

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[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 99-019

AN ORDER to repeal PSC 160.04 (5) and (6), 160.06 (5) (b), 160.062 (2) (b) and (3), 160.09 (2) (a) and (b), (3) (f) and (h) and (6), 160.10 (5) and 160.11 (3) (a) to (d); to renumber PSC 160.02 (1), 160.06 (5) (a), 160.062 (5), 160.063 (title), (3) and (4) and 160.09 (3) (i) and (5); to renumber and amend PSC 160.035 (3), 160.062 (2) (a), (4) and (6), 160.063 (1) and (2) and 160.09 (2) (c), (3) (a) to (e) and (g) and (4); to amend PSC 160.01 (2) (a) and (5), 160.02 (4) (a) and (b), (7) and (8) (a), 160.03 (2) (a) 8., 9., 10. and 14. and (c), 160.031 (3), 160.035 (1) (c), 160.04 (1), 160.05 (intro.) and (1) (c) and (d), 160.06 (1), (3) and (4), 160.061 (1) and (6), 160.062 (1), 160.071 (1) (a), (b), (c) and (f), (3) and (6), 160.075 (3), 160.08, 160.09 (1), (8) and (9), 160.11 (1) (a) and (3), 160.14 (2) (b), 160.15 and 160.19 (4) (a) and (5); to repeal and recreate PSC 160.091 and 160.13; to create PSC 160.02 (1g), (8d), (8h), (8p) and (8t), 160.035 (b), 160.05 (1) (k) and (L), 160.062 (2) (a) and (c), (6) and (7), 160.063, 160.071 (title), (1) (k) to (n), (2) (title), (3) (title), (4) (title), (5) (title) and (6) (title), 160.073, 160.075 (5), 160.09 (3), Figure 160.09 (3), 160.11 (3m) and (7), 160.125 (title), (1) (c) and (2), 160.14 (2) (d) and (8), 160.155 and 160.181, relating to the provision of universal telecommunications service and administration of the universal service fund.

Submitted by **PUBLIC SERVICE COMMISSION**

02-08-99 RECEIVED BY LEGISLATIVE COUNCIL.

03-08-99 REPORT SENT TO AGENCY.

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RS:JES;jal;rv

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

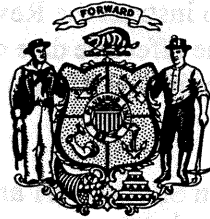
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CLEARINGHOUSE RULE 99-019

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. The commission should review, and as appropriate, correct the following deficiencies or inconsistencies in the placement of provisions in the rule:

- (1) The treatment clause in SECTION 38 should reference s. PSC 160.071 (1) (title) rather than s. PSC 160.071 (title).
- (2) The text of s. PSC 160.09 (4) (intro.) should not be included in SECTION 52 as this introduction is not amended by the rule. Similarly, the text of s. PSC 160.11 (1) (intro.) is not needed in SECTION 65.
- (3) The treatment of s. PSC 160.11 (3m) should follow the treatment of s. PSC 160.11 (3) (a) to (d) rather than precede it.
- (4) The treatment clause in SECTION 65 should indicate that s. PSC 160.11 (3) (intro.) rather than s. PSC 160.11 (3) is amended in that SECTION.

b. The commission should review the entire rule and, as appropriate, correct the following deficiencies in drafting style or form:

- (1) The treatment clause in SECTION 11 should end with the phrase "is amended to read:".

- (2) The treatment clause in SECTION 30 should end with the phrase “amended to read:”.
 - (3) The preferred format to instruct the Revisor of Statutes to insert a date within the text of a rule is: “the effective date of this (section, subsection, paragraph, subdivision) [revisor inserts date].” This style was not followed in s. PSC 160.063 (4).
 - (4) The treatment clauses in SECTIONS 41 and 43 should use the verb “are created” rather than “shall be created.”
 - (5) Mandatory duties should be noted in rules by use of the word “shall”; an optional provision or discretionary authority should be noted through the use of “may.” Prohibitions should be stated as “no person may . . .” or “a person may not . . .” In addition, “should,” “could,” “would,” “will” or “must” should not be used to express a mandatory or permissive action. [See s. 1.01 (2), Manual.] This drafting style was not followed in numerous provisions in the treatment of ss. PSC 160.125 (2), 160.13 and 160.155. See, for example, s. PSC 160.125 (2) (d) (intro.) and 160.13 (5).
- c. In s. PSC 160.01 (2) (a), “shall be deemed imposed on” should be replaced by the phrase “apply to.”
 - d. In s. PSC 160.071 (1) (f), the phrase “Applications filed by” should be underscored.
 - e. In s. PSC 160.071 (3), the last sentence should be contained in a note.
 - f. In s. PSC 160.073 (3), the word “following” should be inserted after the phrase “All of the”; the phrase “in pars. (a) and (b)” should be deleted; and the introduction should conclude with a colon.
 - g. In s. PSC 160.09 (2), the word “if” following the phrase “except that” should be underscored.
 - h. In s. PSC 160.13 (1) (intro.), the phrase “shall be deemed” should be replaced by the word “is.” Also, in sub. (6), the introduction should be renumbered as par. (a) and the remaining paragraphs should be renumbered accordingly.

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

- a. The commission should review the following general references and make the reference to the applicable subunit or subunits within the unit being cited:
 - (1) Section 196.218, Stats., in the list of statutes authorizing rule-making in the analysis accompanying the rule.
 - (2) Section 196.203, Stats., in s. PSC 160.01 (2) (a).

(3) Section PSC 160.14 in s. PSC 160.13 (6) (b).

b. The commission should review the following vague references and, as appropriate, clarify them:

(1) The “federal communications commission end user common line charge” in s. PSC 160.09 (3) (b).

(2) The “federal high cost support fund” in s. PSC 160.091 (4) and the “federal high cost program” in s. PSC 160.13 (1) (intro.).

(3) “Applicable state programs” in s. PSC 160.13 (1) (intro.).

c. The reference in s. PSC 160.02 (4) (a) to the definition of “private schools” in s. 115.001 (3) (r), Stats., is incorrect; it should be to s. 115.001 (3r), Stats.

d. In s. PSC 160.071 (1) (L), the phrase “under par. (b)” should be inserted after the phrase “each category” in the first sentence. Similarly, in sub. (1) (m), the phrase “under par. (L)” should be inserted following the phrase “equipment lists.”

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The commission should review the following undefined terms and phrases to determine if a definition of them should be provided in the rule to improve the clarity of the rule:

(1) “Telecommunications access” in s. PSC 160.03 (2) (a) 10.

(2) “Essential network access service” in s. PSC 160.061 (1).

(3) “Location provider” in s. PSC 160.073 (3) (b) 1. and 6.

(4) “Audiographic services” in s. PSC 160.11 (1) (a).

(5) “Wire center” in s. PSC 160.13 (2) (a).

(6) “Intralata presubscription” in s. PSC 160.14 (2) (d).

(7) “Rural area” and “urban area” in s. PSC 160.155 (1).

b. The rule contains a number of provisions that are not clear. The commission should review the entire rule and revise it as necessary to ensure its clarity. Examples of these provisions include the following:

(1) Since “public library systems” have library-type functions and other functions, the phrase “public libraries, including public library systems” in s. PSC 160.02 (4) (b) is potentially confusing, as this phrase implies that public library systems

are a subset of public libraries. To remove this potential ambiguity, "and" could be substituted for "including."

- (2) Under s. PSC 160.031 (3), a local exchange service provider that initiates data transmission services after the effective date of sub. (3), such as a new competitive local exchange company, does not have a deadline for notifying the commission if it is unable to meet the data transmission capability requirement in s. PSC 160.03 (1). If the commission intends to have a deadline for this notification for new local exchange service providers, then it should specify the deadline in sub. (3).
- (3) The circumstances under which the commission will approve other programs under s. PSC 160.05 (1) (L) are vague. Can the commission specify criteria that it will use in addition to the program being instituted on an emergency basis?
- (4) The use of the phrase "quality of service rules" in s. PSC 160.091 (1) is ambiguous. If the commission is using "rules" to mean administrative rules, then sub. (1) should include references to these rules. If the commission means "rules" to refer to "standards," then the commission should either indicate that the standards are developed on a case-by-case basis or, if the standards are codified, give references in the administrative code or statutes to the standards.
- (5) The rule refers to "lifeline monthly rate" and to "lifeline rate." See, for example, s. PSC 160.062 (1), (2) (b) and (c), (4) (as renumbered to sub. (3)) and (5). If there is a difference between these types of rates, then the difference should be clarified; otherwise, consistent terms should be used. Similarly, does the commission intend s. PSC 160.125 (2) (c) 4. and 5. a. to refer only to a "project" or to a "program or project"? Other provisions in s. PSC 160.125 (2) refer to a "program or project."
- (6) The phrase "designate a number of eligible telecommunications carriers" in s. PSC 160.13 (3) is not clear. If the commission intends to be able to designate only one eligible telecommunications carrier under this provision, then sub. (3) should be clarified to more clearly convey this intent.
- (7) Does the commission wish to specify any sanction or remedy if an audit under s. PSC 160.181 indicates that funding was not applied for or used appropriately?
- (8) The phrase "usability of their pay telephones for individuals with disabilities" in s. PSC 160.075 (3) is not clear. Should "by" be substituted for "for" in this phrase?
- (9) Since titles to any unit of a rule are not part of the substance of the rule, s. PSC 160.13 (1) should be clarified to indicate that under that subsection, the PSC may designate the company to be an "eligible telecommunications carrier." The commission should also review whether it wants to designate companies

eligible to receive funding specified in s. PSC 160.13 (1) as an "eligible telecommunications carrier" or use another term to remove any potential ambiguity over an eligible telecommunications carrier being construed as a subset of telecommunications carriers, as defined in s. 196.01 (8m), Stats.

