



ENGROSSED 2009 ASSEMBLY BILL 696

April 21, 2010 - Printed by direction of SENATE CHIEF CLERK.

1 **AN ACT** *to repeal* 196.09 (9), 196.19 (1m), 196.19 (5), 196.194 (1), 196.194 (2)
2 (title), 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
4 (3) (dm), 196.203 (3) (e), 196.203 (4), 196.204 (1), 196.204 (2), 196.204 (3),
5 196.204 (4), 196.204 (5) (b), 196.204 (6), 196.205, 196.213, 196.215, 196.219
6 (2m), 196.219 (3) (h), 196.26 (4), 196.49 (1) (ag), 196.49 (3) (d), 196.50 (1) (b) 1.
7 and 2., 196.50 (2) (g) 3., 196.50 (2) (h), 196.52 (5) (b), 196.60 (2), 196.77, 196.79
8 (2), 196.805 and 201.15; **to renumber** 196.50 (1) (b) 3. and 196.52 (5) (a); **to**
9 **renumber and amend** 196.194 (2), 196.198 (2) (a), 196.203 (1), 196.203 (2),
10 196.203 (3) (a), 196.204 (5) (ag), 196.204 (5) (ar), 196.79 (1) and 196.975 (1); **to**
11 **amend** 93.01 (1m), 133.07 (2), 196.02 (2), 196.09 (1), 196.13 (2), 196.195 (1),
12 196.195 (5), 196.195 (12) (a), 196.195 (12) (b) 3., 196.198 (3) (intro.), 196.198 (3)
13 (a), 196.198 (3) (b) (intro.), 196.20 (1), 196.20 (2) (a) (intro.), 196.20 (2m),
14 196.203 (5), 196.218 (3) (a) 3m., 196.218 (3) (f), 196.218 (5r) (title), 196.218 (5r)

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1 (a) 4., 196.219 (1) (b), 196.219 (2) (a), 196.26 (1) (a), 196.28 (4), 196.31 (1m),
2 196.37 (3), 196.37 (4), 196.49 (3) (b) (intro.), 196.50 (title), 196.50 (2) (a), 196.50
3 (2) (b), 196.50 (2) (f), 196.52 (3) (b) 1., 196.52 (3) (c) (intro.), 196.52 (6), 196.52
4 (9) (e), 196.60 (1) (a), 196.604 and 196.975 (2); **to repeal and recreate** 196.204
5 (title) and 196.218 (4); and **to create** 196.01 (1d) (g), 196.01 (3a), 196.01 (12w),
6 196.016, 196.191, 196.203 (1d), 196.203 (2) (b), 196.203 (2) (c), 196.203 (2) (d),
7 196.203 (4m), 196.206, 196.218 (1) (a), 196.219 (2r), 196.50 (2) (i), 196.50 (2) (j),
8 196.503 and 196.975 (1g) of the statutes; **relating to:** authority of the Public
9 Service Commission over certain telecommunications utilities,
10 telecommunications provider of last resort obligations, telecommunications
11 switched access service rates, and interconnected voice over Internet protocol
12 service.

Analysis by the Legislative Reference Bureau***Engrossment information:***

The text of Engrossed 2009 Assembly Bill 696, as passed by the assembly on April 20, 2010, consists of the following documents adopted in the assembly on April 20, 2010: the bill as affected by Assembly Amendment 3 (as affected by Assembly Amendment 1 thereto) and Assembly Amendment 4. In engrossing, SECTION 6m was renumbered SECTION 5r and relocated to correct the order of sections.

Content of Engrossed 2009 Assembly Bill 696:

The bill does all of the following: 1) makes changes to the authority of the Public Service Commission (PSC) over telecommunications utilities; 2) specifies the PSC's authority over switched access and wholesale telecommunications service; 3) creates requirements for telecommunications utility tariffs; 4) specifies the PSC's authority over interconnected voice over Internet protocol (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; and 7) makes other changes, including repealing provisions regarding access services and discrimination in favor of telecommunications affiliates.

TELECOMMUNICATIONS UTILITY REGULATION

Under current law, a telecommunications provider that provides basic local exchange service is defined to be a telecommunications utility. The PSC's authority over a telecommunications utility depends on whether the PSC has certified the

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telecommunications utility as 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. The bill limits the requirements 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 other interconnection requirements; 7) telephone caller identification, pay-per-call, and toll-free services; 8) PSC privacy rules; 9) universal service and contributions to the state universal service fund; 10) impairment of speed, quality or efficiency of services, products, or facilities offered to consumers; 11) access to telecommunications emergency services; 12) compliance with price lists, contracts, and PSC rules and orders regarding providing consumers with service, products, or facilities; 13) restrictions on resale or sharing certain services, products, and facilities; 14) violations of rules of the Department of Agriculture, Trade and Consumer Protection (DATCP) regarding advertising and sales and collection practices; 15) transfer of local exchange customers to other telecommunications providers; 16) late payment charges; 17) PSC questionnaires and other information requests; 18) PSC hearings on consumer complaints; 19) changes to PSC orders and reopening PSC cases; 20) PSC-required tests; 21) conditional, emergency, and supplemental PSC orders; 22) timing of effect of PSC orders; 23) court review of PSC orders; 24) injunction procedures; 25) enforcement duties of the PSC, the attorney general, and district attorneys and related court venues; 26) penalties related to information and record requests; 27) forfeitures; 28) abandonment or discontinuance of lines, services, and rights-of-way; 29) assessments for reimbursement of PSC expenses; 30)

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assessments for telephone relay service; and 31) assessments for enforcement of certain consumer protection requirements by DATCP.

The bill provides that if the PSC imposes any of the foregoing requirements on an ATU, the PSC must impose the same requirement at the same level of regulation on all other ATUs. In addition, the bill provides that an ATU that provides interconnected VOIP service is subject to the requirements described below. Also, the bill allows an ATU to elect to subject itself to the tariff requirements described below. The bill also 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. In addition, with certain exceptions, the bill allows the PSC to deny certification as an ATU 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.

TUs. The bill exempts TUs from requirements relating to all of the following: 1) PSC classification of public utility service; 2) PSC valuation of utility property; 3) accounting requirements, including depreciation rates and new construction accounting; 4) reporting of expenses, profit, and other items; 5) PSC reports of utility property values and other financial data; 6) filing of rates and PSC approval of rates; 7) PSC investigations of rates and services; 8) construction, installation, or operation of new facilities; 9) PSC approval of certain contracts; 10) certain municipal authority to regulate public utilities; 11) dissolution and reorganization; and 12) issuance of securities. However, as discussed below, some of the foregoing exemptions do not apply to wholesale telecommunications service or switched access service. The bill makes changes to current law to ensure that small TUs, and TUs that are cooperatives, are subject to the foregoing exemptions. In addition, the bill repeals the requirements that apply to TUs under current law that apply to the following: 1) offering new telecommunications services, or services jointly offered with other TUs; 2) classification of TU service; 3) promotional rates; 4) PSC authority regarding contracts between TUs and individual customers; and 5) consolidations and mergers. Also, the bill repeals price regulation of TUs and terminates any requirements imposed by the PSC on price-regulated TUs.

