



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3964/1  
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## 2009 SENATE BILL 469

January 22, 2010 - Introduced by Senator PLALE, cosponsored by Representative ZEPNICK. Referred to Committee on Commerce, Utilities, Energy, and Rail.

1     **AN ACT** *to repeal* 196.09 (9), 196.19 (1m), 196.19 (5), 196.196, 196.198 (2) (b),  
2           196.20 (1m), 196.20 (2) (am), 196.20 (2r), 196.20 (3), 196.20 (5), 196.20 (6),  
3           196.203 (3) (b), 196.203 (3) (c), 196.203 (3) (d), 196.203 (3) (dm), 196.203 (3) (e),  
4           196.203 (4), 196.204 (1), 196.204 (2), 196.204 (3), 196.204 (4), 196.204 (5) (b),  
5           196.204 (6), 196.205 (2), 196.213, 196.215, 196.26 (4), 196.28 (4), 196.37 (4),  
6           196.49 (1) (ag), 196.49 (3) (d), 196.50 (1) (b) 1. and 2., 196.50 (2) (g) 3., 196.50  
7           (2) (h), 196.52 (5) (b), 196.60 (2), 196.77, 196.79 (2) and 196.805; **to renumber**  
8           196.50 (1) (b) 3. and 196.52 (5) (a); **to renumber and amend** 196.198 (2) (a),  
9           196.203 (1), 196.203 (2), 196.203 (3) (a), 196.204 (5) (ag), 196.204 (5) (ar),  
10          196.205 (1m) and 196.79 (1); **to amend** 93.01 (1m), 133.07 (2), 196.02 (2), 196.09  
11          (1), 196.13 (2), 196.194 (1), 196.195 (1), 196.195 (5), 196.195 (12) (a), 196.195  
12          (12) (b) 3., 196.198 (3) (intro.), 196.198 (3) (a), 196.198 (3) (b) (intro.), 196.20 (1),  
13          196.20 (2) (a) (intro.), 196.20 (2m), 196.203 (5), 196.218 (3) (a) 3m., 196.218 (3)  
14          (f), 196.218 (5r) (title), 196.218 (5r) (a) 4., 196.219 (1) (b), 196.26 (1) (a), 196.31

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1 (1m), 196.37 (3), 196.49 (3) (b) (intro.), 196.50 (2) (a), 196.50 (2) (f), 196.52 (3)  
2 (b) 1., 196.52 (3) (c) (intro.), 196.52 (6), 196.52 (9) (e), 196.60 (1) (a), 196.604,  
3 196.975 (1) and 201.15 (4) (b); **to repeal and recreate** 196.204 (title) and  
4 196.218 (4); and **to create** 20.155 (1) (s), 196.01 (1d) (g), 196.01 (3a), 196.191,  
5 196.203 (1d), 196.203 (2) (b), 196.203 (2) (c), 196.203 (4m), 196.206, 196.211,  
6 196.218 (1) (a), 196.218 (3) (a) 3. c., 196.218 (5) (a) 14., 196.218 (5r) (am), 196.50  
7 (2) (i) and 196.50 (2) (j) of the statutes; **relating to:** authority of the Public  
8 Service Commission over certain telecommunications utilities,  
9 telecommunications access charges, universal service fund contributions based  
10 on interconnected voice over Internet protocol service, tandem switching  
11 provider electronic call records, granting rule-making authority, and making  
12 an appropriation.

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***Analysis by the Legislative Reference Bureau***

This bill: 1) makes changes to the authority of the Public Service Commission (PSC) over telecommunications utilities; 2) imposes limits on charges for access services by telecommunications utilities; 3) specifies the PSC's authority over interconnected voice over Internet protocol (VOIP) service; 4) makes changes to the PSC's authority for ensuring universal access to telecommunications service; and 5) requires certain telecommunications providers to make electronic call records available to other telecommunications providers.

**PSC REGULATION OF TELECOMMUNICATIONS UTILITIES**

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 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.

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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.

With respect to ATUs, the bill limits the requirements that the PSC may impose. Under the bill, the PSC may impose requirements on an ATU 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) discrimination in favor of affiliates and other entities; 14) restrictions on resale or sharing certain services, products, and facilities; 15) violations of rules of the Department of Agriculture, Trade and Consumer Protection regarding advertising and sales and collection practices; 16) transfer of local exchange customers to other telecommunications providers; 17) late payment charges; 18) PSC questionnaires and other information requests; 19) PSC hearings on consumer complaints; 20) changes to PSC orders and reopening PSC cases; 21) PSC-required tests; 22) conditional, emergency, and supplemental PSC orders; 23) timing of effect of PSC orders; 24) court review of PSC orders; 25) injunction procedures; 26) enforcement duties of the PSC, the attorney general, and district attorneys and related court venues; 27) penalties related to information and record requests; 28) forfeitures; 29) abandonment or discontinuance of lines, services, and rights-of-way; 30) assessments for reimbursement of PSC expenses; 31) assessments for telephone relay service; and 32) issuance of securities. The bill also 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, as well as all other TUs.

The bill also provides that 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. However, the foregoing does not apply to an ATU owned or operated by a city, village, or town. 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

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technical capabilities to provide service or comply with requirements imposed by the PSC.

With respect to 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 (except for access service charges, as described below); 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; and 11) dissolution and reorganization. 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; and 4) 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. The PSC must issue an order certifying a TU as an ATU no later than 30 days after receiving notice from the TU to terminate its TU certification. The order must also terminate all regulatory requirements related to the TU certification. Upon certification as an ATU, the formerly certified TU is subject to the same requirements as an ATU, as described above. In addition, the bill allows a TU to retain its certification as a TU but require the PSC to regulate the TU in the same manner as an ATU. The PSC must issue an order that accomplishes this result no later than 30 days after receiving notice from the TU.

