

2011 Jr1 DRAFTING REQUEST

**Bill**

Received: 04/22/2011

Received By: mkunkel

Wanted: As time permits

Companion to LRB: -1901

For: Rich Zipperer (608) 266-9174

By/Representing:

May Contact:

Drafter: mkunkel

Subject: Public Util. - telco

Addl. Drafters:

Extra Copies: TKK

Submit via email: YES

Requester's email: Sen.Zipperer@legis.wisconsin.gov

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Regulation of telecommunication utilities and alternative telecommunication utilities

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mkunkel 04/22/2011	wjackson 04/22/2011		_____			State
/1			chanaman 04/22/2011	_____	lparisi 04/22/2011	sbasford 04/27/2011	

FE Sent For:

at 4-28-11  
intro

<END>

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/?	mkunkel	/1 wlj 4/22		_____			

FE Sent For:

<END>

## Hanaman, Cathlene

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**From:** Kunkel, Mark  
**Sent:** Friday, April 22, 2011 12:48 PM  
**To:** Hanaman, Cathlene  
**Subject:** FW: Last Revision to LRB 1901

Can you do a companion to -1901/2 for zipperer? Thanks!

-----Original Message-----

**From:** Vick, Jason  
**Sent:** Fri 4/22/2011 9:49 AM  
**To:** Kunkel, Mark  
**Cc:** Reader, Chris  
**Subject:** RE: Last Revision to LRB 1901

Mark -- Yes it is ok to do a companion for Sen. Zipperer.

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**From:** Kunkel, Mark  
**Sent:** Fri 4/22/2011 8:45 AM  
**To:** Vick, Jason  
**Subject:** RE: Last Revision to LRB 1901

When the bill is finalized, is it okay to do a companion bill for Senate? If so, which Senator?



State of Wisconsin  
2011 - 2012 LEGISLATURE  
January 2011 Special Session



LRB-1901/2  
MDK:wlj&jld:rs

1970/

Stays

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Regen

1 AN ACT *to repeal* 196.09 (9), 196.19 (1m), 196.19 (5), 196.194 (title), 196.194 (1),  
2 196.196, 196.198 (2) (b), 196.20 (1m), 196.20 (2) (am), 196.20 (2r), 196.20 (3),  
3 196.20 (5), 196.20 (6), 196.203 (3) (b), 196.203 (3) (c), 196.203 (3) (d), 196.203 (3)  
4 (dm), 196.203 (3) (e), 196.203 (4), 196.204 (1), 196.204 (2), 196.204 (3), 196.204  
5 (4), 196.204 (5) (b), 196.204 (6), 196.205 (2), 196.213, 196.215, 196.218 (5) (a) 2.,  
6 196.219 (2m), 196.219 (3) (h), 196.26 (4), 196.49 (1) (ag), 196.49 (3) (d), 196.50  
7 (1) (b) 1. and 2., 196.50 (2) (g) 3., 196.50 (2) (h), 196.52 (5) (b), 196.60 (2), 196.77,  
8 196.79 (2), 196.805 and 201.15; *to renumber* 196.50 (1) (b) 3. and 196.52 (5) (a);  
9 *to renumber and amend* 196.04 (1) (a) 1., 196.194 (2), 196.198 (2) (a), 196.203  
10 (1), 196.203 (2), 196.203 (3) (a), 196.204 (5) (ag), 196.204 (5) (ar), 196.205 (1m)  
11 (intro.), 196.205 (1m) (a), 196.205 (1m) (c), 196.79 (1) and 196.975 (1); *to amend*  
12 20.155 (1) (q), 93.01 (1m), 133.07 (2), 196.01 (9m), 196.02 (2), 196.04 (1) (b) 1.,  
13 196.04 (2), 196.09 (1), 196.11 (2), 196.13 (2), 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), 196.202

1 (2), 196.203 (5), 196.218 (1) (c), 196.218 (3) (a) 3m., 196.218 (3) (f), 196.218 (5)  
2 (b), 196.218 (5) (c) 5., 196.218 (5r) (a) 1., 196.218 (5r) (a) 4., 196.219 (1) (b),  
3 196.219 (2) (a), 196.25 (1), 196.25 (2), 196.25 (3), 196.26 (1) (a), 196.28 (4),  
4 196.31 (1m), 196.37 (3), 196.37 (4), 196.49 (3) (b) (intro.), 196.50 (title), 196.50  
5 (2) (b), 196.50 (2) (e) 1., 196.50 (2) (f), 196.52 (3) (b) 1., 196.52 (3) (c) (intro.),  
6 196.52 (6), 196.52 (9) (e), 196.60 (1) (a), 196.604, 196.81 (3), 196.975 (2), 201.01  
7 (2) and 943.45 (1) (intro.); **to repeal and recreate** 196.195, 196.204 (title) and  
8 196.218 (4); and **to create** 182.017 (1g) (cq), 196.01 (1d) (g), 196.01 (2s), 196.01  
9 (3a), 196.01 (8d), 196.01 (8e), 196.01 (12w), 196.016, 196.04 (1) (a) 3., 196.191,  
10 196.203 (1d), 196.203 (1g) (b), 196.203 (2) (b), 196.203 (2) (c), 196.203 (2) (d),  
11 196.203 (4m), 196.205 (1) (c), 196.205 (2m) (b), 196.206, 196.212, 196.218 (1) (a),  
12 196.219 (2r), 196.50 (2) (i), 196.50 (2) (j), 196.503 and 196.975 (1g) of the  
13 statutes; **relating to:** regulation of telecommunications utilities and  
14 alternative telecommunications utilities; telecommunications provider of  
15 last-resort obligations; telecommunications intrastate switched access rates;  
16 interconnected voice over Internet protocol service; and use of transmission  
17 equipment and property by video service providers.

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***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) imposes requirements on certain intrastate switched access rates; 3) eliminates mandatory telecommunications tariffs except for intrastate switched access service; 4) specifies the PSC's authority over interconnected voice over Internet protocol (interconnected 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 to telecommunications regulation.

### TELECOMMUNICATIONS UTILITY REGULATION

Under current law, with certain exceptions, the PSC regulates a telecommunications provider that provides basic local exchange service as either a telecommunications utility (TU) or an alternative telecommunications utility (ATU). In general, the PSC has certified as TUs those telecommunications providers that are incumbent local exchange carriers (ILECs) under federal law, which are telecommunications providers that resulted from the breakup of the Bell System pursuant to a federal antitrust action. In general, the PSC has certified as ATUs those telecommunications providers that are competitive local exchange carriers (CLECs) under federal law, which are telecommunications providers that compete with ILECs to provide basic local exchange service.

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

**ATUs.** Under this bill, ATUs are subject to the intrastate switched access rate, tariff, and interconnected VOIP requirements described below, and to the monthly police and fire protection fee described above. In addition, the bill limits the additional requirements that 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 related requirements; 7) telephone caller identification, pay-per-call, and toll-free services; 8) PSC privacy rules; 9) universal service and contributions to the state's 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) changes to PSC orders and reopening PSC cases; 16) PSC-required tests; 17) conditional, emergency, and supplemental PSC orders; 18) timing of effect of PSC orders; 19) court review of PSC orders; 20) injunction procedures; 21) enforcement duties of the PSC, the attorney general, and district attorneys and related court venues; 22) penalties related to information and record requests; 23)

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forfeitures; 24) abandonment or discontinuance of lines, services, and rights-of-way; 25) assessments for reimbursement of PSC expenses; 26) assessments for telephone relay service; and 27) assessments for enforcement of certain consumer protection requirements by DATCP.

As under current law, the bill allows the PSC to impose a requirement specified above if the PSC finds that the imposition is in the public interest. The bill also provides that, if the PSC imposes such a requirement on an ATU, the PSC must impose the same requirement at the same level of regulation on all other ATUs. The bill allows the PSC, based on the public interest, to impose other requirements on an ATU related to the reasonableness and adequacy of intrastate switched access service and wholesale telecommunications service. However, the PSC is not required to impose the same requirement at the same level on all other ATUs.

In addition, the bill 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. Also, with certain exceptions, the bill allows the PSC to deny certification as an ATU only 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 and that are inconsistent with the bill's requirements, unless the ATU requests to remain subject to certain of those requirements.

**TUs.** The bill exempts TUs from requirements relating to all of the following: 1) PSC classification of public utility service; 2) PSC authority regarding production of records, audits of accounts, service measurement standards, and test results; 3) PSC authority to enter premises; 4) PSC valuation of utility property; 5) accounting requirements, including depreciation rates and new construction accounting; 6) reporting of expenses, profit, and other items; 7) PSC reports of utility property values and other financial data; 8) filing of rates and PSC approval of rates; 9) prohibition against unjust discrimination among customers; 10) certain prohibitions regarding the provision of service to customers; 11) construction, installation, or operation of new facilities; 12) affiliated interest requirements; 13) certain municipal authority to regulate public utilities; 14) dissolution and reorganization; 15) liability for treble damages; 16) PSC enforcement of certain unfair trade practice orders; 17) private causes of actions by persons injured by certain violations of law by TUs; and 18) alternate dispute resolution requirements of the PSC. Except for wholesale telecommunications service, the bill also exempts TUs from certain enforcement authority of the PSC.

