



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

☞ Appendix A ... segment II

LRB BILL HISTORY RESEARCH APPENDIX

☞ The drafting file for 2011 LRB-1625 (For: Rep. Honadel)

has been transferred to the drafting file for

2011 LRB-1901 (For: Rep. Honadel)

☞ Are These “Companion Bills” ?? ... No



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 04/12/2011 (Per: MDK)

☞ The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

Kunkel, Mark

From: Vick, Jason
Sent: Tuesday, March 08, 2011 10:50 AM
To: Kunkel, Mark
Subject: Draft Request -- Telecom Modernization

Attachments: draft changes_030811.docx; VoIP language.doc

Mark,

Rep. Honadel would like to draft changes based on the draft LRB 0660/P1 that you worked on. Attached are the changes we are seeking.



draft



VoIP

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Thanks,

Jason Vick

Office of Rep. Mark Honadel

21st Assembly District

608-266-0611

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January 2011 Special Session
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PRELIMINARY DRAFT - NOT
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1 AN ACT to repeal 196.09 (9), 196.19 (1m), 196.19 (5), 196.194 (1),
2 196.194 (2) (title), 196.196, 196.198 (2) (b), 196.20 (1m), 196.20 (2)
3 (am), 196.20 (2r), 196.20 (3), 196.20 (5), 196.20 (6), 196.203 (3) (b),
4 196.203 (3) (c), 196.203 (3) (d), 196.203 (3) (dm), 196.203 (3) (e),
5 196.203 (4), 196.204 (1), 196.204 (2), 196.204 (3), 196.204 (4), 196.204
6 (5) (b), 196.204 (6), 196.205, 196.213, 196.215, 196.219 (2m), 196.219
7 (3) (h), 196.26 (4), 196.49 (1) (ag), 196.49 (3) (d), 196.50 (1) (b) 1. and 2., 196.50 (2)
8 (g) 3., 196.50 (2) (h), 196.52 (5) (b), 196.60 (2), 196.77, 196.79 (2), 196.805 and
9 201.15; to renumber 196.50 (1) (b) 3. and 196.52 (5) (a); to renumber and amend
10 196.04 (1) (a) 1., 196.194 (2), 196.198 (2) (a), 196.203 (1), 196.203 (2), 196.203 (3) (a),
11 196.204 (5) (ag), 196.204 (5) (ar), 196.79 (1) and 196.975 (1); to amend 93.01 (1m),
12 133.07 (2), 196.02 (2), 196.04 (1) (b) 1., 196.04 (2), 196.09 (1), 196.13 (2), 196.195 (1),
13 196.195 (5), 196.195 (12) (a), 196.195 (12) (b) 3., 196.198 (3) (intro.), 196.198 (3) (a),
14 196.198 (3) (b) (intro.), 196.20 (1), 196.20 (2) (a) (intro.), 196.20 (2m), 196.203 (5),
15 196.218 (3) (a) 3m., 196.218 (3) (f), 196.218 (5r) (a) 4., 196.219 (1) (b), 196.219 (2)
16 (a), 196.26 (1) (a), 196.28 (4), 196.31 (1m), 196.37 (3), 196.37 (4), 196.49 (3) (b)
17 (intro.), 196.50 (title), 196.50 (2) (a), 196.50 (2) (b), 196.50 (2) (f), 196.52 (3) (b) 1.,
18 196.52 (3) (c) (intro.), 196.52 (6), 196.52 (9) (e), 196.60 (1) (a), 196.604 and 196.975
19 (2); to repeal and recreate 196.204 (title) and 196.218 (4); and to create
20 182.017(1g)(e), 196.01 (1d) (g), 196.01 (3a), 196.01 (12w), 196.016, 196.04 (1) (a) 3.,
21 196.191, 196.203 (1d), 196.203 (2) (b), 196.203 (2) (c), 196.203 (2) (d), 196.203 (4m),
22 196.206, 196.212, 196.218 (1) (a), 196.219 (2r), 196.50 (2) (i), 196.50 (2) (j), 196.503
23 and 196.975 (1g) of the statutes; relating to: authority of the Public Service

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Commission over certain telecommunications utilities, telecommunications provider of last-resort obligations, telecommunications switched access service rates, and interconnected voice over Internet protocol service.

Deleted: *Analysis by the Legislative Reference Bureau ¶*
The bill does all of the following: 1) makes changes to the authority of the Public Service Commission (PSC) over telecommunications utilities; 2) specifies the PSC's authority over switched access and wholesale telecommunications service; 3) creates requirements for telecommunications utility tariffs; 4) specifies the PSC's authority over interconnected voice over Internet protocol (VOIP) service; 5) makes changes to the PSC's authority for ensuring universal access to telecommunications service; 6) imposes requirements regarding the availability of basic voice service; 7) makes changes to requirements for the use of another person's transmission equipment and property by public utilities and telecommunications providers; and 8) makes other changes, including repealing provisions regarding access services and discrimination in favor of telecommunications affiliates. (This analysis must be revised to describe the requirements of s. 196.212, which deal with intrastate switched access rates. I will make such revisions after I understand how s. 196.212 relates to the material described in the foregoing item 2.) ¶
TELECOMMUNICATIONS UTILITY REGULATION ¶
Under current law, a telecommunications provider that provides basic local exchange service is defined to be a telecommunications utility. The PSC's authority over a telecommunications utility depends on whether the PSC has certified the telecommunications utility as a telecommunications utility (TU) or an alternative telecommunications utility (ATU). In general, the PSC has certified as TUs those telecommunications providers that are incumbent local exchange carriers (ILECs) under federal law, which are telecommunications providers that resulted from the breakup of the Bell System pursuant to a federal antitrust action. In general, the PSC has certified as ATUs those telecommunications providers that are competitive local exchange carriers under federal law, which are telecommunications providers that compete with ILECs to provide basic local exchange service. ¶ ... [1]

INSERT SUMMARY

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

✓ SECTION 1. 93.01 (1m) of the statutes is amended to read:

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

✓ SECTION 2. 133.07 (2) of the statutes is amended to read:

133.07 (2) This chapter does not prohibit activities of any public utility, as defined in s. 196.01 (5), or telecommunications carrier, as defined in s. 196.01 (8m), which are required by ch. 196 or rules or orders under ch. 196, activities necessary to comply with that chapter or those rules or orders or activities that are actively supervised by the public service commission. This subsection does not apply to activities of a public utility or telecommunications carrier that are exempt from public service commission regulation

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1 under s. 196.195, ~~196.196~~, 196.202, 196.203, 196.219 or 196.499 or by other action by the
2 commission.

3 SECTION 3. 182.017 (1g)(e) of the statutes is created to read:

4
5 ✓ 182.017 (1g)(e) "Telecommunications service" means the offering for the sale
6 of the conveyance of voice, data, or other information at any frequency over any part of
7 the electromagnetic spectrum, including the sale of service for collection, storage,
8 forwarding, switching and delivery incidental to such communication and including
9 the regulated sale of customer premises equipment.

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10 ✓ SECTION 4. 196.01 (1d) (g) of the statutes is created to read:

11 196.01 (1d) (g) A telecommunications utility that provides notice to the commission
12 under s. 196.50 (2) (j) 1. a.

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13 SECTION 5. 196.01 (3a) of the statutes is created to read:

14 196.01 (3a) "Interconnected voice over Internet protocol service" has the meaning
15 given in 47 CFR 9.3.

16 SECTION 6. 196.01 (9m) of the statutes is amended to read:

Continued

17 ✓ 196.01 (9m) "Telecommunications service" means the offering for sale of the conveyance
18 of voice, data or other information at any frequency over any part of the electromagnetic spectrum,
19 including the sale of service for collection, storage, forwarding, switching and delivery incidental to
20 such communication and including the regulated sale of customer premises equipment.

21 "Telecommunications service" does not include cable service or broadcast service.

22 "Telecommunications service" includes switched access service, as defined in s. 196.212.

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24 ✓ SECTION 7. 196.01 (12w) of the statutes is created to read:

25 196.01 (12w) (a) "Wholesale telecommunications service" means, except as
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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 affiliated interest, as defined in s. 196.52 (1).
- 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 telecommunications service
- 6 to retail end user customers.

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

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9 SECTION 8. 196.016 of the statutes is created to read:

10 **196.016 Relationship to certain federal telecommunications law.**

11 Except as provided in s. 196.50 (2) (j) 2. and 3., nothing in this chapter is intended
12 to 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.