**ACCESS SERVICE CHARGES**

The bill creates requirements that apply to access charges, which the bill defines as dedicated access charges and switched access charges. “Dedicated access charges” is defined as the rates and rate elements that a local exchange carrier charges a telecommunications provider for wholesale access service to a local exchange network for the purpose of enabling the telecommunications provider to originate or terminate telecommunications service within the local exchange. “Switched access charges” is defined as the rate and rate elements that a local exchange carrier charges a telecommunications provider for the provision of switched access to a local exchange network for the purpose of enabling the telecommunications provider to originate or terminate telecommunications service within the local exchange.

The bill prohibits an ILEC from increasing its intrastate access charges so that they exceed the ILEC’s interstate access charges allowed under federal law. Also, no later than six months after the bill’s effective date, an ILEC must make any reductions in its intrastate access charges that are necessary to ensure that they do not exceed the ILEC’s interstate access charges allowed under federal law. The bill creates requirements for an ILEC to recover from the state universal service fund

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certain portions of the reduction in revenues that result from making the required reductions in intrastate access rates. During the first year following the reductions, an ILEC must recover 95 percent of its reduction in revenues each month; during the second year following the reductions, an ILEC must recover 85 percent of its reduction in revenues each month; and, except as described below, during the third year following the reductions and each year thereafter, an ILEC must recover 75 percent of its reduction in revenues each month. The exception applies if an ILEC fails to provide access to broadband service to at least 85 percent of its customers in any month during the sixth year following the reductions and in any year thereafter. If the exception applies, an ILEC must recover 50 percent of its reduction in revenues in the relevant month, rather than 75 percent as required above. The bill defines "broadband service" for purposes of the exception as a service that provides access to the Internet that is capable of transmitting data packets or Internet signals at upstream or downstream average minimum speeds of 200 kilobits per second, except that the PSC may promulgate rules specifying greater upstream or downstream average minimum speeds if such speeds are consistent with any definition established by the Federal Communications Commission (FCC).

The bill requires the PSC to make disbursements from the state universal service fund for ILECs to make the recoveries described above. The bill also includes requirements for determining the reductions in revenues. In addition, the bill allows an ILEC to increase its monthly non-access service rates in order to recover reductions in revenues that are not recovered from the state universal service fund as described above.

The bill also creates requirements for telecommunications providers that are not ILECs. Under the bill, such a telecommunications provider's intrastate access charges for a local exchange may not exceed the intrastate access charges of the ILEC that provides telecommunications service in the local exchange. However, if the telecommunications provider's intrastate access charges on the bill's effective date exceed the ILEC's intrastate access charges that were in effect on October 1, 2009, the bill requires the telecommunications provider to reduce its intrastate access charges over a five-year period as follows: 1) no later than two months after the bill's effective date, the telecommunications provider must reduce its intrastate access charges by 20 percent of the difference between its charges in effect on the effective date of the bill and the ILEC's charges in effect on October 1, 2009; 2) no later than 24 months after the bill's effective date, the telecommunications provider must reduce its charges by 40 percent of such difference; 3) no later than 36 months after the bill's effective date, the telecommunications provider must reduce its charges by 60 percent of such difference; 4) no later than 48 months after the bill's effective date, the telecommunications provider must reduce its charges by 80 percent of the difference; and 5) no later than 60 months after the bill's effective date, the telecommunications provider must reduce its charges by 100 percent of the difference. In addition, at the end of the five-year period, the telecommunications provider's intrastate access charges may not exceed the ILEC's intrastate access charges. As a result, the telecommunications provider may have to make additional

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reductions to ensure that the telecommunications provider complies with the prohibition.

**INTERCONNECTED VOIP SERVICE**

With two 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. The first exception to the exemption is that a telecommunications provider that 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. The second exception is that, unless otherwise provided under federal law, access charges for interconnected VOIP service are subject to the access service charge requirements described above.

**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 requirement applies 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.

**ELECTRONIC CALL DETAIL RECORDS**

The bill requires a telecommunications provider that provides tandem switching service (tandem switching provider) to make certain electronic call detail records available to other telecommunications providers. The requirement applies to calls originated by wireless providers (which are referred to as commercial mobile radio service providers) and CLECs, and subsequently routed by the tandem switching provider to another telecommunications provider’s network for termination. A tandem switching provider must make the electronic call detail records available no later than 24 months after the bill’s effective date. The bill provides that a tandem switching provider complies with the foregoing requirements

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if an electronic call detail record that is made available contains the information provided by the telecommunications provider that originated the call. The bill also provides that it does not otherwise change the record creation, record exchange, or billing processes for traffic carried by interexchange carriers that are in effect on the bill's effective date.

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

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

1           **SECTION 1.** 20.155 (1) (s) of the statutes is created to read:

2           20.155 (1) (s) *Incumbent local exchange carrier disbursements.* From the  
3 universal service fund, a sum sufficient to make disbursements to incumbent local  
4 exchange carriers under s. 196.191 (3) (d) 2.

5           **SECTION 2.** 93.01 (1m) of the statutes is amended to read:

6           93.01 (1m) "Business" includes any business, except that of banks, savings  
7 banks, credit unions, savings and loan associations, and insurance companies.  
8 "Business" includes public utilities and telecommunications carriers to the extent  
9 that their activities, beyond registration, notice, and reporting activities, are not  
10 regulated by the public service commission and includes public utility and  
11 telecommunications carrier methods of competition or trade and advertising  
12 practices that are exempt from regulation by the public service commission under s.  
13 196.195, ~~196.196~~, 196.202, 196.203, 196.219, or 196.499 or by other action of the  
14 commission.

