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Ordinance Chapter 18 Nuclear Waste Exploration Repeal	4
Wis. Stat. 196.497	7

WAUPACA COUNTY SOLID WASTE MANAGEMENT BOARD

Meeting Minutes – March 8th, 2021

Waupaca County Courthouse – Room LL42

Chair Zaug called the meeting to order at 3:30 pm and gave the open meeting statement.

Roll Call: Chair Fred Zaug, Vice Chair Joe McClone, Supervisors Joyce Boyer, Janet Lehrer and Sue Golding, and citizen members Maryann Snider and Jeff Dyer were present while citizen members Nancy Koeppen and Ken Van Dyke attended remotely. Others present: Staff Members Taylor Sorenson, Tom Claussen, and John Francis.

Review and Approve Agenda: Motion by Lehrer, seconded by Golding to approve the agenda. Motion carried without a negative vote.

Approve Minutes of Previous Meeting: Motion by McClone, seconded by Dyer to approve the February 8th, 2021 minutes with one change as noted by Van Dyke. Motion carried without a negative vote.

Public Comment/Correspondence: Zaug opened the meeting for public comment/correspondence, there was none.

Hazwaste building capital project - Update: Claussen reported that he is working with engineer Jeff Finger to finalize the design and get it sent to the State for approval. Once that is done, the project will be put out to bid. Some changes since last time, we will be going with 2x6 steel stud construction vs. steel beam like the rest of the PTF building to reduce cost and increase the pool of perspective contractors. The building will be attached to the existing building next to the recycling receiving door. He will update the Board when there is further development.

Scale kiosk and skid-steer capital projects update: Claussen reported that he is working with AWS who is doing the job. The electrician came the other day and will have to come back later as the conduit the wire is to be pulled through is frozen solid at this time and may take quite a while to thaw underground.

The new skid-steer was delivered last week. The budget was for \$35,000, the cost came in at \$16,000. We purchased a set of Setco (airless) tires and new blade for the bucket edge bringing the total spent to \$20,000. The skid-steer was purchased through the Appleton Bobcat dealer, as they were about \$3,000 less than the others for the same machine.

Meetings/Conferences Attended: Zaug reported that he remotely attended the Wisconsin Counties Solid Waste Management Association (WCSWMA) board meeting and was elected to another 2-year term. He also talked about scholarships available to environmental studies or similar majors.

Sorenson talked about attending the Wisconsin Integrated Resource Management Conference (WIRMC) virtually and discussed some of the interesting presentations she attended. She mentioned that at she also attended the WCSWMA board meeting where the States proposed budget was discussed. The issue was brought up of a large amount of money from the environmental management fund to be designated to address the PFAS issue. This is money that comes from landfill tipping fees and goes towards the State Recycling grant and Clean Sweep grants. Snider stated that the Governor's budget included taking 26 million dollars from the environmental fund to help address the PFAS issue. There was discussion about how that would impact the recycling programs and grants.

PTF Supervisor Update: Claussen reported that the PTF has switched to summer hours and were now open every Saturday from 7am – 11am. He said it was getting busy. There has been a lot of tires collected recently, there was 194 tons brought in for 2020. Keeps them out of the ditches!

Recycling Coordinators Report:

- a. **Education Outreach:** Sorenson reported that she had finished updating the recycling drop off brochures.
- b. **Program Updates:** Sorenson stated that the program had received the Clean Sweep grant reimbursement, the MRF self-certification has been submitted and that she is still working on the annual grant report. She mentioned that the Iola Recycling Center decided to increase their PAYT tags from \$2.50 to \$3.00 each, the price had not been increased since 2013. Sorenson also reported that the T. of Waupaca is considering going to curbside collection for garbage and recyclables and she plans on attending their next meeting in April to further discuss.

Director Report: Francis talked about Covid-19 updates and how things appear to be trending in the right direction. There was some discussion.

Upcoming Meetings: The next regularly scheduled meeting will be April 12th, 2021 at 3:30 pm at the Courthouse.

Adjourn: Motion by McClone, seconded by Van Dyke to adjourn. Motion carried without a negative vote.

The meeting adjourned at 3:55 pm

Submitted by,

John D Francis
Solid Waste Director

**REPEAL THE WAUPACA COUNTY CODE OF ORDINANCES
CHAPTER 18 NUCLEAR WASTE EXPLORATION ORDINANCE**

The Waupaca County Board of Supervisors does hereby ordain that the current Waupaca County Nuclear Waste Exploration Ordinance, Chapter 18 of the Waupaca County Code of Ordinances, be repealed in its entirety.