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16 SECTION 9. 196.02 (2) of the statutes is amended to read:

17 196.02 (2) DEFINITION; CLASSIFICATION. ~~In this subsection, "public utility" does~~
18 ~~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~~
21 ~~alternative telecommunications utility.~~ The commission shall provide for a
22 comprehensive classification of service for each public utility. The classification
23 may take into account the quantity used, the time when used, the purpose for
24 which used, and any other reasonable consideration. Each public utility shall

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1 conform its schedules of rates, tolls and charges to such classification.

2 **SECTION 10.** 196.04 (1) (a) 1. of the statutes is renumbered 196.04 (1) (a) 4.

3 and amended to read:

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

8 **SECTION 11.** 196.04 (1) (a) 3. of the statutes is created to read:

9 196.04 (1) (a) 3. "Political subdivision" means any county, city, village, town,
10 or public utility owned or operated by any county, city, village, or town.

11 **SECTION 12.** 196.04 (1) (b) 1. of the statutes is amended to read:

12 196.04 (1) (b) 1. Any person who owns transmission equipment and property shall
13 permit, for reasonable compensation, the use of the transmission equipment and property,
14 ~~including an attachment to a pole~~, by any public utility, ~~video service provider~~, or
15 telecommunications provider if public convenience and necessity require such use and if
16 the use will not result in irreparable injury to any owner or user of the transmission
17 equipment and property or in any substantial detriment to the service to be rendered by
18 the owner or user.

19 **SECTION 13.** 196.04 (2) of the statutes is amended to read:

20 196.04 (2) If there is a failure to agree upon ~~the~~ use of ~~the~~ transmission equipment
21 and property under sub. (1) or the conditions or compensation for the use, or if there is a
22 failure to agree upon the physical connections or the terms and conditions upon which the
23 physical connections shall be made, any public utility, ~~any video service provider~~,
24 telecommunications provider, or ~~any~~ other ~~interested~~ person ~~interested~~ may apply to the

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1 commission. If, after investigation, the commission determines that public convenience
2 and necessity require the use of the transmission equipment and property or the physical
3 connections and that the use or physical connections will not result in irreparable injury
4 to the owner or other users of the transmission equipment and property or of the facilities
5 of the public utility, video service provider, or telecommunications provider, or in any
6 substantial detriment to the service to be rendered by the owner or the public utility, video
7 service provider, telecommunications provider, or other users of the transmission
8 equipment and property or facilities, the commission, by order, shall direct that the use of
9 the transmission equipment and property be permitted and that the physical connections
10 be made. The commission shall prescribe reasonable conditions and compensation for the
11 use of the transmission equipment and property and shall determine how and within what
12 time the physical connections shall be made and by whom the expense of making and
13 maintaining the physical connections shall be paid. An order under this subsection may be
14 revised by the commission.

15 SECTION 14. 196.09 (1) of the statutes is amended to read:

Deleted: The commission shall determine that any charge sought to be imposed on a public utility, video service provider, or telecommunications provider for an attachment to any transmission equipment and property is unjust and unreasonable if the charge exceeds the maximum rate allowed under 47 USC 224 (d) and federal regulations implementing that section, regardless of whether the service using the attachment that is provided by the public utility, video service provider, or telecommunications provider is classified as cable or telecommunications service under federal law.

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16 196.09 (1) ~~In this section, "public utility" does not include a telecommunications~~
17 ~~cooperative or an unincorporated telecommunications cooperative association except as~~
18 ~~provided under s. 196.205. In subs. (2) to (7), "public utility" does not include a~~
19 ~~telecommunications utility. Subsection (9) only applies to a telecommunications utility.~~
20 Every public utility shall file with the commission, within such time as may be required by
21 the commission, its estimate of the annual rate of depreciation required for each of its
22 classes of fixed capital used for public utility purposes, and of the composite annual rate of
23 depreciation required for such fixed capital as an aggregate, which shall constitute the
24 public utility's estimates of the amount which should be returned to it out of its rates for

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1 service, to meet the depreciation of its property.

2 ~~SECTION 15.~~ 196.09 (9) of the statutes is repealed.

3 ~~SECTION 16.~~ 196.13 (2) of the statutes is amended to read:

4 196.13 (2) The commission shall publish in its reports the value of all the property
5 actually used and useful for the convenience of the public of a public utility, ~~other than a~~
6 ~~telecommunications utility~~, if the commission has held a hearing on the public utility's
7 rates, charges, service or regulations or if the commission has otherwise determined the
8 value of the public utility's property.

9 ~~SECTION 17.~~ 196.19 (1m) of the statutes is repealed.

10 ~~SECTION 18.~~ 196.19 (5) of the statutes is repealed.

11 ~~SECTION 19.~~ 196.191 of the statutes is created to read:

12 196.191 Telecommunications utility and alternative telecommunications
13 utility tariffs. (1) Notwithstanding anything in this chapter to the contrary, any
14 telecommunications utility, ~~or alternative telecommunications utility~~, may do any of the
15 following:

16 (a) Retain on file with the commission tariffs already on file with the commission as
17 of the effective date of this paragraph [LRB inserts date], showing the rates, tolls, and
18 charges that the telecommunications utility, ~~or alternative telecommunications utility~~, has
19 established as of the effective date of this paragraph [LRB inserts date], for some or all
20 of the services performed by the telecommunications utility, ~~or alternative~~
21 telecommunications utility, within the state or for any service in connection therewith or
22 performed by any telecommunications utility, ~~or alternative telecommunications utility~~,
23 controlled or operated by the telecommunications utility, ~~or alternative~~
24 telecommunications utility.

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1 (b) Withdraw or change the rates, terms, or conditions of a tariff on file with the
2 commission, ~~except that the telecommunications utility or alternative telecommunications~~
3 ~~utility may not increase its switched access rates if it chooses to withdraw its tariff for~~
4 ~~switched access services.~~

5 (c) File with the commission new tariffs showing the rates, tolls, and charges ~~that~~
6 ~~the telecommunications utility, or alternative telecommunications utility, has established,~~
7 ~~as provided in the tariff filings, for some or all of the services performed by the~~
8 ~~telecommunications utility, or alternative telecommunications utility, within the state or~~
9 ~~for any service in connection therewith or performed by any telecommunications utility, or~~
10 ~~alternative telecommunications utility, controlled or operated by the telecommunications~~
11 ~~utility, or alternative telecommunications utility. If a telecommunications utility, or~~
12 ~~alternative telecommunications utility, files a new tariff under this paragraph, all of the~~
13 following apply:

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14 1. The new tariff shall become effective on the date specified in the tariff, unless the
15 commission suspends the operation of the new tariff upon serving a written notice of the
16 suspension on the telecommunications utility, or alternative telecommunications utility,
17 within 10 days after the date of filing. The notice shall include a statement of the reason
18 under subd. 2. upon which the commission believes the tariff may be modified.

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

21 3. If the commission does not conduct a hearing under subd. 2., the commission
22 shall issue its final order within 60 days after issuing the notice of suspension under subd.

23 1. If the commission conducts a hearing, the commission shall issue its final order within
24 120 days after issuing the notice of suspension under subd. 1. If a final order is not issued

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1 within the time limits specified in this subdivision, the new tariff becomes effective as
2 filed.

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

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

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8 (4) A telecommunications utility, or an alternative telecommunications utility, may
9 withdraw a tariff for any service by providing notice to the commission.

10 (5) (a) Except as provided in par. (b), a proposed change in a tariff shall be effective
11 at the time specified in the tariff as filed with the commission. (b) No change in a tariff
12 that constitutes an increase in switched access service rates may be made unless the
13 change is consistent with the public interest factors set forth in s. 196.03 (6) and does not
14 violate s. 196.212 and the commission by order, after investigation and opportunity for a
15 hearing, approves the change.

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in switched access service rates to
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service rates shall go into effect on
the 10th day after the change in the
tariff is filed, unless the
commission, before that day,
suspends the rate increase and
initiates an investigation under this
paragraph

16 (6) Nothing in this chapter prohibits a tariff for a service that permits a
17 telecommunications utility, or alternative telecommunications utility, to enter into an
18 individual contract with an individual customer for that tariffed service that includes
19 rates, terms, and conditions that are different from those in the tariff.

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

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

3 SECTION 20. 196.194 (1) of the statutes is repealed.

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4 SECTION 21. 196.194 (2) (title) of the statutes is repealed.