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

16           133.07 (2) This chapter does not prohibit activities of any public utility, as  
17 defined in s. 196.01 (5), or telecommunications carrier, as defined in s. 196.01 (8m),  
18 which are required by ch. 196 or rules or orders under ch. 196, activities necessary

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1 to comply with that chapter or those rules or orders or activities that are actively  
2 supervised by the public service commission. This subsection does not apply to  
3 activities of a public utility or telecommunications carrier that are exempt from  
4 public service commission regulation under s. 196.195, 196.196, 196.202, 196.203,  
5 196.219 or 196.499 or by other action by the commission.

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

7 196.01 (1d) (g) A telecommunications utility that provides notice to the  
8 commission under s. 196.50 (2) (j) 1.

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

10 196.01 (3a) “Interconnected voice over Internet protocol service” has the  
11 meaning given in 47 CFR 9.3.

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 access charges. (1) DEFINITIONS.** In this  
20     section:

21            (a) “Access charges” means dedicated access charges and switched access  
22     charges.

23            (b) “Access service” means the provision of switched or dedicated access to a  
24     local exchange network for the purpose of enabling a telecommunications provider  
25     to originate or terminate telecommunications service within the local exchange.

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1 (c) “Dedicated access” means the provision of wholesale intrastate access  
2 service, other than switched access service, to a local exchange network for the  
3 purpose of enabling a telecommunications provider to originate or terminate  
4 telecommunications service within the local exchange.

5 (d) “Dedicated access charges” means the rates and rate elements that a local  
6 exchange carrier charges a telecommunications provider for the provision of  
7 dedicated access.

8 (e) “Incumbent local exchange carrier” has the meaning given in 47 USC 251  
9 (h) (1).

10 (f) “Lost revenues” means the amount of the reduction of an incumbent local  
11 exchange carrier’s revenues that results directly from the incumbent local exchange  
12 carrier’s compliance with sub. (2) as calculated under sub. (3) (c).

13 (g) “Switched access” means the provision of switched access to a local exchange  
14 network for the purpose of enabling a telecommunications provider to originate or  
15 terminate telecommunications service within the local exchange.

16 (h) “Switched access charges” means the rates and rate elements that a local  
17 exchange carrier charges a telecommunications provider for the provision of  
18 switched access, including any carrier common line charges or substitute charges.

19 **(2) INCUMBENT LOCAL EXCHANGE CARRIERS.** No incumbent local exchange carrier  
20 may increase its intrastate access charges so that the charges exceed the incumbent  
21 local exchange carrier’s interstate access charges allowed under federal law. No later  
22 than 6 months after the effective date of this subsection .... [LRB inserts date], an  
23 incumbent local exchange carrier shall make any reductions in its intrastate access  
24 charges that are necessary to ensure that the charges do not exceed the incumbent  
25 local exchange carrier’s interstate access charges allowed under federal law.

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1           **(3) RECOVERY OF LOST REVENUES.** (a) *Amounts recoverable from universal service*  
2 *fund.* 1. An incumbent local exchange carrier shall recover lost revenues from the  
3 universal service fund in the following amounts:

4           a. During the first year following a reduction under sub. (2), the incumbent  
5 local exchange carrier shall recover 95 percent of its lost revenues in each month.

6           b. During the 2nd year following a reduction under sub. (2), the incumbent local  
7 exchange carrier shall recover 85 percent of its lost revenues in each month.

8           c. Except as provided in subd. 2., during the 3rd year following a reduction  
9 under sub. (2), and during each year thereafter, the incumbent local exchange carrier  
10 shall recover 75 percent of its lost revenues in each month.

11           2. a. In this subdivision, “broadband service” means a service that provides  
12 access to the Internet that is capable of transmitting data packets or Internet signals  
13 at upstream or downstream average minimum speeds of 200 kilobits per second,  
14 except that the commission may promulgate rules specifying greater upstream or  
15 downstream average minimum speeds if such speeds are consistent with any  
16 definition of broadband service established by the federal communications  
17 commission.

18           b. If an incumbent local exchange carrier fails to provide access to broadband  
19 service to at least 85 percent of its customers in any month during the 6th year  
20 following a reduction under sub. (2), or during any year thereafter, the incumbent  
21 local exchange carrier shall recover from the universal service fund 50 percent of its  
22 lost revenues in that month.

23           (b) *Amounts not recoverable from universal service fund.* Beginning 6 months  
24 after the effective date of this paragraph .... [LRB inserts date], an incumbent local  
25 exchange carrier may, by increasing its monthly rates for any service other than

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1 access service, recover lost revenues not recovered from the universal service fund  
2 under par. (a).

3 (c) *Calculation; notification.* No later than 60 days after the effective date of  
4 this paragraph .... [LRB inserts date], each incumbent local exchange carrier shall  
5 notify the commission in writing, with supporting documentation, of the amount of  
6 the reduction in annual intrastate access revenues that results from the reduction  
7 required under sub. (2). The reduction in switched access revenues shall be  
8 calculated for each incumbent local exchange carrier as the difference between  
9 intrastate and interstate switched access charges in effect on October 1, 2009,  
10 multiplied by the intrastate switched access minutes of use and other switched  
11 access demand quantities for the 2008 calendar year. The reduction in dedicated  
12 access revenues shall be calculated for each incumbent local exchange carrier as the  
13 difference between the dedicated access charges in effect on October 1, 2009, and the  
14 dedicated access charges after any reduction required under sub. (2), multiplied by  
15 demand quantities for the 2008 calendar year.

16 (d) *Commission duties; disbursements.* 1. No later than 60 days after an  
17 incumbent local exchange carrier makes the notification required under par. (c), the  
18 commission shall calculate the size of the monthly disbursement from the universal  
19 service fund for each incumbent local exchange carrier.

