



State of Wisconsin
1997 - 1998 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 587**

March 24, 1998 – Offered by COMMITTEE ON SMALL BUSINESS AND ECONOMIC DEVELOPMENT.

1 **AN ACT** *to repeal* 196.374 (2), 196.795 (5) (q) 1., 196.795 (5) (q) 2. a., 196.795 (5)
2 (q) 2. b., 196.795 (5) (q) 2. c., 196.795 (5) (q) 3., 196.795 (5) (q) 4. and 196.795 (7)
3 (a) 2.; *to renumber and amend* 196.374 (1), 196.52 (3) (a) and 196.795 (5) (q)
4 2. (intro.); *to amend* 196.52 (3) (b) 1., 196.52 (3) (c) 1., 196.52 (3) (c) 2., 196.52
5 (4) (a), 196.52 (6), 196.59, 196.795 (1) (b), 196.795 (7) (a) 3. and 196.795 (9m);
6 and *to create* 196.035, 196.374 (1) (a), 196.374 (1r), 196.374 (2m), 196.52 (3) (a)
7 2., 196.52 (3) (am) 1., 196.52 (3) (d), 196.52 (7m), 196.795 (1) (fm), 196.795 (1)
8 (ik) and 196.795 (1) (im) of the statutes; **relating to:** separation between
9 certain public utilities and affiliated interests, nonutility activities by public
10 utilities and public utility affiliates, subsidies between utility and nonutility
11 affiliates, utility energy conservation programs and duties, granting
12 rule-making authority and providing a penalty.

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

1 **SECTION 1.** 196.035 of the statutes is created to read:

2 **196.035 Nonutility activities and services; relationship with affiliated**
3 **interests. (1) DEFINITIONS.** In this section:

4 (a) "Affiliated interest" means a person that is engaged in the performance of
5 energy conservation, plumbing, electrical, heating, ventilating, air conditioning or
6 sheet metalworking contracting services or in an activity related to the sale, lease
7 or service of appliances in this state and that, with respect to a public utility or
8 out-of-state utility, is any of the following:

9 1. A person owning or holding directly or indirectly 5% or more of the voting
10 securities of the public utility or out-of-state utility.

11 2. A person in any chain of successive ownership of 5% or more of voting
12 securities of the public utility or out-of-state utility.

13 3. A corporation 5% or more of whose voting securities is owned by any person
14 owning 5% or more of the voting securities of the public utility or out-of-state utility
15 or by any person in any chain of successive ownership of 5% or more of voting
16 securities of the public utility or out-of-state utility.

17 4. A corporation operating the public utility or out-of-state utility or a
18 servicing organization for furnishing supervisory, construction, engineering,
19 accounting, legal and similar services to the public utility or out-of-state utility,
20 which has one or more officers or one or more directors in common with the public
21 utility or out-of-state utility, and any other corporation which has directors in
22 common with the public utility or out-of-state utility if the number of such directors

1 of the corporation is more than one-third of the total number of the public utility's
2 or out-of-state utility's directors.

3 5. A person whom the commission determines as a matter of fact after
4 investigation and hearing to be actually exercising any substantial influence over
5 the policies and actions of the public utility or out-of-state utility even if the
6 influence is not based upon stockholding, stockholders, directors or officers as
7 specified under subs 1. to 4.

8 6. A person whom the commission determines as a matter of fact after
9 investigation and hearing to be actually exercising substantial influence over the
10 policies and actions of the public utility or out-of-state utility in conjunction with
11 one or more other persons with whom they are related by ownership or blood
12 relationship or by action in concert that together they are affiliated with the public
13 utility or out-of-state utility, even though no one of them alone is so affiliated under
14 subs. 1 to 5.

15 7. A person 5% or more of the securities of which are directly or indirectly owned
16 by the public utility or out-of-state utility.

17 (b) "Appliance" has the meaning given in s. 196.795 (1) (b).