The bill also allows a TU to terminate its certification as a TU and require the PSC to certify the TU as an ATU and issue an order terminating all regulatory requirements related to the TU certification, except for certain requirements regarding wholesale telecommunications service as discussed below. Upon certification as an ATU, the formerly certified TU is subject to the same requirements as an ATU. In addition, the bill allows a TU to require the PSC to issue an order recertifying the TU as a TU, but regulating the TU like an ATU. Such a recertification terminates the TU's prior certification, and all regulatory

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requirements related to the prior certification, with the same exception for wholesale telecommunications service.

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 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. The bill also provides that certification of a TU as an ATU, or recertification of a TU as a TU that is regulated like an ATU, does not terminate any PSC order regarding interconnection, unbundling, collocation, or any obligation under federal interconnection law or regarding wholesale telecommunications services.

SWITCHED ACCESS AND WHOLESALE TELECOMMUNICATIONS SERVICE

The bill creates requirements that apply to switched access and wholesale telecommunications service provided by ATUs and TUs. The bill defines "wholesale telecommunications service" as a service, other than a switched access service, that is: 1) provided by one telecommunications provider to another who is not an affiliate; 2) subject to regulation by the commission; and 3) subsequently used in the provision of a telecommunications service to retail end user customers. The bill does not define "switched access service," but that term refers to a service by which one TU or ATU provides access to its switched network to a second TU or ATU so that customers of the second TU or ATU can complete calls to customers of first TU or ATU.

Switched access service. The bill allows the PSC to impose on an ATU, but only with respect to switched access services, requirements under current law regarding the duty to provide reasonable service at reasonable and just rates (reasonable service and rates duty) and the authority of the PSC to issue orders regarding unreasonable or inadequate service (PSC unreasonable service authority). If the ATU required the PSC to recertify the ATU as an ATU as described above, the PSC may impose the foregoing requirements only if required by the public interest.

With respect to a TU, including a TU that recertifies as a TU but is regulated like an ATU, the following requirements apply: 1) if the TU has 50,000 or less access lines in the state, the TU is subject to the reasonable service and rates duty, but only with respect to the TU's switched access service; 2) if the TU has more than 50,000 and less than 150,000 access lines in this state, the TU is subject to the reasonable service and rates duty and the PSC unreasonable service authority, but only with respect to the TU's switched access service.

If a TU has 150,000 or more access lines in this state, the TU's intrastate access service rates may not exceed the TU's interstate access service rates for similar access services, except that the TU is not allowed to assess an intrastate carrier common line charge or a substitute charge. Except to enforce the foregoing requirements, the bill provides that the PSC may not review or set the access rates

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for a TU with 150,000 or more access lines in this state. In addition, the foregoing requirements regarding a TU with 150,000 or more access lines in this state do not apply to a TU that recertifies as a TU but is regulated like an ATU.

In addition, the bill provides that any reduction in switched access service rates ordered by the PSC prior to the bill's effective date remain effective unless modified by the PSC in a subsequent order.

Wholesale telecommunications service. The bill allows the PSC to impose on an ATU, but only with respect to wholesale telecommunications service, the reasonable service and rates duty and the PSC unreasonable service authority, as well as requirements under current law regarding the PSC's enforcement authority for certain consumer protection requirements (PSC consumer enforcement authority) and the PSC's investigative authority. If the ATU required the PSC to recertify the ATU as an ATU as described above, the PSC may impose the foregoing requirements only if required by the public interest.

In addition, if an ATU is a former TU that recertified as an ATU under the bill, the ATU is subject, with respect to only wholesale telecommunications services, the requirements that the PSC is allowed to impose on an ATU. Those requirements apply with respect to wholesale telecommunications service even if the PSC does not impose them on such an ATU. Also, those requirements apply to a TU with respect to wholesale telecommunications service, regardless of whether the TU elects to certify as an ATU or recertify as a TU that is regulated like an ATU.

TARIFFS

The bill allows a TU or ATU to do any of the following: 1) retain on file with PSC tariffs showing the service rates, tolls, and charges the TU or ATU has established; 2) withdraw or change the rates, terms, or conditions of a tariff filed with the PSC; or 3) file new tariffs with the PSC. If a TU or ATU files a new tariff, the tariff must include all terms and conditions that apply to services specified in the tariff, as well as the service rates. In addition, the new tariff is effective as specified in the tariff, unless the PSC, with ten days after the filing, suspends the new tariff. The PSC may modify the new tariff only to the extent permitted by the PSC's authority over the TU or ATU, and only after granting the TU or ATU an opportunity for a hearing. If the PSC fails to comply with deadlines in the bill regarding the new tariff, the new tariff is effective as filed.

The bill also provides that a proposed change in a tariff is effective as specified in the tariff, except for changes that constitute increases in switched access service rates. If an increase mirrors interstate switched access service rates, the increase goes into effect on the tenth day after the change in the tariff is filed, unless the PSC suspends the rate increase and initiates an investigation. Other increases in switched access rates are not effective until the PSC approves the increase, based on specified public interest factors, after an opportunity for hearing.

In addition, the bill allows a tariff for a service which permits a TU or 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 ATU from receiving for a service more or less compensation than that specified for the service in the tariff, and

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prohibits a TU or 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.

INTERCONNECTED VOIP SERVICE

With certain exceptions, the bill provides that interconnected VOIP service is exempt from PSC regulation. The bill provides that interconnected VOIP 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 a person who provides active retail voice communications service, who also provides interconnected VOIP service, must make contributions to the state universal service fund based on its revenues from providing the service. The bill specifies the methods for calculating the revenues. Another exception is that, unless otherwise provided under federal law, interconnected VOIP services are subject to intrastate access charges to the same extent as telecommunications utilities are subject to the charges. Under additional exceptions, providers of interconnected VOIP service must impose the monthly police and fire protection fee on its customers and pay assessments for DATCP enforcement of certain consumer protection requirements.

UNIVERSAL SERVICE

Current law requires the PSC to promulgate rules that define a basic set of essential telecommunications services that must be available to all customers at affordable prices and that are a necessary component of universal service. Current law also requires the PSC to promulgate rules that define a set of advanced service capabilities that must be available to all areas of this state at affordable prices within a reasonable time and that are a necessary component of universal service. The essential services and advanced service capabilities 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 and requires instead that certain telecommunications providers must make available to their customers all essential telecommunications services. The bill defines "essential telecommunications services" as services or functionalities determined by the FCC to be eligible for support by federal universal service support mechanisms. The bill's requirements apply to a telecommunications provider that provides basic local exchange service or 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.

