTRIBUTIONS TO THE FUND. (a) 1. Except as provided in par. (b), the commission shall require all telecommunications providers to contribute to the universal service fund beginning on January 1, 1996.

2. The commission may require a person other than a telecommunications provider to contribute to the universal service fund if, after notice and opportunity for hearing, the commission determines that the person is offering a nontraditional broadcast service in this state that competes with a telecommunications service provided in this state for which a contribution is required under this subsection.

3. The commission shall designate the method by which the contributions under this paragraph shall be calculated and collected. The method shall ensure that the contributions are sufficient to generate the following amounts:

a. The amount appropriated under s. 20.155 (1) (q).

b. The amounts appropriated under ss. 20.255 (3) (q), (qm), and (r), 20.285 (1) (q), and 20.505 (4) (s), (t), (tm), (tu), and (tw).

3m. Contributions under this paragraph may be based only on the gross operating revenues from the provision of broadcast services identified by the commission under subd. 2. and on intrastate telecommunications services in this state of the telecommunications providers subject to the contribution.

(b) The commission may exempt from part or all of the contributions required under par. (a) telecommunications providers who have small gross operating revenues from the provision of intrastate telecommunications services in this state and who have provided these services for less than a period specified by the commission, not to exceed 5 years. The commission may also exempt a telecommunications provider or other person from part or all of the contribution required under par. (a) if the commission determines that requiring the contribution would not be in the public interest.

(c) The commission shall designate by rule the classes of providers or other persons subject to par. (a) and the required rates of contribution for each class.

(d) The commission shall consider all of the following in specifying the contributions required under par. (a):

1. The impact of the contributions on all members of the public and the telecommunications industry.

2. The fairness of the amount of the contributions and the methods of collection.

3. The costs of administering the collection of the contributions.

(e) A telecommunications provider or other person may establish a surcharge on customers' bills to collect from customers contributions required under this subsection.

(f) Notwithstanding ss. 196.196 (1) and (5) (d) 2., 196.20 (2m), (5) and (6), 196.213 and 196.215, a telecommunications utility that provides local exchange service may make adjustments to local exchange service rates for the purpose of recovering its contributions to the universal service fund required under this subsection. A telecommunications utility that adjusts local exchange service rates for the purpose of recovering such contributions shall identify on customer bills a single amount that is the total amount of the adjustment. The public service commission shall provide telecommunications utilities the information necessary to identify such amounts on customer bills.

(g) If the commission or a telecommunications provider makes a mistake in calculating or reporting any data in connection with the contributions required under par. (a), and the mistake results in the telecommunications provider's overpayment of such a contribution, the commission shall reimburse the telecommunications provider for the amount of the overpayment.

(4) ESSENTIAL SERVICES AND ADVANCED SERVICE CAPABILITIES. Before January 1, 1996, and biennially thereafter, the commission shall promulgate rules that define a basic set of essential telecommunications services that shall be available to all customers at affordable prices and that are a necessary component of universal service. Before January 1, 1996, and biennially thereafter, the commission shall promulgate rules that define a set of advanced service capabilities that shall be available to all areas of this state at affordable prices within a reasonable time and that are a necessary component of universal service. For rules promulgated before January 1, 1996, a reasonable time for the availability of the defined set of advanced service capabilities shall be no later than January 1, 2005, and, for rules promulgated thereafter, a reasonable time for the availability of additional advanced service capabilities in the defined set shall be no later than 7 years after the effective date of the rules. These essential services and advanced service capabilities shall be based on market, social, economic development and infrastructure development principles rather than on specific technologies or providers. Essential services include single-party service with touch-tone capability, line quality capable of carrying facsimile and data transmissions, equal access, emergency services number capability, a statewide telecommunications relay service and blocking of long distance toll service. ✓

Comment [jag1]: Already revised per legislation

(4m) TOLL BLOCKING. The commission shall issue rules to implement, cost-free to low-income customers, the capability to block all long distance or other toll calls from a customer's telephone service with a goal of universal applicability of the toll-blocking service no later than January 1, 1996. A telecommunications utility may petition the commission for a waiver from providing toll-blocking service upon a demonstration that providing this service would represent an unreasonable expense for the telecommunications utility and its ratepayers.

(4t) EDUCATIONAL TELECOMMUNICATIONS ACCESS PROGRAM RULES. The commission, in consultation with the department of administration, shall promulgate rules specifying the telecommunications services eligible for funding through the educational telecommunications access program under s. 16.997.

(4u) MEDICAL TELECOMMUNICATIONS EQUIPMENT PROGRAM. From the appropriation under 20.155 (1) (q), the commission may spend up to \$500,000 annually for grants to nonprofit medical clinics and public health agencies for the purchase of telecommunications equipment to be used in providing services to their clients. The commission shall promulgate rules establishing requirements and procedures for awarding grants under this subsection.

