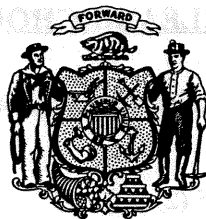


## WISCONSIN LEGISLATIVE COUNCIL STAFF

**RULES CLEARINGHOUSE**

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 00-155**

AN ORDER to amend PSC 163.04 (2) (b); and to create PSC 163.04 (2) (br), relating to the telecommunications utilities price regulation productivity factor.

Submitted by **PUBLIC SERVICE COMMISSION**

11-03-00 RECEIVED BY LEGISLATIVE COUNCIL.

11-17-00 REPORT SENT TO AGENCY.

RS:DLL;jal;tlu

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

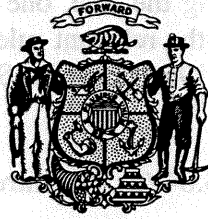
Comment Attached      YES       NO

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## CLEARINGHOUSE RULE 00-155

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### **2. Form, Style and Placement in Administrative Code**

- a. Since the rule does not amend s. PSC 163.04 (2) (b) 1. to 9., the preferred drafting style is to have SECTION 1 amend s. PSC 163.04 (2) (b) (intro.) and a new SECTION create the note following s. PSC 160.04 (2) (b).
- b. The notation "PSC 163.04 (2)" should precede the text of the amendment to s. PSC 163.04 (2) (b) and the text of the creation of s. PSC 163.04 (2) (br).
- c. The subdivisions in s. PSC 160.04 (2) (br) should be written as "1." and "2." rather than "(1)" and "(2)."
- d. Section PSC 160.04 (2) (br) 1. a. and b. and 2. a. should end with a period rather than a semicolon. [See s. 10.03 (intro.), Manual.]
- e. In s. PSC 163.04 (2) (br), the phrase "effective date of this rule" should be replaced by the phrase "effective date of this paragraph."
- f. The rule-making order should contain an effective date clause. [See s. 1.02 (4), Manual.]

**4. Adequacy of References to Related Statutes, Rules and Forms**

a. In the analysis accompanying the rule, one of the statutes cited as authority for the rule is s. 196.196 (1) (c), Stats. Since the relevant rule-making is authorized in subd. 1. of par. (c), this reference should be to s. 196.196 (1) (c) 1., Stats. The statute was amended by 1999 Wisconsin Act 85.

b. The reference in s. PSC 163.04 (2) (b) (intro.) to s. 196.196 (1) (c), Stats., should be to s. 196.196 (1) (c) 1., Stats.

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

In the Matter of Rulemaking to Revise Wis. Admin. Code Chapter  
PSC 163, Telecommunications Utility Price Regulation, Regarding  
the Productivity Offset Factor

1-AC-193

NOTICE OF HEARING

<b>Hearing Date:</b>	<b>Wednesday, December 6, 2000 – 9:00 a.m.</b>
<b>Hearing Location:</b>	<b>Public Service Commission, 610 North Whitney Way, Madison, WI</b>

<b>Comments Due:</b>	<b>Address Comments To:</b>
<b>Tuesday, December 12, 2000 – Noon</b>	<b>Lynda L. Dorr, Secretary to the Commission Public Service Commission P.O. Box 7854 Madison, WI 53707-7854 FAX (608) 266-3957</b>
<b>FAX Due:</b>	
<b>Monday December 11, 2000 – Noon</b>	

The Commission proposes an order to amend s. PSC 163.04(2)(b) and create s. PSC 163.04(2)(br) relating to the telecommunications utilities price regulation productivity factor.

ANALYSIS PREPARED BY THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

Statutory Authority: ss. 196.02(3), 196.196(1)(c), and 227.11, Stats. *1. Not on rules on change of offset*

Statutes Interpreted: s. 196.196(1)(c), Stats. *^*

Section 196.196(1)(c), Stats., provides for the use of a productivity offset mechanism in determining the amount a price-regulated company may increase or shall decrease its rates for price-regulated services. According to this section, the productivity factor offset to the change in the gross domestic product price index (GDPPI) shall be two percentage points. For a telecommunications utility with more than 500,000 access lines, the percentage offset shall be three percentage points. Pursuant to s. 196.196(1)(c), Stats., the first time the productivity offset

Docket 1-AC-193

may be changed is after September 1, 2000. Section PSC 163.04(2)(b) sets forth the factors the Commission may consider in determining any statewide changes in productivity.

According to s. 196.196(1)(c):  
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No earlier than 6 years after September 1, 1994, and no more frequently than every 3 years thereafter, the commission may, following notice and an opportunity for hearing, by rule increase or decrease the gross domestic product price index percentage offset by a maximum of one percentage point in any 12-month period to reflect any statewide changes in the productivity experience of the telecommunications industry

The attached proposed rule interprets this to mean that the Commission may, at this time, change the productivity offset by a maximum of one percent, effective immediately and for each of the next two years. The earliest the Commission could examine these factors again would then be three years after the effective date of this rule.

The objective of the proposed rule revision in this proceeding is to make those changes to s. PSC 163.04(2)(b) regarding the productivity offset factor deemed necessary as a result of a productivity study for the telecommunications industry in the state pursuant to s. PSC 163.04(2)(bm). Pursuant to s. PSC 163.04(2)(bm), each time the productivity factors are reviewed, the Commission shall provide for a productivity study for the telecommunications industry in this state. This study shall address the factors set forth in s. PSC 163.04(2)(b) plus additional evidence relative to a utility's ability to increase productivity in the future.