The bill makes changes to current law to ensure that small TUs, and TUs that are cooperatives, are subject to the foregoing exemptions. The bill also eliminates the PSC's authority to order an applicant for certification as a TU to satisfy any conditions the PSC considers necessary to protect the public interest. In addition,



the bill repeals the requirements that apply to TUs under current law that apply to the following: 1) the offering of new telecommunications services or jointly offering services with other TUs; 2) classification of TU service; 3) promotional rates; 4) PSC authority regarding contracts between TUs and individual customers; 5) cross-subsidization requirements for nonlocal government TUs; and 6) consolidations and mergers. Also, the bill repeals price regulation of TUs and terminates any requirements imposed by the PSC on price-regulated TUs, as well as repeals the PSC's authority to impose partial deregulation and other types of alternative regulation on TUs. However, if a TU is subject to an alternative regulation plan under current law, the bill provides that, unless the TU terminates the plan, the TU remains regulated pursuant to the plan, except to the extent that the plan is inconsistent with the bill's tariff or intrastate switched access rates requirements.

The bill allows a TU to terminate its certification as a TU and have the PSC certify the TU as an ATU. Upon certification as an ATU, all regulatory requirements related to the former TU certification that are inconsistent with the bill's requirements are terminated, unless the TU requests to remain subject to certain of the requirements. In addition, the formerly certified TU is subject to the same requirements as an ATU. Also, the formerly certified TU's wholesale telecommunications services and rates are subject to the PSC's authority regarding reasonable rates and adequate service, and the formerly certified TU is subject to the basic voice requirements discussed below. In addition, if the formerly certified TU was subject to price regulation under current law, its intrastate dedicated access rates must mirror its interstate dedicated access rates.

The bill allows a TU to require the PSC to issue an order recertifying the TU as a TU, but generally regulating the TU like an ATU, except that the recertified TU is also subject to the basic voice requirements discussed below. Such a recertification terminates the TU's prior certification, and all regulatory requirements related to the prior certification that are inconsistent with the bill's requirements, unless the TU requests to remain subject to certain of those requirements.

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 certain 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.

#### **INTRASTATE SWITCHED ACCESS RATES**

The bill imposes requirements on intrastate switched access rates that depend on whether a telecommunications provider is a large or small ILEC, new nonincumbent, or large or small nonincumbent, as defined in the bill. The bill defines "switched access rates" as rates charged for providing switched access to a local exchange network for enabling the origination or termination of

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telecommunications service within the local exchange. In general, federal law provides that the Federal Communications Commission regulates interstate rates and the states regulate intrastate rates.

**Large ILECs.** The bill defines “large ILEC” as an ILEC that, with any ILEC affiliates, had 150,000 or more access lines in this state as of January 1, 2010. No later than two years after the bill’s effective date, a large ILEC must reduce its intrastate switched access rates by an amount equal to 25 percent of the difference between its intrastate and interstate switched access rates. No later than three years after the bill’s effective date, a large ILEC must further reduce its intrastate switched access rates by an amount equal to 33 percent of the difference between its intrastate and interstate switched access rates. No later than four years after the bill’s effective date, a large ILEC must further reduce its intrastate switched access rates by an amount equal to 50 percent of the difference between its intrastate and interstate switched access rates. No later than five years after the bill’s effective date, a large ILEC must further reduce its intrastate switched access rates to mirror its interstate switched access rates and, beginning on that date, may not charge intrastate switched access rates that are higher than its interstate switched access rates.

**New nonincumbents.** The bill defines “new nonincumbent” as a telecommunications provider that is not an ILEC and that was initially certified as a TU or an ATU on or after January 1, 2011, except that “new nonincumbent” does not include an ATU that was formerly certified as a TU. Within 30 days after the bill’s effective date, the bill prohibits a new nonincumbent from charging intrastate switched access rates that are higher than its interstate switched access rates.

**Large nonincumbents.** The bill defines “large nonincumbent” as a telecommunications provider, other than an ILEC, that had 10,000 or more access lines in the state as of January 1, 2010, and that was initially certified as a TU or an ATU before January 1, 2011. The bill prohibits a large nonincumbent from charging intrastate switched access rates that are higher than the rates it charged on January 1, 2011, except for increases that result in mirroring interstate switched access rates. No later than four years after the bill’s effective date, a large nonincumbent must reduce its intrastate switched access rates by an amount equal to 33 percent of the difference between its intrastate and interstate switched access rates. No later than five years after the bill’s effective date, a large nonincumbent must further reduce its intrastate switched access rates by an amount equal to 50 percent of the difference between its intrastate and interstate switched access rates. No later than six years after the bill’s effective date, a large nonincumbent must further reduce its intrastate switched access rates to mirror its interstate switched access rates and, beginning on that date, may not charge intrastate rates that are higher than its interstate rates.

**Other requirements.** The bill provides that, except to enforce the above requirements, the PSC may not investigate, review, or set intrastate switched access rates for large ILECs, new nonincumbents, or large nonincumbents. Also, during the four-year period beginning on the bill’s effective date, the PSC is prohibited from investigating, reviewing, or setting the intrastate switched access rates of a “small

ILEC,” which the bill defines as an ILEC that, with any ILEC affiliates, had fewer than 150,000 access lines in this state as of January 1, 2010. In addition, during the three-year period beginning on the bill’s effective date, the PSC is prohibited from doing the same with respect to a “small nonincumbent,” which the bill defines as a telecommunications provider, other than an ILEC, that had fewer than 10,000 access lines in the state as of January 1, 2010, and that was initially certified as a TU or an ATU before January 1, 2011. However, the bill allows the PSC to enforce reductions in intrastate switched access rates ordered by the PSC prior to the bill’s effective date. Also, the bill allows the PSC to approve certain increases in intrastate switched access rates that are included in tariff revisions, which are discussed below.

### TARIFFS

***In general.*** The bill allows, but does not require, a TU or an ATU to do any of the following: 1) retain on file with the PSC tariffs showing the service rates, tolls, and charges the TU or ATU has established for some or all services that the TU or ATU performs in the state; 2) file new tariffs with the PSC for some or all of such services; 3) withdraw tariffs for any service, except for intrastate switched access service; and 4) file revised tariffs that change the rates, tolls, charges, or terms and conditions under tariffs on file with the PSC. Except for changes that constitute increases in intrastate switched access rates, tariff revisions are effective at the time specified in the revised tariff as filed with the PSC. Except for new tariffs for intrastate switched access services, a new tariff is effective on the date specified in the tariff, unless the PSC, within ten days after the new tariff is filed, suspends the new tariff. If the PSC suspends a new tariff, the PSC may modify the new tariff only to the extent that the new tariff violates certain requirements that apply to the TU or ATU, and only after granting the TU or ATU an opportunity for a hearing. If the PSC fails to modify the new tariff within deadlines specified in the bill, the new tariff is effective as filed.

The bill also allows a tariff for a service that permits a TU or an 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 an ATU from receiving for a service more or less compensation than that specified for the service in a tariff, and prohibits a TU or an 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.

***Intrastate switched access service.*** No later than 90 days after the bill’s effective date, a TU or an ATU that provides intrastate switched access service must have on file with the PSC a tariff showing the rates, tolls, and charges for the service. The bill provides that the absence of such a tariff before that deadline does not prohibit a TU or an ATU from charging intrastate switched access rates that comply with the requirements for intrastate switched access rates described above or that are charged pursuant to a prior order of the PSC. If a TU or an ATU must file a new tariff to comply with the foregoing requirement, and the tariff includes intrastate switched access rates that are higher than the rates the TU or ATU charged on

January 1, 2011, the PSC must approve the tariff, unless certain exceptions are satisfied.

The PSC is authorized to enforce payment of rates specified in a tariff for intrastate switched access rates. Once such a tariff is in effect, the bill prohibits a TU or an ATU from withdrawing the tariff. However, under certain circumstances, a TU or an ATU may revise the tariff to increase intrastate switched access rates. The PSC must approve the increase, except for certain specified increases that are effective at the time specified in a revised tariff.

#### **INTERCONNECTED VOIP SERVICE**

With certain exceptions, the bill provides that interconnected VOIP service is exempt from PSC regulation. Under the bill, “interconnected VOIP service” 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 an entity that provides interconnected VOIP service must make contributions to the state’s universal service fund based on the entity’s revenues from providing intrastate interconnected VOIP service. The bill specifies the methods for calculating such revenues. Under the other exceptions to the exemption, a provider of interconnected VOIP service must do the following, which apply to other telecommunications providers under current law: 1) impose a monthly police and fire protection fee on its customers; 2) pay assessments for DATCP enforcement of certain consumer protection requirements; and 3) pay assessments for a statewide telecommunications relay service. In addition, interconnected VOIP service is subject to the PSC’s authority over interconnection agreements under current law. The bill also provides that, unless otherwise provided under federal law, an entity that provides interconnected VOIP service must pay intrastate switched access rates. Also, unless otherwise provided under federal law, if the entity provides intrastate switched access service in connection with the interconnected VOIP service, the entity is allowed to charge intrastate switched access rates for the service.

#### **UNIVERSAL SERVICE**

Under current law, the state’s universal service fund is used for, among other things, supporting programs that promote access to essential and advanced telecommunications services. Current law requires the PSC to promulgate rules that define the essential and advanced telecommunications services that must be available to all customers at affordable prices as a necessary component of universal service. The essential and advanced telecommunications services 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 regarding PSC rules and requires instead that certain telecommunications providers make available to their customers all essential telecommunications services. In addition, the bill eliminates advanced telecommunications services from the programs supported by the state’s universal service fund. The bill defines “essential telecommunications services” as

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services or functionalities listed in a regulation by the Federal Communications Commission as of January 1, 2010. 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. In addition, the bill limits the requirements that the PSC may impose on a wireless telecommunications provider that receives support from the federal universal service fund but does not receive support from the state's universal service fund.