(5) USES OF THE FUND. (a) The commission shall use the moneys in the universal service fund only for any of the following purposes:

1. To assist customers located in areas of this state that have relatively high costs of telecommunications services, low-income customers and disabled customers in obtaining affordable access to a basic set of essential telecommunications services.

~~2. To assist in the deployment of advanced service capabilities of a modern telecommunications infrastructure throughout this state.~~

4. To administer the universal service fund.

5. To pay costs incurred under contracts under s. 16.971 (13) to (16) to the extent that these costs are not paid under s. 16.997 (2) (d), except that no moneys in the universal service fund may be used to pay installation costs that are necessary for a political subdivision to obtain access to bandwidth under a shared service agreement under s. 16.997 (2r) (a).

5m. To provide statewide access, through the Internet, to periodical reference information databases.

6. To pay the department of administration for telecommunications services provided under s. 16.972 (1) to the campuses of the University of Wisconsin System.

8. To promote access to information and library services to blind and visually handicapped individuals.

9. To make grants under sub. (4u).

11. To provide for state aid to public library systems under s. 43.24.

13. To pay the costs of library service contracts under s. 43.03 (6) and (7).

(b) The commission shall promulgate rules to determine whether a telecommunications provider, the customers of a telecommunications provider or another person shall be assisted by the universal service fund for any use under par. (a) 1. to 4.

(c) The commission shall consider all of the following in establishing the services and equipment which may be assisted by the universal service fund:

1. The impact of the assistance on all members of the public and the telecommunications industry.

2. Eligibility requirements for assistance recipients.

3. The costs of administering the assistance.

4. Telecommunications plans and requirements established by the federal rural electrification administration.

~~5. The extent to which the fund preserves and promotes an available and affordable basic set of essential telecommunications services, encourages access to the advanced service capabilities of a modern telecommunications infrastructure throughout the state and promotes economic development.~~

(d) 1. In this paragraph, "Wisconsin works agency" has the meaning given in s. 49.001 (9).

2. The commission shall annually provide information booklets to all Wisconsin Works agencies that describe the current assistance from the universal service fund that is available to low-income individuals who are served by the Wisconsin Works agencies, including a description of how such individuals may obtain such assistance. The department of children and families shall assist the commission in identifying the Wisconsin Works agencies to which the commission is required to submit the information required under this subdivision.

(5m) RULE REVIEW. At least biennially, the commission shall review and revise as appropriate rules promulgated under this section.

(5r) ANNUAL REPORT. (a) Annually, the commission shall submit a universal service fund report to the joint committee on information policy and technology. The report shall include information about all of the following:

~~1. The affordability of and accessibility to a basic set of essential telecommunications services and of advanced service capabilities throughout this state.~~

2. The affordability of and accessibility to high-quality education, library and health care information services.

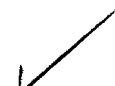
3. Financial assistance provided under the universal service fund.

4. An assessment of how successful investments identified in s. 196.196 (5) (f), assistance provided by the universal service fund, and price regulation and other alternative incentive regulations of telecommunications utilities

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X - refer to "1. to 4."
20.155(1)(q)
196.218(5)(b)



designed to promote competition have been in advancing the public interest goals identified under s. 196.03 (6), and recommendations for further advancing those goals.

(b) The commission shall prepare a report to determine if public access broadcast channels may receive funding from the universal service fund as an advanced telecommunications service or other service and the effect of federal law on public access broadcast channel funding eligibility. The results of the report shall be included in the 2nd annual report submitted by the commission under par. (a).

(5u) BIENNIAL BUDGET REQUEST. The commission shall include in its biennial budget request under s. 16.42 a proposed budget for each individual program for which the commission proposes to expend moneys from the universal fund in the forthcoming biennium. A proposed budget under this subsection shall describe each program and identify the proposed expenditure amount for each program for each fiscal year of the biennium.

(6) UNIVERSAL SERVICE FUND COUNCIL. (a) The commission shall appoint a universal service fund council under s. 15.04 (1) (c) consisting of representatives of telecommunications providers and consumers of telecommunications services, including this state. The majority of the members of the council shall be representatives of consumers of telecommunications services.

(b) The universal service fund council shall advise the commission concerning the administration of this section and the content of rules promulgated under this section.

(7) EDUCATION. The commission may require a telecommunications provider to undertake reasonable public notification and education efforts to inform eligible customers of the availability and requirements of universal and basic service programs, including any offerings of lifeline or other supported services established under state or federal law.

(8) PENALTIES. (a) Any person who fails or refuses to pay the contribution required under sub. (3) may be required to forfeit not less than \$100 nor more than \$10,000. Each day of continued violation constitutes a separate offense.

