

2013 DRAFTING REQUEST

Bill

Received: **8/19/2013** Received By: **mkunkel**
Wanted: **As time permits** Same as LRB:
For: **Kathleen Vinehout (608) 266-8546** By/Representing: **Joel**
May Contact: **David Lovell, Leg. Council** Drafter: **mkunkel**
Subject: **Public Util. - telco** Addl. Drafters:
Extra Copies: **EVM**

Submit via email: **YES**
Requester's email: **Sen.Vinehout@legis.wisconsin.gov**
Carbon copy (CC) to: **David.Lovell@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Provider of last resort obligations

Instructions:

See attached

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 8/20/2013			_____			
/1		jdyer 8/21/2013	phenry 8/21/2013	_____	sbasford 8/21/2013	mbarman 9/16/2013	State

FE Sent For:

/1 at intro

<END>

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/?	mkunkel	1/21 jld	8/21 pl	_____	_____		

FE Sent For:

<END>

.....

+ repeal sunset in
196.503(5)

AN ACT ...; relating to: ???

- prepared by David Lovell

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

LEGISLATIVE COUNCIL STAFF PREFATORY NOTE:

SECTION 1. 196.503 (1) of the statutes is amended to read:

No changes

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

SECTION 2. 196.503 (2) (a) of the statutes is amended to read:

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

SECTION 3. 196.503 (5) of the statutes is repealed.

SECTION 4. 196.503 (6) of the statutes is created to read:

196.503 (6) ENFORCEMENT. The commission may, in response to a complaint or on its own motion, investigate whether basic voice service is effectively available to all residential customers in a local exchange area. Notwithstanding sub. (2) (b), if the commission determines that basic voice service is not effectively available to all residential customers in a local

exchange area, it shall order the incumbent local exchange carrier in the local exchange area to provide such services by such technologies or modes as the commission determines necessary to ensure that basic voice service is effectively available to all residential customers in the local exchange area.

(END)

Kunkel, Mark

From: Lovell, David
Sent: Tuesday, August 20, 2013 8:17 AM
To: Kunkel, Mark
Cc: Nilsestuen, Joel
Subject: RE: Section 196.503

Mark,

All good questions. I am meeting with the Senator later this morning to talk about this drafting request. One of the things we will discuss is how to treat the waivers. I will get answers to your questions and talk with you after that meeting.

Thanks –

D.

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

From: Kunkel, Mark
Sent: Monday, August 19, 2013 3:38 PM
To: Lovell, David
Subject: Section 196.503

David:

In the draft language you provided to me, proposed sub. (6) states:

“The commission may, in response to a complaint or on its own motion, investigate whether basic voice service is effectively available to all residential customers in a local exchange area. Notwithstanding sub. (2) (b), if the commission determines that basic voice service is not effectively available to all residential customers in a local exchange area, [the commission] shall order the incumbent local exchange carrier in the local exchange area to provide such services by such technologies or modes as the commission determines necessary to ensure that basic voice service is effectively available to all residential customers in the local exchange area.”

How does the enforcement authority under proposed sub. (6) interact with s. 196.503 (3)? Does the PSC’s power under proposed sub. (6) trump a waiver that the PSC previously granted under sub. (3)? If so, it may be advisable to revise proposed sub. (6) to include “Notwithstanding a waiver granted under sub. (3),” at the beginning of proposed sub. (6).

Also, what is intended by the phrase “notwithstanding sub. (2) (b)”? Is the reason that the PSC’s power under sub. (6) to determine technologies or modes trumps the incumbent’s authority under sub. (2) (b)?

Finally, proposed sub. (6) could be revised so that the PSC is allowed to investigate whether an incumbent local exchange carrier is in compliance with sub. (2). You took a different approach and allowed the PSC to investigate

whether basic voice service is effectively available. You may have taken that approach to trump a waiver granted under sub. (3). Maybe you could talk me through your thinking on this issue.

Thanks for your help.

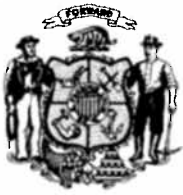
--Mark

Per David Lovell - also do the following:

① redraft (6) to focus on investigating an NLEC's compliance

② amend (2)(b): "Except as provided in par (d)..."