20 2. If an incumbent local exchange carrier is in compliance with this section, the  
21 commission shall begin monthly disbursements from the universal service fund to  
22 the incumbent local exchange carrier within 270 days after the effective date of this  
23 subdivision .... [LRB inserts date]. In any month, the commission may not make a  
24 disbursement to an incumbent local exchange carrier that exceeds an amount  
25 reasonably approximating the carrier's lost revenues for that month.

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1           3. The commission shall establish procedures for administering disbursements  
2 from the universal service fund required under this paragraph.

3           **(4) OTHER TELECOMMUNICATIONS PROVIDERS.** (a) In this subsection,  
4 “telecommunications provider” does not include an incumbent local exchange  
5 carrier.

6           (b) A telecommunications provider’s intrastate access charges for a local  
7 exchange may not exceed the intrastate access charges of the incumbent local  
8 exchange carrier that provides telecommunications service in the local exchange,  
9 except that if a telecommunications provider is required to make reductions under  
10 par. (c), this paragraph first applies to such a telecommunications provider on the  
11 first day of the 60th month beginning after the effective date of this paragraph ....  
12 [LRB inserts date].

13           (c) On the effective date of this paragraph .... [LRB inserts date], if a  
14 telecommunications provider’s intrastate access charges for a local exchange exceed  
15 the intrastate access charges in effect on October 1, 2009, of the incumbent local  
16 exchange carrier that provides telecommunications service in the local exchange, the  
17 telecommunications provider shall determine the difference between the charges  
18 and reduce its intrastate access charges according to the following schedule:

19           1. No later than 2 months after the effective date of this subdivision .... [LRB  
20 inserts date], the telecommunications provider shall reduce its charges by 20 percent  
21 of the difference.

22           2. No later than 24 months after the effective date of this subdivision .... [LRB  
23 inserts date], the telecommunications provider shall reduce its charges by 40 percent  
24 of the difference.

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1           3. No later than 36 months after the effective date of this subdivision .... [LRB  
2 inserts date], the telecommunications provider shall reduce its charges by 60 percent  
3 of the difference.

4           4. No later than 48 months after the effective date of this subdivision .... [LRB  
5 inserts date], the telecommunications provider shall reduce its charges by 80 percent  
6 of the difference.

7           5. No later than 60 months after the effective date of this subdivision .... [LRB  
8 inserts date], the telecommunications provider shall reduce its charges by 100  
9 percent of the difference.

10           **SECTION 13.** 196.194 (1) of the statutes is amended to read:

11           196.194 (1) TELECOMMUNICATIONS UTILITIES. ~~Except as provided in this~~  
12 ~~subsection, nothing~~ Nothing in this chapter prohibits the commission from  
13 approving the filing of a tariff which permits a telecommunications utility to enter  
14 into an individual contract with an individual customer if substitute  
15 telecommunications services are available to customers or potential customers of the  
16 telecommunications utility and the absence of such a tariff will cause the  
17 telecommunications utility to be disadvantaged in competing for business. ~~A tariff~~  
18 ~~filed under this subsection shall include the condition that any such contract shall~~  
19 ~~be compensatory as determined under s. 196.204 (5) and (6). The tariff shall include~~  
20 ~~any other condition and procedure required by the commission in the public interest.~~  
21 ~~Within 20 days after a contract authorized under this subsection or an amendment~~  
22 ~~to such a contract has been executed, the telecommunications utility shall submit to~~  
23 ~~the commission written notice of the general nature of the contract and the parties~~  
24 ~~to the contract. Upon request, the commission shall inform a person, or direct that~~  
25 ~~the person be informed, that notice has been received by the commission of execution~~

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1 of a contract under this subsection. Within 6 months after receiving substantial  
2 evidence that a contract may be noncompensatory, or upon its own motion, the  
3 commission shall investigate and determine whether the contract is compensatory.  
4 If the commission determines that the contract is noncompensatory, the commission  
5 may make appropriate adjustments in the rates or tariffs of the telecommunications  
6 utility that has entered into the contract, in addition to other remedies under this  
7 chapter. The dollar amount of the adjustment may not be less than the amount by  
8 which the contract was found to be noncompensatory.

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

10 196.195 (1) REGULATION IMPOSED. Except as provided in this section and ss.  
11 196.202, 196.203, ~~196.215 and~~, 196.219, and 196.50 (2) (i), a telecommunications  
12 utility is subject to every applicable provision of this chapter and ch. 201.

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

14 196.195 (5) COMMISSION ACTION. If after the proceedings under subs. (2), (3) and  
15 (4) the commission has determined that effective competition exists in the market  
16 for the telecommunications service which justifies a lesser degree of regulation and  
17 that lesser regulation in that market will serve the public interest, the commission  
18 may, by order, suspend tariffing requirements under s. 196.194 (1) or any of the  
19 following provisions of law ch. 201, except as provided under subs. (7) and (8): ~~ch.~~  
20 ~~201 and s. 196.02 (2); s. 196.05; s. 196.06; s. 196.07; s. 196.09; s. 196.10; s. 196.12; s.~~  
21 ~~196.13 (2); s. 196.19; tariffing requirements under s. 196.194; s. 196.196 (1) or (5); s.~~  
22 ~~196.20; s. 196.21; s. 196.22; s. 196.26; s. 196.28; s. 196.37; s. 196.49; s. 196.52; s.~~  
23 ~~196.58; s. 196.60; s. 196.604; s. 196.77; s. 196.78; s. 196.79; and s. 196.805.~~

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

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1           196.195 (12) (a) To provide incentives for telecommunications utilities to  
2 achieve any of the goals listed in par. (b) 1. a., the commission may suspend any of  
3 the provisions listed in sub. (5) except ss. ~~196.19, 196.20 (1m), 196.22, 196.26, 196.37,~~  
4 ~~196.60 and 196.604~~ of ch. 201 or may approve a regulatory method alternative to  
5 traditional rate-of-return regulation that does not require suspension of any  
6 provisions listed in sub. (5).

