

1981 Assembly Bill 442

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CHAPTER 148 , Laws of 1981

AN ACT to repeal 196.27 (title) and 196.77; to renumber and amend 196.26 (2) to (4) and 196.27; to amend 196.02 (2), 196.09 (1) and 196.11 (2); to repeal and recreate 196.26 (1); and to create 196.20 (3), 196.205, 196.26 (1m), (2) (title) and (3) (title) and 196.26 (4) of the statutes, relating to deregulation of telephone cooperative rates.

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

SECTION 1. 196.02 (2) of the statutes is amended to read:

196.02 (2) In this subsection, "public utility" does not include a telephone cooperative except as provided under s. 196.205. The commission shall provide for a comprehensive classification of service for each public utility, ~~and such~~. The classification may take into account the quantity used, the time when used, the purpose for which used, and any other

reasonable consideration. Each public utility ~~is required to~~ shall conform its schedules of rates, tolls and charges to such classification.

SECTION 2. 196.09 (1) of the statutes is amended to read:

196.09 (1) In this section, "public utility" does not include a telephone cooperative except as provided under s. 196.205. Every public utility shall file with the commission, within such time as may be required by the commission, its estimate of the average annual rate of depreciation required for each of its classes of fixed capital used for public utility purposes, and of the composite annual rate of depreciation required for such fixed capital as an aggregate, which shall constitute the public utility's estimates of the amount which should be returned to it out of its rates for service, to meet the depreciation of its property.

SECTION 3. 196.11 (2) of the statutes is amended to read:

196.11 (2) Any arrangement under this section shall be under the supervision and regulation of the commission. The commission shall ~~may~~ order such rates, charges and regulations as may be any rate, charge or regulation which the commission deems necessary to give effect to such the arrangement, but the power to. The commission may make such other and further changes any change in rates, charges and regulations a rate, charge or regulation as the commission may determine to be determines is necessary and reasonable and to may revoke its approval and amend or rescind all orders relative thereto is vested in the commission to any arrangement. This subsection does not apply to telephone cooperatives except as provided under s. 196.205.

SECTION 4. 196.20 (3) of the statutes is created to read:

196.20 (3) This section does not apply to telephone cooperatives except as provided under s. 196.205.

SECTION 5. 196.205 of the statutes is created to read:

196.205 Election of rate regulation of telephone cooperatives. (1) A telephone cooperative may elect to be subject to ss. 196.02 (2), 196.09 (1), 196.11 (2), 196.20 and 196.26 in any of the following ways:

- (a) By amendment of the articles of incorporation of the cooperative under s. 185.51.
- (b) By a majority of members or stockholders voting by mail ballot initiated by petition of at least 5% of the members or stockholders of the cooperative.

(c) By a majority of the voting members of the board of directors of the cooperative.

(2) The ballot used for the election under sub. (1) (b) shall be approved by the commission. The cooperative shall mail the ballots to the members who shall return the ballots to the commission. The cooperative may enclose the ballot to a member with the regular periodic billing for the cooperative's services. The commission shall keep the ballots sealed until a date agreed upon by the commission and the board of directors of the cooperative. On that date, representatives of the commission and the cooperative shall count the ballots. If the majority of the members who vote elect to become subject to the sections enumerated under sub. (1) (intro.), the election shall be effective 30 days after the date the ballots are counted.

SECTION 6. 196.26 (1) of the statutes is repealed and recreated to read:

196.26 (1) **COMPLAINT.** In this section "complaint" means a complaint filed with the commission that any rate, toll, charge or schedule, joint rate, regulation, measurement or practice relating to the provision of heat, light, water power or telephone service is unreasonable, inadequate, unjustly discriminatory or cannot be obtained.

SECTION 7. 196.26 (1m), (2) (title) and (3) (title) of the statutes are created to read:

196.26 (1m) **COMPLAINT AND INVESTIGATION.** If any mercantile, agricultural or manufacturing society, body politic, municipal organization or 25 persons file a complaint against a public utility, the commission, with or without notice, may investigate the

complaint as it deems necessary. The commission may not issue an order based on the investigation without a public hearing.

(2) (title) NOTICE AND HEARING.

(3) (title) SEPARATE HEARINGS.

SECTION 8. 196.26 (2) to (4) of the statutes are renumbered 196.26 (2) (a) to (c) and amended to read:

196.26 (2) (a) ~~The commission shall, prior~~ Prior to such formal a hearing under this section, the commission shall notify the public utility complained of that a complaint has been made, and ~~ten~~ 10 days after ~~such~~ the notice has been given the commission may proceed to set a time and place for a hearing and an investigation ~~as hereinafter provided.~~

(b) ~~The commission shall give the public utility and the complainant, ten which is the subject of a complaint filed under sub. (1) and the complainant 10 days' notice of the time and place when and where such of the hearing will be held and such matters the matter to be considered and determined. Both the public utility and complainant shall be entitled to at the hearing. The complainant and the public utility may be heard and shall have process to enforce the attendance of witnesses. The commission may subpoena any witness at the request of the public utility or complainant.~~

(c) ~~The notice provided for in subs. (2) and (3)~~ Notice under pars. (a) and (b) may be combined but if combined the. The combined notice shall may not be less than 10 days prior to hearing.

SECTION 9. 196.26 (4) of the statutes is created to read:

196.26 (4) EXCEPTION FOR TELEPHONE COOPERATIVES. This section does not apply to any rate, toll, charge or schedule or any joint rate of any telephone cooperative except as provided under s. 196.205 or unless at least 5% of the customers of the cooperative file a complaint with the commission that the rate, toll, charge or schedule or joint rate is in any respect unreasonable, insufficient or unjustly discriminatory.

SECTION 10. 196.27 (title) of the statutes is repealed.

SECTION 11. 196.27 of the statutes is renumbered 196.26 (3) and amended to read:

196.26 (3) ~~The commission may, in its discretion, when~~ If a complaint is made under sub. (1m) of more than one rate or charge, the commission may order separate hearings thereon on each rate and charge, and may consider and determine the several matters complained of complaint on each rate and charge separately and at such times as it may prescribe. No complaint shall at any time be dismissed the commission prescribes. The commission may not dismiss a complaint because of the absence of direct damage to the complainant.

SECTION 12. 196.77 of the statutes is repealed.

SECTION 13. **Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
197.10 (4)	196.27	196.26 (3)
197.10 (4)	196.70, 196.77	196.70