BASIC VOICE SERVICE

The bill requires an ILEC to make basic voice service available to all residential and small business 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, and "small business customer" is defined as a business with three or fewer telephone lines. In providing basic voice service, an ILEC must also provide

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a customer the ability to utilize a dial-up Internet access service or an equivalent service. The bill allows an ILEC to provide basic voice service through an affiliate, or through the use of interconnected VOIP service or 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 based on the filing of a waiver request, the PSC is considered to have granted the waiver. 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 until after May 1, 2011. 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, 2015.

OTHER CHANGES

The bill repeals a requirement under current law for TUs and other telecommunications providers to provide, with certain exceptions, access services under tariffs under the same rates, terms, and conditions to all telecommunications providers. "Access service" is defined under current law, in part, as the provision of switched or dedicated access to a local exchange network for the purpose of enabling a telecommunications provider to originate or terminate telecommunications service. The bill also repeals a prohibition under current law on a TU, with respect to its regulated services, or a telecommunications provider, with respect to its offering of local exchange services, from giving preference or discriminating in the provision of services, products, or facilities to an affiliate or to the consumer retail department of the TU, telecommunications provider, or affiliate. Under current law, the foregoing prohibition applies to the extent the preference or discrimination is prohibited under federal law or the PSC's rules.

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

1 **SECTION 2.** 93.01 (1m) of the statutes is amended to read:
 2 93.01 (1m) "Business" includes any business, except that of banks, savings
 3 banks, credit unions, savings and loan associations, and insurance companies.
 4 "Business" includes public utilities and telecommunications carriers to the extent
 5 that their activities, beyond registration, notice, and reporting activities, are not
 6 regulated by the public service commission and includes public utility and
 7 telecommunications carrier methods of competition or trade and advertising

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1 practices that are exempt from regulation by the public service commission under s.
2 196.195, ~~196.196~~, 196.202, 196.203, 196.219, or 196.499 or by other action of the
3 commission.

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

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

13 **SECTION 4.** 196.01 (1d) (g) of the statutes is created to read:

14 196.01 (1d) (g) A telecommunications utility that provides notice to the
15 commission under s. 196.50 (2) (j) 1. a.

16 **SECTION 5.** 196.01 (3a) of the statutes is created to read:

17 196.01 (3a) “Interconnected voice over Internet protocol service” has the
18 meaning given in 47 CFR 9.3.

19 **SECTION 5m.** 196.01 (12w) of the statutes is created to read:

20 196.01 (12w) (a) “Wholesale telecommunications service” means, except as
21 provided in par. (b), a service that satisfies all of the following:

22 1. The service is provided by a telecommunications provider to another
23 telecommunications provider other than an affiliated interest, as defined in s. 196.52
24 (1).

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

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1 3. The service is subsequently used in the provision of a telecommunications
2 service to retail end user customers.

3 (b) “Wholesale telecommunications service” does not include switched access
4 service.

5 **SECTION 5r.** 196.016 of the statutes is created to read:

6 **196.016 Relationship to certain federal telecommunications law.**

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

12 **SECTION 6.** 196.02 (2) of the statutes is amended to read:

13 196.02 (2) DEFINITION; CLASSIFICATION. ~~In this subsection, “public utility” does~~
14 ~~not include a telecommunications cooperative, an unincorporated~~
15 ~~telecommunications cooperative association, or a small telecommunications utility~~
16 ~~except as provided under s. 196.205 or 196.215 (2) and does not include an alternative~~
17 ~~telecommunications utility.~~ The commission shall provide for a comprehensive
18 classification of service for each public utility. The classification may take into
19 account the quantity used, the time when used, the purpose for which used, and any
20 other reasonable consideration. Each public utility shall conform its schedules of
21 rates, tolls and charges to such classification.

22 **SECTION 7.** 196.09 (1) of the statutes is amended to read:

23 196.09 (1) ~~In this section, “public utility” does not include a~~
24 ~~telecommunications cooperative or an unincorporated telecommunications~~
25 ~~cooperative association except as provided under s. 196.205. In subs. (2) to (7),~~

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1 ~~“public utility” does not include a telecommunications utility. Subsection (9) only~~
2 ~~applies to a telecommunications utility.~~ Every public utility shall file with the
3 commission, within such time as may be required by the commission, its estimate of
4 the annual rate of depreciation required for each of its classes of fixed capital used
5 for public utility purposes, and of the composite annual rate of depreciation required
6 for such fixed capital as an aggregate, which shall constitute the public utility’s
7 estimates of the amount which should be returned to it out of its rates for service, to
8 meet the depreciation of its property.

9 **SECTION 8.** 196.09 (9) of the statutes is repealed.

10 **SECTION 9.** 196.13 (2) of the statutes is amended to read:

11 196.13 **(2)** The commission shall publish in its reports the value of all the
12 property actually used and useful for the convenience of the public of a public utility,
13 ~~other than a telecommunications utility,~~ if the commission has held a hearing on the
14 public utility’s rates, charges, service or regulations or if the commission has
15 otherwise determined the value of the public utility’s property.

16 **SECTION 10.** 196.19 (1m) of the statutes is repealed.

17 **SECTION 11.** 196.19 (5) of the statutes is repealed.

18 **SECTION 12.** 196.191 of the statutes is created to read:

19 **196.191 Telecommunications utility and alternative**
20 **telecommunications utility tariffs. (1)** Notwithstanding anything in this
21 chapter to the contrary, any telecommunications utility, including an alternative
22 telecommunications utility, may do any of the following:

23 (a) Retain on file with the commission tariffs already on file with the
24 commission as of the effective date of this paragraph [LRB inserts date], showing
25 the rates, tolls, and charges which the telecommunications utility, including an

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1 alternative telecommunications utility, has established as of the effective date of this
2 paragraph [LRB inserts date], for some or all of the services performed by the
3 telecommunications utility, including an alternative telecommunications utility,
4 within the state or for any service in connection therewith or performed by any
5 telecommunications utility, including an alternative telecommunications utility,
6 controlled or operated by the telecommunications utility, including an alternative
7 telecommunications utility.

8 (b) Withdraw or change the rates, terms, or conditions of a tariff on file with
9 the commission.

10 (c) File with the commission new tariffs showing the rates, tolls, and charges
11 which the telecommunications utility, including an alternative telecommunications
12 utility, has established, as provided in the tariff filings, for some or all of the services
13 performed by the telecommunications utility, including an alternative
14 telecommunications utility, within the state or for any service in connection
15 therewith or performed by any telecommunications utility, including an alternative
16 telecommunications utility, controlled or operated by the telecommunications utility,
17 including an alternative telecommunications utility. If a telecommunications utility,
18 including an alternative telecommunications utility, files a new tariff under this
19 paragraph, all of the following apply:

20 1. The new tariff shall become effective on the date specified in the tariff, unless
21 the commission suspends the operation of the new tariff upon serving a written
22 notice of the suspension on the telecommunications utility, including an alternative
23 telecommunications utility, within 10 days after the date of filing. The notice shall
24 include a statement of the reason under subd. 2. upon which the commission believes
25 the tariff may be modified.