- (10) Under s. PSC 160.125 (2) (b), funding to nonprofit groups is provided on a state fiscal year basis. Under s. PSC 160.125 (2) (f), the cap on the total funding to nonprofit groups is established on a calendar year basis. How will the commission apply the calendar year cap to individual programs and projects funded on a fiscal year basis?

c. Though s. PSC 160.02 (8) (e) was not affected by the rule, does the commission wish to correct the reference in par. (e) from s. 49.80, Stats., to s. 16.385, Stats.?

Meeting Location:
American Falls Meeting Room
1st Floor
Public Service Commission
610 North Walnut Street
Madison, WI

Meeting Date:
April 18, 1997 at 10:00 a.m.

The Public Service Commission of Wisconsin (Commission) hereby provides notice of a public hearing to be held on the above date and location. The Commission is currently reviewing the proposed rulemaking under s. PSC 160.125 (2) (b) and (f). The Commission is interested in receiving comments from interested parties on the proposed rulemaking. Comments should be submitted to the Commission by the date and time specified above. The Commission will accept comments in person at the meeting, by mail, or by electronic mail. Comments should be submitted to the Commission at the following address: Public Service Commission, 610 North Walnut Street, Madison, WI 53702. Comments may also be submitted by electronic mail to: psc@wisconsin.gov. The Commission will accept comments until the date and time specified above. The Commission will accept comments until the date and time specified above. The Commission will accept comments until the date and time specified above.

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Public Service Commission of Wisconsin
160.04(5) and (6), 160.06(5)(b), 160.062(2)(b) and (3), 160.09(2)(a) and (b), (3)(f), (3)(h),
and (6), 160.10(5) and 160.11(3)(a) to (d); to renumber PSC 160.02(1), 160.06(5)(a), 160.062(5),
160.063(title), (3) and (4), 160.09(3)(i), and (5); to renumber and amend PSC 160.035(3),
160.062(2)(a), (4), and (6), 160.063(1) and (2), 160.09(2)(c) and 160.09(3)(a) to (e), (3)(g), and
(4); to amend PSC 160.01(2)(a) and (5), 160.02(4)(a) and (b), (7) and (8)(a), 160.03(2)(a)8., 9.,
10., and 14. and (c), 160.031(3), 160.035(1)(c), 160.04(1), 160.05(intro.), 160.05(1)(c) and (d),
160.06(1), (3) and (4), 160.061(1) and (6), 160.062(1), 160.071(1)(a), (b), (c), (f), (3), and (6),
160.075(3), 160.08, 160.09(1), (8) and (9), 160.11(1)(a) and (3), 160.14(2)(b), 160.15, and
160.19(4)(a) and (5); to repeal and recreate PSC 160.091 and 160.13; to create PSC 160.02(1g),
(8d), (8h), (8p), and (8t), 160.035(b), 160.05(1)(k) and (L), 160.062(2)(a), (2)(c), (6) and (7),
160.063, 160.071(title), (1)(k) to (n), (2)(title), (3)(title), (4)(title), (5)(title), and (6)(title),
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(2), 160.14(2)(d) and (8), 160.155 and 160.181 relating to the provision of universal
telecommunications service and administration of the universal service fund.

BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

**Biennial Review of Universal Service Fund Rules in
Wis. Admin. Code ch. PSC 160**

1-AC-166

NOTICE OF HEARING

Hearing Date and Time:	April 6, 1999 at 1:30 p.m.
Hearing Location:	Amnicon Falls Hearing Room 1st Floor Public Service Commission 610 North Whitney Way Madison, WI

Comments Due: April 20, 1999 by noon	Address Comments To: Lynda L. Dorr, Secretary to the Commission Public Service Commission P.O. Box 7854 Madison, WI 53707-7854 FAX (608) 266-3957
FAX Comments Due: April 19, 1999 by noon	

The Public Service Commission of Wisconsin (Commission) proposes an order to repeal PSC 160.04(5) and (6), 160.06(5)(b), 160.062(2)(b) and (3), 160.09(2)(a) and (b), (3)(f), (3)(h), and (6), 160.10(5) and 160.11(3)(a) to (d); to renumber PSC 160.02(1), 160.06(5)(a), 160.062(5), 160.063(title), (3) and (4), 160.09(3)(i), and (5); to renumber and amend PSC 160.035(3), 160.062(2)(a), (4), and (6), 160.063(1) and (2), 160.09(2)(c) and 160.09(3)(a) to (e), (3)(g), and (4); to amend PSC 160.01(2)(a) and (5), 160.02(4)(a) and (b), (7) and (8)(a), 160.03(2)(a)8., 9., 10., and 14. and (c), 160.031(3), 160.035(1)(c), 160.04(1), 160.05(intro.), 160.05(1)(c) and (d), 160.06(1), (3) and (4), 160.061(1) and (6), 160.062(1), 160.071(1)(a), (b), (c), (f), (3), and (6), 160.075(3), 160.08, 160.09(1), (8) and (9), 160.11(1)(a) and (3), 160.14(2)(b), 160.15, and 160.19(4)(a) and (5); to repeal and recreate PSC 160.091 and 160.13; to create PSC 160.02(1g), (8d), (8h), (8p), and (8t), 160.035(b), 160.05(1)(k) and (L), 160.062(2)(a), (2)(c), (6) and (7), 160.063, 160.071(title), (1)(k) to (n), (2)(title), (3)(title), (4)(title), (5)(title), and (6)(title), 160.073, 160.075(5), 160.09(3), Figure 160.09(3), 160.11(3m) and (7), 160.125(title), (1)(c) and (2), 160.14(2)(d) and (8), 160.155 and 160.181 relating to the provision of universal telecommunications service and administration of the universal service fund.

Rules now in ch. PSC 160 were effective May 1, 1996. The Commission has opened this rulemaking to consider necessary changes to the rules as required by s. 196.218, Stats.

As required by statutes, the Commission has appointed a Universal Service Fund Council (USFC) to advise the Commission on administration of s. 196.218, Stats., and on the universal service fund rules. The USFC has recommended various changes to the rules in ch. PSC 160; most of those recommendations are reflected in the proposed rules. In those instances where the Commission has suggested changes that are not part of the recommendations of the USFC, it is noted in the plain language analysis that is part of this notice.

A statement of scope relative to this rulemaking was issued by the Commission in March 1997, as required by ch. 227, Stats.

INPUT EXPRESSLY INVITED

The Commission invites all parties potentially affected by these proposed universal service fund rules to comment on them. The purpose of the proposed rules is to solicit comments so that the Commission can make a full and informed decision on additions to, deletions from, or modifications of the current universal service fund rules in ch. PSC 160.

As noted in Attachments A and B, the Commission is not modifying the data transmission speed rule in s. PSC 160.031. The Commission will be examining this issue and other internet related matters in another forum, so comments on data speed matters should not be filed in this rulemaking proceeding.

ANALYSIS PREPARED BY THE PUBLIC SERVICE COMMISSION OF WISCONSIN

A plain language analysis of the proposed rules is set forth as Attachment A hereto.

TEXT OF PROPOSED RULES

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

INITIAL REGULATORY FLEXIBILITY ANALYSIS

Existing universal service fund 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. These small telecommunications utilities, of which there are 78 in Wisconsin, like other telecommunications providers (both large and small), have obligations under the universal service fund, including an obligation for payments to the universal service fund. The rule changes proposed in this proceeding could have the effect of changing the amount of the

assessments. Some of these changes may increase the amount of funding needed, while others may decrease the amount paid by any given provider. The net effect of these changes is uncertain.

Other provisions of these proposed rules should have no direct impact on small businesses. The Commission already has established, in s. PSC 160.18(1), an exemption from fund assessments to protect entry by and continued operation of small telecommunications providers as directed by statutory objectives. There are no new reporting or bookkeeping requirements created under these proposed rules for any business except for wireless carriers who choose to become eligible telecommunications carriers.

The agency has considered the methods in s. 227.114(2), Stats., for reducing the impact of the rules on small businesses. Other than the provisions for exemption from assessments for small providers noted above, these methods are not necessary, appropriate nor consistent with statutory objectives.

FISCAL ESTIMATE

The fiscal estimate is set forth as Attachment C hereto.

ENVIRONMENTAL ANALYSIS

This is a Type III action under s. PSC 4.10(3). No unusual circumstances suggesting the likelihood of significant environmental consequences have come to the Commission's attention. Neither an environmental impact statement under s. 1.11, Stats., nor an environmental assessment is required.

EFFECTIVE DATE

These rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Commission will hold a public hearing on these proposed rules in the Amnicon Falls Hearing Room (1st Floor) at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, on April 6, 1999 at 1:30 P.M. The examiner may continue the hearing at such times and places as necessary to complete the hearing.

Docket 1-AC-166

The building at 610 North Whitney Way is accessible to people in wheelchairs through the main floor entrance (Lobby) on the Whitney Way side of the building. Handicapped parking is available on the south side of the building and the building has some wheelchair accessible rest rooms.

WRITTEN COMMENTS

Any person may submit written comments on the proposed rules. The hearing record will be open for written comments from the public effective immediately, until **April 20, 1999, at noon (or April 19, 1999 at noon, if filed by fax).**

All written comments on the rules must include a reference on the filing to docket 1-AC-166. **File by one mode only.**

If filing by mail, courier or hand delivery: Address comments 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. Address comments as shown in the box on page 1. Fax filing cover sheets **MUST** state "**Official Filing,**" the docket number (1-AC-166), and the number of pages (limited to 20 pages for fax comments).