18 (bg) "Cooperative association" means a cooperative association organized
19 under ch. 185 for the purpose of producing, transmitting, delivering or furnishing
20 heat, light, power, natural gas or water to its members only.

21 (bL) "Municipal electric company" has the meaning given in s. 66.073 (3) (d).

22 (bm) "Municipality" means a city, village or town.

23 (br) 1. "Out-of-state utility" means a person that is not a public utility and that
24 is any of the following:

1 a. A person that is engaged in the production, transmission, delivery or
2 furnishing of heat, light, power or natural gas either directly or indirectly to or for
3 the use of the public in another state.

4 b. A lessee, trustee or court-appointed receiver of a person specified in subd.
5 1. a.

6 c. A person that, in any chain of successive ownership, directly or indirectly as
7 a beneficial owner, owns, controls or holds 5% or more of the outstanding voting
8 securities or other voting interest of a person specified in subd. 1. a., with the
9 unconditional power to vote the securities or interest.

10 2. "Out-of-state utility" does not include a person specified in subd. 1. a. that
11 is, or is owned or wholly operated by, a municipal electric company, municipality or
12 cooperative association.

13 (c) 1. "Public utility" means any of the following:

14 a. A person that is engaged in the production, transmission, delivery or
15 furnishing of heat, light, power or natural gas either directly or indirectly to or for
16 the use of the public in this state.

17 b. A lessee, trustee or court-appointed receiver of a person specified in subd.
18 1. a.

19 2. "Public utility" does not include a person specified in subd. 1. a. that is, or
20 is owned or wholly operated by, a municipal electric company, municipality or
21 cooperative association.

22 **(2) IN GENERAL.** Except as provided in subs. (3) and (5):

23 (a) A public utility may not engage in an activity related to the sale, leasing or
24 service of appliances.

1 (b) A public utility may not engage in the performance of an energy
2 conservation, plumbing, electrical, heating, ventilating, air conditioning or sheet
3 metalworking contracting service unless the service is performed in or on exempt
4 real property, as defined in s. 196.795 (1) (fm).

5 **(3) EMERGENCY APPLIANCE SERVICE WORK.** A public utility shall engage in
6 appliance service work in response to circumstances that reasonably appear to the
7 public utility to endanger property or human health or life. The commission shall
8 promulgate rules setting standards for a public utility to use in determining whether
9 property or human health or life is endangered.

10 **(5) CONTRACTS OR ARRANGEMENTS WITH AFFILIATED INTERESTS.** Except as provided
11 in sub. (6), a public utility may provide services to an affiliated interest pursuant to
12 a contract or arrangement approved under s. 196.52.

13 **(5m) VOTING SECURITIES.** A public utility may acquire the voting securities or
14 other voting interest of an affiliated interest only in exchange for cash.

15 **(6) SEPARATION BETWEEN PUBLIC UTILITIES AND AFFILIATED INTERESTS.** (a) *In*
16 *general.* 1. A public utility may not do any of the following:

17 a. Except as provided in subd. 4. a., share with or lease, sell or transfer to an
18 affiliated interest any building, office space, equipment or research.

19 am. Share with or lease, sell or transfer to an affiliated interest any service or
20 system related to appliances or any energy conservation, plumbing, electrical,
21 heating, ventilating, air conditioning or sheet metalworking contracting service or
22 system.

23 b. Allow an affiliated interest access to the public utility's computer or other
24 information systems.

1 c. Share or subsidize the costs of an affiliated interest's research and
2 development activities.

3 d. Jointly purchase with an affiliated interest any goods or services.

4 e. Jointly use with an affiliated interest any system for support or corporate
5 oversight or governance.

6 1m. An affiliated interest may not do any of the following:

7 a. Except as provided in subd. 4. b., share with or lease, sell or transfer to a
8 public utility or out-of-state utility any building, office space, equipment or research
9 in this state.

