

**2011 Jr1 DRAFTING REQUEST**

**Senate Amendment (SA-SB13)**

Received: **05/10/2011**

Received By: **mkunkel**

Wanted: **As time permits**

Companion to LRB:

For: **Jon Erpenbach (608) 266-6670**

By/Representing: **Tryg Knutson**

May Contact: **David Lovell**

Drafter: **mkunkel**

Subject: **Public Util. - telco**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Erpenbach@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Restore consumer protection requirements

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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>
/?							
/1	mkunkel 05/10/2011	csicilia 05/11/2011	rschluet 05/11/2011	_____	mbarman 05/11/2011	mbarman 05/11/2011	

FE Sent For:

<END>

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/?	mkunkel						
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*Legis 5/11*  
*11*  
*3/11*

FE Sent For:

<END>

## Kunkel, Mark

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**From:** Knutson, Tryg  
**Sent:** Tuesday, May 10, 2011 4:38 PM  
**To:** Kunkel, Mark  
**Subject:** FW: Leg Council Memo on SS SB 13 - Telecommunications

**Attachments:** 5.4.11\_Leg Council SS SB 13 - Telecommunications.pdf

Hi Mark –

Here is David's memo.

Page 12 – amendment to reinsert the PSC Consumer Protection pieces, applicable to all telecommunication providers.

Thanks much.

Tryg

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**From:** Lovell, David  
**Sent:** Wednesday, May 04, 2011 4:50 PM  
**To:** Knutson, Tryg  
**Subject:** FW: Leg Council Memo on SS SB 13 - Telecommunications

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David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537

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**From:** Wuebke, Matt  
**Sent:** Wednesday, May 04, 2011 4:35 PM  
**To:** Sen.Lasee; Sen.Zipperer; Sen.Hansen; Sen.Cullen  
**Cc:** Kruse, Jon; Reader, Chris; Wadd, Jay; Johnson, William; Lovell, David; Schmidt, Dan  
**Subject:** Leg Council Memo on SS SB 13 - Telecommunications

Committee members and staff-

Please find the attached memo from the Legislative Council on Special Session Senate Bill 13.

Thanks,  
Matt Wuebke  
Office of Sen. Sheila Harsdorf



5.4.11\_Leg  
ouncil SS SB 13 - .

issuing the notice of suspension; if the PSC fails to issue a final order within this time frame, the new tariff becomes effective as filed.

***Consumer Protection: Service and Rates; Enforcement; Complaints***

Viewed broadly, consumer protection includes all of the following:

- Statutory requirements that public utilities provide reasonable and adequate service at fair prices. These include prohibitions on discriminatory pricing or pricing that treats individual customers differently than others. <sup>196.26(1), (6)</sup>
- Specific requirements regarding practices in relation to their customers. These include a list of prohibited practices, including practices affecting retail customers and practices relating to the provision of access or interconnection to competing telecommunications utilities. <sup>196.29(3), (3m)</sup>
- Mechanisms to enforce these requirements. These include the authority of the PSC to investigate customer complaints or to investigate suspected violations on its own motion and to order changes in response to the findings of such investigations.

Under ***current law and practice***, these consumer protections apply only to ILECs, except that separate statutes allow utilities to enter into contracts with individual customers that differ from the filed tariff, if the contract meets certain conditions. The ***bill*** either repeals or makes inapplicable to all telecommunications utilities the majority of these regulations.

The bill repeals the statutes requiring telecommunications utilities specifically to provide adequate service at fair prices, including the current law prohibitions on discrimination, and modifies similar statutes that apply to all public utilities rendering them inapplicable to telecommunications utilities.

In general, the bill retains the specific requirements regarding practices in relation to their retail customers. It makes certain changes to the provisions regarding practices relating to the provision of access or interconnection to competing telecommunications utilities, which are described below under ***Intercarrier Relations***.

The bill repeals the PSC's authority to investigate consumer complaints regarding telecommunications utilities or to investigate the adequacy of telecommunications service or fairness of rates, except that it retains the PSC's authority to investigate the complaint of one utility that another utility has violated the terms of an interconnection agreement.

Note that DATCP administers and enforces separate consumer protection standards that relate only to the marketing of telecommunications services. The bill does not affect these statutes.