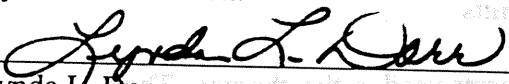
CONTACT PERSON

Questions regarding this matter should be directed to Gary Evenson, Assistant Administrator, Telecommunications Division, at (608) 266-6744 or evensg@psc.state.wi.us. Hearing- or speech-impaired individuals may also use the Commission's TTY number, (608) 267-1479.

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 get this document in a different format should contact Gary Evenson, as indicated in the previous paragraph, as soon as possible.

Dated at Madison, Wisconsin, February 5, 1999

By the Commission:



Lynda L. Dorr

Secretary to the Commission

Attachments

cc: Records Management
Lynda Dorr, Secretary to the Commission
RM Mail

**ANALYSIS PREPARED BY THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Statutory Authority: ss. 196.02(1) and (3), 196.218, and 227.11(2), Stats.
Statutes Interpreted: s. 196.218, Stats.

4-1-98
-none
SPECT

196.218(4)(a), (5)(b) (5m)

Effective May 1, 1996, the Commission created a set of universal service programs to: provide access to telecommunications service to all Wisconsin customers regardless of geographic location, income or disability; promote the use of advanced services by schools, libraries and health care institutions; and assist in the deployment of advanced services in all areas of the state. These programs are detailed in ch. PSC 160. In that same chapter, the Commission also detailed the mechanisms for funding those programs, and for administering the resulting fund.

In 1996, the federal legislature passed a sweeping telecommunications deregulation bill. The Telecommunications Act of 1996, and resulting actions by the Federal Communications Commission (FCC), significantly changed the federal landscape with respect to universal service.

The Commission is proposing the following revisions to its universal service rules to reflect experience with the programs created in 1996, the evolution of the telecommunications market and telecommunications technology in Wisconsin, and to ensure that the state universal service programs do not conflict with the new federal programs.

In preparation of these proposed rules, the Commission staff has worked closely with the **USFC**. The USFC has given extensive advice and input on these proposed rules, and many of the changes result directly from that input. In some cases, the USFC has taken no position on changes that were suggested by staff. The USFC submitted its recommendations on rule changes to the Commission in September 1998. The proposed rules reflect most of the USFC recommendations. Where there are substantive differences from the USFC recommendations, those differences are noted below.

Council

A section by section analysis of the proposed changes follows.

Section PSC 160.01 deals with the scope and purpose of the rules. This section remains basically unchanged. The modifications clarify legal points.

Section PSC 160.02 contains definitions of the terms used in the chapter. The modifications are primarily updates and additions. There are only two substantive changes. One change is to the definition of schools eligible for the institutional program, which now includes cooperative education service agencies and clarifies that school administration buildings are included. The other change is to the definition of local exchange service provider, which now includes those wireless providers who choose to become eligible telecommunications carriers.

Section PSC 160.03, on essential telecommunications services, defines the parts of basic telephone service. The language on telephone relay service and local calling area has been clarified and the connectivity provision now includes the ability to connect with an internet service provider. The latter change was not a part of the rule draft seen by the USFC. The section also changes the definition of public interest payphone to be consistent with recent Federal Communications Commission (FCC) rulings.

Section PSC 160.031, on essential data transmission capability, defines data transmission capability, as required under s. 196.218(4), Stats. It is currently defined as at least 9600 bits per second. The USFC recommended that this rule not be changed, but supported the Commission's additional study of internet access issues. The Commission is not changing the data transmission speed rule and will continue to examine the issue of data transmission capability to determine whether an update to this section should be proposed in the future. It will also consider other universal service issues relative to internet service.

Section PSC 160.035, on the advanced service program, allows customers to request advanced services that are not being offered in an area, or are not offered at an affordable price. The proposed changes clarify the definition of interactive video, and incorporate the concept of reasonably comparable urban and rural pricing.

Section PSC 160.04, on toll blocking, requires telephone providers to offer customers the opportunity to block long distance usage. The only changes are to remove outdated language.

Section PSC 160.05 lists the programs which can receive universal service fund monies. The first change allows fund money to be used for publicizing universal service programs. The remainder incorporate the other programs created by these proposed rules.

Section PSC 160.06 defines the criteria customers must meet to qualify for telecommunications-related low-income universal service fund support programs. The changes to this section update obsolete language, clarify eligibility criteria, and require telecommunications providers to inquire regarding eligibility when contacting customers subject to disconnection or needing payment arrangements.

Section PSC 160.061, on the Link-Up America program, allows telecommunications providers to waive connection charges for low-income customers and to receive reimbursement for those waived fees. The changes include applying the waiver to all connection charges, as required by the FCC, and increasing the amount of reimbursement to cover half the waived fees. The other half will, generally, be covered by the FCC.

Section PSC 160.062, on the lifeline assistance program, provides discounted monthly service fees for low-income customers. Like the Link-Up program, the Lifeline program is provided jointly by the states and the FCC. The FCC has significantly modified its program.

The proposed changes bring the state program into line with the revised federal program, and allow for the maximum amount of federal support.

Section PSC 160.063, on the voice-mail for the homeless program, is intended to allow a social service agency, job service agency or homeless shelter to provide temporary voice-mail boxes to homeless people. This will assist the homeless in finding jobs, as well as aiding social service agencies and others in contacting these people, as needed. The program has not been used, however, because the administrative costs of providing voice-mail service have been beyond the capabilities of homeless shelters. This section has been renumbered and changed to allow the program to pay a part of the administrative costs, and to better align the program with the needs of the homeless and homeless shelters.

A new section PSC 160.063 has been created to provide a limited amount of support to fund collaborative partnerships between community organizations and telecommunications providers to increase participation in the low-income universal service support programs.

Sections PSC 160.07 and 160.071 allow customers with special telecommunications needs to afford the required services and equipment. An example of such equipment is a teletypewriter to allow deaf people to use the telephone network. The program provides discounts to allow all such customers to afford appropriate equipment. The changes update the discounts to reflect changes in the average price and type of equipment used. A change clarifies that the Commission can limit the amount of equipment a single customer can purchase under this program. The changes also call for the fund administrator to maintain a list, in consultation with the commission staff, vendors and interested parties, of equipment which is eligible for discounts. Finally, a provision is added stating that when a second line is necessary for hearing impaired customers to receive service comparable to that provided to other customers (for example, due to equipment needs) there will be no charge for that second line.

A new section PSC 160.073 has been created to be consistent with FCC rulings concerning the provision of pay telephones in the public interest when those payphones might not otherwise be available.

Section PSC 160.075, on payphone usability, reiterates that all pay telephone providers are responsible for ensuring that their payphones comply with state and federal standards, and that customers can complain about non-compliance to the Commission. The changes merely clarify these rules and require providers to post information on how to file a complaint.

Section PSC 160.08, on the Telecommunications Customer Assistance Program (TelCAP), remains primarily a placeholder for rules and pilot programs being developed in other proceedings. The one change allows providers to offer toll limitation, as well as toll blocking, to customers under TelCAP programs.

Section PSC 160.09, on the high-rate assistance program, provides rate reductions in situations where telephone rates would otherwise become unaffordable. The broad outlines of this program remain unchanged. The specifics have been revised, however, to match with the Telecommunications Act of 1996 and the FCC's new universal service support plan. The previous version of this plan subsidized only the cost of the local loop. The revised plan covers the entire cost of basic telephone service. The amount of support depends both on the cost of telephone service, including a reasonable amount of calling, and on the median income in the area in which the rates apply. The formulas for assistance have been revised to reflect the services now being covered.

Section PSC 160.091, on qualifications of providers receiving high rate assistance credits, has been modified to reflect the requirement that the company is designated as an eligible telecommunications carrier (as described below.) In addition, the proposed changes require that any company seeking state reimbursement for high-rate assistance credits show that it has first used any available federal high cost assistance to reduce the affected rates. This provision is intended to prevent a company from diverting federal support away from high cost areas and then seeking to support those high cost areas solely through state funding.

Section PSC 160.10, on the rate shock program, remains unchanged except for the removal of obsolete language.

Section PSC 160.11, on the assistance to institutions program which provides discounts to schools, libraries and hospitals, is being modified. The program used to have a declining level of discounts. This proved difficult for schools to budget, so it is being replaced with a fixed discount. The proposed rule also includes a provision that a school cannot be reimbursed by both the state and federal institutional programs for the same services.

A new section PSC 160.125, entitled Funding to Promote Access to Telecommunications Services, is where the voice-mail for the homeless section has been moved. A new section is created as well and is intended to provide the Commission with an avenue to address groups or situations not foreseen in the current rules, but which require action before a new rulemaking could be completed. These rules allow the Commission to approve partial funding for projects, provided those projects meet the overall goals of the universal service fund. The program is limited to non-profit groups, since the fund cannot afford, nor should it be used, to fund commercial ventures on the part of for-profit companies. The USFC recommendation was that this program be applicable for projects meeting the needs of unserved or underserved low-income persons or persons with disabilities. The proposed rule would allow projects that serve any of the purposes listed in s. 196.218(5)(a)1. to 3., Stats.

Section PSC 160.13, which formerly dealt with local exchange service providers of last resort, now deals with the newly created FCC term Eligible Telecommunications Carrier (ETC). This term means a telecommunications provider that the Commission has found to be eligible for federal (and state) universal service funding. This section lays out the criteria for such a

designation, consistent with the federal rules, as well as laying out the rules for becoming an ETC, and for relinquishing that status. In summary, to become an ETC, a provider must offer basic service to all customers in the area, must advertise that fact, and must not charge different customers unreasonably different prices.