EFFECTIVE DATE

Upon enactment of the County Board of Supervisors, the ordinance amendment to repeal the Waupaca County Code of Ordinances as set forth above will be in full force and effect within Waupaca County and each Town as provided in Section 59.14(1), Wis. Stats.

Approved on the ___ day of _____, 2021

_____ayes _____nays

ATTEST:

Jill Lodewegen
Waupaca County Clerk

APPROVED AS TO FORM:

Diane L. Meulemans
Corporation Counsel

RECOMMENDED FOR
INTRODUCTION BY SOLID WASTE
MANAGEMENT BOARD

RECOMMENDED FOR
INTRODUCTION BY LEGISLATIVE,
JUDICIAL, ETHICS, SAFETY &
SECURITY COMMITTEE

FOR INFORMATION PURPOSES ONLY

The repeal of Chapter 18, Nuclear Waste Exploration is the result of the enactment of and amendments to Wis. Stat. § 196.497 “State policy regarding long-term disposal of high-level radioactive waste and transuranic waste.” Nuclear and transuranic long-term waste disposal is overseen at the state level by a commission specifically dedicated for this purpose. The statute requires the holding of public hearings, communication by the committee with affected local government units, and any agreements or modification of agreements between the State of Wisconsin and the United States Department of Energy regarding long-term waste disposal requiring state legislation and governor approval.

the commission against a cooperative association involved in a proceeding under this section in the same manner as provided for public utilities under s. 196.85.

History: 1971 c. 125 s. 521; 1983 a. 53; 1991 a. 94.

Cross-reference: See also s. PSC 112.08, Wis. adm. code.

Although one utility was serving a farm, when the farm was annexed to a city and a large shopping center was built, the utility having an indeterminate permit to serve the city could not be barred from serving the area; the PSC should determine which utility should serve the area. *Adams-Marquette Electric Cooperative v. PSC* 51 Wis. 2d 718, 188 N.W.2d 515 (1971).

The “premises of a person already receiving electrical service” refers to the premises to be served, not the person. *Adams-Marquette Electric Cooperative v. PSC* 51 Wis. 2d 718, 188 N.W.2d 515 (1971).

The application of this section is discussed. A court’s order to a utility violating this section to remove the offending line or sell it to the utility who should have provided the service was within the authority granted by sub. (5). *Barron Electric Cooperative v. PSC*, 212 Wis. 2d 752, 569 N.W.2d 726 (Ct. App. 1997), 97–0420.

196.496 Distributed generation facilities. (1) **DEFINITION.** In this section, “distributed generation facility” means a facility for the generation of electricity with a capacity of no more than 15 megawatts that is located near the point where the electricity will be used or is in a location that will support the functioning of the electric power distribution grid.

(2) **RULES.** The commission shall promulgate rules establishing standards for the connection of distributed generation facilities to electric distribution facilities. To the extent technically feasible and cost effective, the standards shall be uniform and shall promote the development of distributed generation facilities. The standards shall address engineering, electric reliability, and safety concerns and the methods for determining charges for interconnection.

History: 2001 a. 16.

Cross-reference: See also ch. PSC 119, Wis. adm. code.

196.497 State policy regarding the long-term disposal of high-level radioactive waste and transuranic waste.

(1) **DEFINITIONS.** As used in this section unless the context requires otherwise:

(b) “Federal department of energy” means the federal department of energy or any successor agency assigned responsibility for the long-term disposal of high-level radioactive waste and transuranic waste.

(c) “High-level radioactive waste” means:

1. Fuel that is withdrawn from a nuclear reactor after irradiation and which is packaged and prepared for disposal; or

2. Highly radioactive waste resulting from reprocessing irradiated nuclear fuel including both the liquid waste which is produced directly in reprocessing and any solid material into which the liquid waste is transformed.

(d) “Transuranic waste” means waste material containing alpha-emitting radioactive elements having an atomic number greater than 92 in concentrations greater than 10 nanocuries per gram.

(2) **COORDINATION.** (a) *Initial agency to be contacted.* The commission shall serve as the initial agency in this state to be contacted by the federal department of energy or any other federal agency on any matter related to the long-term disposal of high-level radioactive waste or transuranic waste.