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1 2. The commission may modify the new tariff after an opportunity for a hearing,
2 only to the extent permitted by ss. 196.203 and 196.50 (2) (i) and (j).

3 3. If the commission does not conduct a hearing under subd. 2., the commission
4 shall issue its final order within 60 days after issuing the notice of suspension under
5 subd. 1. If the commission conducts a hearing, the commission shall issue its final
6 order within 120 days after issuing the notice of suspension under subd. 1. If a final
7 order is not issued within the time limits specified in this subdivision, the new tariff
8 becomes effective as filed.

9 **(2)** Nothing in this section shall give the commission jurisdiction over the rates
10 or terms and conditions of any service that is not subject to a tariff under sub. (1).

11 **(3)** Every telecommunications utility, including an alternative
12 telecommunications utility, that files a tariff with the commission under this section
13 shall include all terms and conditions that apply to the services specified in the tariff
14 and the rates charged or to be charged.

15 **(4)** A telecommunications utility, including an alternative telecommunications
16 utility, may withdraw a tariff for any service by providing notice to the commission.

17 **(5)** (a) Except as provided in par. (b), a proposed change in a tariff shall be
18 effective at the time specified in the tariff as filed with the commission.

19 (b) No change in a tariff which constitutes an increase in switched access
20 service rates may be made unless the change is consistent with the public interest
21 factors set forth in s. 196.03 (6) and the commission by order, after investigation and
22 opportunity for a hearing, approves the change, except that an increase in switched
23 access service rates to mirror interstate switched access service rates shall go into
24 effect on the 10th day after the change in the tariff is filed, unless the commission,

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1 before that day, suspends the rate increase and initiates an investigation under this
2 paragraph.

3 (6) Nothing in this chapter prohibits a tariff for a service which permits a
4 telecommunications utility, including an alternative telecommunications utility, to
5 enter into an individual contract with an individual customer for that tariffed service
6 that includes rates, terms, and conditions that are different from those in the tariff.

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

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

14 **SECTION 13m.** 196.194 (1) of the statutes is repealed.

15 **SECTION 13q.** 196.194 (2) (title) of the statutes is repealed.

16 **SECTION 13s.** 196.194 (2) of the statutes is renumbered 196.194 and amended
17 to read:

18 **196.194 Public Gas utility individual contracts.** Nothing in ss. 196.03,
19 196.19, 196.20, 196.21, 196.22, 196.37, 196.60, 196.604 and 196.625 prohibits the
20 commission from approving the filing of a tariff which permits a gas utility to enter
21 into an individual contract with an individual customer if the term of the contract
22 is no more than 5 years, or a longer period approved by the commission, and if the
23 commission determines that substitute gas services are available to customers or
24 potential customers of the gas utility and the absence of such a tariff will cause the
25 gas utility to be disadvantaged in competing for business. A tariff filed under this

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1 subsection section shall include the condition that any such contract shall be
2 compensatory. The tariff shall include any other condition and procedure required
3 by the commission in the public interest. Within 20 days after a contract authorized
4 under this ~~subsection~~ section or an amendment to such a contract has been executed,
5 the gas utility shall submit the contract to the commission. The commission shall
6 give notice to any person, upon request, that a contract authorized under this
7 ~~subsection~~ section has been received by the commission. The notice shall identify the
8 gas utility that has entered into the contract. Within 6 months after receiving
9 substantial evidence that a contract may be noncompensatory, or upon its own
10 motion, the commission shall investigate and determine whether the contract is
11 compensatory. If the commission determines that the contract is noncompensatory,
12 the commission may make appropriate adjustments in the rates or tariffs of the gas
13 utility that has entered into the contract, in addition to other remedies under this
14 chapter. The dollar amount of the adjustment may not be less than the amount by
15 which the contract was found to be noncompensatory.

16 **SECTION 14.** 196.195 (1) of the statutes is amended to read:

17 196.195 (1) REGULATION IMPOSED. Except as provided in this section and ss.
18 196.202, 196.203, ~~196.215 and~~, 196.219, and 196.50 (2) (i), a telecommunications
19 utility is subject to every applicable provision of this chapter and ch. 201.

20 **SECTION 15.** 196.195 (5) of the statutes is amended to read:

21 196.195 (5) COMMISSION ACTION. If after the proceedings under subs. (2), (3) and
22 (4) the commission has determined that effective competition exists in the market
23 for the telecommunications service which justifies a lesser degree of regulation and
24 that lesser regulation in that market will serve the public interest, the commission
25 may, by order, suspend any ~~of the following~~ provisions of law ch. 201, except as

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1 provided under subs. (7) and (8); ~~ch. 201 and s. 196.02 (2); s. 196.05; s. 196.06; s.~~
2 ~~196.07; s. 196.09; s. 196.10; s. 196.12; s. 196.13 (2); s. 196.19; tariffing requirements~~
3 ~~under s. 196.194; s. 196.196 (1) or (5); s. 196.20; s. 196.21; s. 196.22; s. 196.26; s.~~
4 ~~196.28; s. 196.37; s. 196.49; s. 196.52; s. 196.58; s. 196.60; s. 196.604; s. 196.77; s.~~
5 ~~196.78; s. 196.79; and s. 196.805.~~

6 **SECTION 16.** 196.195 (12) (a) of the statutes is amended to read:

7 196.195 (12) (a) To provide incentives for telecommunications utilities to
8 achieve any of the goals listed in par. (b) 1. a., the commission may suspend any of
9 the provisions listed in sub. (5) ~~except ss. 196.19, 196.20 (1m), 196.22, 196.26, 196.37,~~
10 ~~196.60 and 196.604~~ of ch. 201 or may approve a regulatory method alternative to
11 traditional rate-of-return regulation that does not require suspension of any
12 provisions listed in sub. (5).

13 **SECTION 17.** 196.195 (12) (b) 3. of the statutes is amended to read:

14 196.195 (12) (b) 3. The commission shall regulate telecommunications utilities
15 with the goal of developing alternative forms of regulation. The commission shall,
16 by order, develop and approve an incentive regulatory plan for each
17 telecommunications utility to implement this subdivision. The commission may not
18 increase regulation of a small telecommunications utility in implementing this
19 subdivision. ~~For telecommunications utilities with more than 150,000 access lines~~
20 ~~in use in this state, s. 196.196 (2) applies to access service rates in any regulatory plan~~
21 ~~approved under this subdivision.~~

22 **SECTION 18.** 196.196 of the statutes is repealed.

23 **SECTION 19.** 196.198 (2) (a) of the statutes is renumbered 196.198 (2) and
24 amended to read:

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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 20.** 196.198 (2) (b) of the statutes is repealed.