Section PSC 160.14 provides rules for the intraLATA toll provider of last resort. Currently, Ameritech and GTE are the toll providers of last resort for most areas. However, with the advent of intraLATA presubscription, this designation is becoming somewhat meaningless. In the interLATA market, for example, the Commission does not need to designate a provider of last resort as the market ensures that all customers are served. The proposed change to the rules also allows the Commission to eliminate the intraLATA toll provider of last resort requirement in exchanges where competition is firmly established, and the requirement is no longer needed. The rules also codify previous Commission findings that a provider of last resort cannot sell or abandon customers, except at the customer's own request.

CL Section PSC 160.15, covering identification of the universal charges on customer bills, is being modified. The current rules do not allow the charges to be separately identified on customer bills. The revised rules allow identification of these charges. The rule draft suggested by the USFC stated that the universal service charges related to the TEACH WI initiative could be added as a surcharge to customers' bills. Upon further examination it was learned that the belief that the TEACH statutes allowed such a surcharge was erroneous, so the reference was removed from this proposed rule.

ck A new section PSC 160.155 is created and attempts to incorporate the federal statutory requirement that providers charge reasonably comparable prices in both rural and urban areas. The proposed rules also attempt to preserve reasonably comparable toll service by using universal service money to buy down access rates to a uniform benchmark level. The USFC made no recommendation either supporting or opposing this change.

Sections PSC 160.16 and 160.17 on the fund administrator and fund budget have not been changed.

Section PSC 160.18, on those exempted from universal service fund assessment, has not been modified. The Universal Service Fund Council recommended that the exemption of cellular mobile radio telecommunications utilities from assessments be repealed so that wireless providers would be subject to such assessments. The Commission is not proposing that change. The Commission is concerned about jurisdictional and policy issues related to assessing wireless providers and encourages input on this issue as this rulemaking proceeds.

Section PSC 160.181 provides that the recipients of universal service funds may be subject to audit by the Commission.

Section PSC 160.19 is being changed to remove outdated language from the section on collections and from the section on the Universal Service Fund Council.

SECTION 1. PSC 160.01(2)(a) is amended to read:

(2) SCOPE AND EXCEPTION. (a) The requirements of ch. PSC 160 shall be observed by the telecommunications providers subject to the jurisdiction of the commission as indicated in this chapter, except insofar as any exemption may be made by the commission. Except as expressly provided by law, s. 196.218, Stats., and the requirements of this chapter shall be deemed imposed on telecommunications providers certified under s. 196.203, Stats.

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SECTION 2. PSC 160.01(5) is amended to read:

(5) ORDERS. The commission may issue orders it deems necessary to assist in the implementation or interpretation of this chapter. Except for declaratory rulings under s. 227.41, Stats., and commission determinations not subject to judicial review under ss. 227.52 and 227.53, Stats., orders shall be issued only after notice and an opportunity for comment by interested parties including the universal service fund council.

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SECTION 3. PSC 160.02(1) is renumbered 160.02(1m).

SECTION 4. PSC 160.02(1g) is created to read:

(1g) "Calculated charge" means the charge calculated by converting a per call charge into a per minute charge. The conversion to a per minute charge shall be accomplished by dividing the per call charge by the telecommunications provider's average residential call duration. If there are multiple per call charges within one local calling area, the weighted average shall be used as the per call charge.

SECTION 5. PSC 160.02(4)(a) and (b) are amended to read:

(a) Not-for-profit schools, which includes each school in a school district as defined by s. 115.001(3) 115.01(3), Stats., private schools as defined by s. 115.001(3)(r), Stats., charter schools as defined by s. 118.40, Stats., cooperative education service agencies as defined by ch. 116, Stats., colleges and universities as defined by s. 36.05(13), Stats., and vocational, technical and adult education technical college districts as defined by s. 38.01(5), Stats. School administration buildings are included within this definition.

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(b) Public libraries, including public library systems.

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Attachment B

SECTION 6. PSC 160.02(7) is amended to read:

(7) "Local exchange service provider" means a telecommunications utility, or any other provider of basic local exchange service or standard business lines and usage, or any commercial mobile radio service provider that has been designated as an eligible telecommunications carrier under s. PSC 160.13.

SECTION 7. PSC 160.02(8)(a) is amended to read:

(a) ~~Aid to families with dependent children under 42 USC 601 to 615. Wisconsin works under ss. 49.141 to 49.161, Stats.~~

(b) (p) ^{charge X-R from 49, 80 to 16, 385 ?}

SECTION 8. PSC 160.02(8d), (8h), (8p) and (8t) are created to read:

(8d) "Non-rural local exchange carrier" means a telecommunications provider designated or about to be designated as an eligible telecommunications carrier in an area other than one served by a rural telephone company.

(8h) "Rural local exchange carrier" means a telecommunications provider designated or about to be designated as an eligible telecommunications carrier in an area served by a rural telephone company.

(8p) "Rural telephone company" has the meaning given in 47 USC 153(37).

(8t) "Two line voice carryover" means the technique of using 2 telephone lines, one for voice and one for TTY or similar equipment, to connect a caller who is deaf or hard of hearing but can speak, with another caller.

SECTION 9. PSC 160.03(2)(a)8., 9., 10., and 14. are amended as follows:

8. A reasonably adequate number of calls within a reasonably adequate local calling area as defined by the commission.

9. Connectivity with all public toll, local, wireline and wireless networks, and the ability to connect with the internet service provider of the customer's choice.

10. Telecommunications relay service for voice to text and text to voice translation telecommunications access between teletypewriter users and non-teletypewriter users.

14. Intercept and announcements for vacant, changed, suspended and disconnected numbers in oral and TTY-readable formats.

SECTION 10. PSC 160.03(2)(c) is amended to read:

~~(c) Public interest pay telephone service pursuant to s. PSC 160.073, as pay telephones specified by s. PSC 165.088, semi-public pay telephone service and private pay telephone service and pay telephone interconnection service subject to federal communications commission orders, commission orders and ch. PSC 169.~~

SECTION 11. PSC 160.031(3) shall be amended to read:

~~(3) Local exchange service providers unable to meet the data transmission capability requirement in sub. (1), shall notify the commission in writing by May 1, 1996. These local exchange service providers shall achieve compliance with this requirement under an implementation schedule to be set by the commission.~~

SECTION 12. PSC 160.035(1)(c) is amended to read:

~~(c) Two-way interactive video conferencing at a speed no less than 30 frames per second and two-way interactive imaging capabilities by January 1, 2003.~~

SECTION 13. PSC 160.035(3) is renumbered 160.035(3)(a) and amended to read:

~~(a) Upon its own motion, upon petition by a local exchange service provider for relief from an obligation in sub. (2) above or upon petition by a customer alleging that an advanced service is not available in a timely manner, is needed but not scheduled for deployment under this section, is not priced comparably to the same service when that service is provided in an urban area, or is not priced at an affordable level, the commission may investigate the offering of a given advanced service capability. The investigation shall address, but is not limited to, the reasonableness of the required investment in equipment and facilities, the presence of alternative providers, level of demand, and other factors included in s. 196.03(6), Stats. Following investigation, including notice and opportunity for hearing, the commission may determine, based on the above criteria, a deployment schedule, a maximum reasonable rate, whether a contributory provider requires assistance from an appropriate intrastate universal service program to provide the service, and any other requirement necessary to meet customer demand for an advanced service capability.~~

SECTION 14. PSC 160.035(3) is created to read:

~~(b) The investigation shall address, but is not limited to, the reasonableness of the required investment in equipment and facilities, the presence of alternative providers, level of demand,~~

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and other factors included in s. 196.03(6), Stats. Following investigation, including notice and opportunity for hearing, the commission may determine, based on the above criteria, a deployment schedule, a maximum reasonable rate, whether a contributory provider requires assistance from an appropriate intrastate universal service program to provide the service, and any other requirement necessary to meet customer demand for an advanced service capability.

SECTION 15. PSC 160.04(1) is amended to read:

(1) **BLOCKING OBLIGATIONS.** Every local exchange service provider in the state shall offer the capability to block all long distance calls and, separately, the capability to block 900 and 976 number calls and, by January 1, 1997, the capability to block extended community calling unless a timely waiver has been granted to the local exchange service provider by the commission.

SECTION 16. PSC 160.04(5) and 160.04(6) are repealed.

SECTION 17. PSC 160.05(intro) is amended to read:

PSC 160.05 Universal service fund programs. Universal service fund monies may be used for fund administration; for the purpose of informing the public regarding the universal service fund, its existence, purpose, intent and areas of use; and for the following purposes:

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SECTION 18. PSC 160.05(1)(c) and (d) are amended to read:

(c) Voice mail service for the homeless, as specified in s. PSC ~~160.063~~ 160.125(1).

(d) ~~Special needs equipment~~ Telecommunications equipment purchase program vouchers, as specified in s. PSC 160.071(1).

SECTION 19. PSC 160.05(1)(k) and (L) are created to read:

(k) Funding for programs or projects approved under s. PSC 160.125(2).

(L) Other programs, as they are approved by the commission on an emergency basis.