(b) *Receipt of information.* The commission shall serve as the initial agency in this state to receive any report, study, document, information or notification of proposed plans from the federal department of energy or any other federal agency on any matter related to the long-term disposal of high-level radioactive waste or transuranic waste. Notification of proposed plans include notification of proposals to conduct field work, on-site evaluation, on-site testing or similar activities.

(c) *Dissemination of information.* The commission shall disseminate or arrange with the federal department of energy or other federal agency to disseminate information received under par. (b) to appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies,

the general public, interested citizen groups and persons who have requested in writing to receive this information.

(d) *Response.* The commission shall respond to contacts under par. (a) and information received under par. (b) if a response is appropriate. The commission shall consult with appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies, the general public and interested citizen groups in preparing this response.

(3) **ADVOCATE.** The commission shall serve as an advocate on behalf of the citizens of this state before the federal department of energy and other federal agencies on matters related to the long-term disposal of radioactive waste and transuranic waste.

(5) **REVIEW OF APPLICATIONS FOR FEDERAL FUNDS.** The commission shall review any application to the federal department of energy or other federal agency by a state agency, local unit of government or regional planning commission for funds for any program related to the long-term disposal of high-level radioactive waste or transuranic waste. If the commission finds that the application is not consistent with the commission’s policy related to the long-term disposal of high-level radioactive waste or transuranic waste or that the application is not in the best interest of the state, the commission shall forward its findings to the governor, the joint committee on finance and the federal agency to which the application for funds is being made. If the commission finds that the application of a state agency is not consistent with the commission’s policy related to the long-term disposal of high-level radioactive waste or transuranic waste or that the application of a state agency is not in the best interest of the state, the findings forwarded to the governor shall include a recommendation that the governor act under s. 16.54 (1) and stipulate conditions for the acceptance of the funds which are necessary to safeguard the interests of the state.

(6) **MONITOR FEDERAL ACTIVITY.** The commission shall monitor activity in congress and the federal government related to the long-term disposal of high-level radioactive waste and transuranic waste. The commission may advise the congressional delegation from this state of action which is needed to protect the interests of the state.

(7) **REQUEST ATTORNEY GENERAL TO INTERVENE.** If appropriate the commission shall request the attorney general to intervene in federal proceedings to protect the state’s interests and present the state’s point of view on matters related to the long-term disposal of high-level radioactive waste or transuranic waste.

(8) **NEGOTIATION OF AGREEMENTS.** (a) *Negotiations with the federal department of energy.* The commission shall serve as the agency in this state to negotiate written agreements and modifications to these agreements, with the federal department of energy on any matter related to the long-term disposal of high-level radioactive waste or transuranic waste.

(b) *Negotiations with other federal agencies.* The commission shall serve as the agency in this state to negotiate written agreements and modifications to these agreements, with any federal agency other than the federal department of energy on any matter related to the long-term disposal of high-level radioactive waste or transuranic waste.

(d) *Hearings.* The commission shall conduct public hearings on any proposed agreement or modification to an agreement negotiated under par. (a) or (b). The commission shall provide 30 days’ notice of the date and location of hearings conducted under this paragraph. The commission shall prepare a written summary of testimony presented at hearings conducted under this paragraph and shall consider the need for modifications to the negotiated agreement as a result of the hearings.

(f) *Approval of agreements and modifications by the legislature and governor.* No agreement or modification to an agreement negotiated under par. (a) or (b) may take effect unless it is approved under sub. (10).

(g) *Technical revisions.* The commission may negotiate what in the commission's judgment are technical revisions to any agreement approved under sub. (10).

(i) *Review of technical revisions by the legislature and governor.* No technical revision to an agreement negotiated under par. (g) may take effect unless it is considered approved under sub. (11).

(9) **AGREEMENTS WITH THE FEDERAL DEPARTMENT OF ENERGY.** (a) *Separate agreements.* The commission may negotiate separate agreements with the federal department of energy concerning different stages of the process of evaluating and selecting a site for the long-term disposal of high-level radioactive waste or transuranic waste. The commission shall negotiate a separate agreement with the federal department of energy for the final stages of the selection of any site for the long-term disposal of high-level radioactive waste or transuranic waste.