(b) A court imposing a forfeiture under par. (a) shall consider all of the following in determining the amount of the forfeiture:

1. The appropriateness of the forfeiture to the volume of business of the person.
2. The gravity of the violation.
3. Any good faith attempt to achieve compliance after the person or an officer, agent or employee of the person receives notice of the violation.
4. The financial gain sought by the person by not paying the contribution required under sub. (3).

(9) EMERGENCY TELEPHONE SERVICE STUDY. The commission shall conduct a study to determine if emergency telephone services should be supported by the universal service fund. The commission shall report its findings and recommendations, including any recommendations for statutory changes no later than January 1, 1997, to the joint committee on information policy and technology.

History: 1993 a. 496; 1997 a. 27, 41, 237; 1999 a. 9, 29, 185; 2001 a. 16; 2003 a. 33; 2005 a. 25; 2007 a. 20; 2009 a. 28.

Response to Oglet's Notes

Section 1 ****NOTE: The above definition may be necessary because s. 66.0420 (2) (v) uses the term "telecommunications service" as defined in s. 196.01 (9m) under current law in the definition of "telecommunications video service provider." See below. This bill amends s. 196.01 (9m) to limit "telecommunications service" to voice communication. If it is okay to incorporate that limitation to the definition of "telecommunications video service provider" in s. 66.0420 (2) (v), then the above definition is not necessary. However, if it is not okay to incorporate that limitation, then the above definition is necessary. Please let me know what you think.

Response: The above definition is not necessary because the restriction of the term "telecommunications service" to voice has no practical effect on the use of that term in 66.0420. Delete proposed sections 1 and 2. ✓

Section 1 ****NOTE: The following other statutes use the definition of "telecommunications service" as defined in s. 196.01 (9m): ss. 66.0422 (1) (c), 100.195 (1) (g), 100.207 (1), 100.52 (1) (g), 134.49 (1) (a) 10. (intro.), 196.795 (6m) (a) 2. g., and 943.45 (1) (intro.). I could be wrong, but it seems okay to me to limit those statutes to voice communication. Please review those statutes and let me know what you think.

Response: We have reviewed these other statutes, and only 943.45(1) should use the same definition as in 182.017(1g), otherwise leave definitions as is. ✓

Section 5 ****NOTE: I added "used to make such offering." See my similar change to the amendment of s. 196.01 (9m).

Response: Change is ok here and in s. 196.01(9m). ✓

Section 7 ****NOTE: Because "incumbent local exchange carrier" is used in more than one section, I created a definition that applies throughout ch. 196. ✓

Response: Ok.

Section 11 ****NOTE: I added "used to make such offering." ✓

Response: Ok.

Section 11 ****NOTE: The bill amends "telecommunications service" to refer only to voice communication. "Broadcast service" and "cable service" are defined as services that do not involve voice communication. Therefore, the exemptions are no longer logically necessary and I struck them. Is that okay?

Response: Place the exemptions back into the statute since technology changes might require this exemption to become relevant again. We would rather see the exemption language remain. Therefore, reinsert the following at the end of the

definition: "Telecommunications service" does not include cable service or broadcast service."

Section 24****NOTE: What does "at the time" mean in the following: "... and that are in force at the time for such intrastate switched access service"? At what time? At the time the service is provided? At the time the tariff is filed? If the phrase doesn't add anything to the meaning, why not delete it?

Response: The words "at the time" can be deleted.

Section 24****NOTE: In the last sentence, I assume you want to prohibit changes, rather than simply the filing of changes with the PSC. Is that okay?

Response: Actually, the language as drafted was intentional. There may be an instance -- i.e., for a "small nonincumbent" ATU, for example, after the 3-year moratoriums on PSC review in s. 196.212 -- that the PSC would investigate and order reductions in the switched access rates for such an ATU per its authority under 196.03 and 196.37 (see e.g., 196.203(4)(m)(c) which allows the PSC to apply 196.37 and 196.03 to ATU switched access rates of ATUs not subject to the reductions in 196.212(2)). The originally-drafted language was intended to limit the last sentence to provider-initiated tariff changes and should be reinserted as originally drafted: "Except as allowed under this section or to comply with ss. 196.212 and 196.219(2r), a telecommunications utility or alternative telecommunications utility may not change the rates, tolls, and charges shown in a tariff for switched access service."

file to (see my attachment)

Section 24****NOTE: You wanted to revise the above to say "notwithstanding anything to the contrary...." I don't know what you are trying to accomplish with such language. The state cannot withstand federal law requirements, and the only state law requirements that could apply would be pursuant to ch. 196. Therefore, I retained "notwithstanding anything in this chapter to the contrary."

Response: Ok.

Section 24****NOTE: What is "the corresponding increase in interstate switched access rates"? How do increases in intrastate rates correspond to increases in interstate rates? Perhaps additional language is necessary to achieve your intent on this point.