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SECTION 20. PSC 160.06(1), (3) and (4) are amended to read:

(1) **LOW-INCOME ASSISTANCE ELIGIBILITY.** Local exchange service providers shall verify an applicant's eligibility for low-income assistance programs by finding the applicant to be

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Attachment B

an active client or a member of the client's household whose income qualifies the client in the records of the Wisconsin department of health and social services workforce development, or to be a recipient of the Wisconsin homestead tax credit ~~in the past year~~ for the most recently completed tax year. If the applicant's tax filing for the most recently completed tax year has not been posted to the records of the Wisconsin department of revenue and if application for low-income assistance is made on or before June 30th, then the tax year prior to the most recently completed tax year may be used to determine eligibility. Eligibility verifications shall be done through timely queries of the applicable databases of the Wisconsin department of health and social services workforce development or the Wisconsin department of revenue.

(3) ELIGIBILITY INQUIRY. Local exchange service providers shall inquire of the customer regarding eligibility of that customer for low-income programs on each order for initial or moved residential service and initial contacts with customers subject to disconnection or needing payment arrangements.

(4) QUERY AUTHORIZATION. Local exchange service providers shall comply with client authorization requirements of the Wisconsin department of health and social services workforce development or the Wisconsin department of revenue for database queries necessary for eligibility verification. Customers shall complete and remit any reasonably required query authorization forms or forfeit eligibility.

SECTION 21. PSC 160.06(5)(a) is renumbered PSC 160.06(5).

SECTION 22. PSC 160.06(5)(b) is repealed.

SECTION 23. PSC 160.061(1) and (6) are amended to read:

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(1) ~~Low income residential customers shall receive a waiver of All local exchange service providers shall waive~~ all applicable regulated service nonrecurring charges when initiating or moving network access line service. ~~Where such charges are less than \$20, participation in the link up program is optional on the part of the local exchange service provider~~ essential network access service for low-income, single line customers. All federal, state, county and local taxes applicable to the waived charges shall also be waived.

(6) Local exchange service providers may receive reimbursement from the universal service fund for ~~25~~ 50% of the waived nonrecurring charges.

SECTION 24. PSC 160.062(1) is amended to read:

(1) ~~Local exchange service providers whose monthly residential rate exceeds \$15 for single party residential service including touch tone service; 9-1-1 charges billed on the telephone bill; the federal subscriber line charge and 120 local calls, excluding extended community calling.~~ All local exchange service providers shall offer lifeline rates to all qualified low-income customers.

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SECTION 25. PSC 160.062(2)(a) is renumbered 160.062(2)(b) and amended to read:

(b) ~~Lifeline The lifeline monthly rates, including touch tone service; 9-1-1 charges billed on the telephone bill; the federal subscriber line charge and 120 local calls, excluding extended community calling, may not exceed \$15 rate shall be the total of the residential monthly rates for the items in par. (a) minus \$7 or, if the total of the monthly residential rates for the items in par. (a) is greater than \$22, the lifeline rate shall be \$15.~~

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SECTION 26. PSC 160.062(2)(a) is created to read:

(a) The lifeline rate includes single-party residential service, touch-tone service, any 9-1-1 charges billed on the telephone bill, the federal subscriber line charge and 120 local calls, excluding extended community calling calls.

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SECTION 27. PSC 160.062(2)(b) is repealed.

SECTION 28. PSC 160.062(2)(c) is created to read:

(c) Notwithstanding par. (b), in no case shall the lifeline monthly rate be less than \$3 or more than \$15.

SECTION 29. PSC 160.062(3) is repealed.

SECTION 30. PSC 160.062(4) is renumbered 160.062(3) and amended and read:

(3) Lifeline rates may appear as a credit against the full standard tariffed rate on customers' bills or as a special rate designation. Credits The lifeline rate shall begin to appear on an eligible customer's bill on the next bill date following the date of application for lifeline assistance. In cases where a customer's eligibility date as found in the records of the Wisconsin department of

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~~health and social services~~ workforce development or the Wisconsin department of revenue precedes the last bill date prior to application, credit shall also be given for one month's prior bill.

SECTION 31. PSC 160.062(5) is renumbered 160.062(4).

SECTION 32. PSC 160.062(6) is renumbered 160.062(5) and amended to read:

(5) Local exchange service providers may receive reimbursement from the universal service fund for ~~25~~100% of that portion of the difference between the lifeline rate and the standard authorized rate for service which is in excess of the amount of the lifeline monthly rate which is eligible for reimbursement from federal lifeline program funds.

SECTION 33. PSC 160.062(6) and (7) are created to read:

(6) Customers eligible for lifeline or link-up America assistance may not be charged a deposit for service if they voluntarily accept toll blocking, may not be requested to pay in advance for more than one month's local service bill, and may not be disconnected for nonpayment of toll charges billed by the local exchange service provider. Customers that otherwise would be subject to disconnection may be counseled to accept toll blocking.

(7) A local exchange service provider acting under the limited conditions specified in its commission-approved telecommunications customer assistance program may impose toll blocking on lifeline customers.

SECTION 34. PSC 160.063(title) is renumbered PSC 160.125(1)(title).

SECTION 35. PSC 160.063(1) and (2) are renumbered 160.125(1)(a) and (b) and amended to read:

(a) ~~When a local exchange service provider or its affiliate offers voice mail service within an exchange and has available capacity on its voice mail system,~~ Any voice mail provider may be compensated for providing, on request, to a social services agency, a job service agency or other homeless shelter authority shall receive, on request, voice-mail service without charge to be used by that agency or authority for the benefit of its homeless clients or residents. A qualifying agency or authority may be compensated for direct provision of voice-mail service to its homeless clients.

(b) ~~The local exchange service provider or its affiliate~~ A voice-mail provider that is providing voice-mail boxes at no charge to the homeless agencies a qualifying agency or authority at no charge may request and receive reimbursement only for its incremental usage and administrative costs of providing this service. As an alternative, reimbursement may be requested and received from the fund at a standard rate set by the commission to cover expected incremental costs of providing this service using available capacity.

SECTION 36. PSC 160.063(3) and (4) are renumbered 160.125(1)(d) and (e).

SECTION 37. PSC 160.063 is created to read:

PSC 160.063 Outreach for low-income assistance programs. (1) Funding shall be available to fund collaborative partnerships between community-based organizations and telecommunications providers to increase participation of the eligible populations in the universal service fund low-income support programs.

(2) Funding from the universal service fund for these collaborative efforts shall not exceed \$250,000 in one year.

(3) The commission shall annually review and grant funding based on complete responses to a request for proposals. Funding shall be limited to 6 projects with at least one project focused statewide and one project focused on the Milwaukee area.

(4) The commission shall contract for an evaluation of the effectiveness of this program in promoting enrollment in low-income programs and subscribership to telephone service to be completed within two years of enactment of this subsection. The cost of this evaluation shall not exceed \$25,000.

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SECTION 38. PSC 160.071 (1) (title) is created to read:

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(1) TELECOMMUNICATIONS EQUIPMENT PURCHASE PROGRAM.

SECTION 39. PSC 160.071(1)(a), (b), (c) and (f) are amended to read:

(a) Vouchers shall be available to assist ~~disabled~~ customers with a disability who have special needs certification in the purchase of equipment needed ~~in their homes~~ to personally access and use essential services of the telecommunications network. Vouchers may not be used to purchase equipment which will be used exclusively for commercial purposes.

(b) Vouchers shall be limited to the following amounts by category of disability:

1. \$200 for hard of hearing.
2. \$500 for deaf and severely hard of hearing.
3. \$1,500 \$ 1,600 for speech impaired.
4. \$1,500 \$ 1,600 for mobility impaired.

5. \$2,500 \$ 1,600 for deaf-low vision.

6. \$6,700 \$ 7,200 for deaf-blind.

(c) The A voucher recipient is under par. (b)1. is not required to make a co-payment. All other voucher recipients are required to make a co-payment of \$100 at the time the equipment is purchased. Pursuant to par. (f), for low income customers the co-payment may be supplied by funding through the telecommunications assistance program.

(f) Applicants for vouchers under this section shall be Wisconsin residents. Neither the applicant nor a member of the applicant's household may have received a voucher for equipment for the same disability within the last 3 years. Low-income Applications filed by low-income deaf and hard of hearing applicants-individuals shall be referred to the Wisconsin department of health and family services for application for telecommunications assistance program funding to provide any customer co-payment required under par. (c). If found eligible, an alternative voucher may be issued to include that program's funding. If found ineligible, a voucher application shall be processed in priority according to its original date of receipt by the fund administrator.

SECTION 40. PSC 160.071(1)(k) to (n) are created to read:

(k) The commission may impose reasonable limits on the types and quantities of devices that may be purchased with one voucher.

(L) The administrator shall maintain lists of the ^{under par. (b)} types and quantities of equipment eligible for purchase with a single voucher under each category. Revisions to the list shall be done periodically by the administrator in consultation with the commission staff and representatives selected by the universal service fund council. Input regarding revisions may be solicited from vendors, representatives of interested groups serving the disabled and others, as appropriate.

^{under par. (l)} (m) Equipment purchases involving individual exceptions to these eligible equipment lists may be granted by the administrator only following consultation with commission staff.

(n) Objections to items included on or excluded from the eligible equipment lists and determinations regarding individual exceptions will be handled as informal complaints.

SECTION 41. PSC 160.071(2)(title), (3)(title) ^{are} shall be created to read:

(2) EQUIPMENT LEASE RATES.

(3) DISCOUNTED LONG DISTANCE SERVICE. } Insert

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SECTION 42. PSC 160.071(3) is amended to read:

(3) Certified hearing impaired customers and certified speech impaired customers who need to use a teletypewriter for telephonic conversations shall receive discounted long distance service. For these customers, all telecommunications providers offering long distance services shall, at a minimum, apply their evening or off-peak discounts or rate schedules in the daytime or peak rate period and their ~~night or weekend~~ or off-peak discounts or rate schedules in all other rate periods. Providers are encouraged to provide these customers with rates that are even lower than the minimums established in this subsection.

note

SECTION 43. PSC 160.071(4)(title), (5)(title), and (6)(title) ~~shall be~~ ^{and} created to read:

(4) DIRECTORY ASSISTANCE CHARGES.