**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 certain requirements are satisfied. Current law defines "transmission equipment and property" to include any conduit, subway, pole, tower, transmission wire, or other equipment, that is on, over, or under any street or highway. 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.

This bill defines "transmission equipment and property" so that it also includes any equipment and property that is on, over, or under any right-of-way owned or controlled by a county, city, village, or 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 under current law, in addition to a public utility or telecommunications provider, to use transmission equipment and property under the foregoing conditions. Also, the bill specifies that pole attachments constitute

transmission equipment and property that are subject to the foregoing requirements.

#### **OTHER CHANGES**

The bill makes other changes to telecommunications regulation, including the following:

1. The bill eliminates the conveyance of data or other information from the definition of “telecommunications service” for purposes of the statutes administered by the PSC and certain other statutes. As a result, the definition is limited to the conveyance of voice communication, except that the bill also specifies that the definition includes switched access service.

2. Under current law, a company that provides telecommunications service may, subject to municipal regulation and PSC review, maintain lines within public rights-of-way. Current law does not define “telecommunications service” for this purpose. The bill defines “telecommunications service” for this purpose to include the conveyance of voice communication, data, or other information.

3. The bill eliminates a prohibition under current law against TUs and other telecommunications providers from giving certain preferences to their consumer retail departments or affiliates.

4. The bill eliminates certain requirements under current law that apply to certain telecommunications providers regarding issuance of securities, capital structure, and payment of dividends.

5. The bill exempts telecommunications providers from the PSC’s authority to require public utilities to answer questionnaires and provide certain documents to the PSC, and the bill clarifies that the PSC’s authority to require telecommunications providers to answer questionnaires applies only to matters within the PSC’s jurisdiction.

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

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

1           **SECTION 1.** 20.155 (1) (q) of the statutes is amended to read:

2           20.155 (1) (q) *Universal telecommunications service.* From the universal  
3 service fund, the amounts in the schedule for the promotion of universal  
4 telecommunications service for the purposes specified in s. 196.218 (5) (a) 1. to 4.,  
5 8. and 9.

6           **SECTION 2.** 93.01 (1m) of the statutes is amended to read:

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

10           **SECTION 3.** 133.07 (2) of the statutes is amended to read:

11           133.07 **(2)** This chapter does not prohibit activities of any public utility, as  
12 defined in s. 196.01 (5), or telecommunications carrier, as defined in s. 196.01 (8m),  
13 which are required by ch. 196 or rules or orders under ch. 196, activities necessary  
14 to comply with that chapter or those rules or orders or activities that are actively  
15 supervised by the public service commission. This subsection does not apply to  
16 activities of a public utility or telecommunications carrier that are exempt from  
17 public service commission regulation under s. 196.195, ~~196.196~~, 196.202, 196.203,  
18 196.206, 196.219 ~~or~~, ~~196.499~~, or 196.50 (2) (i) or by other action by the commission.

19           **SECTION 4.** 182.017 (1g) (cq) of the statutes is created to read:

20           182.017 **(1g)** (cq) "Telecommunications service" means the offering for sale of  
21 the conveyance of voice, data, or other information, including the sale of service for  
22 collection, storage, forwarding, switching, and delivery incidental to such  
23 communication regardless of the technology or mode used to make such offering.

24           **SECTION 5.** 196.01 (1d) (g) of the statutes is created to read:

**BILL**

**SECTION 5**

1           196.01 **(1d)** (g) A telecommunications utility certified under s. 196.203  
2 pursuant to s. 196.50 (2) (j) 1. a.

3           **SECTION 6.** 196.01 (2s) of the statutes is created to read:

4           196.01 **(2s)** “Incumbent local exchange carrier” has the meaning given in 47  
5 USC 251 (h).

6           **SECTION 7.** 196.01 (3a) of the statutes is created to read:

7           196.01 **(3a)** “Interconnected voice over Internet protocol service” has the  
8 meaning given in 47 CFR 9.3.

9           **SECTION 8.** 196.01 (8d) of the statutes is created to read:

10          196.01 **(8d)** “Switched access rates” means the rates, rate elements, and rate  
11 structure, including all applicable fixed and traffic sensitive charges, that a  
12 telecommunications provider charges for the provision of switched access services.

13          **SECTION 9.** 196.01 (8e) of the statutes is created to read:

14          196.01 **(8e)** “Switched access service” means the offering of switched access to  
15 a local exchange network for the purpose of enabling an entity to originate or  
16 terminate telecommunications service within the local exchange.

17          **SECTION 10.** 196.01 (9m) of the statutes is amended to read:

18          196.01 **(9m)** “Telecommunications service” means the offering for sale of the  
19 conveyance of voice, ~~data or other information at any frequency over any part of the~~  
20 ~~electromagnetic spectrum communication~~, including the sale of service for collection,  
21 storage, forwarding, switching, and delivery incidental to such communication ~~and~~  
22 ~~including the regulated sale of customer premises equipment, regardless of the~~  
23 ~~technology or mode used to make such offering.~~ “Telecommunications service”  
24 includes switched access service. “Telecommunications service” does not include  
25 cable service or broadcast service.



1           **SECTION 11.** 196.01 (12w) of the statutes is created to read:

2           196.01 (12w) (a) “Wholesale telecommunications service” means, except as  
3 provided in par. (b), a service that satisfies all of the following:

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

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

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

9           (b) “Wholesale telecommunications service” does not include switched access  
10 service.

11           **SECTION 12.** 196.016 of the statutes is created to read:

12           **196.016 Relationship to certain federal telecommunications law.**

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

18           **SECTION 13.** 196.02 (2) of the statutes is amended to read:

19           196.02 (2) DEFINITION; CLASSIFICATION. ~~In this subsection, “public utility” does~~  
20 ~~not include a telecommunications cooperative, an unincorporated~~  
21 ~~telecommunications cooperative association, or a small telecommunications utility~~  
22 ~~except as provided under s. 196.205 or 196.215 (2) and does not include an alternative~~  
23 ~~telecommunications utility.~~ The commission shall provide for a comprehensive  
24 classification of service for each public utility. The classification may take into  
25 account the quantity used, the time when used, the purpose for which used, and any

1 other reasonable consideration. Each public utility shall conform its schedules of  
2 rates, tolls and charges to such classification.

3 **SECTION 14.** 196.04 (1) (a) 1. of the statutes is renumbered 196.04 (1) (a) 4. and  
4 amended to read:

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

8 **SECTION 15.** 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, or town  
10 or public utility owned or operated by any county, city, village, or town.

11 **SECTION 16.** 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  
13 shall permit, for reasonable compensation, the use of the transmission equipment  
14 and property, including an attachment to a pole, by any public utility, video service  
15 provider, or telecommunications provider if public convenience and necessity require  
16 such use and if the use will not result in irreparable injury to any owner or user of  
17 the transmission equipment and property or in any substantial detriment to the  
18 service to be rendered by the owner or user.

19 **SECTION 17.** 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 transmission equipment  
21 and property under sub. (1) or the conditions or compensation for the use, or if there  
22 is a failure to agree upon the physical connections or the terms and conditions upon  
23 which the physical connections shall be made, any public utility, any video service  
24 provider, telecommunications provider, or any other interested person interested  
25 may apply to the commission. If, after investigation, the commission determines

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

15 **SECTION 18.** 196.09 (1) of the statutes is amended to read:

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

1 estimates of the amount which should be returned to it out of its rates for service, to  
2 meet the depreciation of its property.

3 **SECTION 19.** 196.09 (9) of the statutes is repealed.

4 **SECTION 20.** 196.11 (2) of the statutes is amended to read:

5 196.11 (2) Any arrangement under this section shall be under the supervision  
6 and regulation of the commission. The commission may order any rate, charge or  
7 regulation which the commission deems necessary to give effect to the arrangement.  
8 The commission may make any change in a rate, charge or regulation as the  
9 commission determines is necessary and reasonable and may revoke its approval  
10 and amend or rescind all orders relative to any arrangement. This subsection does  
11 not apply to telecommunications cooperatives, unincorporated telecommunications  
12 cooperative associations, or telecommunications utilities except as provided in s.  
13 196.205.

14 **SECTION 21.** 196.13 (2) of the statutes is amended to read:

15 196.13 (2) The commission shall publish in its reports the value of all the  
16 property actually used and useful for the convenience of the public of a public utility;  
17 ~~other than a telecommunications utility,~~ if the commission has held a hearing on the  
18 public utility's rates, charges, service or regulations or if the commission has  
19 otherwise determined the value of the public utility's property.

20 **SECTION 22.** 196.19 (1m) of the statutes is repealed.

21 **SECTION 23.** 196.19 (5) of the statutes is repealed.