(b) *Contents.* Any agreement negotiated by the commission with the federal department of energy under sub. (8) (a) shall include all of the following:

1. A general description of the roles of the state and the federal department of energy.

2. A compliance schedule which includes a list of significant events and stages which are expected to be reached as the federal department of energy assesses the suitability of the state for the long-term disposal of high-level radioactive waste or transuranic waste and a description of the actions to be taken by the federal department of energy and the state at each event and stage.

3. The criteria that the department of energy shall use in evaluating the suitability of any site in the state for the long-term disposal of high-level radioactive waste or transuranic waste.

4. A requirement that the federal department of energy shall comply with all federal laws, American Indian laws, state laws and local ordinances and shall respect state sovereignty consistent with the 10th amendment to the U.S. constitution and the U.S. constitution, regardless of the ownership of the land on which the activity takes place.

5. A requirement that the federal department of energy and any of its contractors or subcontractors shall provide the commission with all reports and documents the commission requests and any other relevant reports and documents in a timely manner and in accordance with any applicable law, regulation or rule. The requirement shall specify that the federal department of energy may not charge a fee for searching for or for supplying reports and documents requested by the commission. The requirement shall specify that the federal department of energy shall provide the commission with all reports and documents the commission requests and any other relevant reports and documents from contractors and subcontractors after the reports and documents are submitted to the federal department of energy regardless of whether the reports and documents have received the department of energy's final approval.

6. A requirement that, upon request by the commission, the federal department of energy shall provide the data, methods and underlying assumptions used in the preparation of reports and documents in accordance with any applicable law, regulation or rule.

7. A requirement that the federal department of energy shall notify the commission of any grants related to the long-term disposal of high-level radioactive waste and transuranic waste from the federal department of energy to any person in this state.

8. A requirement that the federal department of energy shall notify the commission in a timely manner of any proposed field work, on-site evaluation, on-site testing or similar activities if or any contractor or subcontractor intends to conduct and a requirement that the federal department of energy shall allow the commission to monitor these activities by designating a reasonable number of persons to observe the activities or by any other appropriate means.

9. A requirement that the federal department of energy shall provide the commission in a timely manner with a copy of any requests for proposals and final contracts issued by the federal department of energy relating to the evaluation, selection or construction of a site for the long-term disposal of high-level radioactive waste or transuranic waste in this state.

10. A provision that the federal department of energy shall agree to provide funds to be used to review the activities of the federal department of energy and its contractors and subcontractors which relate to assessing the suitability of the state for the long-term disposal of high-level radioactive waste or transuranic waste.

11. A process for resolving disputes between the commission and the federal department of energy including disputes concerning alleged violations of the written agreement and disputes concerning technical assessments made by the federal department of energy. The process for resolving disputes concerning technical assessments made by the federal department of energy may involve a process of scientific review and mediation.

12. A requirement that if the federal department of energy selects a site in the state for construction of a repository for the long-term disposal of high-level radioactive waste or transuranic waste, the federal department of energy shall prepare, prior to submission of an application to license or construct the repository, a repository plan which shall include descriptions of the federal department of energy's plans for construction of the repository, transportation of wastes to the repository, operation of the repository, closing of the repository and monitoring the repository after closure.

(c) *Objection to site selection.* Any agreement negotiated by the commission with the federal department of energy under sub. (8) (a) shall include a list of reasons for which the commission may object to the selection of a site within this state for the long-term disposal of high-level radioactive waste and transuranic waste. These reasons shall include the following:

1. The site or the transportation of waste to the site poses a danger to public health and safety or to the environment.

2. The federal department of energy fails to address to the satisfaction of the commission the potential socioeconomic effects of the site or of the transportation of waste to the site.

3. The federal department of energy violates any written agreement or revision approved under sub. (10) or (11).

4. If, in the judgment of the commission, the federal department of energy fails to comply with criteria, regulations or standards of other federal agencies concerning the long-term disposal of high-level radioactive waste or transuranic waste including criteria which excludes a proposed site from consideration because of previous mining or drilling of any type within the area which could be affected by the construction of the site or by the heat resulting from the disposal of high-level radioactive waste or transuranic waste at the site.

5. If, in the judgment of the commission, the federal department of energy fails to use generally accepted scientific and technical practices in evaluating the suitability of a site for the long-term disposal of high-level radioactive waste or transuranic waste.