10 am. Share with or lease, sell or transfer to a public utility or out-of-state utility
11 any service or system in this state related to appliances or energy conservation,
12 plumbing, electrical, heating, ventilating, air conditioning or sheet metalworking
13 contracting service or system in this state.

14 b. Allow a public utility or out-of-state utility access to the affiliated interest's
15 computer or other information systems in this state.

16 c. Share or subsidize the costs of the research and development activities in this
17 state of a public utility or out-of-state utility.

18 d. Jointly purchase with a public utility or out-of-state utility any goods or
19 services for use in this state.

20 e. Jointly use in this state with a public utility or out-of-state utility any
21 system for support or corporate oversight or governance.

22 3. An affiliated interest and a public utility or out-of-state utility shall
23 maintain separate books and records.

24 4. a. A public utility may sell real property to an affiliated interest only by a
25 public sale or by offering the real property to the highest qualified bidder.

1 b. An affiliated interest may sell real property in this state to a public utility
2 or out-of-state utility only by a public sale or by offering the real property to the
3 highest qualified bidder.

4 (b) *Restrictions on employes.* 1. A public utility may not do any of the following:

5 a. Lease any of its employes to an affiliated interest.

6 b. Employ the employes, board members or officers of an affiliated interest.

7 c. Employ a person who was formerly employed by an affiliated interest during
8 the 180-day period immediately prior to the person's employment by the public
9 utility if the person was not employed by the affiliated interest for the entire 180-day
10 period.

11 1m. An affiliated interest may not do any of the following:

12 a. Lease any of its employes in this state to a public utility or out-of-state
13 utility.

14 b. Employ in this state the employes, board members or officers of a public
15 utility or out-of-state utility.

16 c. Employ a person in this state who was formerly employed by a public utility
17 or out-of-state utility with which the affiliated interest is affiliated during the
18 180-day period immediately prior to the person's employment by the affiliated
19 interest if the person was not employed by the public utility or out-of-state utility
20 for the entire 180-day period.

21 3. A public utility shall provide an annual report to the commission that
22 describes its employment of persons formerly employed by an affiliated interest of
23 the public utility.

24 (c) *Marketing activities.* 1. A public utility may not do any of the following:

25 a. Promote or advertise its affiliation with an affiliated interest.

- 1 b. Use the brand name, trademark or logo of an affiliated interest.
- 2 c. Use any type of marketing identification that resembles a type used by an
3 affiliated interest.
- 4 d. Provide any information about its customers to an affiliated interest.
- 5 e. Participate with an affiliated interest in any marketing activity, including
6 advertising, sales calls, proposals to existing or potential customers or trade shows,
7 conferences or similar events.
- 8 1m. An affiliated interest may not do any of the following:
- 9 a. Promote or advertise in this state its affiliation with a public utility or
10 out-of-state utility.
- 11 b. Use in this state the brand name, trademark or logo of a public utility or
12 out-of-state utility.
- 13 c. Use in this state any type of marketing identification that resembles a type
14 used by a public utility or out-of-state utility.
- 15 d. Provide any information about its customers in this state to a public utility
16 or out-of-state utility.
- 17 e. Participate with a public utility or out-of-state utility in any marketing
18 activity in this state, including advertising, sales calls, proposals to existing or
19 potential customers or trade shows, conferences or similar events.
- 20 2. A public utility may not provide an affiliated interest with advertising or
21 promotional space on any form of communication, including a bill envelope, to a
22 customer or potential customer of the public utility.
- 23 (d) *Nondiscrimination.* 1. A public utility may not treat its customers who are
24 also customers of an affiliated interest any differently than the public utility treats
25 its customers who are not also customers of an affiliated interest.

1 2. An affiliated interest may not treat its customers in this state who are also
2 customers of a public utility or out-of-state utility with which the affiliated interest
3 is affiliated any differently than the affiliated interest treats its customers who are
4 not customers of the public utility or out-of-state utility.