22 **SECTION 24.** 196.191 of the statutes is created to read:

23 **196.191 Telecommunications utility and alternative**  
24 **telecommunications utility tariffs.** (1) No later than the 90th day beginning  
25 after the effective date of this subsection .... [LRB inserts date], any

1 telecommunications utility or alternative telecommunications utility that provides  
2 intrastate switched access service within this state shall at all times have on file with  
3 the commission a tariff showing all rates, tolls, and charges that it has established  
4 and that are in force for such intrastate switched access service. The absence of such  
5 a tariff before the 90th day beginning after the effective date of this subsection ....  
6 [LRB inserts date], shall not prohibit a telecommunications utility or alternative  
7 telecommunications utility from charging intrastate switched access rates for any  
8 intrastate switched access service that it provides, or limit or excuse any entity from  
9 its obligation to pay intrastate switched access rates, provided that such intrastate  
10 switched access rates comply with the requirements of ss. 196.212 and 196.219 (2r).  
11 A telecommunications utility or alternative telecommunications utility may not  
12 withdraw a tariff for switched access service once the tariff is in effect. Except as  
13 allowed under this section or to comply with ss. 196.212 and 196.219 (2r), a  
14 telecommunications utility or alternative telecommunications utility may not file to  
15 change the rates, tolls, and charges shown in a tariff for switched access service.

16 (2) Except as provided in this section and s. 196.212, notwithstanding anything  
17 in this chapter to the contrary, any telecommunications utility or alternative  
18 telecommunications utility may do any of the following:

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

1       therewith or performed by any telecommunications utility or alternative  
2       telecommunications utility controlled or operated by the telecommunications utility  
3       or alternative telecommunications utility.

4           (b) File with the commission new tariffs showing the rates, tolls, and charges  
5       and the terms and conditions that the telecommunications utility or alternative  
6       telecommunications utility has established, as provided in the tariff filings, for some  
7       or all of the services performed by the telecommunications utility or alternative  
8       telecommunications utility within the state or for any service in connection  
9       therewith or performed by any telecommunications utility or alternative  
10      telecommunications utility controlled or operated by the telecommunications utility  
11      or alternative telecommunications utility.

12           (c) Except as provided in sub. (1), withdraw a tariff for any service by providing  
13      notice to the commission.

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

19           2. No change in a tariff that constitutes an increase in intrastate switched  
20      access rates may be made unless the change is consistent with the public interest  
21      factors set forth in s. 196.03 (6) and does not violate ss. 196.212 and 196.219 (2r) and  
22      the commission by order, after investigation and opportunity for a hearing, approves  
23      the change, except that an increase in intrastate switched access rates shall be  
24      effective at the time specified in the revised tariff as filed with the commission, if  
25      either of the following is satisfied:

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

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

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

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

19           2. The commission may modify the new tariff after an opportunity for a hearing  
20 only to the extent that the tariff violates s. 196.209, 196.212, or 196.219 and only to  
21 the extent that s. 196.209, 196.212, or 196.219 applies to the telecommunications  
22 utility or alternative telecommunications utility.

23           3. If the commission does not conduct a hearing under subd. 2., the commission  
24 shall issue its final order within 60 days after issuing the notice of suspension under  
25 subd. 1. If the commission conducts a hearing, the commission shall issue its final

1 order within 120 days after issuing the notice of suspension under subd. 1. If a final  
2 order is not issued within the time limits specified in this subdivision, the new tariff  
3 becomes effective as filed.

4 (b) If a telecommunications utility or alternative telecommunications utility  
5 files a new tariff under sub. (2) (b) to comply with sub. (1) for intrastate switched  
6 access service that includes intrastate switched access rates higher than the  
7 intrastate switched access rates it charged on January 1, 2011, the tariff shall not  
8 be effective unless the new tariff is consistent with the public interest factors set  
9 forth in s. 196.03 (6) and does not violate s. 196.212 or 196.219 (2r) and the  
10 commission by order, after investigation and opportunity for a hearing, approves the  
11 new tariff and rates, except that an increase in intrastate switched access rates shall  
12 be effective at the time specified in the new tariff as filed with the commission if sub.  
13 (2) (d) 2. a. is satisfied or, if the telecommunications utility or alternative  
14 telecommunications utility is a small telecommunications utility, sub. (2) (d) 2. a. or  
15 b. is satisfied.

16 (4) Nothing in this section shall give the commission jurisdiction over the rates,  
17 tolls, and charges or the terms and conditions of any service that is not subject to a  
18 tariff under this section.

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

23 (6) Nothing in this chapter prohibits a tariff for a service that permits a  
24 telecommunications utility or alternative telecommunications utility to enter into a



1 contract with a customer for that tariffed service that includes rates, tolls, and  
2 charges and terms and conditions that are different from those in the tariff.

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

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

10 **SECTION 25.** 196.194 (title) of the statutes is repealed.

11 **SECTION 26.** 196.194 (1) of the statutes is repealed.

12 **SECTION 27.** 196.194 (2) of the statutes is renumbered 196.194 and amended  
13 to read:

14 **196.194 Gas ~~utilities~~ utility individual contracts.** Nothing in ss. 196.03,  
15 196.19, 196.20, 196.21, 196.22, 196.37, 196.60, 196.604 and 196.625 prohibits the  
16 commission from approving the filing of a tariff which permits a gas utility to enter  
17 into an individual contract with an individual customer if the term of the contract  
18 is no more than 5 years, or a longer period approved by the commission, and if the  
19 commission determines that substitute gas services are available to customers or  
20 potential customers of the gas utility and the absence of such a tariff will cause the  
21 gas utility to be disadvantaged in competing for business. A tariff filed under this  
22 ~~subsection~~ section shall include the condition that any such contract shall be  
23 compensatory. The tariff shall include any other condition and procedure required  
24 by the commission in the public interest. Within 20 days after a contract authorized  
25 under this ~~subsection~~ section or an amendment to such a contract has been executed,

1 the gas utility shall submit the contract to the commission. The commission shall  
2 give notice to any person, upon request, that a contract authorized under this  
3 ~~subsection~~ section has been received by the commission. The notice shall identify the  
4 gas utility that has entered into the contract. Within 6 months after receiving  
5 substantial evidence that a contract may be noncompensatory, or upon its own  
6 motion, the commission shall investigate and determine whether the contract is  
7 compensatory. If the commission determines that the contract is noncompensatory,  
8 the commission may make appropriate adjustments in the rates or tariffs of the gas  
9 utility that has entered into the contract, in addition to other remedies under this  
10 chapter. The dollar amount of the adjustment may not be less than the amount by  
11 which the contract was found to be noncompensatory.

12 **SECTION 28.** 196.195 of the statutes is repealed and recreated to read:

13 **196.195 Alternative telecommunications regulation plans.** Any  
14 telecommunications utility that as of the effective date of this section .... [LRB inserts  
15 date], is subject to an alternative regulation plan approved by the commission under  
16 s. 196.195, 2009 stats., shall remain regulated pursuant to such alternative  
17 regulation plan to the extent that the alternative regulation plan is not inconsistent  
18 with ss. 196.191 and 196.212, unless the telecommunications utility terminates the  
19 alternative regulation plan pursuant to the terms and conditions of the plan. If such  
20 an inconsistency exists, the requirements of ss. 196.191 and 196.212 shall apply to  
21 the intrastate switched access rates and intrastate switched access service tariff  
22 filings of such a telecommunications utility.

23 **SECTION 29.** 196.196 of the statutes is repealed.

24 **SECTION 30.** 196.198 (2) (a) of the statutes is renumbered 196.198 (2) and  
25 amended to read:

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

7           **SECTION 31.** 196.198 (2) (b) of the statutes is repealed.

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

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

13           **SECTION 33.** 196.198 (3) (a) of the statutes is amended to read:

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

16           **SECTION 34.** 196.198 (3) (b) (intro.) of the statutes is amended to read:

17           196.198 (3) (b) (intro.) Suspending the application of sub. (2) ~~(a)~~ is beneficial  
18 to all of the following groups:

19           **SECTION 35.** 196.20 (1) of the statutes is amended to read:

20           196.20 (1) The rate schedules of any public utility shall include all rules  
21 applicable to the rendition or discontinuance of the service to which the rates  
22 specified in the schedules are applicable. No change may be made by any public  
23 utility in its schedules except by filing the change as proposed with the commission.  
24 ~~Except for a telecommunications utility, no~~ No change in any public utility rule which  
25 purports to curtail the obligation or undertaking of service of the public utility shall

1 be effective without the written approval of the commission after hearing, except  
2 that the commission, by emergency order, may make the rule, as filed, effective from  
3 the date of the order, pending final approval of the rule after hearing.

4 **SECTION 36.** 196.20 (1m) of the statutes is repealed.

5 **SECTION 37.** 196.20 (2) (a) (intro.) of the statutes is amended to read:

6 196.20 (2) (a) (intro.) ~~Except for a telecommunications utility, a~~ A proposed  
7 change which constitutes a decrease in rates shall be effective at the time specified  
8 in the change as filed but not earlier than 10 days after the date of filing the change  
9 with the commission, unless any of the following occurs:

10 **SECTION 38.** 196.20 (2) (am) of the statutes is repealed.

11 **SECTION 39.** 196.20 (2m) of the statutes is amended to read:

12 196.20 (2m) Except as provided under ~~sub. (5) and ss. s.~~ 196.193, 196.195 (12)  
13 ~~and 196.196~~, no change in schedules which constitutes an increase in rates to  
14 consumers may be made except by order of the commission, after an investigation  
15 and opportunity for hearing. ~~The commission may waive a hearing under this~~  
16 ~~subsection for a proposed change in a telecommunications utility schedule. By rule~~  
17 ~~or order, the commission shall specify the notice and procedural requirements~~  
18 ~~applicable to a telecommunications utility proposal for which a hearing is waived.~~

19 **SECTION 40.** 196.20 (2r) of the statutes is repealed.

20 **SECTION 41.** 196.20 (3) of the statutes is repealed.

21 **SECTION 42.** 196.20 (5) of the statutes is repealed.