***Provider of Last Resort; Obligation to Serve***

Following the breakup of the Bell system, and as competition was introduced to telephone service, the incumbent providers had the obligation to serve as the provider of last resort for local customers. This obligation consists primarily of the duty to provide basic service to all customers in the

MDR NOTES

Apply to all Tokom providers (TUs & ATUs)

196.22(4), (5), (5m), (6), (7)

196.23(1), (6)

(b), (b), (e), (f), (h), (i)

196.21(3)

(4), (4d), (4m), (5)

(3m)

~~present~~ 196.60(1)(a) § (2)

and allow imposit - on ATU?

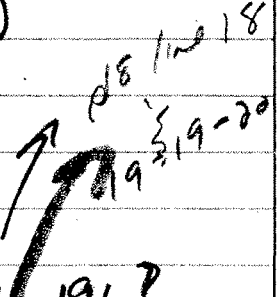
§ repeal w/ 196.191?

~~present~~ 196.604

§ allow imposit - on ATU (repeal w/ 196.191)

~~add~~ allow 196.605 to be imposed on ATUs?

~~RU 196.25. charges~~



Not added back in

196.20(1m) (RPD) - discontinuance of service

X- refs to  
~~196.20(3)(4m)~~  
(5), (6)  
~~deleted~~  
~~196.20(4m)~~  
X- refs to  
~~196.20(3)~~  
7-10 to  
~~196.20(6)~~

- 196.198
- 196.201
- 196.207
- 196.208
- 196.209
- 196.218(4)
- 196.194(1)
- 196.217
- 196.22
- 196.23?
- 196.19
- 196.61
- 196.635
- 196.603
- 196.213



~~196.02~~      ~~196.03(CD), (66)~~      ~~196.37~~      ~~196.26~~      ~~196.28~~      ~~196.219~~  
 ATTACHMENT 1

RETAIL CONSUMER PROTECTION: TREATMENT OF RELEVANT STATUTES UNDER CURRENT LAW AND BY  
 JANUARY 2011 SPECIAL SESSION ASSEMBLY BILL 14

Section	Subject	Treatment of Subject Under Current Law		Treatment of Subject by the Bill, as Amended	
		ILECs <sup>1</sup>	ATUs <sup>2</sup> (primarily CLECs)	ILECs that reclassify as ILECs	ATUs (including CLECs and those ILECs that reclassify as ATUs)
<b>TRADE PRACTICES: Marketing and Sales; Unfair Competition</b>					
100.18	Fraudulent representations	Applies	Applies	Applies	Applies
100.20	Methods of competition and trade practices	Applies	Applies	Applies	Applies
100.207	Unfair trade practices in telecommunications service	Applies	Applies	Applies	Applies

<sup>1</sup> There may be some exceptions to entries in this column, in particular with regard to ILECs under alternative regulation plans.

<sup>2</sup> The PSC *may* impose any requirement of ch. 196 or 201, Stats., on an ATU and may impose different requirements on different ATUs. Entries in this column reflect *typical* treatment of ATUs.

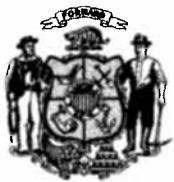
SERVICES AND RATES: Access to Service; Reasonable Service and Rates; Required Services						
196.03 (1) and (6), and 196.37	Utility charges and services; reasonable and adequate	Apply, <i>except</i> 196.37 does not apply to ILEC with less than 50,000 lines unless imposed by PSC	Typically <i>not</i> imposed	Do <i>not</i> apply	PSC may <i>not</i> impose	
196.03 (1) and 196.20 (1m)	Obligation to serve; PSC review of discontinuance of service	Apply	Typically <i>not</i> imposed	196.03 (1) does <i>not</i> apply; 196.20 <i>repealed</i>	PSC may <i>not</i> impose 196.03 (1); 196.20 <i>repealed</i>	
196.198	Local measured service	<i>Applies</i> to ILEC with over 150,000 lines; PSC may waive	Typically <i>not</i> imposed	<i>Applies</i> to ILEC with over 150,000 lines; PSC may waive	PSC may <i>not</i> impose	
196.201	Private shared telecommunications systems	Applies	Typically <i>not</i> imposed	Applies	PSC may <i>not</i> impose	
196.207, 196.208, and 196.209	Caller ID; pay-per-call and toll-free services; privacy considerations	Applies	Typically <i>imposed</i>	Does <i>not</i> apply	PSC <i>may</i> impose	
196.218 (4)	Essential and advanced services	Applies	Typically <i>imposed</i>	Does <i>not</i> apply	PSC <i>may</i> impose, but <i>amended</i> : FCC, rather than PSC, determines what are essential services; advanced service requirements <i>repealed</i>	