Response: This language comes from current law, 196.215(3)(am) and we are comfortable leaving it the same.

However, we believe the language requires a correlation between the 12 month CPI time period and the same 12 month switched access period -- and therefore "corresponding" means the same 12 month period. If you want to make this more clear, we would not object, but might be easier to leave as is since the language is in the current statute.

Kept as is, based on current law
in 196.215(3)(am)

Section24****NOTE: Your language refers to a statement of the reason under par. (b), which I assume is a typo, so I referred to subd. 2. instead.

Response: Ok ✓

Section24****NOTE: Your language refers to a hearing under par. (b), which appears to be a typo, so I changed the reference to subd. 2. Likewise, I assume the reference to a notice of suspension under par. (a) should instead refer to subd. 1.

Response: Ok.

Section24****NOTE: I revised the language your provided for the end of the above sentence.

Response: The revised language is acceptable. ✓

Section28****NOTE: Given the above new language, is it still okay to strike the cross-reference to s. 196.195 (12) in s. 196.20 (2m), or should that cross-reference be amended to refer to s. 196.195?

Response: Yes, all telecommunications providers are exempt from 196.20 so no cross reference necessary. ✓

Section28****NOTE: I added the reference to prior law, i.e., s. 196.195, 2009 stats. Is that okay, or should the above refer to a specific provision of s. 196.195, such as, for example, s. 196.195 (12)?

Response: Question: if the alternative regulation plan was adopted prior to 2009 (many were) do we need to refer to prior statutory years other than 2009? If so, we'd need to go back to 1994. If not, your change is sufficient. ✓

Section28****NOTE: Instead of saying that ss. 196.191 and 196.212 "shall control," I drafted the above to say that ss. 196.191 and 196.212 "shall apply."

Response: Ok ✓

Section 39****NOTE: See the first NOTE following the repeal and recreation of s. 196.195.

Response: See response above. ✓

*Section45****NOTE: I don't think it is necessary to include s. 196.01. However, you indicated that the PSC has imposed s. 196.01 in certification orders and the inclusion

of s. 196.01 in the above list (as well as in other lists set forth in the bill) is consistent with those certification orders.

Response: Correct, due to PSC's practice of applying 196.01 to ATUs in their present certifications, we wanted the statute to be consistent with this practice in order to avoid any argument that the definitions do not apply to ATUs. ✓

Section 45****NOTE: I restructured s. 196.203 (1g) to make it easier to read.

Response: Ok. ✓

Section 50 ****NOTE: I made changes to the language added at the end of the last sentence.

Response: Ok. ✓

Section 52****NOTE: You revised s. 196.203 (2) (c) to allow the PSC to impose statutes specified in s. 196.203 (4m) (b) or (c) on an ATU. The last sentence in the above refers only to statutes specified in s. 196.203 (4m) (a). Is that okay?

Response: That is the intent – so the PSC could treat carriers differently under its discretionary authority per 196.203(4m)(b) and (c), but must apply the same provisions listed in 196.203(4m)(a) to each ATU. ✓

Section 59****NOTE: I added "investigate."

Response: Ok. ✓

Section 72****NOTE: I added the reference to January 1, 2011, to distinguish large nonincumbents from new nonincumbents.

Response: Ok ✓

Section 72****NOTE: I restructured the exception for ATUs. Is that okay? Also, the exception for ATUs will only apply to a TU that is initially certified as a TU on or after January 1, 2011, and, subsequent to such initial certification as a TU, terminates the TU certification and certifies as an ATU under s. 196.50 (2) (j) 1. a. Is that okay?

Response: Yes, that is ok. ✓

Section 72****NOTE: I added the reference to January 1, 2011, to distinguish small nonincumbents from new nonincumbents.

Response: Ok. ✓

Section 72****NOTE: You referred to s. 196.191 (2) (d) 2. a., but for the sake of consistency with par. (b), I referred instead to s. 196.191 (2) (d) 2.

Response: Ok.

Section 83****NOTE: I added the reference to 2009 stats. to clarify the reference to law in effect prior to enactment of the bill.

Response: Ok.

Section 101****NOTE: Although not mentioned in the instructions, I made the above change because, as amended, s. 196.195 (5) no longer identifies any requirements under "this chapter," i.e., ch. 196. Instead, s. 196.195 (5) is amended to refer only to provisions under ch. 201.

Response: Actually, 196.195(5) is repealed, but this change is ok anyway.

Section 106****NOTE: Instead of using the term "recertification" in the above, I referred to "certification" under s. 196.203. I think my approach is consistent with the different terminology used in s. 196.50 (2) (j) 1. a. and b.