5 (e) *Providing certain information to customers.* Except as directed by the
6 commission, a public utility may not provide its customers with any information
7 about persons who provide heating, ventilating, air conditioning, plumbing or
8 electrical services or who sell, lease or repair appliances.

9 **(7) PRIVATE CAUSE OF ACTION AND FORFEITURE.** A public utility or affiliated
10 interest that violates this section or rules promulgated under this section is liable to
11 any person injured by the violation for 3 times the amount of damages incurred as
12 a result of the violation, together with costs and, notwithstanding s. 814.04 (1),
13 reasonable attorney fees, and shall forfeit \$2,000 for each violation. Each day of
14 violation is a separate violation.

15 **SECTION 2.** 196.374 (1) of the statutes is renumbered 196.374 (1) (intro.) and
16 amended to read:

17 196.374 **(1)** (intro.) In this section “utility”:

18 **(b)** “Utility” means a class A gas or electric utility, as defined by the commission.

19 **(1g)** Every utility shall ~~spend~~ annually contribute at least 0.5% of its total
20 annual operating revenues ~~on to fund the programs designed to promote and~~
21 ~~accomplish energy conservation established by the commission under sub. (1r) (a).~~

22 The commission may require a utility to ~~spend annually for the purpose of promoting~~
23 ~~and accomplishing energy conservation,~~ contribute an amount which is more or less
24 than 0.5% of its annual operating revenues if, after notice and hearing, the
25 commission finds that the ~~expenditure of such amount~~ requirement is in the public

1 interest. Except as provided in s. 196.035 (2) (b) or sub. (1r) (b), a utility, other than
2 a municipal utility, may not provide energy conservation services to consumers,
3 either directly or through a contract or any other arrangement with another person.

4 **SECTION 3.** 196.374 (1) (a) of the statutes is created to read:

5 196.374 (1) (a) “Municipal utility” means a utility that is, or is owned or wholly
6 operated by, a municipal electric company, as defined in s. 66.073 (3) (d), or a city,
7 village or town.

8 **SECTION 4.** 196.374 (1r) of the statutes is created to read:

9 196.374 (1r) (a) The commission shall establish programs funded under sub.
10 (1g) that promote and, to the extent practicable, accomplish energy conservation.
11 The commission shall develop a request-for-proposals procedure for selecting
12 persons to administer or implement the programs established under this paragraph.
13 Except as provided in par. (b), a utility, other than a municipal utility, may not
14 participate in the administration or implementation of a program established under
15 this paragraph.

16 (b) The commission may require a utility, other than a municipal utility, to
17 administer or implement a program established under par. (a) for low-income
18 customers. The commission shall promulgate a rule that defines “low-income
19 customers” for purposes of this paragraph.

20 **SECTION 5.** 196.374 (2) of the statutes is repealed.

21 **SECTION 6.** 196.374 (2m) of the statutes is created to read:

22 196.374 (2m) (a) A utility may engage in efforts to educate consumers about
23 energy conservation, but, except for a municipal utility, may not identify, recommend
24 or suggest any specific person that provides energy conservation services or brand
25 of product that is used for energy conservation.

1 (b) Except for contributions under sub. (1g) or the administration or
2 implementation of programs under sub. (1r) (b), a utility, other than a municipal
3 utility, may not provide any financial assistance to a consumer with respect to any
4 energy conservation effort undertaken by or on behalf of the consumer.

5 **SECTION 7.** 196.52 (3) (a) of the statutes is renumbered 196.52 (3) (a) (intro.)
6 and amended to read:

7 196.52 (3) (a) (intro.) In this subsection, ~~“contract;~~

8 1. “Contract or arrangement” means a contract or arrangement providing for
9 the furnishing of management, supervisory, construction, engineering, accounting,
10 legal, financial, research, development or similar services and any contract or
11 arrangement for the purchase, sale, lease or exchange of any property, right, or thing,
12 or for the furnishing of any service, property, right, or thing, other than management,
13 supervisory, construction, engineering, accounting, legal, financial or similar
14 services.