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5 SECTION 22. 196.194 (2) of the statutes is renumbered 196.194 and amended to
6 read:

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7 **196.194 Public Gas utility individual contracts.** Nothing in ss. 196.03, 196.19,
8 196.20, 196.21, 196.22, 196.37, 196.60, 196.604 and 196.625 prohibits the commission from
9 approving the filing of a tariff which permits a gas utility to enter into an individual
10 contract with an individual customer if the term of the contract is no more than 5 years, or
11 a longer period approved by the commission, and if the commission determines that
12 substitute gas services are available to customers or potential customers of the gas utility
13 and the absence of such a tariff will cause the gas utility to be disadvantaged in competing
14 for business. A tariff filed under this ~~subsection~~ section shall include the condition that
15 any such contract shall be compensatory. The tariff shall include any other condition and
16 procedure required by the commission in the public interest. Within 20 days after a
17 contract authorized under this ~~subsection~~ section or an amendment to such a contract has
18 been executed, the gas utility shall submit the contract to the commission. The
19 commission shall give notice to any person, upon request, that a contract authorized under
20 this ~~subsection~~ section has been received by the commission. The notice shall identify the
21 gas utility that has entered into the contract. Within 6 months after receiving substantial
22 evidence that a contract may be noncompensatory, or upon its own motion, the
23 commission shall investigate and determine whether the contract is compensatory. If the
24 commission determines that the contract is noncompensatory, the commission may make

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

5 SECTION 23. 196.195 (1) of the statutes is amended to read:

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6 196.195 (1) REGULATION IMPOSED. Except as provided in this section and ss. 196.202,
7 196.203, ~~196.215~~ and, 196.219, 196.50 (2) (i), and 196.50 (2) (j) a telecommunications
8 utility is subject to every applicable provision of this chapter and ch. 201.

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9 SECTION 24. 196.195 (5) of the statutes is amended to read:

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10 196.195 (5) COMMISSION ACTION. If after the proceedings under subs. (2), (3) and (4)
11 the commission has determined that effective competition exists in the market for the
12 telecommunications service which justifies a lesser degree of regulation and that lesser
13 regulation in that market will serve the public interest, the commission may, by order,
14 suspend any of the following provisions of law ch. 201, except as provided under subs. (7)
15 and (8): ~~ch. 201 and s. 196.02 (2); s. 196.05; s. 196.06; s. 196.07; s. 196.09; s. 196.10; s.~~
16 ~~196.12; s. 196.13 (2); s. 196.19; tariffing requirements under s. 196.194; s. 196.196 (1) or~~
17 ~~(5); s. 196.20; s. 196.21; s. 196.22; s. 196.26; s. 196.28; s. 196.37; s. 196.40; s. 196.52; s.~~
18 ~~196.58; s. 196.60; s. 196.604; s. 196.77; s. 196.78; s. 196.79; and s. 196.805.~~

19 SECTION 25. 196.195 (12) (a) of the statutes is amended to read:

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20 196.195 (12) (a) To provide incentives for telecommunications utilities to achieve
21 any of the goals listed in par. (b) 1. a., the commission may suspend any of the provisions
22 listed in sub. (5) except ~~ss. 196.19, 196.20 (1m), 196.22, 196.26, 196.37, 196.60 and 196.604~~
23 of ch. 201 or may approve a regulatory method alternative to traditional rate-of-return
24 regulation that does not require suspension of any provisions listed in sub. (5).

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1 **SECTION 26.** 196.195 (12) (b) 3. of the statutes is amended to read:

2 196.195 (12) (b) 3. The commission shall regulate telecommunications utilities with
3 the goal of developing alternative forms of regulation. The commission shall, by order,
4 develop and approve an incentive regulatory plan for each telecommunications utility to
5 implement this subdivision. The commission may not increase regulation of a small
6 telecommunications utility in implementing this subdivision. ~~For telecommunications~~
7 ~~utilities with more than 150,000 access lines in use in this state, s. 196.196 (2) applies to~~
8 ~~access service rates in any regulatory plan approved under this subdivision.~~

9 **SECTION 27.** 196.196 of the statutes is repealed.

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10 **SECTION 28.** 196.198 (2) (a) of the statutes is renumbered 196.198 (2) and amended
11 to read:

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12 196.198 (2) Except as provided in sub. (3), a telecommunications utility that has
13 more than 150,000 access lines in use in this state or a telecommunications provider that
14 has more than 150,000 access lines in use in this state may not charge a residential
15 customer for basic local exchange service based on the duration of a call or on the time of
16 day that a call is made. This ~~paragraph subsection~~ does not apply to an extended
17 community telephone service.

18 **SECTION 29.** 196.198 (2) (b) of the statutes is repealed.

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

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20 196.198 (3) (intro.) The commission may suspend the application of sub. (2) (a) in a
21 particular geographical area for a telecommunications utility or a telecommunications
22 provider if, after a contested case hearing, the commission determines that all of the
23 following apply:

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

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1 196.198 (3) (a) Failure to suspend the application of sub. (2) ~~(a)~~ makes competition
2 in that geographical area impractical.

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3 SECTION ~~32~~. 196.198 (3) (b) (intro.) of the statutes is amended to read:

4 196.198 (3) (b) (intro.) Suspending the application of sub. (2) ~~(a)~~ is beneficial to all
5 of the following groups:

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6 SECTION ~~33~~. 196.20 (1) of the statutes is amended to read:

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

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16 SECTION ~~34~~. 196.20 (1m) of the statutes is repealed.

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17 SECTION ~~35~~. 196.20 (2) (a) (intro.) of the statutes is amended to read:

18 196.20 (2) (a) (intro.) ~~Except for a telecommunications utility, a~~ A proposed change
19 which constitutes a decrease in rates shall be effective at the time specified in the change
20 as filed but not earlier than 10 days after the date of filing the change with the
21 commission, unless any of the following occurs:

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22 SECTION ~~36~~. 196.20 (2) (am) of the statutes is repealed.

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23 SECTION ~~37~~. 196.20 (2m) of the statutes is amended to read:

24 196.20 (2m) Except as provided under ~~sub. (5) and ss. g. 196.193, 196.195 (12) and~~

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

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

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

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

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

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11 SECTION 42. 196.203 (1) of the statutes is renumbered 196.203 (1g) and amended to
12 read:

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13 196.203 (1g) Alternative telecommunications utilities are exempt from all
14 provisions of ch. 201 and this chapter, except as provided in this section, and except that
15 an alternative telecommunications utility is subject to ~~s. 196.025~~ (6), ~~196.206~~, and
16 ~~196.212~~ and may elect to subject itself to s. 196.191, and except that an alternative
17 telecommunications utility that is a local government telecommunications utility, ~~as~~
18 ~~defined in s. 196.204 (5) (ag) 1,~~ is subject to s. 196.204 (5).

19 SECTION 43. 196.203 (1d) of the statutes is created to read:

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20 196.203 (1d) In this section, "local government telecommunications utility" has the
21 meaning given in s. 196.204 (1m) (a).

22 SECTION 44. 196.203 (2) of the statutes is renumbered 196.203 (2) (a) and amended
23 to read:

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24 196.203 (2) (a) No person may commence providing service as an alternative

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

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

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8 SECTION 45. 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 local
10 government telecommunications utility, certification as an alternative telecommunications
11 utility shall be on a statewide basis and any certification issued by the commission before
12 the effective date of this paragraph [LRB inserts date], to an alternative
13 telecommunications utility that is not a local government telecommunications utility is
14 considered amended to be a statewide certification.

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15 SECTION 46. 196.203 (2) (c) of the statutes is created to read:

16 196.203 (2) (c) An alternative telecommunications utility may provide notice to the
17 commission to maintain certification as an alternative telecommunications utility but to
18 recertify the alternative telecommunications utility and impose on the alternative
19 telecommunications utility only those provisions of this chapter specified in this
20 paragraph. No later than 30 days after receiving notice under this paragraph, the
21 commission shall issue an order granting recertification and imposing on the alternative
22 telecommunications utility those provisions of this chapter specified in sub. (4m) (a) that
23 are imposed on all alternative telecommunications utilities under sub. (3). An alternative
24 telecommunications utility for which an order of recertification is issued is subject to sub.

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

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7 SECTION 47. 196.203 (2) (d) of the statutes is created to read:

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

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13 SECTION 48. 196.203 (3) (a) of the statutes is renumbered 196.203 (3) and amended

14 to read:

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

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1 on all other alternative telecommunications utilities.

2 SECTION 49. 196.203 (3) (b) of the statutes is repealed.

3 SECTION 50. 196.203 (3) (c) of the statutes is repealed.

4 SECTION 51. 196.203 (3) (d) of the statutes is repealed.

5 SECTION 52. 196.203 (3) (dm) of the statutes is repealed.

6 SECTION 53. 196.203 (3) (e) of the statutes is repealed.

7 SECTION 54. 196.203 (4) of the statutes is repealed.

8 SECTION 55. 196.203 (4m) of the statutes is created to read:

9 196.203 (4m) (a) The commission may impose s. 196.01, 196.02 (1), (4), or (5),
10 196.04, 196.135, 196.14, 196.197, 196.199, 196.207, 196.208, 196.209, 196.218, 196.219 (1),
11 (2) (b), (c), or (d), (2r), (3) (a), (d), (j), (m), (n), or (o), 196.25, 196.26, 196.39, 196.395,
12 196.40, 196.41, 196.43, 196.44, 196.65, 196.66, 196.81, 196.85, 196.858, or 196.859 on an
13 alternative telecommunications utility.