Response: Ok with change, but (to be clear) the telecommunications provider seeking ATU certification pursuant to 196.50(2)(j)1. a. is certified "under" 196.203, although it gets that certification "pursuant to" the procedures in 196.50(j)(1)a. Thus, in the reference in the last sentence of 196.50(2)(j) 1. a. should be to a "certification order under 196.203" not "under this subd. 1. a." In the alternative, this language could also say "certification pursuant to this subd. 1. a." – but either way there should be consistency in referring to certification "under 196.203" and "pursuant to this subd. 1.a."

Section 107****NOTE: The instructions add a definition for "universal service fund." However, that definition is not necessary. When a fund is established in ch. 25, it is not necessary to create a definition for the fund. (Note that the definition under current law in s. 196.218 (1) (d) is also not necessary.)

Response: Ok. Does your question come from a prior draft? The USF definition is in the current statute, so you'd have to take that out which your draft does not. The instructions do not add the definition, it is in the current law and we are not proposing to change it. Have we understood your question correctly?

In addition to the above responses, the following additional changes should be made:

1. Page 5, line 22: insert the word "an" before the word "affiliate".

2. ✓ Page 7, line 2: delete the word "cable,".

3. ✓ Page 13, line 3: delete this line and replace with the following "includes intrastate switched access rates higher than the intrastate switched access rates it charged on January 1, 2011, the tariff shall not be". This language is consistent with s. 196.212(2)(b) and (3)(a).

4. ✓ Page 19, line 16: replace the word "under" with the phrase "pursuant to".

5. ✓ Page 22, line 8: delete the reference to "196.01,". This section is already applied pursuant to 196.203(1g)(a).

6. ✓ Page 22, lines 22 through 24: delete. This is already covered in the new 196.203(1g)(b).

7. ✓ Page 24, line 14: s. 196.205 should not be repealed. It should be modified as set forth in the attachment. ss. 196.11(2), 196.28(4) and 196.37(4) will need to be modified to recognize that s. 196.205 is not repealed. Section 196.37(3) is okay as set forth in the current draft. See attachment for proposed statutory revisions.

8. ✓ Page 27, line 3 and Page 28, line 6: The word "Reductions" should be "Requirements". The application of the statute may not result in a reduction.

9. ✓ Page 27, lines 8 through 9: delete the phrase "increase its intrastate switched access rates or)". This is necessary because thee large nonincumbent could increase to mirror.

10. ✓ Page 27, lines 10 through 11: replace the phrase "amount the large incumbent charged for intrastate switched access services" with the phrase "intrastate switched access rates it charged". This change is made to use the defined term "switched access rates".

11. ✓ Page 28, line 2: insert the word "further" before the word "reduce".

12. ✓ Page 28, lines 11 through 12: delete the phrase "increase its intrastate switched access rates or". This is necessary because the large incumbent local exchange carrier could increase to mirror.

13. ✓ Page ~~27~~²⁸, lines 12 through 13: replace the phrase "amount it charged for intrastate switched access services" with the phrase "intrastate switched access rates it charged". This change is made to use the defined term "switched access rates".

14. ✓ Page 29, line 5: insert the word "further" before the word "reduce".

✓ 15. Page 31: Under Section 78, we have eliminated the requirement for an eligible telecommunications carrier to provide "advance service capabilities", which requirement was previously located in 196.218(4). However, section 196.218 still references "advance service capabilities" in several places. These references should be deleted. Please see attachment for proposed statutory revisions.

✓ 16. Page 31, line 7: The reference to "(2)" should be deleted. The correct reference is "47 USC 214(e)".

✓ 17. Page 39, line 19: after the word "include" insert the phrase "the offering of internet access service or".

✓ 18. Page 40, lines 15 through 16: delete everything after the date June 1, 2012.

note Attachment re: section 24 note

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

Kunkel, Mark

From: CHORZEMPA, DAVID J (Legal) [dc1928@att.com]
Sent: Friday, April 15, 2011 11:08 AM
To: Kunkel, Mark
Cc: Vick, Jason
Subject: RE: Responses

Yep, consistency is the key on that issue.

Talked to WSTA's attorney on the VoIP issue. He and I agree that the language you cited as possibly superfluous ("to the same extent that any telecommunications service is subject to those provisions of law") can stay or go.

deleted ✓

Thanks for the response on legislative intent. Jason, I'll talk to you more about that, hopefully later today.

DJC

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Friday, April 15, 2011 10:54 AM
To: CHORZEMPA, DAVID J (Legal)
Cc: Vick, Jason
Subject: RE: Responses

Okay, I'll keep that in mind as I work on the new changes.