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

8           196.195 (12) (b) 3. The commission shall regulate telecommunications utilities  
9 with the goal of developing alternative forms of regulation. The commission shall,  
10 by order, develop and approve an incentive regulatory plan for each  
11 telecommunications utility to implement this subdivision. The commission may not  
12 increase regulation of a small telecommunications utility in implementing this  
13 subdivision. ~~For telecommunications utilities with more than 150,000 access lines~~  
14 ~~in use in this state, s. 196.196 (2) applies to access service rates in any regulatory plan~~  
15 ~~approved under this subdivision.~~

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

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

19           196.198 (2) Except as provided in sub. (3), a telecommunications utility that  
20 has more than 150,000 access lines in use in this state or a telecommunications  
21 provider that has more than 150,000 access lines in use in this state may not charge  
22 a residential customer for basic local exchange service based on the duration of a call  
23 or on the time of day that a call is made. ~~This paragraph~~ subsection does not apply  
24 to an extended community telephone service.

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



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1           **SECTION 21.** 196.198 (3) (intro.) of the statutes is amended to read:

2           196.198 (3) (intro.) The commission may suspend the application of sub. (2) (a)  
3 in a particular geographical area for a telecommunications utility or a  
4 telecommunications provider if, after a contested case hearing, the commission  
5 determines that all of the following apply:

6           **SECTION 22.** 196.198 (3) (a) of the statutes is amended to read:

7           196.198 (3) (a) Failure to suspend the application of sub. (2) (a) makes  
8 competition in that geographical area impractical.

9           **SECTION 23.** 196.198 (3) (b) (intro.) of the statutes is amended to read:

10          196.198 (3) (b) (intro.) Suspending the application of sub. (2) (a) is beneficial  
11 to all of the following groups:

12          **SECTION 24.** 196.20 (1) of the statutes is amended to read:

13          196.20 (1) The rate schedules of any public utility shall include all rules  
14 applicable to the rendition or discontinuance of the service to which the rates  
15 specified in the schedules are applicable. No change may be made by any public  
16 utility in its schedules except by filing the change as proposed with the commission.  
17 ~~Except for a telecommunications utility, no~~ No change in any public utility rule which  
18 purports to curtail the obligation or undertaking of service of the public utility shall  
19 be effective without the written approval of the commission after hearing, except  
20 that the commission, by emergency order, may make the rule, as filed, effective from  
21 the date of the order, pending final approval of the rule after hearing.

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

23          **SECTION 26.** 196.20 (2) (a) (intro.) of the statutes is amended to read:

24          196.20 (2) (a) (intro.) ~~Except for a telecommunications utility, a~~ A proposed  
25 change which constitutes a decrease in rates shall be effective at the time specified

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1 in the change as filed but not earlier than 10 days after the date of filing the change  
2 with the commission, unless any of the following occurs:

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

4 **SECTION 28.** 196.20 (2m) of the statutes is amended to read:

5 196.20 (2m) Except as provided under ~~sub. (5) and~~ ss. 196.193, and 196.195  
6 (12) ~~and 196.196~~, no change in schedules which constitutes an increase in rates to  
7 consumers may be made except by order of the commission, after an investigation  
8 and opportunity for hearing. ~~The commission may waive a hearing under this~~  
9 ~~subsection for a proposed change in a telecommunications utility schedule. By rule~~  
10 ~~or order, the commission shall specify the notice and procedural requirements~~  
11 ~~applicable to a telecommunications utility proposal for which a hearing is waived.~~

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

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

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

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

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

18 196.203 (1g) Alternative telecommunications utilities are exempt from all  
19 provisions of ch. 201 and this chapter, except as provided in this section, and except  
20 that an alternative telecommunications utility is subject to s. 196.025 (6), and except  
21 that an alternative telecommunications utility that is a local government  
22 telecommunications utility, ~~as defined in s. 196.204 (5) (ag) 1.~~, is subject to s. 196.204  
23 (5).

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

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

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

5           196.203 (2) (a) No person may commence providing service as an alternative  
6 telecommunications utility unless the person petitions for and the commission issues  
7 a ~~determination~~ certification that the person is an alternative telecommunications  
8 utility or unless the person is a telecommunications utility for which the commission  
9 issues an order under s. 196.50 (2) (j) 1.

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

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

15           196.203 (2) (b) Except for an alternative telecommunications utility that is a  
16 local government telecommunications utility, certification as an alternative  
17 telecommunications utility shall be on a statewide basis and any certification issued  
18 by the commission before the effective date of this paragraph .... [LRB inserts date],  
19 to an alternative telecommunications utility that is not a local government  
20 telecommunications utility is considered amended to be a statewide certification.  
21 This paragraph does not alter any conditions of a certification issued before the  
22 effective date of this paragraph .... [LRB inserts date], except for geographic scope.

23           **SECTION 37.** 196.203 (2) (c) of the statutes is created to read:

24           196.203 (2) (c) The commission may deny a petition for certification as an  
25 alternative telecommunications utility described in s. 196.01 (1d) (f) if the

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1 commission finds that the petitioner does not have the financial, managerial, or  
2 technical capabilities to provide its proposed services or to comply with conditions  
3 that the commission is authorized to impose under sub. (3).

4 **SECTION 38.** 196.203 (3) (a) of the statutes is renumbered 196.203 (3) and  
5 amended to read:

6 196.203 (3) In response to a petition from any interested person, or upon its  
7 own motion, the commission shall determine whether the public interest requires  
8 that any provision of ch. 201 or a provision of this chapter specified in sub. (4m) be  
9 imposed on a person providing or proposing to provide service as an alternative  
10 telecommunications utility ~~in a relevant market~~. In making this determination, the  
11 commission may consider factors including the quality of service, customer  
12 complaints, concerns about the effect on customers of local exchange  
13 telecommunications utilities and the extent to which similar services are available  
14 from alternative sources. If the commission imposes a provision on an alternative  
15 telecommunications utility under this subsection, the commission shall impose the  
16 same provision at the same level of regulation on all telecommunications utilities  
17 certified under s. 196.50 (2) and all other alternative telecommunications utilities.