(5) OPERATOR ASSISTANCE CHARGES.

(6) CUSTOM CALLING SERVICE CHARGES. *Insert B*

SECTION 44. PSC 160.071(6) shall be amended to read:

(6) ^{*Insert B*} Customers with certified disabilities who deem one or more custom calling services essential in order to receive service that is useful and comparable to the essential service provided to other customers shall receive those services without charge. In addition, hearing impaired customers who are able and choose to use 2 line voice carryover shall not be charged for the second line.

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SECTION 45. PSC 160.073 is created to read:

PSC 160.073 Public interest pay telephones. (1) The commission shall assure provision of a pay telephone where it determines that the public health, safety, and welfare is jeopardized without the telephone yet insufficient demand, usage or other public or private funds are available to assure its installation and its continued operation. Pay telephones so designated are considered public interest pay telephones.

(2) A request for designation of a pay telephone as a public interest pay telephone may be made by a pay telephone service provider or any person. Such requests shall be handled on an informal basis. *following*

(3) All of the items in pars. (a) and (b) shall be considered in determining whether to designate a pay telephone as a public interest pay telephone, but the determination does not depend on the presence or absence of any one or more items.

(a) Items favoring designation:

1. Designation fulfills a public policy objective in health, safety, or public welfare.

2. The actual or projected revenue from the pay telephone is a minimum of \$30 per month and a maximum of \$90 per month on an annual basis.

3. The pay telephone is outside or otherwise available to the public 24 hours per day.

4. The pay telephone is physically and geographically accessible to the general public during the operating hours of any facility in which it is located.

(b) Items disfavoring designation:

1. Designation is provided for a location provider with an existing contract for the provision of a pay telephone.

2. The applicant for the public interest pay telephone has a signed contract with a pay telephone provider.

3. The pay telephone would otherwise exist as a result of the operation of the competitive market.

4. There is another pay telephone located within 500 feet.

5. The pay telephone is a coinless type.

6. The location provider on whose property the phone is located will receive compensation from another source related to the placement of the pay telephone or revenues generated from the pay telephone.

(4) The charges for provision of basic service and equipment for a public interest pay telephone shall be eligible for recovery from the federal and state universal service funds. The state universal service fund shall only cover the costs not covered by the federal fund.

SECTION 46. PSC 160.075(3) is amended to read:

(3) Pay All pay telephone service providers and local exchange service providers are responsible for compliance with all federal and state standards regarding usability of their pay telephones for individuals with disabilities.

SECTION 47. PSC 160.075(5) is created to read:

(5) Information on how to report non-compliance or any other complaint under sub.

(3) will be posted at or on each pay telephone unit or bank of units.

SECTION 48. PSC 160.08 is amended to read:

PSC 160.08 Telecommunications customer assistance program. The commission may authorize individual telecommunications providers to establish trial telecommunications customer assistance programs that meet authorized goals and objectives for increasing or stabilizing subscription levels for non-optional, essential telephone service within its service territory or to address avoidance of disconnection or limitation of service to low-income households with payment problems. The commission shall determine on a case-by-case basis

whether or not a telecommunications customer assistance program may receive universal service fund monies.

SECTION 49. PSC 160.09(1) is amended to read:

(1) High rate assistance ~~credits~~ for a portion of the price of local service rate shall be issued provided to residential customers when the ~~rate charged for service price~~ exceeds levels set in this section. ~~Local~~ Except as provided in sub. (9), local exchange service providers issuing credits in accordance with this section shall be eligible for reimbursement from the universal service fund for the ~~cost~~ value of those credits, provided that they qualify under s. PSC 160.091.

SECTION 50. PSC 160.09(2)(a) and (b) are repealed.

SECTION 51. PSC 160.09(2)(c) is renumbered 160.09(2) and amended to read:

(2) If Credits shall be applied to the price of local service, as specified in sub. (3), except that if a local exchange service provider charges a single rate covering the local access line basic local exchange service and other telecommunications or related services, the commission may determine, by order, and after opportunity for hearing, the portion of such bundled rates to which rate assistance credits apply.

SECTION 52. PSC 160.09(3)(a) to (e) are renumbered 160.09(4)(a) to (e) and amended to read:

(4) Local exchange service providers shall issue high rate assistance credits according to the following criteria:

(a) For the portion of the ~~local access line charge price of local service~~ below ~~0.75-1.5%~~ of median household income, per month, for the area in which the rate applies, no rate credits apply.

(b) For the portion of the ~~local access line charge price of local service~~ equal to or above ~~0.75-1.5%~~ but below ~~1.0-2.0%~~ of median household income, per month, for the area in which the rate applies, the local exchange service provider shall issue a credit equal to ~~75~~ 50% of that amount.

(c) For the portion of the ~~local access line charge price of local service~~ equal to or above ~~1.0-2.0%~~ but below ~~1.25-2.5%~~ of median household income, per month, for the area in which the rate applies, the local exchange service provider shall issue a credit equal to ~~80-75%~~ of that amount.

(d) For the portion of the ~~local access line charge price of local service~~ equal to or above ~~1.25-2.5%~~ but below ~~1.50-3.0%~~ of median household income, per month, for the area in which the rate applies, the local exchange service provider shall issue a credit equal to 85% of that amount.

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(e) For the portion of the local access line charge price of local service equal to or above 1.50 ~~3%~~ but below 2.00% of median household income, per month, for the area in which the rate applies, the local exchange service provider shall issue a credit equal to ~~90~~ 95% of that amount.

SECTION 53. PSC 160.09(3)(f) is repealed.

SECTION 54. PSC 160.09(3)(g) is renumbered 160.09(4)(f) and amended to read:

(f) When a rate applies in only one county, the median household income, as published by the Wisconsin department of industry, labor and human relations workforce development, used to calculate the credit shall be that of that county in which the rate applies. When a rate applies in more than one county, the median household income used to compute the credit shall be the average of the median household incomes in each county in which the rate applies, weighted by the number of customers paying that rate in each county.

SECTION 55. PSC 160.09(3)(h) is repealed.

SECTION 56. PSC 160.09(3)(i) is renumbered 160.09(4)(g).

SECTION 57. PSC 160.09(3) is created to read:

(3) The price of local service shall include the following:

- (a) The fixed monthly charge for essential telecommunications service, as defined in s. PSC 160.03;
- (b) The federal communications commission end user common line charge; and
- (c) Usage charges, if any, based on the size of the local calling area, excluding extended community calling territory, as follows: [See Figure 160.09(3) following]

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SECTION 58. Figure PSC 160.09(3)(c) is created to read:

Figure 160.09(3)(c):		
Exchange's local calling area size, excluding extended community calling territory, as measured by number of customers	Exchange's combined local calling and extended community calling area size as measured by number of customers	Usage charges includable in the 160.09(3)(c) calculation of the cost of local service
At least 50,000	(Not applicable)	Per minute or calculated charges for 480 minutes of local calling by that type of customer.
Less than 50,000 but at least 5,000	At least 50,000	Per minute or calculated charges for 360 minutes of local calling by that type of customer, plus Price of 1 minute of extended community calling times 120 minutes.
Less than 50,000 but at least 5,000	Less than 50,000	Per minute or calculated charges for 360 minutes of local calling by that type of customer, plus Price of 1 minute of extended community calling times 90 minutes, plus The average price of 1 minute of toll service, as periodically calculated by the commission, times 30 minutes.
Less than 5,000	At least 50,000	Per minute or calculated charges for 240 minutes of local calling by that type of customer, plus Price of 1 minute of extended community calling times 240 minutes.
Less than 5,000	Less than 50,000	Per minute or calculated charges for 240 minutes of local calling by that type of customer, plus Price of 1 minute of extended community calling times 120 minutes, plus The average price of 1 minute of toll service, as periodically calculated by the commission, times 120 minutes.

Note: As of October 1998, the average price of toll service is \$.12 per minute.

SECTION 59. PSC 160.09(4) is renumbered 160.09(5) and amended to read:

(5) ~~Each~~ Except as provided in sub. (9), each local exchange service provider shall be reimbursed by the universal service fund for the value of the credits it issues, provided that it qualifies under s. PSC 160.091.

SECTION 60. PSC 160.09(5) is renumbered 160.09(6).

SECTION 61. PSC 160.09(6) is repealed.

SECTION 62. PSC 160.09(8) and (9) are amended to read:

(8) Telecommunications utilities with rate ceiling programs in place on May 1, 1996 may continue those programs until rates subject to those programs are changed, unless the ~~Commission~~ commission authorizes an extension of the rate ceiling program. ~~The universal service fund shall reimburse telecommunications utilities for these programs for services provided beginning on January 1, 1996.~~

(9) ~~Customers receiving high rate assistance credits may not be provided essential telecommunications service under contract~~ Local exchange service providers shall not be reimbursed by the universal service fund for the value of credits issued to customers receiving essential telecommunications service under a contract if the contract has a duration of greater than one year. The commission may grant waivers of this subsection by order. This subsection does not apply to rural line extension contracts entered into before January 1, 1996.