8 **SECTION 21.** 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 22.** 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 23.** 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 24.** 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

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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 25.** 196.20 (1m) of the statutes is repealed.

5 **SECTION 26.** 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 27.** 196.20 (2) (am) of the statutes is repealed.

11 **SECTION 28.** 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 29.** 196.20 (2r) of the statutes is repealed.

20 **SECTION 30.** 196.20 (3) of the statutes is repealed.

21 **SECTION 31.** 196.20 (5) of the statutes is repealed.

22 **SECTION 32.** 196.20 (6) of the statutes is repealed.

23 **SECTION 33.** 196.203 (1) of the statutes, as affected by 2009 Wisconsin Act 28,
24 is renumbered 196.203 (1g) and amended to read:

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1 196.203 (1g) Alternative telecommunications utilities are exempt from all
2 provisions of ch. 201 and this chapter, except as provided in this section, and except
3 that an alternative telecommunications utility is subject to ~~s. ss. 196.025 (6) and~~
4 196.206 and may elect to subject itself to s. 196.191, and except that an alternative
5 telecommunications utility that is a local government telecommunications utility, ~~as~~
6 ~~defined in s. 196.204 (5) (ag) 1.~~, is subject to s. 196.204 (5).

7 **SECTION 34.** 196.203 (1d) of the statutes is created to read:

8 196.203 (1d) In this section, “local government telecommunications utility”
9 has the meaning given in s. 196.204 (1m) (a).

10 **SECTION 35.** 196.203 (2) of the statutes is renumbered 196.203 (2) (a) and
11 amended to read:

12 196.203 (2) (a) No person may commence providing service as an alternative
13 telecommunications utility unless the person petitions for and the commission issues
14 a ~~determination~~ certification that the person is an alternative telecommunications
15 utility or unless the person is a telecommunications utility for which the commission
16 issues an order under s. 196.50 (2) (j) 1. a.

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

21 **SECTION 36.** 196.203 (2) (b) of the statutes is created to read:

22 196.203 (2) (b) Except for an alternative telecommunications utility that is a
23 local government telecommunications utility, certification as an alternative
24 telecommunications utility shall be on a statewide basis and any certification issued
25 by the commission before the effective date of this paragraph [LRB inserts date],

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1 to an alternative telecommunications utility that is not a local government
2 telecommunications utility is considered amended to be a statewide certification.

3 **SECTION 36m.** 196.203 (2) (c) of the statutes is created to read:

4 196.203 (2) (c) An alternative telecommunications utility may provide notice
5 to the commission to maintain certification as an alternative telecommunications
6 utility but to recertify the alternative telecommunications utility and impose on the
7 alternative telecommunications utility only those provisions of this chapter specified
8 in this paragraph. No later than 30 days after receiving notice under this paragraph,
9 the commission shall issue an order granting recertification and imposing on the
10 alternative telecommunications utility those provisions of this chapter specified in
11 sub. (4m) (a) that are imposed on all alternative telecommunications utilities under
12 sub. (3). The commission may impose a provision of this chapter specified in sub.
13 (4m) (b) or (c) if required by the public interest. An alternative telecommunications
14 utility for which an order of recertification is issued is subject to sub. (1g). The
15 granting of the recertification shall operate to terminate the alternative
16 telecommunications utility's prior certification, and all regulatory requirements
17 related to the prior certification, including all such requirements imposed by the
18 certification and all requirements imposed by the commission, whether by statute
19 or commission rule or order, on the alternative telecommunications utility are
20 terminated on the effective date of the order.

21 **SECTION 37.** 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) if the
24 commission finds that the petitioner does not have the financial, managerial, or

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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 38.** 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~~ or 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 39.** 196.203 (3) (b) of the statutes is repealed.

18 **SECTION 40.** 196.203 (3) (c) of the statutes is repealed.

19 **SECTION 41.** 196.203 (3) (d) of the statutes is repealed.

20 **SECTION 42.** 196.203 (3) (dm) of the statutes is repealed.

21 **SECTION 43.** 196.203 (3) (e) of the statutes is repealed.

22 **SECTION 44.** 196.203 (4) of the statutes is repealed.

23 **SECTION 45.** 196.203 (4m) of the statutes is created to read:

24 196.203 (4m) (a) The commission may impose s. 196.01, 196.02 (1), (4), or (5),
25 196.04, 196.135, 196.14, 196.197, 196.199, 196.207, 196.208, 196.209, 196.218,

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1 196.219 (1), (2) (b), (c), or (d), (2r), (3) (a), (c), (d), (e), (j), (m), (n), or (o), or (3m), 196.25,
2 196.26, 196.39, 196.395, 196.40, 196.41, 196.43, 196.44, 196.65, 196.66, 196.81,
3 196.85, 196.858, or 196.859 on an alternative telecommunications utility.

4 (b) The commission may, with respect only to switched access services, impose
5 s. 196.03 (1) or (6) or 196.37 on an alternative telecommunications utility.

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

9 (d) An alternative telecommunications utility certified pursuant to s. 196.50 (2)
10 (j) 1. a. shall be subject, with respect only to wholesale telecommunications services,
11 to all provisions in pars. (a) and (c).

12 **SECTION 46.** 196.203 (5) of the statutes is amended to read:

13 196.203 (5) The commission may establish a reasonable fee schedule and may
14 assess an alternative telecommunications utility to cover the cost of making a
15 certification or other determination under this section.

16 **SECTION 47.** 196.204 (title) of the statutes is repealed and recreated to read:

17 **196.204 (title) Local government telecommunications utilities.**

18 **SECTION 48.** 196.204 (1) of the statutes is repealed.

19 **SECTION 49.** 196.204 (2) of the statutes is repealed.

20 **SECTION 50.** 196.204 (3) of the statutes is repealed.

21 **SECTION 51.** 196.204 (4) of the statutes is repealed.

22 **SECTION 52.** 196.204 (5) (ag) of the statutes is renumbered 196.204 (1m) and
23 196.204 (1m) (intro.), as renumbered, is amended to read:

24 196.204 (1m) (intro.) In this ~~subsection~~ section:

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1 **SECTION 53.** 196.204 (5) (ar) of the statutes is renumbered 196.204 (2m) and
2 196.204 (2m) (a), (b) (intro.) and (c) (intro.), as renumbered, are amended to read:

3 196.204 **(2m)** (a) ~~In addition to the other requirements of this section, each~~
4 Each telecommunications service, relevant group of services and basic network
5 function offered or used by a local government telecommunications utility shall be
6 priced to exceed its total service long-run incremental cost. ~~The commission may~~
7 ~~waive the applicability of this subdivision to a nongovernmental~~
8 ~~telecommunications utility's basic local exchange service if the commission~~
9 ~~determines that a waiver is consistent with the factors under s. 196.03 (6).~~

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

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

23 **SECTION 54.** 196.204 (5) (b) of the statutes is repealed.