18 **SECTION 39.** 196.203 (3) (b) of the statutes is repealed.

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

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

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

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

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

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

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1           196.203 (**4m**) The commission may impose s. 196.01, 196.02 (1), (4), or (5),  
2           196.04, 196.135, 196.14, 196.197, 196.199, 196.207, 196.208, 196.209, 196.218,  
3           196.219 (1), (2) (b), (c), or (d), (3) (a), (c), (d), (e), (h), (j), (m), (n), or (o), or (3m), 196.25,  
4           196.26, 196.39, 196.395, 196.40, 196.41, 196.43, 196.44, 196.65, 196.66, 196.81,  
5           196.85, or 196.858 on an alternative telecommunications utility.

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

7           196.203 (**5**) The commission may establish a reasonable fee schedule and may  
8           assess an alternative telecommunications utility to cover the cost of making a  
9           certification or other determination under this section.

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

11          **196.204 (title) Local government telecommunications utilities.**

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

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

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

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

16          **SECTION 52.** 196.204 (5) (ag) of the statutes is renumbered 196.204 (1m) and  
17          196.204 (1m) (intro.), as renumbered, is amended to read:

18          196.204 (**1m**) (intro.) In this subsection section:

19          **SECTION 53.** 196.204 (5) (ar) of the statutes is renumbered 196.204 (2m) and  
20          196.204 (2m) (a), (b) (intro.) and (c) (intro.), as renumbered, are amended to read:

21          196.204 (**2m**) (a) ~~In addition to the other requirements of this section, each~~  
22          Each telecommunications service, relevant group of services and basic network  
23          function offered or used by a local government telecommunications utility shall be  
24          priced to exceed its total service long-run incremental cost. ~~The commission may~~  
25          ~~waive the applicability of this subdivision to a nongovernmental~~

**SENATE BILL 469****SECTION 53**

1 ~~telecommunications utility's basic local exchange service if the commission~~  
2 ~~determines that a waiver is consistent with the factors under s. 196.03 (6).~~

3 (b) (intro.) For purposes of ~~subd. 1. par. (a)~~, the total service long-run  
4 incremental cost of a local government telecommunications utility shall take into  
5 account, by imputation or allocation, equivalent charges for all taxes, pole rentals,  
6 rights-of-way, licenses, and similar costs that are incurred by nongovernmental  
7 telecommunications utilities. This ~~subdivision~~ paragraph does not apply to a local  
8 government telecommunications utility that is subject to the exemption under s.  
9 66.0422 (3n). This ~~subdivision~~ paragraph also does not apply to a  
10 telecommunications service, relevant group of services, or basic network function if  
11 all of the following conditions apply:

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

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

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

18 **SECTION 56.** 196.205 (1m) of the statutes is renumbered 196.205, and 196.205  
19 (intro.), as renumbered, is amended to read:

20 196.205 (intro.) A telecommunications cooperative or an unincorporated  
21 telecommunications cooperative association may elect to be subject to ~~ss. 196.28 and~~  
22 ~~196.37 as they apply to any rate, toll or charge and to ss. 196.02 (2), 196.09 (1), s.~~  
23 ~~196.11 (2), 196.20 and 196.26~~ in any of the following ways:

24 **SECTION 57.** 196.205 (2) of the statutes is repealed.

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

**SENATE BILL 469****1           196.206 Interconnected voice over Internet protocol service. (1)**

2           EXEMPTION. Interconnected voice over Internet protocol service is not subject to ch.  
3           201 or this chapter, except as provided in this section.

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

13          **(3) INTRASTATE ACCESS RATES.** Unless otherwise provided under federal law,  
14          access charges for interconnected voice over Internet protocol service are subject to  
15          s. 196.191.

16          **SECTION 59.** 196.211 of the statutes is created to read:

17          **196.211 Electronic call detail records. (1) DEFINITIONS.** In this section:

18          (a) "Competitive local exchange carrier" means a local exchange carrier, as  
19          defined in 47 USC 153 (26), but does not include an incumbent local exchange carrier,  
20          as defined in 47 USC 251 (h) (1).

21          (b) "Electronic call detail record" means an electronic record in exchange  
22          message interface record format for a call originated by a commercial mobile radio  
23          service provider or a competitive local exchange carrier which is subsequently routed  
24          by a tandem switching provider to the telecommunications provider that terminates  
25          the call.

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1 (c) “Tandem switching provider” means a telecommunications provider that  
2 provides tandem switching service to another telecommunications provider.

3 (2) TANDEM SWITCHING PROVIDERS. Beginning no later than 24 months after the  
4 effective date of this subsection ... [LRB inserts date], a tandem switching provider  
5 shall make electronic call detail records available to telecommunications providers  
6 for calls that are originated by commercial mobile radio service providers and  
7 competitive local exchange carriers and subsequently routed by the tandem  
8 switching provider to a telecommunications provider’s network for termination. A  
9 tandem switching provider is in compliance with this subsection if the electronic call  
10 detail record that is made available contains the information provided by the  
11 telecommunications provider that originated the call. This section does not alter or  
12 otherwise change the record creation, record exchange, or billing processes for traffic  
13 carried by interexchange carriers that are in effect on the effective date of this  
14 subsection ... [LRB inserts date].

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

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

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

18 196.218 (1) (a) “Essential telecommunications services” means services or  
19 functionalities determined by the federal communications commission to be eligible  
20 for support by federal universal service support mechanisms.