From: CHORZEMPA, DAVID J (Legal) [mailto:dc1928@att.com]
Sent: Friday, April 15, 2011 10:53 AM
To: Kunkel, Mark
Cc: Vick, Jason
Subject: RE: Responses

I will check with others on the VoIP question. On your last question, the nuance is that a carrier providing notice per 196.50(2)(j)1 a is really recertified "under" 196.203 not 196.50. So maybe we should say that when referring to the certification, the certification is "under" 196.203 but that does to "under the notice" or "pursuant to the notice" in 196.50(2)(j) 1 a. We just don't want the certification to be "under" 196.50 since it's not.

DJC

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Friday, April 15, 2011 10:27 AM
To: CHORZEMPA, DAVID J (Legal)
Cc: Vick, Jason
Subject: RE: Responses

David:

Regarding legislative intent, if you are concerned about expressing intent in the drafting file, the only things that we put in the drafting file are those documents that we rely on in drafting a bill. We do not

4/16/2011

include in the file any documents that we receive subsequent to completion of a draft. If you have a plain English summary that describes the intent of some or all of the language in the bill, and you want that document included in the drafting file, then I need to receive it before I finish the draft.

Also, while working on the analysis, the following question occurred to me. Section 196.206 (1) provides that an entity that provides interconnected VOIP is subject to specified statutes "to the same extent that any telecommunications service is subject to those provisions of law." I'm not sure what meaning the phrase in quotation marks is supposed to add to s. 196.206 (1). What is your intent? Why is the phrase necessary?

In addition, I have quickly reviewed the new documents you provided, and one thing that struck me was your nuanced interpretation of "pursuant to" versus "under." Based on our drafting manual, we believe that "pursuant to" and "under" have the same meaning, and we generally prefer the less verbose "under." I'm not sure yet how our understanding stacks up against what you wrote in the new documents, but I wanted to give you a "heads up" on this issue.

Thanks,

-- Mark

From: CHORZEMPA, DAVID J (Legal) [mailto:dc1928@att.com]
Sent: Friday, April 15, 2011 10:01 AM
To: Vick, Jason
Cc: Kunkel, Mark
Subject: Responses

Attached (last document) are responses to the drafter's notes from the industry participants. The responses also list some minor revisions based on our review. The other two documents are attachments referenced in the responses. I am available all day at 312 727 4585.

Jason, although this does not affect the process of finalizing the bill for introduction, we were wondering about how to procedurally get legislative intent attached to a bill if we wanted to do that down the road? That question is secondary to getting the bill ready for introduction.

David J. Chorzempa – General Attorney
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Kunkel, Mark

From: Vick, Jason
Sent: Friday, April 15, 2011 11:09 AM
To: Kunkel, Mark
Subject: RE: Responses

Thank you for offering to get this done so quickly, but I think Monday at noon should be fine.

Yes, you can provide Larry with the next version of the draft.

Thank you,

Jason Vick

Office of Rep. Mark Honadel
21st Assembly District
608-266-0611

From: Kunkel, Mark
Sent: Friday, April 15, 2011 10:59 AM
To: Vick, Jason
Subject: RE: Responses

Should I provide Larry with the next version of the draft?

Also, it will take me a bit of time today to make the changes based on the documents I received this morning and to finish the analysis. The changes will also have to be edited. Is it okay if you receive the new version Monday by noon? If you need it sooner, I think the earliest it can be finished is some time this weekend, but I will need to make arrangements today to have support staff here this weekend. Please let me know whether Monday at noon is okay, or whether you need it sooner.

-- Mark

From: Vick, Jason
Sent: Friday, April 15, 2011 10:11 AM
To: Kunkel, Mark
Subject: FW: Responses

Mark,

You can go ahead and make the changes per these responses. Thanks.

Larry Konopacki at Leg Council also wanted me to authorize him to discuss this LRB with you, if any questions arise.

Thanks,

Jason Vick

Office of Rep. Mark Honadel
21st Assembly District

4/16/2011

608-266-0611

From: CHORZEMPA, DAVID J (Legal) [mailto:dc1928@att.com]
Sent: Friday, April 15, 2011 10:01 AM
To: Vick, Jason
Cc: Kunkel, Mark
Subject: Responses

Attached (last document) are responses to the drafter's notes from the industry participants. The responses also list some minor revisions based on our review. The other two documents are attachments referenced in the responses. I am available all day at 312 727 4585.

Jsaon, although this does not affect the process of finalizing the bill for introduction, we were wondering about how to procedurally get legislative intent attached to a bill if we wanted to do that down the road? That question is secondary to getting the bill ready for introduction.