24 **SECTION 55.** 196.204 (6) of the statutes is repealed.

25 **SECTION 55m.** 196.205 of the statutes is repealed.

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1 **SECTION 58.** 196.206 of the statutes is created to read:

2 **196.206 Interconnected voice over Internet protocol service. (1)**

3 **EXEMPTION.** Interconnected voice over Internet protocol service is not subject to ch.
4 201 or this chapter, except as provided in this section, and except as provided in ss.
5 196.016, 196.025 (6), 196.218 (3), and 196.859, and except as required for the
6 commission to enforce ss. 196.016, 196.025 (6), 196.218 (3), and 196.859.

7 **(2) UNIVERSAL SERVICE FUND.** A communications provider, as defined in s.
8 196.025 (6) (a) 1., that provides interconnected voice over Internet protocol service
9 in this state shall make contributions to the universal service fund based on its
10 revenues from providing such service. The revenues shall be calculated using direct
11 assignment, a provider-specific traffic study, the inverse of the interstate
12 jurisdictional allocation established by the federal communications commission for
13 the purpose of federal universal service assessments, or any other reasonable
14 assignment. Direct assignment or traffic studies shall be based on the primary
15 physical service address identified by the customer.

16 **(3) INTRASTATE ACCESS RATES.** Unless otherwise provided under federal law,
17 interconnected voice over Internet protocol services shall be subject to intrastate
18 access charges to the same extent that telecommunications services are subject to
19 such charges.

20 **SECTION 60.** 196.213 of the statutes is repealed.

21 **SECTION 61.** 196.215 of the statutes is repealed.

22 **SECTION 62.** 196.218 (1) (a) of the statutes is created to read:

23 196.218 **(1)** (a) “Essential telecommunications services” means services or
24 functionalities determined by the federal communications commission to be eligible
25 for support by federal universal service support mechanisms.

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1 **SECTION 64.** 196.218 (3) (a) 3m. of the statutes is amended to read:

2 196.218 (3) (a) 3m. Contributions under this paragraph may be based only on
3 the gross operating revenues from the provision of broadcast services identified by
4 the commission under subd. 2. and on intrastate telecommunications services in this
5 state of the telecommunications providers subject to the contribution. Contributions
6 based on revenues from interconnected voice over Internet protocol service shall be
7 calculated as provided under s. 196.206 (2).

8 **SECTION 65.** 196.218 (3) (f) of the statutes is amended to read:

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

18 **SECTION 66.** 196.218 (4) of the statutes is repealed and recreated to read:

19 196.218 (4) ESSENTIAL TELECOMMUNICATIONS SERVICES. Each
20 telecommunications provider that provides basic local exchange service or that is
21 designated as an eligible telecommunications carrier pursuant to 47 USC 214 (e) (2)
22 shall make available to its customers all essential telecommunications services. A
23 telecommunications provider may satisfy this subsection by providing essential
24 telecommunications services itself or through an affiliate and in either case may

1 provide essential telecommunications services through the use of any available
2 technology or mode.

3 **SECTION 68.** 196.218 (5r) (title) of the statutes is amended to read:

4 196.218 **(5r)** (title) ANNUAL REPORT REPORTS.

5 **SECTION 69.** 196.218 (5r) (a) 4. of the statutes is amended to read:

6 196.218 **(5r)** (a) 4. An assessment of how ~~successful investments identified in~~
7 ~~s. 196.196 (5) (f),~~ assistance provided by the universal service fund, ~~and price~~
8 ~~regulation~~ and other alternative incentive regulations of telecommunications
9 utilities designed to promote competition have been in advancing the public interest
10 goals identified under s. 196.03 (6), and recommendations for further advancing
11 those goals.

12 **SECTION 71.** 196.219 (1) (b) of the statutes is amended to read:

13 196.219 **(1)** (b) “Local exchange service” ~~has the meaning given in s. 196.50 (1)~~
14 ~~(b) 1. includes access service, basic local exchange service, and business access line~~
15 and usage service within a local calling area.

16 **SECTION 71e.** 196.219 (2) (a) of the statutes is amended to read:

17 196.219 **(2)** (a) Notwithstanding any exemptions identified in this chapter
18 except s. ss. 196.202, 196.203, 196.206, and 196.50, a telecommunications utility or
19 provider shall provide protection to its consumers under this section unless
20 exempted in whole or in part by rule or order of the commission under this section.
21 The commission shall promulgate rules that identify the conditions under which
22 provisions of this section may be suspended.

23 **SECTION 71g.** 196.219 (2m) of the statutes is repealed.

24 **SECTION 71m.** 196.219 (2r) of the statutes is created to read:

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1 196.219 **(2r)** SWITCHED ACCESS SERVICE RATES. Any reduction in switched access
2 service rates ordered by the commission prior to the effective date of this subsection
3 [LRB inserts date], including any reduction ordered pursuant to s. 196.195, shall
4 remain effective unless modified by the commission in a subsequent order.

5 **SECTION 71s.** 196.219 (3) (h) of the statutes is repealed.

6 **SECTION 72.** 196.26 (1) (a) of the statutes is amended to read:

7 196.26 **(1)** (a) A complaint filed with the commission that any rate, toll, charge,
8 or schedule, joint rate, regulation, measurement, act, or practice relating to the
9 provision of heat, light, water, or power, ~~or telecommunications~~ service is
10 unreasonable, inadequate, unjustly discriminatory, or cannot be obtained.

11 **SECTION 73.** 196.26 (4) of the statutes is repealed.

12 **SECTION 74m.** 196.28 (4) of the statutes is amended to read:

13 196.28 **(4)** This section does not apply to rates, tolls or charges of a
14 telecommunications cooperative, an unincorporated telecommunications
15 cooperative association, or a small telecommunications utility ~~except as provided in~~
16 ~~s. 196.205 or 196.215 (2).~~

17 **SECTION 75.** 196.31 (1m) of the statutes is amended to read:

18 196.31 **(1m)** The commission shall compensate any consumer group or
19 consumer representative for all reasonable costs of participating in a hearing under
20 s. ~~196.196 (1) (g) or~~ 196.198.

21 **SECTION 76.** 196.37 (3) of the statutes is amended to read:

22 196.37 **(3)** Any public utility to which an order under this section applies shall
23 make such changes in schedules on file under s. 196.19 to make the schedules
24 conform to the order. The public utility may not make any subsequent change in

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1 rates, tolls or charges without the approval of the commission, ~~except as provided in~~
2 ~~s. 196.205 or 196.215 (2).~~

3 **SECTION 77m.** 196.37 (4) of the statutes is amended to read:

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

8 **SECTION 78.** 196.49 (1) (ag) of the statutes is repealed.