SECTION 63. PSC 160.091 is repealed and recreated to read:

PSC 160.091 Qualifications for providers receiving universal service funding for high rate assistance credits. A local exchange service provider receiving reimbursement for high rate assistance credits under s. PSC 160.09 shall:

- 5 side
- (1) Provide service that meets the minimum requirements of s. PSC 160.03 and other quality of service rules established by the commission;
 - (2) Be designated by the commission as an eligible telecommunications carrier for the area in which it seeks reimbursement;
 - (3) Be a contributory provider unless exempted from payment under s. PSC 160.18(1)(a); and
 - (4) Show that it has applied the money it receives from the federal high cost support fund, to the extent permitted under federal communications commission regulations, to the rates for which it is issuing credits, and not to other services or to ineligible customers.
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SECTION 64. PSC 160.10(5) is repealed.

SECTION 65. PSC 160.11(1)(a) and (3) are amended to read:

(1) Partial support funding through rate discounts is available for institutions ordering telecommunications services to be used to provide any of the following services:

(a) Two-way interactive video or audiographic services.

(3) Support funding is available only as partial payment for new services. The amount of funding shall decrease year by year, as follows: Funding is available for up to 3 years at a monthly discount of 20% of the monthly charge or \$200 per month, whichever is less.

SECTION 66. PSC 160.11(3m) is created to read:

(3m) Notwithstanding sub. (3), if an institution received support funding under this section for a new service at a 30% or \$300 discount level in the first year, and at a 20% or \$200 discount level in the second year, it shall only receive support funding for that new service for the third year at a 10% or \$100 discount level.

SECTION 67. PSC 160.11(3)(a) to (d) are repealed.

SECTION 68. PSC 160.11(7) is created to read:

(7) A school, library or library system receiving discounts under the federal schools and libraries universal service program in a given month may not receive state discounts under this section for the same service for that month.

SECTION 69. PSC 160.125(title) is created to read:

PSC 160.125 Funding to promote access to telecommunications services.

SECTION 70. PSC 160.125(1)(c) is created to read:

(c) A qualifying agency or authority administering or providing voice-mail service to homeless clients may request reimbursement for its costs directly attributable to administering and providing the voice-mail boxes for the benefit of its homeless clients.

SECTION 71. PSC 160.125(2) is created to read:

(2) ACCESS PROGRAMS OR PROJECTS BY NONPROFIT GROUPS. (a) Partial funding may be available to nonprofit groups for the facilitation of affordable access to telecommunications and information services through programs or projects, or both, not supported elsewhere in this chapter, but that are consistent with the purposes identified in s. 196.218(5)(a)1. to 3., Stats.

Note: As of February 1999, s. 196.218(5)(a)1. to 3., Stats., reads:

(5) Uses of the fund. (a) The commission shall require that moneys in the universal service fund be used only for any of the following purposes:

1. To assist customers located in areas of this state that have relatively high costs of telecommunications services, low-income customers and disabled customers in obtaining affordable access to a basic set of essential telecommunications services.
2. To assist in the deployment of advanced service capabilities of a modern telecommunications infrastructure throughout this state.
3. To promote affordable access throughout this state to high-quality education, library and health care information services.

(b) Any non-profit organization may apply for universal service funding to fund any portion of a program or project or both. Funding will be provided on a state fiscal year basis. Applications for funding in the following fiscal year must be submitted by November 15th. The commission will issue a list of approved programs or projects, or both, by April 15th, with funding for those projects to begin that July 1st. All applications will become public documents upon filing.

(c) Applications must include:

1. A description of a public need which is not being met at present;
2. A description of how the program or project is consistent with the purposes identified in s. 196.218(5)(a)1. to 3., Stats.
3. A description of the program or project proposed, including a description of how the public need described in subd. 1. may be met using telecommunications or information services;
4. A showing that the proposed project meets the described public need in a least cost manner. This requirement can be met by showing that the applicant carried out an appropriate request for proposals.

5. Identification of the providers of each portion of the telecommunications services or equipment and a specific description of the following components of the program or project:

- a. The costs of telecommunications services and telecommunications equipment used by the project;
- b. The cost of training for those who are served by the program or project so that they can utilize the services;
- c. The administrative costs directly attributable to the program or project;
- d. The cost of technical expertise required to complete the program or project; and
- e. Revenue from services or training described in subd. 5.b.

(d) The commission will evaluate all applications submitted. In evaluating the applications the commission shall consider information including, but not limited to, the following:

1. The basis of the public need to be met;

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2. The extent to which other programs or projects, either funded under this section or otherwise under this chapter, meet that need; and

3. The overall cost of the proposed program or project.

(e) The universal service fund will reimburse applicants for up to 50% of the cost of reimbursable portions of the program or project, or both. The reimbursable costs include those listed in par. (c)5.a. to d.

(f) The programs or projects, or both, to be funded and the amount of reimbursement for each program or project will be determined by the commission. The commission will seek comments on the programs or projects to be funded, but will not hold a hearing. A maximum of \$500,000 in funding will be dispersed under this subsection per calendar year.

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SECTION 72. PSC 160.13 is repealed and recreated to read:

PSC 160.13 Designation of eligible telecommunication carriers. (1) A company shall be deemed eligible to receive intrastate and interstate universal service funding under the federal high cost program and applicable state programs for an area if it meets the following requirements:

(a) Holds itself ready to offer service to all customers in the area, except that those customers with a demonstrated inability to pay for service may be denied service in accordance with ss. PSC 165.051 and 165.052; and

(b) Advertises its service in the area on a regular basis, with such advertisements:

1. Disseminated in the mass media expected to reach the majority of customers in the area, at least 3 times per year;

2. Describing the services offered; and

3. Describing the affordability of the services, including the availability of discounts for low income customers.

(c) Maintains prices for service in the area that do not unreasonably discriminate between customers, and that comply with s. PSC 160.155. An eligible telecommunications carrier may not charge nonrecurring or construction charges for rural customers that are not reasonably comparable to what urban customers would pay.

(d) Offers, at a minimum, all portions of essential telecommunications service, as defined in s. PSC 160.03; and

(e) Offers lifeline and link-up service, as defined in ss. PSC 160.061 and 106.062.

(2) The area in which a provider shall be designated as an eligible telecommunications carrier shall be:

(a) For a non-rural local exchange carrier, the wire center, unless the commission designates a smaller area.

(b) For a rural local exchange carrier, the service territory, unless the commission designates, and the federal communications commission approves, a smaller area.

Note: Ameritech Wisconsin and GTE North, Incorporated are non-rural local exchange carriers. All other incumbent local exchange carriers are rural.

(3) For areas served by non-rural local exchange carriers, the commission may designate a number of eligible telecommunications carriers, without further proceeding.

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(4) For areas served by rural local exchange carriers, the commission may only designate more than one eligible telecommunications carrier after finding that the public interest requires multiple eligible telecommunications carriers, pursuant to federal law and s. 196.50(2), Stats.

(5) The commission will maintain a list of the eligible telecommunications carriers for all areas of the state.

(6) An eligible telecommunications carrier may relinquish its designation as such for an area by notifying the commission and the administrators of both the state and federal universal service funds, in writing, of its intention.

(a) If at least one other eligible telecommunications carrier is designated for that area, the relinquishing carrier will be relieved of eligible telecommunications carrier status for that area 2 weeks after receipt by the commission of the letter, and without commission action.

(b) If no other eligible telecommunication carrier is designated for that area, the relinquishing carrier must remain as eligible telecommunications carrier for that area until the commission designates an alternative eligible telecommunications carrier. In such a case, the commission will notify the relinquishing carrier, and the administrators of the state and federal funds, that eligible telecommunications carrier status is still in effect. The commission may conduct a proceeding or auction similar to that described in s. PSC 160.14 to designate a new eligible telecommunications carrier for an area for which the only existing eligible telecommunications carrier is seeking to relinquish that status.

(c) A provider may continue to provide services in an area for which it has relinquished eligible telecommunications carrier status, but may not continue to receive high cost assistance funding. If a provider seeks to abandon facilities or discontinue any service, it must notify affected customers and follow the established abandonment procedures under ss. PSC 165.11 and 165.12.

SECTION 73. PSC 160.14(2)(b) is amended to read:

(b) The petition shall be filed in writing with the commission, and the Except as provided in par. (d), petitioner retains intralata toll service provider of last resort responsibilities until a new provider of last resort is designated, or for a period of 12 months, whichever is shorter.

SECTION 74. PSC 160.14(2)(d) is created to read:

(d) If intralata presubscription has been in effect in an exchange for at least one year, and if the designated intralata toll provider has less than 50% of all presubscribed residential access lines in that exchange, then the commission may lift the intralata toll provider of last resort requirement for that exchange. If future circumstances should so require, the commission may designate a new intralata toll provider of last resort pursuant to sub. (3).

SECTION 75. PSC 160.14(8) is created to read:

(8) An intralata toll provider of last resort may not sell or dispose of any intralata toll customer to another provider, except at the express request of the customer.

SECTION 76. PSC 160.15 is amended to read:

PSC 160.15 Identification of charges caused by universal service funding liability.

Telecommunications providers may not establish a surcharge ~~or separately identify~~ on customer bills, ~~any amounts for recovering, or contributing to, or recovering any portion of the providers' payment of universal service fund obligations.~~

SECTION 77. PSC 160.155 is created to read:

PSC 160.155 Reasonably comparable urban and rural rates (1) All telecommunications providers ~~must~~ maintain rates in rural area that are reasonably comparable to those charged by that provider in urban areas. The services offered for those rates must also be reasonably comparable.

(2) To be reasonably comparable, rates ~~must~~ not vary significantly, except to the extent that higher rates are for additional or higher quality service than is generally offered. Having a longer length circuit between the switch and customer premises is not considered additional or higher quality service.

(3) Non-recurring charges for rural customers ~~must also be~~ reasonably comparable to those charged to urban customers.