15 (am) Except as provided under par. (b), unless and until the commission gives
16 its written approval, any contract or arrangement is not valid or effective if the
17 contract or arrangement is made between a public utility and an affiliated interest
18 after June 7, 1931. Every public utility shall file with the commission a verified copy
19 of any contract or arrangement, a verified summary of any unwritten contract or
20 arrangement, and any contract or arrangement, written or unwritten, which was in
21 effect on June 7, 1931. The commission ~~shall~~ may approve a contract or arrangement
22 made or entered into after June 7, 1931, only if ~~it shall clearly appear and be~~
23 ~~established upon~~ all of the following conditions are met:

24 2. After investigation, the commission determines that it the contract or
25 arrangement is reasonable and consistent with the public interest and does not

1 result in a violation of s. 196.035 (6) or 196.795 (5) (f). The commission may not
2 approve any contract or arrangement unless satisfactory proof is submitted to the
3 commission of the cost to the affiliated interest of rendering the services or of
4 furnishing the property or service to each public utility or of the cost to the public
5 utility of rendering the services or of furnishing the property or service to each
6 affiliated interest. No proof is satisfactory under this ~~paragraph~~ subdivision unless
7 it includes the original (or verified copies) of the relevant cost records and other
8 relevant accounts of the affiliated interest, or an abstract of the records and accounts
9 or a summary taken from the records and accounts if the commission deems the
10 abstract or summary adequate. The accounts shall be properly identified and duly
11 authenticated. The commission, where reasonable, may approve or disapprove a
12 contract or arrangement without submission of the cost records or accounts.

13 **SECTION 8.** 196.52 (3) (a) 2. of the statutes is created to read:

14 196.52 (3) (a) 2. "Exempt real property" has the meaning given in s. 196.795
15 (1) (fm).

16 **SECTION 9.** 196.52 (3) (am) 1. of the statutes is created to read:

17 196.52 (3) (am) 1. If the contract or arrangement involves an activity related
18 to the sale, lease or service of appliances, as defined in s. 196.795 (1) (b), or the
19 performance of energy conservation, plumbing, electrical, heating, ventilating, air
20 conditioning or sheet metalworking contracting services, the activity or service is
21 performed in or on exempt real property.

22 **SECTION 10.** 196.52 (3) (b) 1. of the statutes is amended to read:

23 196.52 (3) (b) 1. The Except for a contract or arrangement specified in par. (am)
24 1. that involves an activity or service that is performed on exempt real property, the
25 requirement for written approval under par. (a) (am) shall not apply to any a contract

1 or arrangement if the amount of consideration involved is not in excess of \$25,000
2 or 5% of the equity of the public utility, whichever is smaller, and does not apply to
3 a telecommunications utility contract or arrangement. Regularly recurring
4 payments under a general or continuing arrangement which aggregate a greater
5 annual amount may not be broken down into a series of transactions to come within
6 the exemption under this paragraph. Any transaction exempted under this
7 paragraph shall be valid or effective without commission approval under this
8 section.

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

10 196.52 (3) (c) 1. May not waive the requirement of the submission of cost
11 records or accounts under par. ~~(a)~~ (am);

12 **SECTION 12.** 196.52 (3) (c) 2. of the statutes is amended to read:

13 196.52 (3) (c) 2. Shall review the accounts of the affiliated interest as they relate
14 to the contract or arrangement prior to the commission approving or disapproving
15 the contract or arrangement under par. ~~(a)~~ (am); and

16 **SECTION 13.** 196.52 (3) (d) of the statutes is created to read:

17 196.52 (3) (d) On the effective date of this paragraph [revisor inserts date],
18 each public utility and affiliated interest that, before the effective date of this
19 paragraph [revisor inserts date], have entered into a contract or arrangement that
20 involves an activity related to the sale, lease or service of appliances, or that involves
21 the performance of energy conservation, plumbing, electrical, heating, ventilating,
22 air conditioning or sheet metalworking contracting services, shall terminate the
23 contract or arrangement if the activity or service is not performed in or on exempt
24 real property. In this paragraph, "public utility" does not include a public utility that

1 is, or is owned or wholly operated by, a municipal electric company, as defined in s.
2 66.073 (3) (d), or a city, village or town.