9 **SECTION 79.** 196.49 (3) (b) (intro.) of the statutes is amended to read:

10 196.49 (3) (b) (intro.) ~~Except as provided in par. (d), the~~ The commission may
11 require by rule or special order under par. (a) that no project may proceed until the
12 commission has certified that public convenience and necessity require the project.
13 The commission may refuse to certify a project if it appears that the completion of
14 the project will do any of the following:

15 **SECTION 80.** 196.49 (3) (d) of the statutes is repealed.

16 **SECTION 80m.** 196.50 (title) of the statutes is amended to read:

17 **196.50 (title) Competing public utilities; indeterminate permits,**
18 **telecommunications; telecommunications utility certification.**

19 **SECTION 81.** 196.50 (1) (b) 1. and 2. of the statutes are repealed.

20 **SECTION 82.** 196.50 (1) (b) 3. of the statutes is renumbered 196.50 (1) (b).

21 **SECTION 83.** 196.50 (2) (a) of the statutes is amended to read:

22 196.50 (2) (a) Alternative telecommunications utilities shall be certified under
23 s. 196.203. All Except as provided in par. (j) 1. a., all other telecommunications
24 utilities shall be certified under this subsection.

25 **SECTION 83m.** 196.50 (2) (b) of the statutes is amended to read:

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

11 **SECTION 84.** 196.50 (2) (f) of the statutes is amended to read:

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

20 **SECTION 85.** 196.50 (2) (g) 3. of the statutes is repealed.

21 **SECTION 86.** 196.50 (2) (h) of the statutes is repealed.

22 **SECTION 87.** 196.50 (2) (i) of the statutes is created to read:

23 196.50 (2) (i) A telecommunications utility certified under this subsection is
24 exempt from all provisions of ch. 201 and is exempt from ss. 196.02 (2); 196.03, except
25 with respect to wholesale telecommunications services; 196.05; 196.06; 196.07;

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1 196.09; 196.10; 196.12; 196.13; 196.19; 196.20; 196.21; 196.22; 196.28, except with
2 respect to wholesale telecommunications services; 196.37, except with respect to
3 wholesale telecommunications services; 196.49; 196.52; 196.58; 196.60; 196.78; and
4 196.79; except that with respect only to its switched access services, a
5 telecommunications utility certified under this subsection with 50,000 or less access
6 lines in this state is not exempt from s. 196.03; and except that, with respect only to
7 its switched access services, a telecommunications utility certified under this
8 subsection with more than 50,000 and less than 150,000 access lines in this state is
9 not exempt from ss. 196.03 and 196.37. The intrastate access service rates of a
10 telecommunications utility with 150,000 or more access lines in this state may not
11 exceed the telecommunications utility's interstate access service rates for similar
12 access services, except that such a telecommunications utility shall not assess an
13 intrastate carrier common line charge or a substitute charge. Except to enforce this
14 paragraph, the commission may not review or set the access rates for a
15 telecommunications utility with 150,000 or more access lines.

16 **SECTION 88.** 196.50 (2) (j) of the statutes is created to read:

17 196.50 (2) (j) 1. A telecommunications utility certified under this subsection
18 may do any of the following:

19 a. Provide notice to the commission to terminate the certification under this
20 subsection and certify the telecommunications utility as an alternative
21 telecommunications utility under s. 196.203. No later than 30 days after receiving
22 notice under this subdivision, the commission shall issue an order granting a
23 certification under s. 196.203. Except as provided in subds. 4. and 5., the granting
24 of such certification shall operate to terminate the certification under this subsection
25 and all regulatory requirements related to the certification under this subsection,

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1 including all such requirements imposed by the certification under this subsection
2 or imposed by order or otherwise by the commission.

3 b. Provide notice to the commission to recertify the telecommunications utility
4 under this subsection and impose on the telecommunications utility only those
5 provisions of this chapter specified in this paragraph. No later than 30 days after
6 receiving notice under this subd. 1. b., the commission shall issue an order granting
7 recertification under this subsection and imposing on the telecommunications utility
8 those provisions of this chapter specified in s. 196.203 (4m) (a) that are imposed on
9 all alternative telecommunications utilities under s. 196.203 (3). The
10 telecommunications utility shall be exempt from all provisions of ch. 201 and this
11 chapter, except ss. 196.025 (6) and 196.206, and except as provided in subds. 4. and
12 5., and except as provided in the order under this subd. 1. b.; and except that, if the
13 telecommunications utility has 50,000 or less access lines in this state, then, only
14 with respect to its switched access services, the telecommunications utility is not
15 exempt from s. 196.03; and except that, if the telecommunications utility has more
16 than 50,000 and less than 150,000 access lines in this state, then, only with respect
17 to its switched access services, the telecommunications utility is not exempt from ss.
18 196.03 and 196.37. Except as provided in subds. 4. and 5., the granting of the
19 recertification shall operate to terminate the telecommunications utility's prior
20 certification, and all regulatory requirements related to the prior certification,
21 including all such requirements imposed by the certification and all requirements
22 imposed by the commission, whether by statute or commission rule or order, on the
23 telecommunications utility are terminated on the effective date of the order.

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

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

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

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

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

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

14 4. Regardless of whether a telecommunications utility certified under this
15 subsection takes an action allowed under subd. 1., the telecommunications utility is
16 subject, with respect to its wholesale telecommunications services, to all provisions
17 specified in s. 196.203 (4m) (a) and (c).

18 5. This paragraph does not terminate any order of the commission regarding
19 interconnection, unbundling, collocation, or any other obligation under 47 USC 251,
20 or regarding wholesale telecommunications services.

21 **SECTION 88m.** 196.503 of the statutes is created to read:

22 **196.503 Telecommunications provider of last resort obligations. (1)**

23 DEFINITIONS. In this section:

24 (a) “Basic voice service” means the provision to residential and small business
25 customers of 2-way voice communication within a local calling area. “Basic voice

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1 service” includes extended community calling and extended area service. “Basic
2 voice service” does not include the offering of Internet access service or any
3 discretionary or optional services that may be provided to a residential or small
4 business customer.

5 (b) “Incumbent local exchange carrier” has the meaning given in 47 USC 251
6 (h).

7 (c) “Small business customer” means a business having 3 or fewer telephone
8 numbers assigned to it.

9 **(2) INCUMBENT LOCAL EXCHANGE CARRIER OBLIGATIONS.** (a) Notwithstanding any
10 other provision in this chapter, and except as provided in sub. (3), an incumbent local
11 exchange carrier shall make basic voice service available to all residential and small
12 business customers within a local exchange area in which it operates as an
13 incumbent local exchange carrier. In making basic voice service available to a
14 customer under this paragraph, an incumbent local exchange carrier shall provide
15 the customer the ability to utilize a dial-up Internet access service or an equivalent
16 service and an incumbent local exchange carrier may, but is not required to, offer
17 Internet access service or any discretionary or optional services in a bundle or a
18 package.