22 **SECTION 43.** 196.20 (6) of the statutes is repealed.

23 **SECTION 44.** 196.202 (2) of the statutes is amended to read:

24 196.202 (2) SCOPE OF REGULATION. A commercial mobile radio service provider  
25 is not subject to ~~ch. 201~~ of this chapter, except as provided in sub. (5), and except that

1 a commercial mobile radio service provider is subject to ss. 196.025 (6), 196.218 (3),  
2 and 196.859, and shall respond, subject to the protection of the commercial mobile  
3 radio service provider's competitive information, to all reasonable requests for  
4 information about its operations in this state from the commission necessary to  
5 administer ss. 196.025 (6), 196.218 (3), and 196.859.

6 **SECTION 45.** 196.203 (1) of the statutes is renumbered 196.203 (1g) (intro.) and  
7 amended to read:

8 196.203 (1g) (intro.) Alternative telecommunications utilities are exempt from  
9 all provisions of ~~ch. 201~~ and this chapter, except as provided in this section, and  
10 except that an for all of the following:

11 (a) An alternative telecommunications utility is subject to ~~s. ss. 196.01,~~  
12 196.016, 196.025 (6), ~~and except that an~~ 196.191, 196.206, and 196.212.

13 (c) An alternative telecommunications utility that is a local government  
14 telecommunications utility, ~~as defined in s. 196.204 (5) (ag) 1.,~~ is subject to s. 196.204  
15 (5).

16 **SECTION 46.** 196.203 (1d) of the statutes is created to read:

17 196.203 (1d) In this section, "local government telecommunications utility"  
18 has the meaning given in s. 196.204 (1m) (a).

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

20 196.203 (1g) (b) An alternative telecommunications utility certified under this  
21 section pursuant to s. 196.50 (2) (j) 1. a. is subject to ss. 196.219 (2r) and 196.503, and,  
22 with respect only to wholesale telecommunications services, is subject to ss. 196.03  
23 (1) and (6), 196.219 (4), 196.28, and 196.37; and, if such an alternative  
24 telecommunications utility was regulated as a price-regulated telecommunications  
25 utility prior to the effective date of this paragraph .... [LRB inserts date], the

1 alternative telecommunications utility's intrastate dedicated access rates shall  
2 mirror its interstate dedicated access rates.

3 **SECTION 48.** 196.203 (2) of the statutes is renumbered 196.203 (2) (a) and  
4 amended to read:

5 196.203 (2) (a) No person may commence providing service as an alternative  
6 telecommunications utility unless the person petitions for and the commission issues  
7 a ~~determination~~ certification that the person is an alternative telecommunications  
8 utility or unless the person is a telecommunications utility that the commission  
9 certifies as an alternative telecommunications utility under this section pursuant to  
10 s. 196.50 (2) (j) 1. a.

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

15 **SECTION 49.** 196.203 (2) (b) of the statutes is created to read:

16 196.203 (2) (b) Except for an alternative telecommunications utility that is a  
17 local government telecommunications utility, certification as an alternative  
18 telecommunications utility shall be on a statewide basis and any certification issued  
19 by the commission before the effective date of this paragraph .... [LRB inserts date],  
20 to an alternative telecommunications utility that is not a local government  
21 telecommunications utility is considered amended to be a statewide certification.

22 **SECTION 50.** 196.203 (2) (c) of the statutes is created to read:

23 196.203 (2) (c) An alternative telecommunications utility may provide notice  
24 to the commission to maintain certification as an alternative telecommunications  
25 utility but to recertify the alternative telecommunications utility and impose on the

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

21 **SECTION 51.** 196.203 (2) (d) of the statutes is created to read:

22 196.203 (2) (d) The commission may deny a petition for certification as an  
23 alternative telecommunications utility described in s. 196.01 (1d) (f) only if the  
24 commission finds that the petitioner does not have the financial, managerial, or

1 technical capabilities to provide its proposed services or to comply with conditions  
2 that the commission is authorized to impose under sub. (3).

3 **SECTION 52.** 196.203 (3) (a) of the statutes is renumbered 196.203 (3) and  
4 amended to read:

5 196.203 **(3)** In response to a petition from any interested person, or upon its  
6 own motion, the commission shall determine whether the public interest requires  
7 that ~~any a~~ provision of ~~ch. 201~~ of this chapter specified in sub. (4m) be imposed on  
8 a person providing or proposing to provide service as an alternative  
9 telecommunications utility ~~in a relevant market. In making this determination, the~~  
10 ~~commission may consider factors including the quality of service, customer~~  
11 ~~complaints, concerns about the effect on customers of local exchange~~  
12 ~~telecommunications utilities and the extent to which similar services are available~~  
13 ~~from alternative sources. If the commission imposes a provision of this chapter~~  
14 specified in sub. (4m) (a) on an alternative telecommunications utility under this  
15 subsection, the commission shall impose the same provision at the same level of  
16 regulation on all other alternative telecommunications utilities.

17 **SECTION 53.** 196.203 (3) (b) of the statutes is repealed.

18 **SECTION 54.** 196.203 (3) (c) of the statutes is repealed.

19 **SECTION 55.** 196.203 (3) (d) of the statutes is repealed.

20 **SECTION 56.** 196.203 (3) (dm) of the statutes is repealed.

21 **SECTION 57.** 196.203 (3) (e) of the statutes is repealed.

22 **SECTION 58.** 196.203 (4) of the statutes is repealed.

23 **SECTION 59.** 196.203 (4m) of the statutes is created to read:

24 196.203 **(4m)** (a) The commission may impose s. 196.02 (1), (4), or (5), 196.04,  
25 196.135, 196.14, 196.197, 196.199, 196.207, 196.208, 196.209, 196.218, 196.219 (1),



1 (2) (b), (c), or (d), (2r), (3) (a), (d), (j), (m), (n), or (o), 196.25, 196.26, 196.39, 196.395,  
2 196.40, 196.41, 196.43, 196.44, 196.65, 196.66, 196.81, 196.85, 196.858, or 196.859  
3 on an alternative telecommunications utility.

4 (b) In addition to the requirements under s. 196.212, the commission may, with  
5 respect only to intrastate switched access services, impose s. 196.03 (1) or (6) or  
6 196.37 on an alternative telecommunications utility, except that the commission  
7 may not investigate, review, or set the rates for intrastate switched access services  
8 of an alternative telecommunications utility that is subject to s. 196.212 (2) or (3)  
9 except as required to enforce s. 196.212 (2) or (3).

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

13 **SECTION 60.** 196.203 (5) of the statutes is amended to read:

14 196.203 (5) The commission may establish a reasonable fee schedule and may  
15 assess an alternative telecommunications utility to cover the cost of ~~making a~~  
16 ~~determination~~ certification, recertification, or other determinations made under this  
17 section.

18 **SECTION 61.** 196.204 (title) of the statutes is repealed and recreated to read:

19 **196.204 (title) Local government telecommunications utilities.**

20 **SECTION 62.** 196.204 (1) of the statutes is repealed.

21 **SECTION 63.** 196.204 (2) of the statutes is repealed.

22 **SECTION 64.** 196.204 (3) of the statutes is repealed.

23 **SECTION 65.** 196.204 (4) of the statutes is repealed.

24 **SECTION 66.** 196.204 (5) (ag) of the statutes is renumbered 196.204 (1m), and  
25 196.204 (1m) (intro.), as renumbered, is amended to read:

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

2           **SECTION 67.** 196.204 (5) (ar) of the statutes is renumbered 196.204 (2m), and  
3           196.204 (2m) (a), (b) (intro.) and (c) (intro.), as renumbered, are amended to read:

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

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

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

24          **SECTION 68.** 196.204 (5) (b) of the statutes is repealed.

25          **SECTION 69.** 196.204 (6) of the statutes is repealed.

1           **SECTION 70.** 196.205 (1) (c) of the statutes is created to read:

2           196.205 (1) (c) The articles of incorporation of the small telecommunications  
3 utility under s. 181.1001 or the articles of organization of the small  
4 telecommunications utility under s. 183.0203.

5           **SECTION 71.** 196.205 (1m) (intro.) of the statutes is renumbered 196.205 (intro.)  
6 and amended to read:

7           **196.205 Election of rate regulation of telecommunications**  
8 **cooperatives.** (intro.) A telecommunications cooperative ~~or~~, an unincorporated  
9 telecommunications cooperative association, or a small telecommunications utility  
10 may elect to be subject to ss. 196.28 and 196.37 as they apply to any rate, toll, or  
11 charge and to ~~ss. 196.02 (2), 196.09 (1), s. 196.11 (2), 196.20 and 196.26~~ in any of the  
12 following ways:

13           **SECTION 72.** 196.205 (1m) (a) of the statutes is renumbered 196.205 (1) (intro.)  
14 and amended to read:

15           196.205 (1) (intro.) By amendment of any of the following:

16           (a) The articles of incorporation of the cooperative under s. 185.51 or the

17           (b) The articles of organization of the association under s. 193.221.

18           **SECTION 73.** 196.205 (1m) (c) of the statutes is renumbered 196.205 (2m)  
19 (intro.) and amended to read:

20           196.205 (2m) (intro.) By a majority of any of the following:

21           (a) The voting members of the board of directors of the cooperative or  
22 association, or small telecommunications utility.

23           **SECTION 74.** 196.205 (2) of the statutes is repealed.

24           **SECTION 75.** 196.205 (2m) (b) of the statutes is created to read:

1           196.205 **(2m)** (b) If a small telecommunications utility is organized as a limited  
2 liability company, the voting members of the small telecommunications utility.