196.219 (3) and (3m)	Prohibited practices; late payment charges	Apply	<i>Most</i> elements typically <i>imposed</i>	Does <i>not</i> apply	PSC <i>may</i> impose some, but not all, elements typically imposed currently
196.23	Service for victims of identity theft	Applies	Typically <i>not</i> imposed	Does <i>not</i> apply	PSC may <i>not</i> impose
196.635 and 196.643	Unbilled utility service and billing for service to rental dwellings	Apply	Typically <i>not</i> imposed	Do <i>not</i> apply	PSC may <i>not</i> impose
<b>LIMITS ON ANTICOMPETITIVE BEHAVIOR: Published Tariffs; Discrimination</b>					
196.19, 196.21, and 196.213	Tariffing and notice of rates	Apply	Typically <i>not</i> imposed	196.19 and 196.21 do <i>not</i> apply; 196.213 is repealed	PSC may <i>not</i> impose 196.19 or 196.21; 196.213 is <i>repealed</i>
196.194 (1)	Individual contracts	Applies, with significant exceptions	Typically <i>not</i> imposed	Repealed	Repealed
196.217	Differential rates	Applies	Typically <i>not</i> imposed	Does <i>not</i> apply	PSC may <i>not</i> impose
196.22, 196.60, ✓ 196.604, ✓ 196.61, and 196.625	Discrimination forbidden	Apply	Typically <i>not</i> imposed	Do <i>not</i> apply	PSC may <i>not</i> impose
<b>ENFORCEMENT: Investigations; Customer Complaints; Civil Actions; Penalties</b>					
100.18 (11)	Fraudulent representations; enforcement by DATCP; remedies	Applies	Applies	Applies	Applies



100.20 (2) to (6)	Methods of competition and trade practices: DATCP investigations and orders; civil actions by DATCP, DOJ, and injured parties	Apply	Apply	Does <i>not</i> apply	Apply
100.207 and 100.208	Unfair trade practices in telecommunications service; remedies and penalties; notice to PSC of violation	Apply	Apply	Do <i>not</i> apply	Applies, but PSC may <i>not</i> impose 196.219 (4d), which allows it to act in response to a notice under 100.208
196.219 (4), (4d), (4m), and (5)	PSC enforcement of service standards; civil actions; alternative dispute resolution	Apply	Typically <i>not</i> imposed	Does <i>not</i> apply	PSC may <i>not</i> impose
196.02 (4) and (5) and 196.25	PSC investigative powers: <ul style="list-style-type: none"> <li>• Require information</li> <li>• Inspect books</li> <li>• PSC request for information</li> </ul>	Apply	Typically <i>imposed</i>	Does <i>not</i> apply	PSC <i>may</i> impose
196.02 (5m), (6) and (7), and 196.24	PSC investigative powers: <ul style="list-style-type: none"> <li>• Inspect property</li> <li>• Subpoena records</li> <li>• Initiate investigations</li> <li>• Investigation by agent of PSC</li> </ul>	Apply	Typically <i>not</i> imposed	Do <i>not</i> apply	PSC may <i>not</i> impose

196.28 and 196.37	PSC summary investigations into reasonableness of rates and service; corrective orders	<i>Apply, except 196.37 does not apply to utility with less than 50,000 lines unless imposed by PSC</i>	196.28 typically <i>imposed</i> ; 196.37 typically <i>not</i> imposed	Do <i>not</i> apply	PSC may <i>not</i> impose
196.26	PSC investigation of consumer complaints; corrective orders	Applies	Typically <i>imposed</i>	Does <i>not</i> apply	PSC <i>may</i> impose, but <i>amended</i> to delete complaints re. retail telecommunications service
196.60 and 196.625	Discrimination prohibited; penalties	Apply	Typically <i>not</i> imposed	Does <i>not</i> apply	PSC may <i>not</i> impose
196.859	Assessment for cost of DATCP enforcement of s. 100.207	Applies	Imposed on <i>all</i> CLECs	Does <i>not</i> apply	PSC <i>may</i> impose