19 (b) An incumbent local exchange carrier may satisfy its obligations under par.
20 (a) through an affiliate and through the use of interconnected voice over Internet
21 protocol service or any available technology or mode.

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

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

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

4 2. The commission has made a previous finding of effective competition under
5 s. 196.195 (2) for basic local exchange service in the local exchange. The commission
6 may not grant a waiver under this subdivision until after May 1, 2011.

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

10 (d) 1. Within 120 days of the filing of a waiver request based on par. (b) 1., the
11 commission shall grant or deny the request and, if denied, the commission shall issue
12 a written decision identifying the reasons for its denial. If the commission fails to
13 grant or deny the waiver request within 120 days of its filing, the commission is
14 considered to have granted the waiver.

15 2. The commission shall grant a waiver based on par. (b) 2. as soon as the
16 commission verifies that the commission has previously made the finding specified
17 in par. (b) 2.

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

23 (b) Except to enforce this section, nothing in this section provides the
24 commission with any authority to regulate, or any jurisdiction over, incumbent local

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1 exchange carriers and the rates, terms, and conditions of their services that the
2 commission does not otherwise have under this chapter.

3 **(5) SUNSET.** This section does not apply after April 30, 2015.

4 **SECTION 89.** 196.52 (3) (b) 1. of the statutes is amended to read:

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

15 **SECTION 90.** 196.52 (3) (c) (intro.) of the statutes is amended to read:

16 196.52 **(3)** (c) (intro.) If the value of a contract or arrangement between an
17 affiliated interest and a public utility, ~~other than a telecommunications utility,~~
18 exceeds \$1,000,000, the commission:

19 **SECTION 91.** 196.52 (5) (a) of the statutes is renumbered 196.52 (5).

20 **SECTION 92.** 196.52 (5) (b) of the statutes is repealed.

21 **SECTION 93.** 196.52 (6) of the statutes is amended to read:

22 196.52 **(6)** If the commission finds upon investigation that a public utility, ~~other~~
23 ~~than a telecommunications utility,~~ is giving effect to a contract or arrangement
24 without the commission's approval under this section, the commission shall issue a
25 summary order directing that public utility to cease and desist from making any

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1 payments, receiving compensation, providing any service or otherwise giving any
2 effect to the contract or arrangement until the contract or arrangement receives the
3 approval of the commission. The circuit court of Dane County may enforce the order
4 to cease and desist by appropriate process, including the issuance of a preliminary
5 injunction, upon the suit of the commission.

6 **SECTION 94.** 196.52 (9) (e) of the statutes is amended to read:

7 196.52 (9) (e) Notwithstanding sub. (5) (a), the commission may not modify or
8 terminate a leased generation contract approved under sub. (3) except as specified
9 in the leased generation contract or the commission's order approving the leased
10 generation contract.

11 **SECTION 95.** 196.60 (1) (a) of the statutes is amended to read:

12 196.60 (1) (a) ~~Except as provided under sub. (2), no~~ No public utility and no
13 agent, as defined in s. 196.66 (3) (a), or officer of a public utility, directly or indirectly,
14 may charge, demand, collect or receive from any person more or less compensation
15 for any service rendered or to be rendered by it in or affecting or relating to the
16 production, transmission, delivery or furnishing of heat, light, water,
17 ~~telecommunications service~~ or power or for any service in connection therewith, than
18 that prescribed in the published schedules or tariffs then in force, or established
19 under this chapter, or than it charges, demands, collects or receives from any other
20 person for a like contemporaneous service.

21 **SECTION 96.** 196.60 (2) of the statutes is repealed.

22 **SECTION 97.** 196.604 of the statutes is amended to read:

23 **196.604 Rebates, concessions and discriminations unlawful.** No person
24 may knowingly solicit, accept or receive any rebate, concession or discrimination
25 from a public utility for any service in or affecting or relating to the production,

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1 transmission, delivery or furnishing of heat, light, water or power ~~or the conveying~~
2 ~~of telecommunications messages~~ within this state or for any connected service
3 whereby the service is rendered or is to be rendered free or at a rate less than the rate
4 named in the schedules and tariffs in force, or whereby any other service or
5 advantage is received. Any person violating this section shall be fined not less than
6 \$50 nor more than \$5,000 for each offense.

7 **SECTION 98.** 196.77 of the statutes is repealed.

8 **SECTION 99.** 196.79 (1) of the statutes is renumbered 196.79 and amended to
9 read:

10 **196.79 Reorganization subject to commission approval.** ~~Except as~~
11 ~~provided in sub. (2), the~~ The reorganization of any public utility shall be subject to
12 the supervision and control of the commission. No reorganization may take effect
13 without the written approval of the commission. The commission may not approve
14 any plan of reorganization unless the applicant for approval establishes that the plan
15 of reorganization is consistent with the public interest.

16 **SECTION 100.** 196.79 (2) of the statutes is repealed.

17 **SECTION 101.** 196.805 of the statutes is repealed.

18 **SECTION 102.** 196.975 (1) of the statutes is renumbered 196.975 (1r) and
19 amended to read:

20 196.975 (1r) One hundred fifty or more consumers, ~~as defined in s. 196.213 (1)~~
21 ~~(a) 1.,~~ who are residents of the same local exchange area for telecommunications
22 service may file with the commission a petition requesting that commission staff, in
23 cooperation with the affected telecommunications utilities and telecommunications
24 carriers, petition the appropriate federal district court to include their local exchange
25 area in a different local access and transport area. The petitioners shall include with

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1 the petition information explaining why the current boundaries of the local access
2 and transport area which includes their local exchange area does not adequately
3 reflect areas of common social, economic and other concerns.

4 **SECTION 102e.** 196.975 (1g) of the statutes is created to read:

5 196.975 (1g) In this section, “consumer” means a person billed for one or more
6 local telecommunications service access lines not to exceed one person per access
7 line. A person billed for more than one access line may not be considered a consumer
8 for each access line for which he or she is billed.

9 **SECTION 102m.** 196.975 (2) of the statutes is amended to read:

10 196.975 (2) After receiving a petition under sub. (1) (1r), the commission shall
11 schedule a public hearing, to be held in the local exchange area of the petitioners,
12 serving to receive testimony on the contents of the petition and any other matters
13 deemed relevant by the commission. The commission shall publish a class 1 notice
14 under ch. 985 in a newspaper serving the local exchange area at least 20 days prior
15 to the hearing.

16 **SECTION 102s.** 201.15 of the statutes is repealed.

17 **SECTION 104. Nonstatutory provisions.**

18 (1m) In this section:

19 (a) “Commission” means the public service commission.

20 (b) “Price-regulated telecommunications utility” means a telecommunications
21 utility that elected to become a price-regulated telecommunications utility under
22 section 196.196 (1) or (4), 2007 stats.

23 (c) “Telecommunications utility” has the meaning given in section 196.01 (10)
24 of the statutes.