③ prohibit new waivers, but don't affect waivers granted under current law



JLW

2013 BILL

in
8-20

by 8-21
wed,
if possible
before 1pm

*

1 ✓ AN ACT Gen ...; relating to: provider of last resort obligations of certain
2 telecommunications providers. ✓

Analysis by the Legislative Reference Bureau

Under current law, until April 30, 2013, a telecommunications provider who is an incumbent local exchange carrier (ILEC) under federal law was required to make basic voice service available to all residential customers within the local exchange area in which the telecommunications provider operated as an ILEC, and allowed an ILEC to satisfy that requirement through an affiliate or through the use of any available technology or mode. However, an ILEC was allowed to apply to the Public Service Commission (PSC) for a waiver from compliance with that requirement and the PSC was required to grant the waiver if certain requirements were satisfied. Also, if the PSC failed to act on the application within specified deadlines, the waiver was considered granted by operation of law. Current law specifies a sunset date of April 30, 2013, on which all of the foregoing no longer apply.

This bill eliminates that sunset date. As a result, under the bill, except as described as follows, the foregoing requirements continue to apply to an ILEC. The bill also makes the following changes to those requirements. First, instead of requiring an ILEC to make basic voice service available to residential customers within a local exchange area, the bill requires an ILEC to make such service effectively available to such customers. Second, the bill eliminates the PSC's authority to grant new waivers, and provides that no new waivers may be considered granted by operation of law. However, the bill does not affect waivers granted or considered granted by operation of law before the bill's effective date. Finally, the bill

BILL

allows the PSC[✓] to investigate whether an ILEC has complied with the requirements and allows the PSC to order an ILEC[✓] to comply through the use of any technology or mode that the PSC determines is necessary to ensure that basic voice service is effectively available to all residential customers in a local exchange area.^{✓ ✓}

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

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

1 **SECTION 1.** 196.503 (2) (a)[✓] of the statutes is amended to read:

2 196.503 (2) (a) Notwithstanding any other provision in this chapter, and except
3 as provided in sub. (3), an incumbent local exchange carrier shall make basic voice
4 service effectively[✓] available to all residential customers within a local exchange area
5 in which it operates as an incumbent local exchange carrier.

6 History: 2011 a. 22.

6 **SECTION 2.** 196.503 (2) (b)[✓] of the statutes is amended to read:

7 196.503 (2) (b) An Except as provided in an order under sub. (6)[✓], an incumbent
8 local exchange carrier may satisfy its obligations under par. (a) through an affiliate
9 and through the use of any available technology or mode.

10 History: 2011 a. 22.

10 **SECTION 3.** 196.503 (3) (a)[✓] of the statutes is amended to read:

11 196.503 (3) (a) An Except as provided in par. (d)[✓], an incumbent local exchange
12 carrier may apply to the commission for a waiver from compliance with sub. (2) (a)
13 in a local exchange area.

14 History: 2011 a. 22.

14 **SECTION 4.** 196.503 (3) (d)[✓] of the statutes is created to read:

15 196.503 (3) (d)^e Beginning on the effective date of this paragraph[✓] [LRB
16 inserts date], all of the following apply:[✓]

17 1. The commission may not grant a waiver from compliance with sub.[✓](2) (a)
18 in a local exchange area.[✓]

BILL

1 2. No waiver may be considered granted ~~granted~~ by operation of law under par.
2 (d),[✓] except for waivers that were considered granted by operation of law under par.
3 (d)[✓] before the effective of this subdivision [LRB inserts date].

4 **SECTION 5.** 196.503 (5)[✓] of the statutes is repealed.

5 **SECTION 6.** 196.503 (6)[✓] of the statutes is created to read:

6 196.503 (6) ENFORCEMENT.[✓] The commission may, in response to a complaint or
7 on its own motion, investigate whether an incumbent local exchange carrier has
8 complied with sub. (2) (a).[✓] If the commission determines that an incumbent local
9 exchange carrier has not complied with sub. (2) (a),[✓] the commission shall order the
10 incumbent local exchange carrier to comply with sub. (2) (a)[✓] through the use of any
11 technology or mode that the commission determines is necessary to ensure that basic
12 voice service is effectively available to all residential customers in a local exchange
13 area.

14 (END)

Parisi, Lori

From: Nilsestuen, Joel
Sent: Friday, September 13, 2013 4:28 PM
To: LRB.Legal
Subject: Draft Review: LRB -2960/1 Topic: Provider of last resort obligations

Please Jacket LRB -2960/1 for the SENATE.