14 ~~(b) In addition to the requirements contained in s. 196.212, the commission may,~~
15 with respect only to switched access services, impose s. 196.03 (1) or (6) or 196.37 on an
16 alternative telecommunications utility.

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

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

23 (e) An alternative telecommunications utility certified pursuant to s. 196.50 (2) (j)
24 1. a. shall be subject, with respect only to its switched access services as defined in s

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1 196.212. to the provisions in s. 196.191. For its services other than switched access
2 services, such an alternative telecommunications utility may elect to be subject to s.
3 196.191.

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4 SECTION 56. 196.203 (5) of the statutes is amended to read:

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

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8 SECTION 57. 196.204 (title) of the statutes is repealed and recreated to read:

9 196.204 (title) Local government telecommunications utilities.

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10 SECTION 58. 196.204 (1) of the statutes is repealed.

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11 SECTION 59. 196.204 (2) of the statutes is repealed.

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12 SECTION 60. 196.204 (3) of the statutes is repealed.

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13 SECTION 61. 196.204 (4) of the statutes is repealed.

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14 SECTION 62. 196.204 (5) (ag) of the statutes is renumbered 196.204 (1m), and

15 196.204 (1m) (intro.), as renumbered, is amended to read:

16 196.204 (1m) (intro.) In this ~~subsection~~ section:

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17 SECTION 63. 196.204 (5) (ar) of the statutes is renumbered 196.204 (2m), and

18 196.204 (2m) (a), (b) (intro.) and (c) (intro.), as renumbered, are amended to read: 196.204

19 (2m) (a) ~~In addition to the other requirements of this section, each~~ Each

20 telecommunications service, relevant group of services and basic network function offered

21 or used by a local government telecommunications utility shall be priced to exceed its total

22 service long-run incremental cost. ~~The commission may~~ waive the applicability of this

23 subdivision to a nongovernmental telecommunications utility's basic local exchange

24 service if the commission ~~determines that a waiver is consistent with the factors under s.~~

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1 ~~196.03 (6)~~

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

10 (c) (intro.) ~~Subdivision 2, Paragraph (b)~~ does not apply to a telecommunications
 11 service, relevant group of services, or basic network function, that is used to provide
 12 broadband service and that is offered by a municipal telecommunications utility, if all of
 13 the following apply:

14 SECTION ~~64~~. 196.204 (5) (b) of the statutes is repealed.

15 SECTION ~~65~~. 196.204 (6) of the statutes is repealed.

16 SECTION ~~66~~. 196.205 of the statutes is repealed.

17 SECTION ~~67~~. 196.206 of the statutes is created to read:

18 **196.206 Internet Protocol-Enabled Service. (1) DEFINITION.** "Internet
 19 Protocol-enabled service" or "IP-enabled service," as used in this section, means any service,
 20 capability, functionality, or application provided using Internet Protocol, or any successor protocol,
 21 that enables an end user to send or receive a voice, data, or video communication in Internet
 22 Protocol format or any successor format. Interconnected voice over Internet protocol service is an
 23 IP-enabled service. (2) EXEMPTIONS. (a) IP-enabled service is not subject to ch. 201 or this
 24 chapter, except that Interconnected Voice over Internet Protocol service is subject to ss.

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Nothing ... ^
20

1 196.025(6), 196.218(3), and 196.859 (b). Except as provided in this section, and notwithstanding
2 any other provision of law, the commission shall not enact, adopt or enforce, either directly or
3 indirectly, any law, rule, regulation, ordinance, standard, order or other provision having the force
4 or effect of law that regulates, or has the effect of regulating, the entry rates, terms or conditions for
5 IP-enabled service.

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7 **(3) UNIVERSAL SERVICE FUND.** An entity that provides interconnected voice over
8 Internet protocol service in this state and contributes to the universal service fund based
9 on its revenues from providing such service shall calculate such revenues using direct
10 assignment, a provider-specific traffic study, the inverse of the interstate jurisdictional
11 allocation established by the federal communications commission for the purpose of
12 federal universal service assessments, or any other reasonable assignment. Direct
13 assignment or traffic studies shall be based on the primary physical service address
14 identified by the customer.

15 **SECTION 68.** 196.212 of the statutes is created to read:

16 **196.212 Switched access rates. (1) DEFINITIONS.** In this section:

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

20 (b) "Incumbent local exchange carrier" has the meaning given in 47 USC 251 (h).

21 (c) "Switched access rates" means the rates, rate elements, and rate structure,
22 including all applicable fixed and traffic sensitive charges, that a local exchange carrier
23 charges for the provision of switched access services.

24 (d) "Switched access services" means the offering of switched access to a local

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- Deleted:), and 196.859. ¶
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1 exchange network for the purpose of enabling a telecommunications provider to originate
2 or terminate telecommunications service within the local exchange.

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3 (2) REDUCTIONS FOR NON-INCUMBENT TELECOMMUNICATIONS PROVIDERS. A
4 telecommunications provider that is not an incumbent local exchange carrier shall reduce
5 its intrastate switched access rates to no higher than the telecommunications provider's
6 rates for interstate switched access services as follows:

7 (a) Beginning on the effective date of this paragraph ... [LRB inserts date], the
8 telecommunications provider may not increase its intrastate switched access rates, or
9 charge intrastate switched access rates higher than the amount the telecommunications
10 provider charged for such switched access services on January 1, 2011.

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11 (b) No later one year from the effective date of this paragraph ... [LRB inserts date],
12 the telecommunications provider must reduce its intrastate switched access rates by an
13 amount equal to 50 percent of the difference between its intrastate switched access rates
14 in effect prior to the reduction and its interstate switched access rates in effect prior to the
15 reduction.

16 (c) No later two years from the effective date of this paragraph ... [LRB inserts
17 date], the telecommunications provider must further reduce its intrastate switched access
18 rates by an amount equal to 50% percent of the difference between its intrastate switched
19 access rates in effect prior to the reduction and its interstate switched access rates in
20 effect prior to the reduction.

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21 (d) No later three years from the effective date of this paragraph ... [LRB inserts
22 date], the telecommunications provider must reduce its intrastate switched access rates to
23 mirror its interstate switched access rates in effect prior to the reduction and, on a going
24 forward basis, may not charge intrastate switched access rates higher than its interstate

6 p.m. on that date

MDK Summary - diff's btw

	Nonincumbents	Incumbents
1 yr	50%	25%
2 yrs	50%	33%
3 yrs	mirror	50%
4 yrs		mirror

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1 switched access rates.

2 (3) REDUCTIONS OF INCUMBENT LOCAL EXCHANGE CARRIERS. A
 3 telecommunications provider that is an incumbent local exchange carrier that, with any
 4 affiliates that are incumbent local exchange carriers operating in the state, in total had
 5 150,000 or more access lines in use in this state as of January 1, 2010 shall reduce its
 6 intrastate switched access rates to no higher than the incumbent local exchange carrier's
 7 rates for interstate switched access services as follows:

8 (a) Beginning on the effective date of this paragraph ... [LRB inserts date], the
 9 incumbent local exchange carrier may not increase its intrastate switched access rates, or
 10 charge intrastate switched access rates higher than the amount it charged for such
 11 switched access services on January 1, 2011.

12 (b) No later than one year from the effective date of this paragraph ... [LRB inserts
 13 date], the incumbent local exchange carrier must reduce its intrastate switched access
 14 rates by an amount equal to 25 percent of the difference between its intrastate switched
 15 access rates in effect prior to the reduction and its interstate switched access rates in
 16 effect prior to the reduction.

17 (c) No later than two years from the effective date of this paragraph ... [LRB inserts
 18 date], the incumbent local exchange carrier must further reduce its intrastate switched
 19 access rates by an amount equal to 33% percent of the difference between its intrastate
 20 switched access rates in effect prior to the reduction and its interstate switched access
 21 rates in effect prior to the reduction.

22 (d) No later than three years from the effective date of this paragraph ... [LRB
 23 inserts date], the incumbent local exchange carrier must further reduce its intrastate
 24 switched access rates by an amount equal to 50% percent of the difference between its

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

3 (e) No later than four years from the effective date of this paragraph ... [LRB
4 inserts date], the incumbent local exchange carrier must reduce its intrastate switched
5 access rates to mirror its interstate switched access rates in effect prior to the reduction,
6 and, on a going forward basis, may not charge intrastate switched access rates higher
7 than its interstate switched access rates.