(10) **APPROVAL OF AGREEMENTS.** (a) *Submission.* The commission shall submit any written agreement or modification to an agreement negotiated under sub. (8) (a) or (b), approved by the commission and approved by the federal department of energy or other federal agency to the speaker of the assembly and the president of the senate. The commission shall submit with the agreement or modification a written summary of the hearings held under sub. (8) (d).

(b) *Introduction of bill.* Upon request of the commission, the speaker of the assembly or the president of the senate shall introduce a bill to approve the agreement or modification to an agreement. The bill is not subject to s. 16.47 (2).

(c) *Legislative action required.* Within 120 days after the bill is introduced the appropriate committees in each house of the legislature shall authorize an extraordinary session of the legislature to commence within the 120 days and to extend until the legislature passes the bill or passes a joint resolution which disapproves of the agreement or modification and returns the agreement or modification to the commission for renegotiation. If the 120-day period extends beyond the date specified in s. 13.02 (1), the 120-day period is deemed to commence on the first day the succeeding legislature convenes, unless a bill or joint resolution is passed prior to that time.

(d) *Veto review.* Within 10 days after the bill passes the legislature, the chief clerk of the house of origin shall refer the bill to the governor for executive action. If the governor vetoes the bill, the appropriate committees in each house of the legislature shall schedule a veto review session.

(e) *Approval.* If the bill is enacted into law, the agreement or modification to the agreement is approved and shall take effect.

(11) **REVIEW OF TECHNICAL REVISIONS.** (a) *Submission.* The commission shall submit any technical revision to a written agreement negotiated under sub. (8) (g), approved by the commission and approved by the federal department of energy or other federal agency, to the presiding officer of each house of the legislature and to the governor.

(b) *Referral to standing committees.* Each presiding officer shall refer the technical revision to one standing committee within 7 working days after the day on which the revision is received unless the revision is received on or after November 1 of an even-numbered year. If a revision is received on or after November 1 of an even-numbered year, each presiding officer shall refer the revision to one standing committee within 7 days after the first day of the next regular session of the legislature. Each presiding officer shall cause a statement to appear in the journal of the appropriate house that a technical revision to an agreement approved under sub. (10) is submitted for review.

(c) *Standing committee review.* Either standing committee may object to the technical revision by taking action in executive session within 30 days after the revision is referred to the committee. If a standing committee objects to the revision, it shall submit a written notice of the objection to the presiding officer of that house of the legislature and the presiding officer shall cause the written notice of the objection to appear in the journal of the house.

(d) *Review by the governor.* The governor may object to the technical revision by taking action within 30 days after the revision is received unless the revision is received on or after November 1 of an even-numbered year. If the revision is received on or after November 1 of an even-numbered year, the governor may object to the revision by taking action within 30 days after the first day of the next regular session of the legislature. If the governor objects to the revision, the governor shall submit a written notice of the objection to the presiding officer of each house of the legislature and each presiding officer shall cause the written notice of the objection to appear in the journal of each house.

(e) *Objection.* A standing committee to which a revision is referred or the governor may object to a technical revision for any reason including a belief that the revision is so substantial that the revised agreement should be approved under sub. (10) rather than this subsection. If either standing committee to which a revision is referred or the governor objects to a technical revision within the 30-day review period, the revision may not take effect.

(f) *No objection.* If neither standing committee nor the governor objects to a technical revision within the 30-day review period, the revision is considered approved and shall take effect.

(11m) **REVIEW OF FINAL SITE SELECTION AND SITE PLAN.** (a) *Review by the commission.* If the federal department of energy selects a site in the state for construction of a repository for the long-term disposal of high-level radioactive or transuranic waste, the commission shall review the adequacy of the selected

site and of the site plan prepared by the federal department of energy under sub. (9) (b) 12. The review shall include a full scientific review of the adequacy of the selected site and of the site plan. The commission shall utilize recognized experts in conducting its scientific review. The commission shall conduct more than one public hearing on the site plan and shall make available to the public arguments and evidence for and against the site plan. The commission shall provide 30 days' notice of the date and location of the public hearings. The commission shall solicit comments from appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies, the general public and interested citizen groups on the adequacy of the selected site and the site plan. The commission shall make these comments available to the public.