David J. Chorzempa – General Attorney
AT&T Legal Dept.
225 West Randolph, Floor 25D
Chicago, IL 60606
Phone: (312) 727-4585
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Kunkel, Mark

From: CHORZEMPA, DAVID J (Legal) [dc1928@att.com]
Sent: Friday, April 15, 2011 1:45 PM
To: Kunkel, Mark
Subject: Re: quick question

Ok

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Friday, April 15, 2011 02:32 PM
To: CHORZEMPA, DAVID J (Legal)
Subject: RE: quick question

The only provision in ch. 201 that applies to telcom utilities is s. 201.15. The bill repeals s. 201.15. Therefore, nothing remains in ch. 201 that could apply to telcom utilities. See the definition of "public service corporation" in s. 201.01 (2), which excludes telcom utilities. So it no longer makes sense to exempt a telcom utility from a chapter that no longer applies to the telcom utility. Therefore, I struck the exemption.

From: CHORZEMPA, DAVID J (Legal) [mailto:dc1928@att.com]
Sent: Friday, April 15, 2011 1:15 PM
To: CHORZEMPA, DAVID J (Legal); Kunkel, Mark
Cc: Vick, Jason
Subject: RE: quick question

I ask because I'm not sure why this legislation would affect the need for those exemptions, whether or not they were appropriate in the first place. I think we'd rather see the law stay as is on that one.

DJC

From: CHORZEMPA, DAVID J (Legal)
Sent: Friday, April 15, 2011 1:08 PM
To: 'Kunkel, Mark'
Subject: quick question

The reason you took out the exemptions from chapter 201 (in sections 44 and 45 of prior draft) is because that chapter would not apply to these carriers anyway? Right?

DJC

Kunkel, Mark

From: CHORZEMPA, DAVID J (Legal) [dc1928@att.com]
Sent: Friday, April 15, 2011 3:30 PM
To: Kunkel, Mark
Subject: Re: Responses

Yes that makes sense. Thanks

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Friday, April 15, 2011 04:28 PM
To: CHORZEMPA, DAVID J (Legal)
Subject: RE: Responses

Yeah, I was about to ask about that, as the striking and underlining didn't show up.

So, each reference to telcom utility (with the cross ref to the definition) in s. 201.01 (2) should be changed to telcom provider (with the proper cross ref to the definition), right? Note that there are a few other references in that definition.

And on an unrelated point, regarding the Note following section 107 about the universal service fund: that Note shouldn't have been included in the draft, as there was a word processing glitch that affected the Notes in the draft. You are right that it did come from a prior draft. Sorry for the confusion.

-- Mark

From: CHORZEMPA, DAVID J (Legal) [mailto:dc1928@att.com]
Sent: Friday, April 15, 2011 3:24 PM
To: Kunkel, Mark
Subject: Re: Responses

Don't know if the redline showed but intent is to change telecom utility reference to telecom provider.

From: CHORZEMPA, DAVID J (Legal)
Sent: Friday, April 15, 2011 04:15 PM
To: 'Mark.Kunkel@legis.wisconsin.gov' <Mark.Kunkel@legis.wisconsin.gov>
Subject: Re: Responses

This from time warner's atty re the ch 201 exemption. Looks good to everyone else.

An alternative solution would be to amend section 201.01(2) as follows: ...

"'Public service corporation' does not include a telecommunications utility provider, as defined in s. 196.01 (10)(8p)." Telecommunication provider is probably the broadest reference and would provide the most comfort.

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Friday, April 15, 2011 03:09 PM
To: CHORZEMPA, DAVID J (Legal)
Subject: RE: Responses

In the 196.205 document, it looks like you missed making an amendment to s. 196.37 (3), which should

4/15/2011

be amended in a manner comparable to s. 196.37 (4). Should s. 196.37 (3) be amended in manner similar to s. 196.37 (4)? (See page 34 of LRB-1901/P1.)

From: Vick, Jason
Sent: Friday, April 15, 2011 10:11 AM
To: Kunkel, Mark
Subject: FW: Responses

Mark,

You can go ahead and make the changes per these responses. Thanks.

Larry Konopacki at Leg Council also wanted me to authorize him to discuss this LRB with you, if any questions arise.

Thanks,

Jason Vick

Office of Rep. Mark Honadel
21st Assembly District
608-266-0611

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Sent: Friday, April 15, 2011 10:01 AM
To: Vick, Jason
Cc: Kunkel, Mark
Subject: Responses

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Jason, although this does not affect the process of finalizing the bill for introduction, we were wondering about how to procedurally get legislative intent attached to a bill if we wanted to do that down the road? That question is secondary to getting the bill ready for introduction.

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Kunkel, Mark

From: CHORZEMPA, DAVID J (Legal) [dc1928@att.com]
Sent: Friday, April 15, 2011 4:07 PM
To: Kunkel, Mark
Subject: Re: Responses

Ok that was not my issue so I missed it too.