3 **SECTION 14.** 196.52 (4) (a) of the statutes is amended to read:

4 196.52 (4) (a) In any proceeding, whether upon the commission's own motion
5 or upon application or complaint, involving the rates or practices of any public utility,
6 the commission may exclude from the accounts of the public utility any payment or
7 compensation to or from an affiliated interest for any services rendered or property
8 or service furnished under an existing contract or arrangement with an affiliated
9 interest under sub. (3) ~~(a) unless the public utility establishes the reasonableness of~~
10 ~~the payment or compensation~~ (am).

11 **SECTION 15.** 196.52 (6) of the statutes is amended to read:

12 196.52 (6) If the commission finds upon investigation that a public utility, other
13 than a telecommunications utility, is giving effect to a contract or arrangement
14 without the commission's approval under this section, the commission shall issue a
15 summary order directing that public utility to cease and desist from making any
16 payments, receiving compensation, providing any service or otherwise giving any
17 effect to the contract or arrangement until the contract or arrangement receives the
18 approval of the commission. The circuit court of Dane county may enforce the order
19 to cease and desist by appropriate process, including the issuance of a preliminary
20 injunction, upon the suit of the commission and may require a public utility to forfeit
21 \$2,000 for each day that the public utility has given effect to a contract or
22 arrangement without the commission's approval.

23 **SECTION 16.** 196.52 (7m) of the statutes is created to read:

24 196.52 (7m) A public utility who violates sub. (3) (am) is liable to any person
25 injured as a result of the violation for 3 times the amount of damages incurred as a

1 result of the violation, together with costs and, notwithstanding s. 814.04 (1),
2 reasonable attorney fees.

3 **SECTION 17.** 196.59 of the statutes is amended to read:

4 **196.59 Merchandising by utilities.** Each public utility engaged in the
5 production, transmission, delivery or furnishing of heat, light or power either
6 directly or indirectly to or for the use of the public shall keep separate accounts to
7 show any profit or loss resulting from the sale of ~~appliances or other~~ merchandise.
8 The commission may not take the profit or loss into consideration in arriving at any
9 rate to be charged for service by the public utility.

10 **SECTION 18.** 196.795 (1) (b) of the statutes is amended to read:

11 196.795 (1) (b) “Appliance” means any equipment used directly for lighting,
12 cooking, drying, water tempering, space heating, space cooling or space ventilation.
13 “Appliance” does not include equipment or devices which monitor or control the
14 primary energy supply or source for any equipment used directly for lighting,
15 cooking, drying, water tempering, space heating, space cooling or space ventilation.

16 **SECTION 19.** 196.795 (1) (fm) of the statutes is created to read:

17 196.795 (1) (fm) “Exempt real property” means real property that satisfies any
18 of the following:

19 1. A public utility has an ownership or leasehold interest in the real property.

20 2. Except for real property that is an improvement, a public utility has an
21 easement in the real property.

22 3. A public utility that is owned or operated wholly by a municipality or
23 municipal electric company or a municipality or municipal electric company has an
24 ownership or leasehold interest in the real property.

1 4. A cooperative association, as defined in s. 196.035 (1) (bg), has an ownership
2 or leasehold interest in the real property.

3 **SECTION 20.** 196.795 (1) (ik) of the statutes is created to read:

4 196.795 (1) (ik) “Municipal electric company” has the meaning given in s.
5 66.073 (3) (d).

6 **SECTION 21.** 196.795 (1) (im) of the statutes is created to read:

7 196.795 (1) (im) “Municipality” means a city, village or town.

8 **SECTION 22.** 196.795 (5) (q) 1. of the statutes is repealed.