State of Wisconsin  
2011 - 2012 LEGISLATURE

January 2011 Special Session



LRBa0953/1  
MDK/.....

g's

SENATE AMENDMENT,  
TO SENATE BILL 13

wed  
5-11  
9am

full list

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 18, line 16: delete "Except as provided in subd. 2., a" and substitute  
3 "A". ✓

4 **2.** Page 18, line 18: after "commission" insert ", except as provided in subd. 2.  
5 a., and except that the commission may modify the proposed change after an  
6 opportunity for a hearing if the commission finds that the proposed change violates  
7 a provision of this chapter that applies to the telecommunications utility or  
8 alternative telecommunications utility". ✓

9 **3.** Page 19, line 20: delete lines 20 to 22 and substitute  
10 "only to the extent that the tariff violates a provision of this chapter that applies  
11 to the telecommunications utility or alternative telecommunications utility". ✓

no 11

12 **4.** Page 20, line 23: delete the material beginning with that line and ending  
13 with page 21, line 2. ✓

1           **5.** Page 21, line 3: delete "Except as provided in sub. (6), no" and substitute  
2 "No". ✓

3           **6.** Page 25, line 21: delete lines 21 to 23 and substitute  
4 *no #* "section pursuant to s. 196.50 (2) (j) 1. a. is subject to ss. 196.03 (1) and (6),  
5 196.219 (2r) and (4), 196.28, 196.37, and 196.503, and, if such an alternative". ✓

6           **7.** Page 27, line 5: delete "(4m) (a)" and substitute "(4m)". ✓

7           **8.** Page 27, line 6: delete the material beginning with "The commission" and  
8 ending with "the public interest." on line 7. ✓

9           **9.** Page 28, line 14: delete "(4m) (a)" and substitute "(4m)". ✓

10          **10.** Page 28, line 24: delete "(4m) (a)" and substitute "(4m)". ✓

11          **11.** Page 28, line 24: delete "or (5)" and substitute "(5), (5m), (6), or (7), 196.03  
12 (1) or (6)". ✓

13          **12.** Page 29, line 1: delete that line and substitute  
14 *no #* "(2) (b), (c), or (d), (2r), (3) (a), (b), (c), (d), (e), (f), (h), (j), (L), (m), (n), or (o), (3m),  
15 (4), (4d), (4m), or (5), 196.24, 196.25, 196.26, 196.28, 196.37, 196.39, 196.395,". ✓

16          **13.** Page 29, line 2: after "196.44," insert "196.60, 196.604, 196.625,". ✓

17          **14.** Page 29, line 4: delete lines 4 to 12. ✓

18          **15.** Page 31, line 11: delete that line and substitute  
19 *no #* "charge and to ss. 196.02 (2), 196.09 (1), 196.11 (2), ~~196.20~~ and 196.26 in any of  
20 the". ✓

21          **16.** Page 37, line 10: delete the material beginning with "or a contract" and  
22 ending with "(6)" on line 11. ✓

*#. Page 40, line 22: delete that line.*

- 1           **17.** Page 40, line 23: delete the material beginning with that line and ending  
2 with page 42, line 3. ✓
- 3           **18.** Page 44, line 19: delete “and (6)”. ✓
- 4           **19.** Page 44, line 20: delete “(c), (e), (g), and (L),” and substitute “(g)”. ✓
- 5           **20.** Page 44, line 21: delete “(4d), (4m), and (5), 196.24.”. ✓
- 6           **21.** Page 44, line 21: delete “196.60.”. ✓
- 7           **22.** Page 46, line 2: after “(6),” insert “196.03 (1) and (6),”. ✓
- 8           **23.** Page 46, line 3: delete “(2r),” and substitute “(2r) and (4), 196.28, 196.37,”. ✓
- 9           **24.** Page 46, line 3: delete “(4m) (a)” and substitute “(4m)”. ✓
- 10           **25.** Page 46, line 4: delete the material beginning with “; and except,” and  
11 ending with “utility” on line 10. ✓
- 12           **26.** Page 50, line 18: delete the material beginning with that line and ending  
13 with page 51, line 13.

14

(END)