21 **SECTION 63.** 196.218 (3) (a) 3. c. of the statutes is created to read:

22 196.218 (3) (a) 3. c. The amounts required to make disbursements to incumbent  
23 local exchange carriers under s. 196.191 (3) (d) 2.

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



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1           196.218 (3) (a) 3m. Contributions under this paragraph may be based only on  
2           the gross operating revenues from the provision of broadcast services identified by  
3           the commission under subd. 2. and on intrastate telecommunications services in this  
4           state of the telecommunications providers subject to the contribution. Contributions  
5           based on revenues from interconnected voice over Internet protocol service shall be  
6           calculated as provided under s. 196.206 (2).

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

8           196.218 (3) (f) Notwithstanding ~~ss. 196.196 (1) and (5) (d) 2., s. 196.20 (2m), (5)~~  
9           ~~and (6), 196.213 and 196.215~~, a telecommunications utility that provides local  
10          exchange service may make adjustments to local exchange service rates for the  
11          purpose of recovering its contributions to the universal service fund required under  
12          this subsection. A telecommunications utility that adjusts local exchange service  
13          rates for the purpose of recovering such contributions shall identify on customer bills  
14          a single amount that is the total amount of the adjustment. The public service  
15          commission shall provide telecommunications utilities the information necessary to  
16          identify such amounts on customer bills.

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

18          196.218 (4)        ESSENTIAL   TELECOMMUNICATIONS   SERVICES.        Each  
19          telecommunications provider that provides basic local exchange service or that is  
20          designated as an eligible telecommunications carrier pursuant to 47 USC 214 (e) (2)  
21          shall make available to its customers all essential telecommunications services. A  
22          telecommunications provider may satisfy this subsection by providing essential  
23          telecommunications services itself or through an affiliate and in either case may  
24          provide essential telecommunications services through the use of any available  
25          technology or mode.

**SENATE BILL 469****SECTION 67**

1           **SECTION 67.** 196.218 (5) (a) 14. of the statutes is created to read:

2           196.218 **(5)** (a) 14. To make disbursements to incumbent local exchange  
3 carriers under s. 196.191 (3) (d) 2.

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

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

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

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

13           **SECTION 70.** 196.218 (5r) (am) of the statutes is created to read:

14           196.218 **(5r)** (am) The commission shall submit a written report to the  
15 universal service fund council at least annually regarding the administration of the  
16 disbursements to incumbent local exchange carriers under s. 196.191 (3) (d) 2. The  
17 report shall identify the total amount of money collected from each  
18 telecommunications provider that contributes to the universal service fund, the total  
19 amount disbursed annually to each incumbent local exchange carrier under s.  
20 196.191 (3) (d) 2., and the commission's administrative expenses related to s. 196.191  
21 (3) and 196.206 (2).

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

23           196.219 **(1)** (b) "Local exchange service" ~~has the meaning given in s. 196.50 (1)~~  
24 ~~(b) 1.~~ includes access service, basic local exchange service, and business access line  
25 and usage service within a local calling area.

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

2           196.26 (1) (a) A complaint filed with the commission that any rate, toll, charge,  
3 or schedule, joint rate, regulation, measurement, act, or practice relating to the  
4 provision of heat, light, water, or power,~~or telecommunications service~~ is  
5 unreasonable, inadequate, unjustly discriminatory, or cannot be obtained.

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

7           **SECTION 74.** 196.28 (4) of the statutes is repealed.

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

9           196.31 (1m) The commission shall compensate any consumer group or  
10 consumer representative for all reasonable costs of participating in a hearing under  
11 s. ~~196.196 (1) (g) or~~ 196.198.

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

13           196.37 (3) Any public utility to which an order under this section applies shall  
14 make such changes in schedules on file under s. 196.19 to make the schedules  
15 conform to the order. The public utility may not make any subsequent change in  
16 rates, tolls or charges without the approval of the commission, except as provided in  
17 s. 196.205 ~~or 196.215 (2).~~

18           **SECTION 77.** 196.37 (4) of the statutes is repealed.

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

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

21           196.49 (3) (b) (intro.) ~~Except as provided in par. (d), the~~ The commission may  
22 require by rule or special order under par. (a) that no project may proceed until the  
23 commission has certified that public convenience and necessity require the project.  
24 The commission may refuse to certify a project if it appears that the completion of  
25 the project will do any of the following:

**SENATE BILL 469****SECTION 80**

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

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

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

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

5           196.50 (2) (a) Alternative telecommunications utilities shall be certified under  
6 s. 196.203. All Except as provided in par. (j) 1., all other telecommunications utilities  
7 shall be certified under this subsection.

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

9           196.50 (2) (f) The commission shall issue a certificate of authority or an  
10 amended certificate of authority if it finds, after notice and opportunity for hearing,  
11 that the applicant possesses sufficient technical, financial and managerial resources  
12 to provide telecommunications service to any person within the identified geographic  
13 area. In making this determination, the commission shall consider the factors  
14 identified in s. 196.03 (6). ~~The commission may order the applicant to satisfy any~~  
15 ~~conditions that the commission considers to be necessary to protect the public~~  
16 ~~interest, including structural safeguards.~~

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

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

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

20           196.50 (2) (i) A telecommunications utility certified under this subsection is  
21 exempt from ss. 196.02 (2), 196.05, 196.06, 196.07, 196.09, 196.10, 196.12, 196.13,  
22 196.19, 196.20, 196.21, 196.22, 196.28, 196.37, 196.49, 196.52, 196.58, 196.60,  
23 196.78, and 196.79. If the commission imposes a provision of this chapter or ch. 201  
24 on an alternative telecommunications utility under s. 196.203 (3), the commission

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1 shall ensure that the same provision at the same level of regulation is imposed on  
2 telecommunications utilities certified under this subsection.