9 **SECTION 23.** 196.795 (5) (q) 2. (intro.) of the statutes is renumbered 196.795 (5)
10 (q) and amended to read:

11 196.795 (5) (q) ~~Except as provided under subd. 3., no~~ No public utility affiliate
12 or its subsidiary or a joint venture or partnership having a utility affiliate or its
13 subsidiary as a member or partner may, in the service territory of the public utility
14 affiliate, sell at retail, lease, install, maintain or service any appliance that uses as
15 its primary energy source energy supplied by that public utility affiliate under rates
16 and tariffs approved by the commission, unless the appliance is located in facilities
17 owned or operated by that public utility affiliate or its subsidiary or unless the
18 appliance is sold, leased, installed, maintained or serviced: located on exempt real
19 property.

20 **SECTION 24.** 196.795 (5) (q) 2. a. of the statutes is repealed.

21 **SECTION 25.** 196.795 (5) (q) 2. b. of the statutes is repealed.

22 **SECTION 26.** 196.795 (5) (q) 2. c. of the statutes is repealed.

23 **SECTION 27.** 196.795 (5) (q) 3. of the statutes is repealed.

24 **SECTION 28.** 196.795 (5) (q) 4. of the statutes is repealed.

25 **SECTION 29.** 196.795 (7) (a) 2. of the statutes is repealed.

1 **SECTION 30.** 196.795 (7) (a) 3. of the statutes is amended to read:

2 196.795 (7) (a) 3. Conduct a business that is functionally related to the
3 ~~provision of utility service or to the development or acquisition of energy resources.~~

4 **SECTION 31.** 196.795 (9m) of the statutes is amended to read:

5 196.795 (9m) (title) PRIVATE CAUSE OF ACTION AND FORFEITURE. Any company in
6 a holding company system which does, causes or permits to be done any prohibited
7 action under sub. (5) (c) to (dr), (f), (h), (k), (n), (q), (r) or (s), or fails to comply with
8 any term, limitation or condition imposed under sub. (2) (e) or (f) consistent with sub.
9 (5) (c) to (dr), (f), (h), (k), (n), (q), (r) or (s), is liable to any person injured thereby ~~in~~
10 treble for 3 times the amount of damages sustained in consequence incurred as a
11 result of the prohibited action or failure to act, together with costs and,
12 notwithstanding s. 814.04 (1), reasonable attorney fees, and shall forfeit \$2,000 for
13 each violation or failure to comply. Each day of violation or failure to comply is a
14 separate violation or failure to comply.

15 **SECTION 32. Initial applicability.**

16 (1) CONTRACTS OR ARRANGEMENTS WITH AFFILIATES. The treatment of sections
17 196.52 (3) (am) 1. and 196.795 (1) (b) of the statutes, the renumbering and
18 amendment of section 196.52 (3) (a) of the statutes and the creation of section 196.52
19 (3) (a) 2. of the statutes first apply to contracts or arrangements entered into,
20 renewed, extended or modified on the effective date of this subsection.

21 (2) SEPARATION BETWEEN PUBLIC UTILITIES AND AFFILIATED INTERESTS. The
22 treatment of sections 196.035, 196.52 (3) (a) 2. and 196.795 (1) (b) of the statutes first
23 applies to contracts for leases, sales or purchases or transactions that are entered
24 into, renewed, extended or modified on the effective date of this subsection.

25 (3) FORFEITURES AND ATTORNEY FEES.

1 (4) The treatment of section 196.795 (9m) of the statutes first applies to
2 violations or failures to comply that occur on the effective date of this paragraph.

3 (5) The treatment of section 196.52 (6) and (7m) of the statutes first applies to
4 contracts to which a public utility gives effect on, and violations that occur on, the
5 effective date of this paragraph.

6 **SECTION 33. Effective date.**

7 (1) This act takes effect on the first day of the 18th month beginning after
8 publication.

9 (END)