3           **SECTION 76.** 196.206 of the statutes is created to read:

4           **196.206 Interconnected voice over Internet protocol service. (1)**

5           EXEMPTIONS. An interconnected voice over Internet protocol service is not subject to  
6 this chapter, except as provided in this section, and except that an interconnected  
7 voice over Internet protocol service is subject to ss. 196.01, 196.016, 196.025 (6),  
8 196.199, 196.218 (3), 196.858, and 196.859, and except as required for the  
9 commission to administer and enforce this section.

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

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

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

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

10 **SECTION 77.** 196.212 of the statutes is created to read:

11 **196.212 Switched access rates. (1) DEFINITIONS.** In this section:

12 (a) “Affiliate” means any person, corporation, company, cooperative,  
13 unincorporated cooperative association, partnership, association, or other entity  
14 that is controlled by, or is under common control with, a telecommunications provider  
15 or telecommunications utility.

16 (b) “Large incumbent local exchange carrier” means an incumbent local  
17 exchange carrier that, with any affiliates that are incumbent local exchange carriers  
18 operating in the state, in total had 150,000 or more access lines in use in this state  
19 as of January 1, 2010.

20 (c) “Large nonincumbent” means a telecommunications provider that is not an  
21 incumbent local exchange carrier, that had 10,000 or more access lines in use in this  
22 state as of January 1, 2010, and that was granted an initial certification by the  
23 commission pursuant to s. 196.203 or 196.50 before January 1, 2011.

24 (d) “New nonincumbent” means a telecommunications provider, other than an  
25 alternative telecommunications utility certified under s. 196.203 pursuant to s.

1 196.50 (2) (j) 1. a., that is not an incumbent local exchange carrier and that was  
2 granted an initial certification by the commission pursuant to s. 196.203 or 196.50  
3 on or after January 1, 2011.

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

8 (f) “Small nonincumbent” means a telecommunications provider that is not an  
9 incumbent local exchange carrier, that had fewer than 10,000 access lines in use in  
10 this state as of January 1, 2010, and that was granted an initial certification by the  
11 commission pursuant to s. 196.203 or 196.50 before January 1, 2011.

12 **(2) NEW NONINCUMBENTS AND LARGE NONINCUMBENTS.** (a) *New nonincumbents.*  
13 Within 30 days of the effective date of this paragraph .... [LRB inserts date], a new  
14 nonincumbent may not charge intrastate switched access rates that are higher than  
15 its interstate switched access rates.

16 (b) *Large nonincumbents.* 1. Except for an increase in intrastate switched  
17 access rates under s. 196.191 (2) (d) 2. a. or (3) (b) in order to mirror its interstate  
18 switched access rates, a large nonincumbent may not charge intrastate switched  
19 access rates higher than the intrastate switched access rates it charged on January  
20 1, 2011.

21 2. A large nonincumbent shall reduce its intrastate switched access rates as  
22 follows:

23 a. No later than 4 years after the effective date of this subd. 2. a. .... [LRB inserts  
24 date], the large nonincumbent shall reduce its intrastate switched access rates by an  
25 amount equal to 33 percent of the difference between its intrastate switched access

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

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

8 c. No later than 6 years after the effective date of this subd. 2. c. .... [LRB inserts  
9 date], the large nonincumbent shall further reduce its intrastate switched access  
10 rates in order to mirror its interstate switched access rates in effect prior to the  
11 reduction and, beginning no later than that date, may not charge intrastate switched  
12 access rates that are higher than its interstate switched access rates.

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

17 (a) Beginning on the effective date of this paragraph .... [LRB inserts date], the  
18 large incumbent local exchange carrier may not charge intrastate switched access  
19 rates higher than the intrastate switched access rates it charged on January 1, 2011.

20 (b) No later than 2 years after the effective date of this paragraph .... [LRB  
21 inserts date], the large incumbent local exchange carrier shall reduce its intrastate  
22 switched access rates by an amount equal to 25 percent of the difference between its  
23 intrastate switched access rates in effect prior to the reduction and its interstate  
24 switched access rates in effect prior to the reduction.

1           (c) No later than 3 years after the effective date of this paragraph .... [LRB  
2 inserts date], the large incumbent local exchange carrier shall further reduce its  
3 intrastate switched access rates by an amount equal to 33 percent of the difference  
4 between its intrastate switched access rates in effect prior to the reduction and its  
5 interstate switched access rates in effect prior to the reduction.

6           (d) No later than 4 years after the effective date of this paragraph .... [LRB  
7 inserts date], the large incumbent local exchange carrier shall further reduce its  
8 intrastate switched access rates by an amount equal to 50 percent of the difference  
9 between its intrastate switched access rates in effect prior to the reduction and its  
10 interstate switched access rates in effect prior to the reduction.

11           (e) No later than 5 years after the effective date of this paragraph .... [LRB  
12 inserts date], the large incumbent local exchange carrier shall further reduce its  
13 intrastate switched access rates in order to mirror its interstate switched access  
14 rates in effect prior to the reduction and, beginning no later than that date, may not  
15 charge intrastate switched access rates that are higher than its interstate switched  
16 access rates.

17           **(4) LIMITED COMMISSION REVIEW.** (a) Notwithstanding any other provision of this  
18 chapter, except to enforce this section and ss. 196.191(2) (d) 2. a. and 196.219 (2r),  
19 and except to enforce s. 196.191 (3) (b) only to allow an increase in intrastate switched  
20 access rates in order to mirror interstate switched access rates, the commission may  
21 not investigate, review, or set the intrastate switched access rates of large  
22 nonincumbents, new nonincumbents, and large incumbent local exchange carriers.

23           (b) Notwithstanding any other provision of this chapter except to enforce ss.  
24 196.191 (2) (d) 2. and 196.219 (2r), during the 4-year period beginning on the  
25 effective date of this paragraph .... [LRB inserts date], the commission may not



1 investigate, review, or set the intrastate switched access rates of small incumbent  
2 local exchange carriers.

3 (c) Notwithstanding any other provision of this chapter except to enforce ss.  
4 196.191 (2) (d) 2. and 196.219 (2r), during the 3-year period beginning on the  
5 effective date of this paragraph .... [LRB inserts date], the commission may not  
6 investigate, review, or set the intrastate switched access rates of small  
7 nonincumbents.

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

12 **SECTION 78.** 196.213 of the statutes is repealed.

13 **SECTION 79.** 196.215 of the statutes is repealed.

14 **SECTION 80.** 196.218 (1) (a) of the statutes is created to read:

15 196.218 (1) (a) “Essential telecommunications services” means the services or  
16 functionalities listed in 47 CFR 54.101 (a) as of January 1, 2010.

17 **SECTION 81.** 196.218 (1) (c) of the statutes is amended to read:

18 196.218 (1) (c) “Universal service” includes the availability of a basic set of  
19 essential telecommunications services ~~and access to advanced service capabilities of~~  
20 ~~a modern telecommunications infrastructure~~ anywhere in this state.

21 **SECTION 82.** 196.218 (3) (a) 3m. of the statutes is amended to read:

22 196.218 (3) (a) 3m. Contributions under this paragraph may be based only on  
23 the gross operating revenues from the provision of broadcast services identified by  
24 the commission under subd. 2. and on intrastate telecommunications services in this  
25 state of the telecommunications providers subject to the contribution. Contributions

1 based on revenues from interconnected voice over Internet protocol service shall be  
2 calculated as provided under s. 196.206 (2).

3 **SECTION 83.** 196.218 (3) (f) of the statutes is amended to read:

4 196.218 (3) (f) ~~Notwithstanding ss. 196.196 (1) and (5) (d) 2., 196.20 (2m), (5)~~  
5 ~~and (6), 196.213 and 196.215, a~~ A telecommunications utility that provides local  
6 exchange service may make adjustments to local exchange service rates for the  
7 purpose of recovering its contributions to the universal service fund required under  
8 this subsection. A telecommunications utility that adjusts local exchange service  
9 rates for the purpose of recovering such contributions shall identify on customer bills  
10 a single amount that is the total amount of the adjustment. The public service  
11 commission shall provide telecommunications utilities the information necessary to  
12 identify such amounts on customer bills.

13 **SECTION 84.** 196.218 (4) of the statutes is repealed and recreated to read:

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

21 (b) Notwithstanding par. (a), if a commercial mobile radio service provider is  
22 designated or seeks designation as an eligible telecommunications carrier pursuant  
23 to 47 USC 214 (e) for the purpose of federal universal service funding and not for the  
24 purpose of state universal service funding, the commercial mobile radio service  
25 provider is not subject to any eligible telecommunications carrier requirements

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

5 **SECTION 85.** 196.218 (5) (a) 2. of the statutes is repealed.

6 **SECTION 86.** 196.218 (5) (b) of the statutes is amended to read:

7 196.218 (5) (b) The commission shall promulgate rules to determine whether  
8 a telecommunications provider, the customers of a telecommunications provider or  
9 another person shall be assisted by the universal service fund for any use under par.  
10 (a) 1. to and 4.

11 **SECTION 87.** 196.218 (5) (c) 5. of the statutes is amended to read:

12 196.218 (5) (c) 5. The extent to which the fund preserves and promotes an  
13 available and affordable basic set of essential telecommunications services,  
14 ~~encourages access to the advanced service capabilities of a modern~~  
15 ~~telecommunications infrastructure~~ throughout the state and promotes economic  
16 development.