8 (4) COMMISSION REVIEW LIMITED. (a) Notwithstanding any other provision of this
9 Chapter, the requirements of subs. (2) and (3) of this section govern the rates that
10 telecommunications providers subject to those requirements may charge for intrastate switched
11 access services. Except as required to enforce this section, the Commission may not review or set
12 the rates for intrastate switched access services of a telecommunications provider subject to the
13 requirements of subs. (2) and (3). (b) For an incumbent local exchange carrier not subject to the
14 requirements of subs. (2) or (3), so long as the incumbent local exchange carrier does not seek to
15 increase its switched access rates, then for three years from the effective date of this section ...
16 [LRB to insert date] the Commission may not order a reduction in the switched access rates of such
17 an incumbent local exchange carrier.

18 SECTION 69. 196.213 of the statutes is repealed.

19 SECTION 70. 196.215 of the statutes is repealed.

20 SECTION 71. 196.218 (1) (a) of the statutes is created to read:

21 196.218 (1) (a) "Essential telecommunications services" means the services or
22 functionalities listed in 47 CFR 54.101 (a) as of January 1, 2010.

23 SECTION 72. 196.218 (3) (a) 3m. of the statutes is amended to read:

24 196.218 (3) (a) 3m. 196.218 (3) (a) 3m. Contributions under this paragraph may be

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provider

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This section applies to all of the
following telecommunications
providers: ¶
(a) Any incumbent local exchange
carrier that, with any affiliates that
are incumbent local exchange
carriers operating in the state, has
150,000 or more access lines in use
in this state as of the effective date
of this paragraph ... [LRB inserts
date]. ¶
(b) Any telecommunications
provider that is not an incumbent
local exchange carrier. ¶

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1 based only on the gross operating revenues from the provision of broadcast services
2 identified by the commission under subd. 2. and on intrastate telecommunications services
3 provided to end users in this state of the telecommunications providers subject to the
4 contribution. Wholesale services of any type provided by any telecommunications
5 provider, as defined in 196.01(12w) or otherwise, are not intrastate telecommunications
6 service for purposes of this section. Contributions based on revenues from interconnected
7 voice over Internet protocol service shall be calculated as provided under s. 196.206 (3).

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9 SECTION 73. 196.218 (3) (f) of the statutes is amended to read:

10 196.218 (3) (f) ~~Notwithstanding ss. 196.196 (1) and (5) (d) 2, 196.20 (2m), (5) and~~
11 ~~(6), 196.213 and 196.215, a~~ A telecommunications utility that provides local exchange
12 service may make adjustments to local exchange service rates for the purpose of
13 recovering its contributions to the universal service fund required under this subsection. A
14 telecommunications utility that adjusts local exchange service rates for the purpose of
15 recovering such contributions shall identify on customer bills a single amount that is the
16 total amount of the adjustment. The public service commission shall provide
17 telecommunications utilities the information necessary to identify such amounts on
18 customer bills.

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19 SECTION 74. 196.218 (4) of the statutes is repealed and recreated to read:

20 196.218 (4) ESSENTIAL TELECOMMUNICATIONS SERVICES. Each telecommunications
21 provider that is designated as an eligible telecommunications carrier pursuant to 47 USC
22 214 (e) (2) shall make available to its customers all essential telecommunications services.
23 A telecommunications provider may satisfy this subsection by providing essential
24 telecommunications services itself or through an affiliate and in either case may provide

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1 essential telecommunications services through the use of any available technology or
2 mode. Notwithstanding the foregoing, a commercial mobile radio service provider
3 designated or seeking designation as an eligible telecommunications carrier for only
4 federal universal service purposes shall not be subject to any state eligible
5 telecommunications carrier requirements and shall only be subject to the federal
6 requirements for eligible telecommunications carriers.

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7 SECTION 75. 196.218 (5r) (a) 4. of the statutes is amended to read:

8 196.218 (5r) (a) 4. An assessment of how ~~successful investments identified in s.~~
9 ~~196.196 (5) (f),~~ assistance provided by the universal service fund, ~~and price regulation~~ and
10 other alternative incentive regulations of telecommunications utilities designed to
11 promote competition have been in advancing the public interest goals identified under s.
12 196.03 (6), and recommendations for further advancing those goals.

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13 SECTION 76. 196.219 (1) (b) of the statutes is amended to read:

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

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17 SECTION 77. 196.219 (2) (a) of the statutes is amended to read:

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

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23 SECTION 78. 196.219 (2m) of the statutes is repealed.

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24 SECTION 79. 196.219 (2r) of the statutes is created to read:

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1 196.219 (2r) SWITCHED ACCESS SERVICE RATES. Any reduction in switched access
2 service rates ordered by the commission prior to the effective date of this subsection....
3 [LRB inserts date], including any reduction ordered pursuant to s. 196.195, shall remain
4 effective unless modified by the commission in a subsequent order, or unless the ordered
5 reduction is inconsistent with the requirements of s. ~~196.212~~, in which case the
6 requirements of that section shall control.

Deleted: 196.212

Why necessary?

Deleted: 78

7 SECTION 80. 196.219 (3) (h) of the statutes is repealed.

Deleted: 79

8 SECTION 81. 196.26 (1) (a) of the statutes is amended to read:

9 196.26 (1) (a) A complaint filed with the commission that any rate, toll, charge, or
10 schedule, joint rate, regulation, measurement, act, or practice relating to the provision of
11 heat, light, water, or power, ~~or telecommunications service~~ is unreasonable, inadequate,
12 unjustly discriminatory, or cannot be obtained.

Deleted: 80

13 SECTION 82. 196.26 (4) of the statutes is repealed.

Deleted: 81

14 SECTION 83. 196.28 (4) of the statutes is amended to read:

15 196.28 (4) This section does not apply to rates, tolls or charges of a
16 telecommunications cooperative, an unincorporated telecommunications cooperative
17 association, or a small telecommunications utility ~~except as provided in s. 196.205 or~~
18 ~~196.215 (2).~~

Deleted: 82

19 SECTION 84. 196.31 (1m) of the statutes is amended to read:

20 196.31 (1m) The commission shall compensate any consumer group or consumer
21 representative for all reasonable costs of participating in a hearing under s. ~~196.196 (1) (g)~~
22 ~~or 196.198.~~

Deleted: 83

23 SECTION 85. 196.37 (3) of the statutes is amended to read:

24 196.37 (3) Any public utility to which an order under this section applies shall

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1 make such changes in schedules on file under s. 196.19 to make the schedules conform to
2 the order. The public utility may not make any subsequent change in rates, tolls or
3 charges without the approval of the commission, ~~except as provided in s. 196.205 or~~
4 ~~196.215 (2).~~

Deleted: 84

5 SECTION 86. 196.37 (4) of the statutes is amended to read:

6 196.37 (4) This section does not apply to rates, tolls or charges of a
7 telecommunications cooperative, an unincorporated telecommunications cooperative
8 association, or a small telecommunications utility ~~except as provided in s. 196.205 or~~
9 ~~196.215 (2).~~

Deleted: 85

10 SECTION 87. 196.49 (1) (ag) of the statutes is repealed.

Deleted: 86

11 SECTION 88. 196.49 (3) (b) (intro.) of the statutes is amended to read:

12 196.49 (3) (b) (intro.) ~~Except as provided in par. (d), the~~ The commission may
13 require by rule or special order under par. (a) that no project may proceed until the
14 commission has certified that public convenience and necessity require the project. The
15 commission may refuse to certify a project if it appears that the completion of the project
16 will do any of the following:

Deleted: 87

17 SECTION 89. 196.49 (3) (d) of the statutes is repealed.

Deleted: 88

18 SECTION 90. 196.50 (title) of the statutes is amended to read:

19 196.50 (title) **Competing public utilities; indeterminate permits,**
20 **telecommunications; telecommunications utility certification.**

Deleted: 89

21 SECTION 91. 196.50 (1) (b) 1. and 2. of the statutes are repealed.

Deleted: 90

22 SECTION 92. 196.50 (1) (b) 3. of the statutes is renumbered 196.50 (1) (b).

Deleted: 91

23 SECTION 93. 196.50 (2) (a) of the statutes is amended to read:

24 196.50 (2) (a) Alternative telecommunications utilities shall be certified under

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1 s. 196.203. ~~All~~ Except as provided in par. (j) 1. a., all other telecommunications
2 utilities shall be certified under this subsection.