### **TEXT OF PROPOSED RULES**

The text of the proposed rules is set forth as Attachment A hereto.

### **INITIAL REGULATORY FLEXIBILITY ANALYSIS**

These rules may have an effect on small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats., because they may elect to become price-regulated under s. 196.196(1), Stats., which would result in these rules becoming applicable to them. The agency has considered the methods in s. 227.114(2), Stats., for reducing the impact of the rules on small telecommunications utilities and finds that incorporating any of these methods into the proposed rules would be contrary to the statutory objectives which are the basis for the proposed rules. In addition, the election of price regulation under this chapter is voluntary, and more flexibility and less stringent compliance requirements for small telecommunications utilities are available in ss. 196.195 (12) and 196.196 (4), Stats.

At the time of this notice, there are 81 local exchange companies in Wisconsin, 76 of which are small telecommunications utilities. The agency finds that the availability of a

voluntary price regulation election under s. 196.196, Stats., and the process set forth in this chapter to govern the price regulation election are in the public interest for all telecommunications utilities in the state.

### FISCAL ESTIMATE

These rules will have no fiscal impact on the agency or on any other state or local units of government as shown on the attached Fiscal Estimate Form (Attachment B). No additional fiscal burden will be imposed on the state or on small businesses as a result of these proposed rules.

### NOTICE OF HEARING

**NOTICE IS GIVEN** that a hearing on these proposed rules will be held beginning on **December 6, 2000, at 9 a.m.** in the Amnicon Falls Hearing Room at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, and continuing at times to be set by the presiding Administrative Law Judge. This building is accessible to people in wheelchairs through the Whitney Way first floor (lobby) entrance. Parking for people with disabilities is available on the south side of the building. Any person with a disability who needs additional accommodations should contact the case coordinator listed below.

### WRITTEN COMMENTS

Any person may submit written comments on these proposed rules. The hearing record will be open for written comments from the public, effective immediately, and until **December 12, 2000, at noon (December 11, 2000, at noon, if filed by fax).**

All written comments must include a reference on the filing to docket 1-AC-193. **File by one mode only.**

If filing by mail, courier, or hand delivery: Address as shown in the box on page 1. Industry parties should submit **an original and 15 copies**. Members of the general public need **only file an original.**

If filing by fax: Send fax comments to (608) 266-3957. Fax filing cover sheet **MUST** state "**Official Filing**," the docket number (1-AC-193), and the number of pages (limited to 20 pages for fax comments).

### CONTACT PERSONS

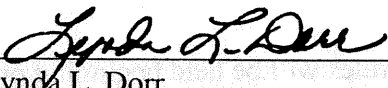
Questions from the media may be directed to Jeffrey L. Butson, Public Affairs Director at (608) 267-0912. Other questions regarding this matter should be directed to Thomas Ferris, case coordinator, at (608) 266-1124, or by email at *ferrit@psc.state.wi.us*. Hearing or speech-impaired individuals may also use the Commission's TTY number, (608) 267-1479.

Docket 1-AC-193

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to obtain this document in a different format should contact the case coordinator listed above.

Dated at Madison, Wisconsin, October 31, 2000

By the Commission:

  
Lynda L. Dorr  
Secretary to the Commission

LLD:CWL:TJF:jah:g:\notice\pending\1-AC-193 Hearing.doc



Text of Proposed Rules

SECTION 1. PSC 163.04(2)(b) is amended to read:

(b) According to s. 196.196(1)(c), Stats., the productivity factor offset to the  $\Delta$  GDPPI shall be 2 percentage points. For a telecommunications utility with more than 500,000 access lines, the percentage offset shall be 3 percentage points. Section 196.196(1)(c), Stats., sets the GDPPI percentage offset, but provides that Beginning beginning in the year 2000 and every 3 years thereafter, for the purpose of adjusting the GDPPI percentage offset, pursuant to s. 196.196(1)(c), Stats., to reflect any statewide changes in the productivity experience of the telecommunications industry, the commission may consider the following historical factors:

1. Sales volumes.
2. Labor
3. Materials.
4. Rent.
5. Services
6. Other expenses.
7. Plant-in-service.
8. Cost of capital.
9. Any other data relevant to measuring productivity.

Note: The percentage offsets were originally set at 3 percentage points for utilities with more than 500,000 access lines at the time of electing price regulation, and 2 percentage points for utilities with 500,000 or less access lines at the time of electing price regulation.

SECTION 2. PSC 163.04(2)(br) is created to read:

(br) Based on the most recent statewide productivity study, the productivity factor offset to the  $\Delta$  GDPPI shall be:

(1) For telecommunications utilities with 500,000 or less access lines at the time of electing to be price regulated:

- a. 3 percentage points, effective on the effective date of this rule....[revisor inserts date];
- b. 4 percentage points, effective on one year after the effective date of this rule....[revisor inserts date];
- c. 4.3 percentage points, effective on two years after the effective date of this rule....[revisor inserts date].

(2) For telecommunications utilities with more than 500,000 access lines at the time of electing to be price regulated:

- a. 4 percentage points, effective on the effective date of this rule....[revisor inserts date];
- b. 4.3 percentage points, effective on one year after the effective date of this rule [revisor inserts date].

2, No effective date clause