(b) *Recommendation to the legislature and the governor.* After completing this review, the commission shall submit a recommendation to the speaker of the assembly, the president of the senate and the governor on whether the state should accept the site selected by the federal department of energy and the site plan. The reasons for which the commission may recommend that the legislature and the governor object to the site selection or the site plan, or both, include those specified in sub. (9) (c). The recommendation to the speaker of the assembly and the president of the senate shall be accompanied by a request for the introduction of a bill to approve the site selected and the site plan or by a request for the introduction of a bill to disapprove the site or the site plan or both.

(c) *Introduction of legislation.* Upon request of the commission, the speaker of the assembly or the president of the senate shall introduce a bill reflecting the recommendation of the commission on whether to approve or disapprove the site selected by the federal department of energy and the site plan. The bill is not subject to s. 16.47 (2).

(d) *Legislative action required.* Within 120 days after the legislation is introduced under par. (c), the appropriate committees in each house of the legislature shall authorize an extraordinary session of the legislature to commence within the 120 days and to extend until the legislature passes a bill which approves the site selected by the federal department of energy and the site plan or the legislature passes a bill which disapproves the site or the site plan or both. If the 120-day period extends beyond the date specified under s. 13.02 (1), the 120-day period is deemed to commence on the first day the succeeding legislature convenes, unless a bill is passed prior to that time.

(e) *Veto review.* Within 10 days after the bill passes the legislature, the chief clerk of the house of origin shall refer the bill to the governor for executive action. If the governor vetoes the bill, the appropriate committees in each house of the legislature shall schedule a veto review session.

(f) *Transmittal of action by the legislature and the governor.* After the legislature takes action under par. (d) and after the governor takes any action under par. (e), the chief clerk of the house of origin shall notify the commission of the action taken and the commission shall send a report to the president of the United States, the members of the U.S. senate, the members of the U.S. house of representatives, the federal department of energy and other appropriate federal agencies. The report shall contain a summary of the review undertaken by the commission in accordance with par. (a), the recommendation made by the commission under par. (b), the action of the legislature under par. (d) and any action of the governor under par. (e).

(11s) **ESCROWING OF CERTAIN PAYMENTS TO THE FEDERAL GOVERNMENT.** (a) If the commission determines that the federal department of energy is not meeting its obligations under contracts entered into under 42 USC 10222 with state agencies or with persons in this state, the commission, subject to par. (ab), shall direct the state agencies or persons to pay to the commission, instead of the federal department of energy the fees due under 42 USC 10222 for the period during which those contractual obliga-

tions are not met. The commission shall deposit any funds received under this paragraph in the nuclear waste escrow fund.

(ab) The commission may only direct the state agencies or persons to make the payment to the commission under par. (a) if a federal court or the federal department of energy has authorized the commission to receive the payment of the fees due under 42 USC 10222.

(b) Upon a showing by the secretary of the federal department of energy that the federal department of energy is meeting its obligations under contracts entered into under 42 USC 10222, the commission shall pay to the secretary of the federal department of energy all funds contained in the nuclear waste escrow fund and shall cease accepting additional funds under par. (a).

(12) IMPLEMENTATION. The commission shall implement agreements, modifications and technical revisions approved under subs. (10) and (11). In implementing these agreements, modifications and revisions, the commission may solicit the views of appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies, the general public and interested citizen groups.

(13) FUNDING. The commission shall attempt to finance all of its expenses under this section from moneys received from the federal department of energy and other federal agencies and from gifts and grants received from other persons.

(14) STATE AGENCIES TO COOPERATE. Other state agencies shall assist the commission in fulfilling its duties under this section to the fullest extent possible.

History: 1981 c. 62; 1985 a. 29; 1989 a. 31 ss. 107m, 713e; Stats. 1989 s. 36.50; 1991 a. 25; 1995 a. 27, ss. 1779 to 1799; Stats. s. 196.497; 1999 a. 196; 2009 a. 276.

Only the Radioactive Waste Review Board is authorized to negotiate agreements with the federal government regarding disposal of high-level nuclear waste. 80 Atty. Gen. 308.

196.499 Regulation of telecommunications carriers.

(1) SCOPE. Notwithstanding any other provisions of this chapter, a telecommunications carrier is not subject to regulation under this chapter, except for s. 196.025 (6), and except under each of the following provisions:

(a) A telecommunications carrier shall comply with the requirements of this section.

(b) A telecommunications carrier shall be treated under ss. 196.209, 196.218 (8) and 196.219 as a telecommunications provider.