Deleted: 82

3 SECTION 94. 196.50 (2) (b) of the statutes is amended to read:

4 196.50 (2) (b) A certificate, franchise, license or permit, indeterminate or
5 otherwise, in effect on September 1, 1994, for a telecommunications utility shall
6 remain in effect and shall have the effect of a certificate of authority. A
7 telecommunications utility is not required to apply for a new certificate of authority
8 to continue offering or providing service to the extent of the prior authorization.
9 Each telecommunications utility, including telecommunications cooperatives and
10 unincorporated telecommunications cooperative associations, shall have on file with
11 the commission ~~under s. 196.19 a tariff that sets forth the rates, terms and~~
12 ~~conditions for all services provided and~~ a map that defines the geographical limits of
13 the service territory that the telecommunications utility is obliged to serve.

Deleted: 93

14 SECTION 95. 196.50 (2) (f) of the statutes is amended to read:

15 196.50 (2) (f) The commission shall issue a certificate of authority or an
16 amended certificate of authority if it finds, after notice and opportunity for hearing,
17 that the applicant possesses sufficient technical, financial and managerial resources
18 to provide telecommunications service to any person within the identified geographic
19 area. In making this determination, the commission shall consider the factors
20 identified in s. 196.03 (6). ~~The commission may order the applicant to satisfy any~~
21 ~~conditions that the commission considers to be necessary to protect the public~~
22 ~~interest, including structural safeguards.~~

Deleted: 94

23 SECTION 96. 196.50 (2) (g) 3. of the statutes is repealed.

Deleted: 95

24 SECTION 97. 196.50 (2) (h) of the statutes is repealed.

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1 SECTION 98. 196.50 (2) (i) of the statutes is created to read:

2 196.50 (2) (i) A telecommunications utility certified under this subsection is exempt
3 from all provisions of ch. 201 and is exempt from s. 196.02 (2); s. 196.03, except with
4 respect to wholesale telecommunications services; ss. 196.05, 196.06, 196.07, 196.09,
5 196.10, 196.12, 196.13, 196.19, 196.20, 196.21, and 196.22; s. 196.28, except with respect
6 to wholesale telecommunications services; s. 196.37, except with respect to wholesale
7 telecommunications services; ss. 196.49, 196.52, 196.58, 196.60, and 196.78; and s. 196.79;
8 except that, with respect only to its switched access services, a telecommunications utility
9 certified under this subsection with 50,000 or fewer access lines in this state as of the
10 effective date of this paragraph [LRB inserts date], is not exempt from ss. 196.03; and
11 except that, with respect only to its switched access services, a telecommunications utility
12 certified under this subsection with more than 50,000 and fewer than 150,000 access lines
13 in this state as of the effective date of this paragraph [LRB inserts date], is not exempt
14 from ss. 196.03 and 196.37. Notwithstanding the preceding sentence, the requirements of s.
15 196.212 govern the rates that telecommunications providers subject to those requirements may
16 charge for switched access services, as defined in s. 196.212. The intrastate access service rates
17 of a telecommunications utility with 150,000 or more access lines in this state as of the
18 effective date of this paragraph [LRB inserts date], may not exceed the
19 telecommunications utility's interstate access service rates for similar access services,
20 except that such a telecommunications utility shall not assess an intrastate carrier
21 common line charge or a substitute charge. Except to enforce this paragraph and s.
22 196.212, the commission may not review or set the access rates for a telecommunications
23 utility with 150,000 or more access lines in this state as of the effective date of this
24 paragraph [LRB inserts date].

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SECTION 99. 196.50 (2) (j) of the statutes is created to read:

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

a. Provide notice to the commission to terminate the certification under this subsection and certify the telecommunications utility as an alternative telecommunications utility under s. 196.203. No later than 30 days after receiving notice under this subd. 1. a., the commission shall issue an order granting a certification under s. 196.203. Except as provided in subds. 4. and 5., the granting of such certification shall operate to terminate the certification under this subsection and all regulatory requirements related to the certification under this subsection, including all such requirements imposed by the certification under this subsection or imposed by order or otherwise by the commission.

b. Provide notice to the commission to recertify the telecommunications utility under this subsection and impose on the telecommunications utility only those provisions of this chapter specified in this paragraph. No later than 30 days after receiving notice under this subd. 1. b., the commission shall issue an order granting recertification under this subsection and imposing on the telecommunications utility those provisions of this chapter specified in s. 196.203 (4m) (a) that are imposed on all alternative telecommunications utilities under s. 196.203 (3). The telecommunications utility shall be exempt from all provisions of ch. 201 and this chapter, except ss. 196.025 (6), 196.191, 196.206, and 196.212, and except as provided in subds. 4. and 5., and except as provided in the order under this subd. 1. b.; and except that, if the telecommunications utility has 50,000 or fewer access lines in this state as of the effective date of this subd. 1. b. [LRB inserts date], then, only with respect to its switched access services, the

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1 telecommunications utility is not exempt from s. 196.03; and except that, if the
 2 telecommunications utility has more than 50,000 and fewer than 150,000 access lines in
 3 this state as of the effective date of this subd. 1. b. [LRB inserts date], then, only with
 4 respect to its switched access services, the telecommunications utility is not exempt from
 5 ss. 196.03 and 196.37. Notwithstanding the preceding sentence, the requirements of s.
 6 196.212 govern the rates that telecommunications providers subject to those requirements may
 7 charge for switched access services, as defined in s. 196.212. Except as provided in subds. 4.
 8 and 5., the granting of the recertification shall operate to terminate the
 9 telecommunications utility's prior certification, and all regulatory requirements related to
 10 the prior certification, including all such requirements imposed by the certification and all
 11 requirements imposed by the commission, whether by statute or commission rule or order,
 12 on the telecommunications utility are terminated on the effective date of the order.



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

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

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

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

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

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

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8 **SECTION 100. 196.503 of the statutes is created to read:**

9 **196.503 Telecommunications provider of last resort obligations. (1)**

10 DEFINITIONS. In this section:

11 (a) "Basic voice service" means the provision to residential customers of 2-way voice
12 communication within a local calling area. "Basic voice service" includes extended
13 community calling and extended area service. "Basic voice service" does not include any
14 discretionary or optional services that are provided to a residential customer, even if
15 provided in a bundle or package with basic voice service.

16 (b) "Incumbent local exchange carrier" has the meaning given in 47 USC 251 (h).

17 (c) "Universal service fund" has the meaning in s. 196.218(1)(c). *not necessary*

18
19 **(2) INCUMBENT LOCAL EXCHANGE CARRIER OBLIGATIONS.** (a) Notwithstanding any other
20 provision in this chapter, and except as provided in sub. (3), an incumbent local exchange
21 carrier shall make basic voice service available to all residential customers within a local
22 exchange area in which it operates as an incumbent local exchange carrier.

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

25 **(3) WAIVERS.** (a) An incumbent local exchange carrier may apply to the commission

1 for a waiver from compliance with sub. (2) (a) in a local exchange area. If a waiver is
2 granted, then the requesting incumbent local exchange carrier shall not be eligible to
3 receive moneys from the universal service fund for the purpose of assisting customers of
4 this state that have relatively high costs of telecommunications service obtaining
5 affordable access to a basic set of essential telecommunications services, as provided in s.
6 196.218 (5) 1. The requesting carrier may receive moneys from the universal service fund
7 for any other purpose specified in s. 196.218(5), including the other purposes listed in s.
8 196.218 (5) 1.

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

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

14 2. The commission has made a previous finding of effective competition
15 under s. 196.195 (2) for basic local exchange service in the local exchange. The
16 commission may not grant a waiver under this subdivision until after June 1,
17 2012, or the effective date of this subdivision [LRB inserts date], whichever is
18 later.

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

22 (d) 1. Within 120 days of the filing of a waiver request based on par. (b) 1.,
23 the commission shall grant or deny the request and, if denied, the commission
24 shall issue a written decision identifying the reasons for its denial. If the

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1 commission fails to grant or deny the waiver request within 120 days of its filing,
2 the waiver request is considered granted by operation of law.

3 2. The commission shall grant a waiver based on par. (b) 2. as soon as the
4 commission verifies that the commission has previously made the finding specified in par.
5 (b) 2., but no later than 20 days after the filing of the waiver request. If the commission
6 fails to grant a waiver request based on par. (b) 2. within 20 days of its filing, the waiver
7 request is considered granted by operation of law. If the commission denies a waiver
8 based on par. (b) 2., the commission shall issue a written decision identifying the reasons
9 for its denial.

10 (4) EFFECT ON OTHER REQUIREMENTS. (a) Notwithstanding any other provision of this
11 chapter, a commission decision prior to the effective date of this paragraph [LRB
12 inserts date], eliminating an incumbent local exchange carrier's provider of last-resort
13 obligations, by operation of law or otherwise, remains in force and in effect as to the
14 elimination of those obligations.