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Friday, April 15, 2011 05:01 PM
To: CHORZEMPA, DAVID J (Legal)
Subject: RE: Responses

Sorry about this, but I now see in item 7 on page 6 of the Responses to Drafter's Note document that s. 196.37 (3) should be okay without making an amendment comparable to the amendment of s. 196.37 (4). So, it appears that it was intentional to not amend s. 196.37 (3). I will do as instructed in item 7 on page 6, instead of as instructed in your email below. Unless, of course, you tell me otherwise.

From: CHORZEMPA, DAVID J (Legal) [mailto:dc1928@att.com]
Sent: Friday, April 15, 2011 2:22 PM
To: Kunkel, Mark
Subject: Re: Responses

Yes

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Friday, April 15, 2011 03:09 PM
To: CHORZEMPA, DAVID J (Legal)
Subject: RE: Responses

In the 196.205 document, it looks like you missed making an amendment to s. 196.37 (3), which should be amended in a manner comparable to s. 196.37 (4). Should s. 196.37 (3) be amended in manner similar to s. 196.37 (4)? (See page 34 of LRB-1901/P1.)

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Sent: Friday, April 15, 2011 10:11 AM
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Jason Vick
Office of Rep. Mark Honadel
21st Assembly District

4/15/2011

608-266-0611

From: CHORZEMPA, DAVID J (Legal) [mailto:dc1928@att.com]
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To: Vick, Jason
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Kunkel, Mark

From: Kunkel, Mark
Sent: Friday, April 15, 2011 5:04 PM
To: 'CHORZEMPA, DAVID J (Legal)'
Subject: Response to my note following section 28

Your document responding to my notes includes the following:

Section28****NOTE: I added the reference to prior law, i.e., s. 196.195, 2009 stats. Is that okay, or should the above refer to a specific provision of s. 196.195, such as, for example, s. 196.195 (12)?

Response: Question: if the alternative regulation plan was adopted prior to 2009 (many were) do we need to refer to prior statutory years other than 2009? If so, we'd need to go back to 1994. If not, your change is sufficient.

The change is sufficient as drafted. Section 9.02 (12) (f) of our drafting manual tells us to use the reference to "2009 stats." when referring to prior law. By using that that reference, the bill is intended to refer to anything the PSC did under that prior law, in any year that the prior law was in effect, and not just those things the PSC did in a particular year.

Kunkel, Mark

From: CHORZEMPA, DAVID J (Legal) [dc1928@att.com]

Sent: Friday, April 15, 2011 5:54 PM

To: Kunkel, Mark

Subject: Re: TUs certified as ATUs

Ok

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]

Sent: Friday, April 15, 2011 06:35 PM

To: CHORZEMPA, DAVID J (Legal)

Subject: TUs certified as ATUs

One last issue for the day.

Regarding your response to my Note following section 106, I can implement your preference for saying that a telcom utility is certified "under" s. 196.203 as an altern. telcom utility, but the certification is "pursuant to" s. 196.50 (2) (j) 1. a. However, see the other references in the bill to s. 196.50 (2) (j) 1. a., which I've reproduced below. I think they are probably all okay, except for the treatment of s. 196.203 (2), which refers to an order under s. 196.50 (2) (j) 1. a., which is contrary to your terminology. I will make a change to that treatment which is consistent with your intent, but if you have any suggestions, please email back. Also, let me know if you want to change anything else below.

I will be leaving the office soon, but I plan on finishing the new draft tomorrow morning. (You won't get a copy until Monday, however, as it still has to go through editing and word processing.)

Section 6. 196.01 (1d) (g) of the statutes is created to read: [adds the following under the definition of alt. telcom utility]

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

Section 47. 196.203 (1g) (b) of the statutes is created to read:

196.203 (1g) (b) An alternative telecommunications utility certified pursuant to s. 196.50 (2) (j) 1. a. is subject to ss. 196.219 (2r) and 196.503, and, with respect only to wholesale telecommunications services, is subject to ss. 196.03 (1) and (6), 196.219 (4), 196.28, and 196.37; and, if such an alternative telecommunications utility was regulated as a price-regulated telecommunications utility prior to the effective date of this paragraph [LRB inserts date], the alternative telecommunications utility's intrastate dedicated access rates shall mirror its interstate dedicated access rates.

Section 48. 196.203 (2) of the statutes is renumbered 196.203 (2) (a) and amended to read:

196.203 (2) (a) No person may commence providing service as an alternative telecommunications utility unless the person petitions for and the commission issues a ~~determination~~ certification that the person is an alternative telecommunications utility or unless the person is a telecommunications utility for which the commission issues an order under s. 196.50 (2) (j) 1. a.

196.212 (1) (d) "New nonincumbent" means a telecommunications provider, other than an alternative telecommunications utility certified pursuant to s. 196.50 (2) (j) 1. a., that is not an incumbent local exchange carrier and that was granted an initial certification by the commission pursuant to s. 196.203 or 196.50 on or after January 1, 2011.