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

4 196.50 (2) (j) A telecommunications utility certified under this subsection may  
5 do any of the following:

6 1. Provide notice to the commission to terminate the certification under this  
7 subsection and certify the telecommunications utility as an alternative  
8 telecommunications utility under s. 196.203. No later than 30 days after receiving  
9 notice under this subdivision, the commission shall issue an order issuing a  
10 certification under s. 196.203 and terminating the certification under this subsection  
11 and all regulatory requirements related to the certification under this subsection,  
12 including all such requirements imposed by the certification under this subsection  
13 or imposed by order or otherwise by the commission.

14 2. Provide notice to the commission to maintain the certification under this  
15 subsection but to regulate the telecommunications utility in the same manner as an  
16 alternative telecommunications utility is regulated under this chapter. No later  
17 than 30 days after receiving notice under this subdivision, the commission shall  
18 issue an order specifying that the telecommunications utility shall be regulated in  
19 the same manner as an alternative telecommunications utility.

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

21 196.52 (3) (b) 1. The requirement for written approval under par. (a) shall not  
22 apply to any contract or arrangement if the amount of consideration involved is not  
23 in excess of \$25,000 or 5% of the equity of the public utility, whichever is smaller. The  
24 requirement under par. (a) also does not apply to a telecommunications utility  
25 ~~contract or arrangement or to contracts or arrangements with joint local water~~

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1 authorities under s. 66.0823. Regularly recurring payments under a general or  
2 continuing arrangement which aggregate a greater annual amount may not be  
3 broken down into a series of transactions to come within the exemption under this  
4 paragraph. Any transaction exempted under this paragraph shall be valid or  
5 effective without commission approval under this section.

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

7 196.52 (3) (c) (intro.) If the value of a contract or arrangement between an  
8 affiliated interest and a public utility, ~~other than a telecommunications utility,~~  
9 exceeds \$1,000,000, the commission:

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

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

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

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

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

23 196.52 (9) (e) Notwithstanding sub. (5) ~~(a),~~ the commission may not modify or  
24 terminate a leased generation contract approved under sub. (3) except as specified

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1 in the leased generation contract or the commission's order approving the leased  
2 generation contract.

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

4 196.60 (1) (a) ~~Except as provided under sub. (2), no~~ No public utility and no  
5 agent, as defined in s. 196.66 (3) (a), or officer of a public utility, directly or indirectly,  
6 may charge, demand, collect or receive from any person more or less compensation  
7 for any service rendered or to be rendered by it in or affecting or relating to the  
8 production, transmission, delivery or furnishing of heat, light, water,  
9 ~~telecommunications service~~ or power or for any service in connection therewith, than  
10 that prescribed in the published schedules or tariffs then in force, or established  
11 under this chapter, or than it charges, demands, collects or receives from any other  
12 person for a like contemporaneous service.

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

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

15 **196.604 Rebates, concessions and discriminations unlawful.** No person  
16 may knowingly solicit, accept or receive any rebate, concession or discrimination  
17 from a public utility for any service in or affecting or relating to the production,  
18 transmission, delivery or furnishing of heat, light, water or power ~~or the conveying~~  
19 ~~of telecommunications messages~~ within this state or for any connected service  
20 whereby the service is rendered or is to be rendered free or at a rate less than the rate  
21 named in the schedules and tariffs in force, or whereby any other service or  
22 advantage is received. Any person violating this section shall be fined not less than  
23 \$50 nor more than \$5,000 for each offense.

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

**SENATE BILL 469****SECTION 99**

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

3           **196.79 Reorganization subject to commission approval.** ~~Except as~~  
4 ~~provided in sub. (2), the~~ The reorganization of any public utility shall be subject to  
5 the supervision and control of the commission. No reorganization may take effect  
6 without the written approval of the commission. The commission may not approve  
7 any plan of reorganization unless the applicant for approval establishes that the plan  
8 of reorganization is consistent with the public interest.

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

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

11          **SECTION 102.** 196.975 (1) of the statutes is amended to read:

12          196.975 (1) One hundred fifty or more consumers, as defined in s. ~~196.213~~  
13 196.215 (1) (a) 1., who are residents of the same local exchange area for  
14 telecommunications service may file with the commission a petition requesting that  
15 commission staff, in cooperation with the affected telecommunications utilities and  
16 telecommunications carriers, petition the appropriate federal district court to  
17 include their local exchange area in a different local access and transport area. The  
18 petitioners shall include with the petition information explaining why the current  
19 boundaries of the local access and transport area which includes their local exchange  
20 area does not adequately reflect areas of common social, economic and other  
21 concerns.

22          **SECTION 103.** 201.15 (4) (b) of the statutes is amended to read:

23          201.15 (4) (b) If the commission finds that a small telecommunications utility  
24 subject to rate-of-return regulation is an equity-thin utility, as defined in s. 196.215  
25 ~~(1) (am)~~ has less than 25 percent common stock equity in its total capital structure,



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1 the commission may, after investigation and opportunity for hearing, issue an order  
2 directing the small telecommunications utility to cease paying dividends on its  
3 common stock until the small telecommunications utility is no longer an equity-thin  
4 utility.

5 **SECTION 104. Nonstatutory provisions.**

6 (1) PRICE-REGULATED TELECOMMUNICATIONS UTILITIES.

7 (a) In this subsection:

8 1. "Commission" means the public service commission.

9 2. "Price-regulated telecommunications utility" means a telecommunications  
10 utility that elected to become a price-regulated telecommunications utility under  
11 section 196.196 (1) or (4), 2007 stats.

12 (b) On the effective date of this paragraph, any requirement imposed by the  
13 commission under section 196.195 (5), 2007 stats., or section 196.196, 2007 stats.,  
14 whether by statute or commission rule or order, on a price-regulated  
15 telecommunications utility is terminated.

16 (END)