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

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

20 SECTION 101. 196.52 (3) (b) 1. of the statutes is amended to read:

21 196.52 (3) (b) 1. The requirement for written approval under par. (a) shall not apply
22 to any contract or arrangement if the amount of consideration involved is not in excess of
23 \$25,000 or 5% of the equity of the public utility, whichever is smaller. The requirement
24 under par. (a) also does not apply to a telecommunications utility contract or arrangement

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1 ~~or~~ to contracts or arrangements with joint local water authorities under s. 66.0823.
2 Regularly recurring payments under a general or continuing arrangement which
3 aggregate a greater annual amount may not be broken down into a series of transactions
4 to come within the exemption under this paragraph. Any transaction exempted under this
5 paragraph shall be valid or effective without commission approval under this section.

Deleted: 100

6 **SECTION 102.** 196.52 (3) (c) (intro.) of the statutes is amended to read:
7 196.52 (3) (c) (intro.) If the value of a contract or arrangement between an affiliated
8 interest and a public utility, ~~other than a telecommunications utility,~~ exceeds \$1,000,000,
9 the commission:

Deleted: 101

10 **SECTION 103.** 196.52 (5) (a) of the statutes is renumbered 196.52 (5).

Deleted: 102

11 **SECTION 104.** 196.52 (5) (b) of the statutes is repealed.

Deleted: 103

12 **SECTION 105.** 196.52 (6) of the statutes is amended to read:

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

Deleted: 104

22 **SECTION 106.** 196.52 (9) (e) of the statutes is amended to read:

23 196.52 (9) (e) Notwithstanding sub. (5) (~~a~~), the commission may not modify or
24 terminate a leased generation contract approved under sub. (3) except as specified in the

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1 leased generation contract or the commission's order approving the leased generation
2 contract.

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3 SECTION 107. 196.60 (1) (a) of the statutes is amended to read:

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

Deleted: 106

12 SECTION 108. 196.60 (2) of the statutes is repealed.

Deleted: 107

13 SECTION 109. 196.604 of the statutes is amended to read:

14 196.604 **Rebates, concessions and discriminations unlawful.** No person may
15 knowingly solicit, accept or receive any rebate, concession or discrimination from a public
16 utility for any service in or affecting or relating to the production, transmission, delivery
17 or furnishing of heat, light, water or power ~~or the conveying of telecommunications~~
18 ~~messages~~ within this state or for any connected service whereby the service is rendered or
19 is to be rendered free or at a rate less than the rate named in the schedules and tariffs in
20 force, or whereby any other service or advantage is received. Any person violating this
21 section shall be fined not less than \$50 nor more than \$5,000 for each offense.

Deleted: 108

22 SECTION 110. 196.77 of the statutes is repealed.

Deleted: 109

23 SECTION 111. 196.79 (1) of the statutes is renumbered 196.79 and amended to read:

24 196.79 **Reorganization subject to commission approval.** ~~Except as provided in~~

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1 ~~sub. (2), the~~ The reorganization of any public utility shall be subject to the supervision and
2 control of the commission. No reorganization may take effect without the written approval
3 of the commission. The commission may not approve any plan of reorganization unless
4 the applicant for approval establishes that the plan of reorganization is consistent with
5 the public interest.

6 SECTION 112. 196.79 (2) of the statutes is repealed.

Deleted: 110

7 SECTION 113. 196.805 of the statutes is repealed.

Deleted: 111

8 SECTION 114. 196.975 (1) of the statutes is renumbered 196.975 (1r) and 4
9 amended to read:

Deleted: 112

10 196.975 (1r) One hundred fifty or more consumers, ~~as defined in s. 196.213 (1) (a)~~
11 ~~1,~~ who are residents of the same local exchange area for telecommunications service may
12 file with the commission a petition requesting that commission staff, in cooperation with
13 the affected telecommunications utilities and telecommunications carriers, petition the
14 appropriate federal district court to include their local exchange area in a different local
15 access and transport area. The petitioners shall include with the petition information
16 explaining why the current boundaries of the local access and transport area which
17 includes their local exchange area does not adequately reflect areas of common social,
18 economic and other concerns.

19 SECTION 115. 196.975 (1g) of the statutes is created to read:

Deleted: 113

20 196.975 (1g) In this section, "consumer" means a person billed for one or more local
21 telecommunications service access lines not to exceed one person per access line. A person
22 billed for more than one access line may not be considered a consumer for each access line
23 for which he or she is billed.

24 SECTION 116. 196.975 (2) of the statutes is amended to read:

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

Deleted: 115

6 SECTION 117. 201.15 of the statutes is repealed.

Deleted: 116

7 SECTION 118. Nonstatutory provisions.

8 (1) In this section:

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

10 (b) "Price-regulated telecommunications utility" means a telecommunications
11 utility that elected to become a price-regulated telecommunications utility under section
12 196.196 (1) or (4), 2009 stats.

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

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

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

Analysis by the Legislative Reference Bureau

The bill does all of the following: 1) makes changes to the authority of the Public Service Commission (PSC) over telecommunications utilities; 2) specifies the PSC's authority over switched access and wholesale telecommunications service; 3) creates requirements for telecommunications utility tariffs; 4) specifies the PSC's authority over interconnected voice over Internet protocol (VOIP) service; 5) makes changes to the PSC's authority for ensuring universal access to telecommunications service; 6) imposes requirements regarding the availability of basic voice service; 7) makes changes to requirements for the use of another person's transmission equipment and property by public utilities and telecommunications providers; and 8) makes other changes, including repealing provisions regarding access services and discrimination in favor of telecommunications affiliates. (This analysis must be revised to describe the requirements of s. 196.212, which deal with intrastate switched access rates. I will make such revisions after I understand how s. 196.212 relates to the material described in the foregoing item 2.)

TELECOMMUNICATIONS UTILITY REGULATION

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

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

ATUs. The bill limits the requirements the PSC may impose on an ATU. Under the bill, the PSC may impose requirements that relate only to the following: 1) submission of stockholder and other business management information; 2) PSC examination of accounting and other business records; 3) use of and connection to transmission equipment and property by other telecommunications providers; 4) confidential treatment of records by the PSC; 5) rates and costs of unbundled network elements; 6)

interconnection agreements and other interconnection requirements; 7) telephone caller identification, pay-per-call, and toll-free services; 8) PSC privacy rules; 9) universal service and contributions to the state universal service fund; 10) access to telecommunications emergency services; 11) restrictions on resale or sharing certain services, products, and facilities; 12) violations of rules of the Department of Agriculture, Trade and Consumer Protection (DATCP) regarding advertising and sales and collection practices; 13) transfer of local exchange customers to other telecommunications providers; 14) PSC questionnaires and other information requests; 15) PSC hearings on consumer complaints; 16) changes to PSC orders and reopening PSC cases; 17) PSC-required tests; 18) conditional, emergency, and supplemental PSC orders; 19) timing of effect of PSC orders; 20) court review of PSC orders; 21) injunction procedures; 22) enforcement duties of the PSC, the attorney general, and district attorneys and related court venues; 23) penalties related to information and record requests; 24) forfeitures; 25) abandonment or discontinuance of lines, services, and rights-of-way; 26) assessments for reimbursement of PSC expenses; 27) assessments for telephone relay service; and 28) assessments for enforcement of certain consumer protection requirements by DATCP.

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

TUs. The bill exempts TUs from requirements relating to all of the following: 1) PSC classification of public utility service; 2) PSC valuation of utility property; 3) accounting requirements, including depreciation rates and new construction accounting; 4) reporting of expenses, profit, and other items; 5) PSC reports of utility property values and other financial data; 6) filing of rates and PSC approval of rates; 7) PSC investigations of rates and services; 8) construction, installation, or operation of new facilities; 9) PSC approval of certain contracts; 10) certain municipal authority to regulate public utilities; 11) dissolution and reorganization; and 12) issuance of securities. However, as discussed below, some of the foregoing exemptions do not apply to wholesale telecommunications service or switched access service. The bill makes changes to current law to ensure that small TUs, and TUs that are cooperatives, are subject to the foregoing exemptions. In addition, the bill repeals the requirements that apply to TUs under current law that apply to the following: 1) offering new telecommunications services, or services jointly offered

with other TUs; 2) classification of TU service; 3) promotional rates; 4) PSC authority regarding contracts between TUs and individual customers; and 5) consolidations and mergers. Also, the bill repeals price regulation of TUs and terminates any requirements imposed by the PSC on price-regulated TUs. The bill also allows a TU to terminate its certification as a TU and require the PSC to certify the TU as an ATU and issue an order terminating all regulatory requirements related to the TU certification, except for certain requirements regarding wholesale telecommunications service as discussed below. Upon certification as an ATU, the formerly certified TU is subject to the same requirements as an ATU. In addition, the bill allows a TU to require the PSC to issue an order recertifying the TU as a TU, but regulating the TU like an ATU. Such a recertification terminates the TU's prior certification, and all regulatory requirements related to the prior certification, with the same exception for wholesale telecommunications service.