(c) A telecommunications carrier shall be treated under s. 196.85 as a telecommunications utility.

(d) A telecommunications carrier shall be treated under s. 196.858 as an interexchange telecommunications utility.

(e) A telecommunications carrier may be assessed under s. 196.218 (3) as a telecommunications provider and shall respond, subject to the protection of the telecommunications carrier's competitive information, to all reasonable requests for information about its operations in this state from the commission necessary to administer the universal service fund. A telecommunications carrier may not be assessed in a manner that is inconsistent with this paragraph.

(f) For purposes of enforcing s. 196.209, 196.218 (3) or (8), 196.219, 196.85, or 196.858, or for purposes of approving or enforcing an interconnection agreement to which a telecommunications carrier is a party, a telecommunications carrier shall be subject to ss. 196.02 (3), 196.32, 196.33, 196.39, 196.395, 196.40, 196.41, 196.43, 196.44 (3), and 196.48 and be treated as a party to the agreement under ss. 196.199 and 196.26, as a public utility under ss. 196.02 (5) and (6), 196.14, 196.24, 196.44 (2), 196.66, and 196.85 (1), and as a telecommunications provider under ss. 196.25 (3) and 196.65 (3).

(2) TARIFFS. Every telecommunications carrier shall keep on file with the commission a tariff for each service, that contains all the rules, rates and classifications used by it in the provision of its telecommunications services, including limitations on liability

unless the commission waives any requirement. A tariff shall be effective when filed or on a date indicated by the carrier. The telecommunications carrier shall provide notice of price increases by publication in newspapers or by any other reasonable means and may provide notice of price decreases or of tariffed promotional rates. Tariffs may be filed for services offered on an interim basis, for special promotions, for discounts, including discounts intended to maintain customer relations, or for individual contracts between carriers and customers. A telecommunications carrier shall charge rates in accordance with its tariff.

(3) RATES. (a) Except as provided in this subsection, a telecommunications carrier may not charge different rates for residential basic message telecommunications services, business basic message telecommunications services, or single-line wide-area telecommunications service on routes of similar distances within the state, unless otherwise authorized by the commission.

(am) Paragraph (a) does not prohibit volume or term discounts, discounts in promotional offerings, differences in the rates for intralata and interlata services of similar distances, the provision of optional toll calling plans to selected exchanges or customers or the passing through of any state or local taxes in the specific geographic areas from which the taxes originate.

(b) Notwithstanding any other provision in this chapter, a telecommunications carrier may furnish services to its employees, officers, agents or pensioners at no charge or at rates that are lower than its tariff rates.

(c) A telecommunications carrier may contract to charge prices for services that are unique to a particular customer or group of customers if differences in the cost of providing a service or a service element justify a different price for a particular customer or group of customers or if market conditions require individual pricing.

(4) ABANDONMENT OF SERVICES. A telecommunications carrier shall provide written notice to the commission not less than 60 days before its abandonment of basic message telecommunications service to an exchange. The carrier shall also publish notice in a newspaper of general circulation within the exchange and provide any other notice required by the commission. A telecommunications carrier shall be subject to rules and procedures that the commission may establish for the continuance of basic message telecommunications service to an exchange if notice has been received that all providers of the service intend to abandon that service in the exchange. A rule or procedure may not regulate the price, terms or conditions of service other than as authorized in this section and may not discriminate in favor of or against any telecommunications provider.

(5) COMPLAINTS. (a) In this subsection, "complaint" means a complaint filed with the commission that any rate, toll, charge or schedule relating to the provision of telecommunications service violates sub. (2) or (3) (a).

(am) In any complaint proceeding, the person initiating the complaint has the burden of proving a violation of sub. (2) or (3) (a).

(b) If any business organization, body politic or 25 individuals file a complaint against a telecommunications carrier, the commission, with or without notice, may investigate the complaint as it considers necessary. The commission may not issue an order based on the investigation without allowing the telecommunications carrier an opportunity for a hearing.

(c) 1. Before holding a hearing under this subsection, the commission shall notify the telecommunications carrier complained of that a complaint has been made, and no sooner than 10 days after the notice has been given the commission may set a time and place for a hearing.

2. The commission shall give the telecommunications carrier which is the subject of a complaint and the complainant at least 10 days' notice of the time and place of a hearing and the subject of