17 **SECTION 88.** 196.218 (5r) (a) 1. of the statutes is amended to read:

18 196.218 (5r) (a) 1. The affordability of and accessibility to a basic set of  
19 essential telecommunications services ~~and of advanced service capabilities~~  
20 throughout this state.

21 **SECTION 89.** 196.218 (5r) (a) 4. of the statutes is amended to read:

22 196.218 (5r) (a) 4. An assessment of how ~~successful investments identified in~~  
23 ~~s. 196.196 (5) (f),~~ assistance provided by the universal service fund, ~~and price~~  
24 ~~regulation~~ and other alternative incentive regulations of telecommunications  
25 utilities designed to promote competition have been in advancing the public interest

1 goals identified under s. 196.03 (6), and recommendations for further advancing  
2 those goals.

3 **SECTION 90.** 196.219 (1) (b) of the statutes is amended to read:

4 196.219 (1) (b) "Local exchange service" ~~has the meaning given in s. 196.50 (1)~~  
5 (b) 1. includes access service, basic local exchange service, and business access line  
6 and usage service within a local calling area.

7 **SECTION 91.** 196.219 (2) (a) of the statutes is amended to read:

8 196.219 (2) (a) Notwithstanding any exemptions identified in this chapter  
9 except ~~s. ss. 196.202, 196.203, 196.206, and 196.50~~, a telecommunications utility or  
10 provider shall provide protection to its consumers under this section unless  
11 exempted in whole or in part by rule or order of the commission under this section.  
12 The commission shall promulgate rules that identify the conditions under which  
13 provisions of this section may be suspended.

14 **SECTION 92.** 196.219 (2m) of the statutes is repealed.

15 **SECTION 93.** 196.219 (2r) of the statutes is created to read:

16 196.219 (2r) SWITCHED ACCESS RATES. Any reduction in intrastate switched  
17 access rates ordered by the commission prior to the effective date of this subsection  
18 .... [LRB inserts date], including any reduction ordered pursuant to s. 196.195, 2009  
19 stats., shall remain effective unless modified by the commission in a subsequent  
20 order, or unless the ordered reduction is inconsistent with the requirements of s.  
21 196.212.

22 **SECTION 94.** 196.219 (3) (h) of the statutes is repealed.

23 **SECTION 95.** 196.25 (1) of the statutes is amended to read:

24 196.25 (1) If a public utility, other than a public utility that is a  
25 telecommunications provider, receives from the commission any questionnaire, the

1 public utility shall respond fully, specifically and correctly to each question. If a  
2 public utility is unable to answer any question, the public utility shall give a good and  
3 sufficient reason for its failure. Every answer by a public utility under this section  
4 shall be verified under oath by ~~the president, secretary, superintendent or general~~  
5 a manager of the public utility and returned to the commission at its office within the  
6 period fixed by the commission.

7 **SECTION 96.** 196.25 (2) of the statutes is amended to read:

8 196.25 (2) If required by the commission, a public utility, other than a public  
9 utility that is a telecommunications provider, shall deliver to the commission the  
10 original or a copy of any map, profile, contract or engineer's report and any other  
11 document, book, account, paper or record with a complete inventory of all its  
12 property, in such form as the commission directs.

13 **SECTION 97.** 196.25 (3) of the statutes is amended to read:

14 196.25 (3) If a telecommunications provider receives a questionnaire from the  
15 commission, the telecommunications provider shall respond specifically, correctly  
16 and fully to each question that relates to a matter over which the commission has  
17 jurisdiction. If a telecommunications provider is unable to answer any question, the  
18 telecommunications provider shall give a good and sufficient reason for its failure.  
19 Answers shall be verified under oath by ~~the president, secretary, superintendent or~~  
20 ~~general~~ a manager of the telecommunications provider. A completed questionnaire  
21 shall be returned to the commission within the time period specified by the  
22 commission.

23 **SECTION 98.** 196.26 (1) (a) of the statutes is amended to read:

24 196.26 (1) (a) A complaint filed with the commission that any rate, toll, charge,  
25 or schedule, joint rate, regulation, measurement, act, or practice relating to the

1 provision of heat, light, water, or power, ~~or telecommunications~~ service is  
2 unreasonable, inadequate, unjustly discriminatory, or cannot be obtained.

3 **SECTION 99.** 196.26 (4) of the statutes is repealed.

4 **SECTION 100.** 196.28 (4) of the statutes is amended to read:

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

9 **SECTION 101.** 196.31 (1m) of the statutes is amended to read:

10 196.31 **(1m)** The commission shall compensate any consumer group or  
11 consumer representative for all reasonable costs of participating in a hearing under  
12 s. ~~196.196 (1) (g)~~ or 196.198.

13 **SECTION 102.** 196.37 (3) of the statutes is amended to read:

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

19 **SECTION 103.** 196.37 (4) of the statutes is amended to read:

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

24 **SECTION 104.** 196.49 (1) (ag) of the statutes is repealed.

25 **SECTION 105.** 196.49 (3) (b) (intro.) of the statutes is amended to read:

1           196.49 (3) (b) (intro.) ~~Except as provided in par. (d), the~~ The commission may  
2 require by rule or special order under par. (a) that no project may proceed until the  
3 commission has certified that public convenience and necessity require the project.  
4 The commission may refuse to certify a project if it appears that the completion of  
5 the project will do any of the following:

6           **SECTION 106.** 196.49 (3) (d) of the statutes is repealed.

7           **SECTION 107.** 196.50 (title) of the statutes is amended to read:

8           **196.50 (title) Competing public utilities; indeterminate permits;**  
9 **telecommunications utility certification.**

10          **SECTION 108.** 196.50 (1) (b) 1. and 2. of the statutes are repealed.

11          **SECTION 109.** 196.50 (1) (b) 3. of the statutes is renumbered 196.50 (1) (b).

12          **SECTION 110.** 196.50 (2) (b) of the statutes is amended to read:

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

23          **SECTION 111.** 196.50 (2) (e) 1. of the statutes is amended to read:

24           196.50 (2) (e) 1. Pending the determination on an application for a certificate  
25 of authority or an amended certificate of authority, the commission may issue,

1 without notice and hearing, a temporary license for a period not to exceed one year  
2 ~~and may temporarily exempt the applicant from requirements of this chapter~~  
3 ~~identified in s. 196.195 (5) if the exemption is in the public interest.~~ The issuance of  
4 a temporary license does not bind the commission in the final determination on the  
5 application.

6 **SECTION 112.** 196.50 (2) (f) of the statutes is amended to read:

7 196.50 (2) (f) The commission shall issue a certificate of authority or an  
8 amended certificate of authority if it finds, after notice and opportunity for hearing,  
9 that the applicant possesses sufficient technical, financial and managerial resources  
10 to provide telecommunications service to any person within the identified geographic  
11 area. In making this determination, the commission shall consider the factors  
12 identified in s. 196.03 (6). ~~The commission may order the applicant to satisfy any~~  
13 ~~conditions that the commission considers to be necessary to protect the public~~  
14 ~~interest, including structural safeguards.~~

15 **SECTION 113.** 196.50 (2) (g) 3. of the statutes is repealed.

16 **SECTION 114.** 196.50 (2) (h) of the statutes is repealed.

17 **SECTION 115.** 196.50 (2) (i) of the statutes is created to read:

18 196.50 (2) (i) A telecommunications utility certified under this subsection is  
19 exempt from ss. 196.02 (2) and (6), 196.05, 196.06, 196.07, 196.08, 196.09, 196.10,  
20 196.12, 196.13, 196.16, 196.18, 196.19, 196.20, 196.21, 196.219 (3) (c), (e), (g), and (L),  
21 (4d), (4m), and (5), 196.24, 196.395, 196.49, 196.52, 196.58, 196.60, 196.64, 196.78,  
22 and 196.79 and, except with respect to wholesale telecommunications service, is  
23 exempt from s. 196.219 (4).

24 **SECTION 116.** 196.50 (2) (j) of the statutes is created to read:



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

3           a. Provide notice to the commission to terminate the certification under this  
4 subsection and certify the telecommunications utility as an alternative  
5 telecommunications utility under s. 196.203. No later than 30 days after receiving  
6 notice under this subd. 1. a., the commission shall issue an order granting a  
7 certification under s. 196.203. The granting of such certification shall operate to  
8 terminate the certification under this subsection. All regulatory requirements in or  
9 related to the certification under this subsection that are inconsistent with the  
10 requirements of or regulation allowed under s. 196.203, including all such  
11 requirements imposed by the certification and all such requirements imposed by the  
12 commission, whether by statute or commission rule or order, on the  
13 telecommunications utility are terminated on the effective date of the order, unless  
14 the telecommunications utility, in its notice to the commission seeking certification  
15 under s. 196.203, requests to remain subject to one or more requirements of its prior  
16 certification under this subsection that do not violate the telecommunications  
17 utility's requirements or obligations under this chapter and the commission does not  
18 deny the request in its order pursuant to this subd. 1. a. granting certification under  
19 s. 196.203.