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

SWITCHED ACCESS AND WHOLESALE TELECOMMUNICATIONS SERVICE

The bill creates requirements that apply to switched access and wholesale telecommunications service provided by ATUs and TUs. The bill defines "wholesale telecommunications service" as a service, other than a switched access service, that is: 1) provided by one telecommunications provider to another who is not an affiliate; 2) subject to regulation by the PSC; and 3) subsequently used in the provision of a telecommunications service to retail end user customers. The bill does not define "switched access service," but that term refers to a service by which one TU or ATU provides access to its switched network to a second TU or ATU so that customers of the second TU or ATU can complete calls to customers of first TU or ATU. (The foregoing sentence must be revised to account for the definition of "switched access rates" in s. 196.212. Depending on how s. 196.212 relates to the rest of the draft, additional revisions may be necessary.)

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

required by the public interest.

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

If a TU has 150,000 or more access lines in this state on the bill's effective date, the TU's intrastate access service rates may not exceed the TU's interstate access service rates for similar access services, except that the TU is not allowed to assess an intrastate carrier common line charge or a substitute charge.

Except to enforce the foregoing requirements, the bill provides that the PSC may not review or set the access rates for a TU with 150,000 or more access lines in this state on the bill's effective date. In addition, the foregoing requirements regarding a TU with 150,000 or more access lines in this state on the bill's effective date do not apply to a TU that recertifies as a TU but is regulated like an ATU.

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

Wholesale telecommunications service. The bill allows the PSC to impose on an ATU, but only with respect to wholesale telecommunications service, the reasonable service and rates duty and the PSC unreasonable service authority, as well as requirements under current law regarding the PSC's enforcement authority for certain consumer protection requirements (PSC consumer enforcement authority) and the PSC's investigative authority. If the ATU required the PSC to recertify the ATU as an ATU as described above, the PSC may impose the foregoing requirements only if required by the public interest. In addition, if an ATU is a former TU that recertified as an ATU under the bill, the ATU is subject, with respect to only wholesale telecommunications services, the requirements that the PSC is allowed to impose on an ATU. Those requirements apply with respect to wholesale telecommunications service even if the PSC does not impose them on such an ATU. Also, those requirements apply to a TU with respect to wholesale telecommunications service, regardless of whether the TU elects to certify as an ATU or recertify as a TU that is regulated like an ATU.

TARIFFS

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

the TU or ATU, and only after granting the TU or ATU an opportunity for a hearing. If the PSC fails to comply with deadlines in the bill regarding the new tariff, the new tariff is effective as filed.

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

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

INTERCONNECTED VOIP SERVICE

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

UNIVERSAL SERVICE

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

development principles rather than on specific technologies or providers. This bill repeals the foregoing requirements and requires instead that certain telecommunications providers must make available to their customers all essential telecommunications services. The bill defines "essential telecommunications services" as services or functionalities listed in a regulation by the Federal Communications Commission. The bill's requirements apply to a telecommunications provider that is designated under federal law as a telecommunications carrier eligible to receive support from the federal universal service fund. Also, the bill provides that a telecommunications provider may provide essential telecommunications services itself or through an affiliate or through the use of any available technology or mode.

BASIC VOICE SERVICE

The bill requires an ILEC to make basic voice service available to all residential customers within the ILEC's local exchange area. "Basic voice service" is defined, in part, as two-way voice communication service within a local calling area. The bill allows an ILEC to provide basic voice service through an affiliate, or through the use of any available technology or mode.

The bill also allows an ILEC to apply to the PSC for a waiver from the foregoing requirements. The PSC must grant a waiver if the waiver is in the public interest or effective competition exists in the local exchange area. If the PSC fails to meet a 120-day deadline for the waiver request, the waiver request is considered granted by operation of law. In addition, the PSC must grant a waiver if the PSC previously found that effective competition existed. However, the PSC may not grant a waiver based on a previous finding of effective competition until after June 1, 2012. If the PSC fails to meet a 20-day deadline for a waiver request based on a previous finding of effective competition, the waiver request is considered granted by operation of law. The bill also provides that decisions of the PSC prior to the effective date of the bill that eliminate an ILEC's provider of last resort obligations remain in force and effect. Finally, the bill provides that none of the bill's basic voice service requirements apply after April 30, 2013.

USE OF TRANSMISSION EQUIPMENT AND PROPERTY

Current law requires any person who owns transmission equipment and property to permit, for reasonable compensation, a public utility or telecommunications provider to use the equipment and property, if the following are satisfied: 1) public convenience and necessity require the use; 2) the use does not result in irreparable injury to an owner or user of the equipment and property; and 3) the use does not result in any substantial detriment to service rendered by the owner or user of the equipment and property. The PSC is authorized to resolve disputes regarding such uses of transmission equipment and property, and may prescribe reasonable conditions and compensation for such uses. Current law defines "transmission equipment and property" as any conduit, subway, pole, tower, transmission wire, or other equipment on, over, or under any street or highway.

This bill defines "transmission equipment and property" as any cable, in addition to any conduit, subway, pole, tower, transmission wire, or other equipment, which is on, over, or under any right-of-way owned or controlled by a political subdivision, in addition to any street or highway. "Political subdivision" is

defined as any county, city, village, town, or public utility owned or operated by any county, city, village, or town. In addition, the bill allows a person granted a video service or cable television franchise, in addition to a public utility or telecommunications provider, to use transmission equipment or property under the conditions described above.

The bill also affects the PSC's authority to determine compensation for use of transmission equipment and property. Under the bill, the PSC must determine that a charge sought to be imposed on a public utility, telecommunications provider, or video service or cable television franchisee for an attachment to transmission equipment and property is unjust and unreasonable if the charge exceeds the maximum amount allowed under federal law and Federal Communications Commission regulations regarding compensation for pole attachments. The foregoing applies regardless of whether the service using the attachment that is provided by the public utility, video service provider, or telecommunications provider is classified as cable or telecommunications service under federal law. (I will revise this paragraph after I understand your intent on the applicability of federal law.)

OTHER CHANGES

The bill repeals a requirement under current law for TUs and other telecommunications providers to provide, with certain exceptions, access services under tariffs under the same rates, terms, and conditions to all telecommunications providers. "Access service" is defined under current law, in part, as the provision of switched or dedicated access to a local exchange network for the purpose of enabling a telecommunications provider to originate or terminate telecommunications service. The bill also repeals a prohibition under current law on a TU, with respect to its regulated services, or a telecommunications provider, with respect to its offering of local exchange services, from giving preference or discriminating in the provision of services, products, or facilities to an affiliate or to the consumer retail department of the TU, telecommunications provider, or affiliate. Under current law, the foregoing prohibition applies to the extent the preference or discrimination is prohibited under federal law or the PSC's rules.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

196.206 Internet Protocol-Enabled Service.

(1) **DEFINITION.** "Internet Protocol-enabled service" or "IP-enabled service," as used in this section, means any service, capability, functionality, or application provided using Internet Protocol, or any successor protocol, that enables an end user to send or receive a voice, data or video communication in Internet Protocol format or any successor format. Interconnected voice over Internet protocol service is an IP-enabled service.

(2) **EXEMPTIONS.** (a) IP-enabled service is not subject to ch. 201 or this chapter, except that Interconnected Voice over Internet Protocol service is subject to ss. 196.025 (6), 196.218(3) and 196.859. Nothing in this section shall be construed to require or prohibit the payment of switched access charges or other intercarrier compensation. (b) Except as provided in this section, and notwithstanding any other provision of law, the commission shall not enact, adopt or enforce, either directly or indirectly, any law, rule, regulation, ordinance, standard, order or other provision having the force or effect of law that regulates, or has the effect of regulating, the entry, rates, terms or conditions for IP-enabled service.

(3) **UNIVERSAL SERVICE FUND.** An entity that provides Interconnected voice over Internet protocol service in this state and contributes to the universal service fund based on its revenues from providing such service shall calculate such revenues using direct assignment, a provider-specific traffic study, the inverse of the interstate jurisdictional allocation established by the federal communications commission for the purpose of federal universal service assessments, or any other reasonable assignment. Direct assignment or traffic studies shall be based on the primary physical service address identified by the customer.

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