20           b. Provide notice to the commission to recertify the telecommunications utility  
21 under this subsection and impose on the telecommunications utility only those  
22 provisions of this chapter specified in this subd. 1. b. No later than 30 days after  
23 receiving notice under this subd. 1. b., the commission shall issue an order that  
24 grants recertification under this subsection and that imposes on the  
25 telecommunications utility only those provisions of this chapter specified in this

1       subd. 1. b. The telecommunications utility shall be exempt from all provisions of this  
2       chapter, except ss. 196.01, 196.016, 196.025 (6), 196.191, 196.206, 196.212, 196.219  
3       (2r), and 196.503; and except those provisions in s. 196.203 (4m) (a) that are imposed  
4       on all alternative telecommunications utilities under s. 196.203 (3); and except, with  
5       respect to its wholesale telecommunications services only, ss. 196.03 (1) and (6),  
6       196.219 (4), 196.28, and 196.37. If required by the public interest, the commission  
7       may, with respect only to intrastate switched access services, impose on the  
8       telecommunications utility s. 196.03 (1) and (6) and 196.37, except that the  
9       commission may not impose s. 196.03 (1) or (6) without also imposing s. 196.37 on the  
10      telecommunications utility. The granting of the recertification shall operate to  
11      terminate the telecommunications utility's prior certification. All regulatory  
12      requirements related to the prior certification that are inconsistent with the  
13      requirements of or regulation allowed under this subd. 1. b., including all such  
14      requirements imposed by the certification, and all such requirements imposed by the  
15      commission, whether by statute or commission rule or order, on the  
16      telecommunications utility are terminated on the effective date of the order unless  
17      the telecommunications utility, in its notice to the commission seeking recertification  
18      under this subd. 1. b., requests to remain subject to one or more requirements of its  
19      prior certification that do not violate the telecommunications utility's requirements  
20      or obligations under this chapter and the commission does not deny the request in  
21      its recertification order.

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

25           a. The requirements of 47 USC 251 (c) (1) and (2).

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

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

7           a. The requirements of 47 USC 251 (b) and (c) (1) and (2).

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

10           **SECTION 117.** 196.503 of the statutes is created to read:

11           **196.503 Telecommunications provider of last-resort obligations. (1)**

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

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

23           (b) An incumbent local exchange carrier may satisfy its obligations under par.

24 (a) through an affiliate and through the use of any available technology or mode.

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

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

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

8           2. The commission has made a previous finding of effective competition under  
9 s. 196.195 (2), 2009 stats., for basic local exchange service in the local exchange. The  
10 commission may not grant a waiver under this subdivision until after June 1, 2012.

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

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

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

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

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

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

11           **SECTION 118.** 196.52 (3) (b) 1. of the statutes is amended to read:

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

22           **SECTION 119.** 196.52 (3) (c) (intro.) of the statutes is amended to read:

23           196.52 **(3)** (c) (intro.) If the value of a contract or arrangement between an  
24 affiliated interest and a public utility, ~~other than a telecommunications utility,~~  
25 exceeds \$1,000,000, the commission:

1           **SECTION 120.** 196.52 (5) (a) of the statutes is renumbered 196.52 (5).

2           **SECTION 121.** 196.52 (5) (b) of the statutes is repealed.

3           **SECTION 122.** 196.52 (6) of the statutes is amended to read:

4           196.52 **(6)** If the commission finds upon investigation that a public utility, ~~other~~  
5 ~~than a telecommunications utility,~~ is giving effect to a contract or arrangement  
6 without the commission's approval under this section, the commission shall issue a  
7 summary order directing that public utility to cease and desist from making any  
8 payments, receiving compensation, providing any service or otherwise giving any  
9 effect to the contract or arrangement until the contract or arrangement receives the  
10 approval of the commission. The circuit court of Dane County may enforce the order  
11 to cease and desist by appropriate process, including the issuance of a preliminary  
12 injunction, upon the suit of the commission.

13           **SECTION 123.** 196.52 (9) (e) of the statutes is amended to read:

14           196.52 **(9)** (e) Notwithstanding sub. (5) ~~(a)~~, the commission may not modify or  
15 terminate a leased generation contract approved under sub. (3) except as specified  
16 in the leased generation contract or the commission's order approving the leased  
17 generation contract.

18           **SECTION 124.** 196.60 (1) (a) of the statutes is amended to read:

19           196.60 **(1)** (a) ~~Except as provided under sub. (2), no~~ No public utility and no  
20 agent, as defined in s. 196.66 (3) (a), or officer of a public utility, directly or indirectly,  
21 may charge, demand, collect or receive from any person more or less compensation  
22 for any service rendered or to be rendered by it in or affecting or relating to the  
23 production, transmission, delivery or furnishing of heat, light, water,  
24 ~~telecommunications service~~ or power or for any service in connection therewith, than  
25 that prescribed in the published schedules or tariffs then in force, or established

1 under this chapter, or than it charges, demands, collects or receives from any other  
2 person for a like contemporaneous service.

3 **SECTION 125.** 196.60 (2) of the statutes is repealed.

4 **SECTION 126.** 196.604 of the statutes is amended to read:

5 **196.604 Rebates, concessions and discriminations unlawful.** No person  
6 may knowingly solicit, accept or receive any rebate, concession or discrimination  
7 from a public utility for any service in or affecting or relating to the production,  
8 transmission, delivery or furnishing of heat, light, water or power ~~or the conveying~~  
9 ~~of telecommunications messages~~ within this state or for any connected service  
10 whereby the service is rendered or is to be rendered free or at a rate less than the rate  
11 named in the schedules and tariffs in force, or whereby any other service or  
12 advantage is received. Any person violating this section shall be fined not less than  
13 \$50 nor more than \$5,000 for each offense.

14 **SECTION 127.** 196.77 of the statutes is repealed.

15 **SECTION 128.** 196.79 (1) of the statutes is renumbered 196.79 and amended to  
16 read:

17 **196.79 Reorganization subject to commission approval.** ~~Except as~~  
18 ~~provided in sub. (2), the~~ The reorganization of any public utility shall be subject to  
19 the supervision and control of the commission. No reorganization may take effect  
20 without the written approval of the commission. The commission may not approve  
21 any plan of reorganization unless the applicant for approval establishes that the plan  
22 of reorganization is consistent with the public interest.

23 **SECTION 129.** 196.79 (2) of the statutes is repealed.

24 **SECTION 130.** 196.805 of the statutes is repealed.

25 **SECTION 131.** 196.81 (3) of the statutes is amended to read:

1           196.81 (3) This section does not apply to a service discontinuance by a  
2   telecommunications public utility that is a telecommunications provider.

3           **SECTION 132.** 196.975 (1) of the statutes is renumbered 196.975 (1r) and  
4   amended to read:

5           196.975 (1r) One hundred fifty or more consumers, ~~as defined in s. 196.213 (1)~~  
6   ~~(a) 1.,~~ who are residents of the same local exchange area for telecommunications  
7   service may file with the commission a petition requesting that commission staff, in  
8   cooperation with the affected telecommunications utilities and telecommunications  
9   carriers, petition the appropriate federal district court to include their local exchange  
10   area in a different local access and transport area. The petitioners shall include with  
11   the petition information explaining why the current boundaries of the local access  
12   and transport area which includes their local exchange area does not adequately  
13   reflect areas of common social, economic and other concerns.

14           **SECTION 133.** 196.975 (1g) of the statutes is created to read:

15           196.975 (1g) In this section, “consumer” means a person billed for one or more  
16   local telecommunications service access lines not to exceed one person per access  
17   line. A person billed for more than one access line may not be considered a consumer  
18   for each access line for which he or she is billed.

19           **SECTION 134.** 196.975 (2) of the statutes is amended to read:

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



1           **SECTION 135.** 201.01 (2) of the statutes is amended to read:

2           201.01 (2) “Public service corporation” means and embraces every corporation,  
3 except municipalities and other political subdivisions, which is a public utility as  
4 defined in s. 196.01, and every corporation which is a water carrier as defined in s.  
5 195.02, but shall not include a public utility corporation receiving an annual gross  
6 revenue of less than \$1,000 for the calendar year next preceding the issuance of any  
7 securities by it. “Public service corporation” includes a holding company, as defined  
8 under s. 196.795 (1) (h), which is a public utility, as defined under s. 196.01 (5).  
9 “Public service corporation” does not include a telecommunications utility provider,  
10 as defined in s. 196.01 ~~(10) (8p)~~. “Public service corporation” does not include any  
11 other holding company unless the holding company was formed after  
12 November 28, 1985, and unless the commission has determined, under s. 196.795 (7)  
13 (a), that each nonutility affiliate, as defined under s. 196.795 (1) (j), does not and  
14 cannot reasonably be expected to do at least one of the items specified in s. 196.795  
15 (7) (a). “Public service corporation” does not include a company, as defined in s.  
16 196.795 (1) (f), which owns, operates, manages or controls a telecommunications  
17 utility provider, as defined in s. 196.01 ~~(10) (8p)~~, unless such company also owns,  
18 operates, manages or controls a public utility which is not a telecommunications  
19 utility provider. “Public service corporation” does not include a transmission  
20 company, as defined in s. 196.485 (1) (ge).

21           **SECTION 136.** 201.15 of the statutes is repealed.

22           **SECTION 137.** 943.45 (1) (intro.) of the statutes is amended to read:

23           943.45 (1) (intro.) No person may intentionally obtain or attempt to obtain  
24 telecommunications service, as defined in s. ~~196.01 (9m)~~ 182.017 (1g) (cq), by any of  
25 the following means:



**Godwin, Gigi**

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**From:** Reader, Chris

**Sent:** Tuesday, April 26, 2011 2:19 PM

**To:** LRB.Legal

**Subject:** Draft Review: LRB 11-1970/1 Topic: Regulation of telecommunication utilities and alternative telecommunication utilities

Please Jacket LRB 11-1970/1 for the SENATE.