(4) Rates for incumbent local exchange carriers which vary between exchanges, and which have been set by commission order, are exempted until such time as the rates are revised or changed. A rate decrease which is applied uniformly across an entire rate classification does not constitute a change for the purposes of this paragraph.

(5) In order to maintain rural and urban toll rate parity, where a local exchange service provider's switched access rates exceed 150% of the benchmark access rates established by the commission, the provider ~~will~~ issue credits to the access customer reducing those access rates to 150 percent of the benchmark rates. The commission may revise the benchmark access rates by order, following comment and opportunity for hearing. Local exchange service providers ~~will~~ be reimbursed by the universal service fund for the value of the credits issued.

Note: The initial benchmarks were established by the commission in docket 05-TI-130.

SECTION 78. PSC 160.181 is created to read:

PSC 160.181 Use audit. Recipients of universal service fund monies may be audited by the commission to ensure that the funding was applied for and used appropriately.

SECTION 79. PSC 160.19(4)(a) and (5) are amended to read:

(a) ~~Terms of universal service fund council members initially appointed by the commission are effective through December 31, 1995. After December 31, 1995, universal~~ Universal service fund council members shall be appointed to staggered three-year terms.

Note: For terms beginning on January 1, 1996, the commission will appoint some universal service fund council members to a one year term, others to a 2 year term and the remaining members to a 3 year term.

(5) ~~The commission shall appoint a chairperson for the universal service fund council who shall serve in that capacity through December 31, 1995. Thereafter, the~~ The universal service fund council shall elect a chairperson and a vice-chairperson from its membership, not including the commission staff liaison. The term of office for these positions shall be one year. Elections may be held at the first meeting of each calendar year ~~commencing after December 31, 1995,~~ or may be conducted by mail prior to the first meeting of each calendar year.

DATE MAILED

FEBRUARY 9, 1999

BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Biennial Review of Universal Service Fund Rules in

Wis. Admin. Code ch. PSC 160

1-AC-166

NOTICE OF HEARING

Hearing Date and Time: April 6, 1999 at 1:30 p.m.

Hearing Location: Amnicon Falls Hearing Room
1st Floor
Public Service Commission
610 North Whitney Way
Madison, WI

Comments Due: April 20, 1999 by noon	Address Comments To: Lynda L. Dorr, Secretary to the Commission Public Service Commission
FAX Comments Due: April 19, 1999 by noon	P.O. Box 7854 Madison, WI 53707-7854 FAX (608) 266-3957

The Public Service Commission of Wisconsin (Commission) proposes an order to repeal PSC 160.04(5) and (6), 160.06(5)(b), 160.062(2)(b) and (3), 160.09(2)(a) and (b), (3)(f), (3)(h), and (6), 160.10(5) and 160.11(3)(a) to (d); to renumber PSC 160.02(1), 160.06(5)(a), 160.062(5), 160.063(title), (3) and (4), 160.09(3)(i), and (5); to renumber and amend PSC 160.035(3), 160.062(2)(a), (4), and (6), 160.063(1) and (2), 160.09(2)(c) and 160.09(3)(a) to (e), (3)(g), and (4); to amend PSC 160.01(2)(a) and (5), 160.02(4)(a) and (b), (7) and (8)(a), 160.03(2)(a)8., 9., 10., and 14. and (c), 160.031(3), 160.035(1)(c), 160.04(1), 160.05(intro.), 160.05(1)(c) and (d), 160.06(1), (3) and (4), 160.061(1) and (6), 160.062(1), 160.071(1)(a), (b), (c), (f), (3), and (6), 160.075(3), 160.08, 160.09(1), (8) and (9), 160.11(1)(a) and (3), 160.14(2)(b), 160.15, and 160.19(4)(a) and (5); to repeal and recreate PSC 160.091 and 160.13; to create PSC 160.02(1g), (8d), (8h), (8p), and (8t), 160.035(b), 160.05(1)(k) and (L), 160.062(2)(a), (2)(c), (6) and (7), 160.063, 160.071(title), (1)(k) to (n), (2)(title), (3)(title), (4)(title), (5)(title), and (6)(title), 160.073, 160.075(5), 160.09(3), Figure 160.09(3), 160.11(3m) and (7), 160.125(title), (1)(c) and (2), 160.14(2)(d) and (8), 160.155 and 160.181 relating to the provision of universal telecommunications service and administration of the universal service fund.



Rules now in ch. PSC 160 were effective May 1, 1996. The Commission has opened this rulemaking to consider necessary changes to the rules as required by s. 196.218, Stats.

As required by statutes, the Commission has appointed a Universal Service Fund Council (USFC) to advise the Commission on administration of s. 196.218, Stats., and on the universal service fund rules. The USFC has recommended various changes to the rules in ch. PSC 160; most of those recommendations are reflected in the proposed rules. In those instances where the Commission has suggested changes that are not part of the recommendations of the USFC, it is noted in the plain language analysis that is part of this notice.

A statement of scope relative to this rulemaking was issued by the Commission in March 1997, as required by ch. 227, Stats.

INPUT EXPRESSLY INVITED

The Commission invites all parties potentially affected by these proposed universal service fund rules to comment on them. The purpose of the proposed rules is to solicit comments so that the Commission can make a full and informed decision on additions to, deletions from, or modifications of the current universal service fund rules in ch. PSC 160.

As noted in Attachments A and B, the Commission is not modifying the data transmission speed rule in s. PSC 160.031. The Commission will be examining this issue and other internet related matters in another forum, so comments on data speed matters should not be filed in this rulemaking proceeding.

**ANALYSIS PREPARED BY THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

A plain language analysis of the proposed rules is set forth as Attachment A hereto.

TEXT OF PROPOSED RULES

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

INITIAL REGULATORY FLEXIBILITY ANALYSIS

Existing universal service fund 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. These small telecommunications utilities, of which there are 78 in Wisconsin, like other telecommunications providers (both large and small), have obligations under the universal service fund, including an obligation for payments to the universal service fund. The rule changes proposed in this proceeding could have the effect of changing the amount of the

assessments. Some of these changes may increase the amount of funding needed, while others may decrease the amount paid by any given provider. The net effect of these changes is uncertain.

Other provisions of these proposed rules should have no direct impact on small businesses. The Commission already has established, in s. PSC 160.18(1), an exemption from fund assessments to protect entry by and continued operation of small telecommunications providers as directed by statutory objectives. There are no new reporting or bookkeeping requirements created under these proposed rules for any business except for wireless carriers who choose to become eligible telecommunications carriers.

The agency has considered the methods in s. 227.114(2), Stats., for reducing the impact of the rules on small businesses. Other than the provisions for exemption from assessments for small providers noted above, these methods are not necessary, appropriate nor consistent with statutory objectives.

FISCAL ESTIMATE

The fiscal estimate is set forth as Attachment C hereto.

ENVIRONMENTAL ANALYSIS

This is a Type III action under s. PSC 4.10(3). No unusual circumstances suggesting the likelihood of significant environmental consequences have come to the Commission's attention. Neither an environmental impact statement under s. 1.11, Stats., nor an environmental assessment is required.

EFFECTIVE DATE

These rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Commission will hold a public hearing on these proposed rules in the Amnicon Falls Hearing Room (1st Floor) at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, on April 6, 1999 at 1:30 P.M. The examiner may continue the hearing at such times and places as necessary to complete the hearing.

The building at 610 North Whitney Way is accessible to people in wheelchairs through the main floor entrance (Lobby) on the Whitney Way side of the building. Handicapped parking is available on the south side of the building and the building has some wheelchair accessible rest rooms.

WRITTEN COMMENTS

Any person may submit written comments on the proposed rules. The hearing record will be open for written comments from the public effective immediately, until **April 20, 1999, at noon (or April 19, 1999 at noon, if filed by fax).**

All written comments on the rules must include a reference on the filing to docket 1-AC-166. **File by one mode only.**

If filing by mail, courier or hand delivery: Address comments 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. Address comments as shown in the box on page 1. Fax filing cover sheets **MUST** state "**Official Filing,**" the docket number (1-AC-166), and the number of pages (limited to 20 pages for fax comments).

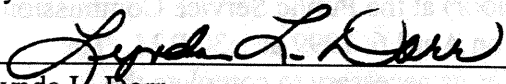
CONTACT PERSON

Questions regarding this matter should be directed to Gary Evenson, Assistant Administrator, Telecommunications Division, at (608) 266-6744 or *evensg@psc.state.wi.us*. Hearing- or speech-impaired individuals may also use the Commission's TTY number, (608) 267-1479.

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 get this document in a different format should contact Gary Evenson, as indicated in the previous paragraph, as soon as possible.

Dated at Madison, Wisconsin, February 5, 1999

By the Commission:


Lynda L. Dorr
Secretary to the Commission

Attachments

cc: Records Management
Lynda Dorr, Secretary to the Commission
RM Mail

**ANALYSIS PREPARED BY THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Statutory Authority: ss. 196.02(1) and (3), 196.218, and 227.11(2), Stats.

Statutes Interpreted: s. 196.218, Stats.

Effective May 1, 1996, the Commission created a set of universal service programs to: provide access to telecommunications service to all Wisconsin customers regardless of geographic location, income or disability; promote the use of advanced services by schools, libraries and health care institutions; and assist in the deployment of advanced services in all areas of the state. These programs are detailed in ch. PSC 160. In that same chapter, the Commission also detailed the mechanisms for funding those programs, and for administering the resulting fund.

In 1996, the federal legislature passed a sweeping telecommunications deregulation bill. The Telecommunications Act of 1996, and resulting actions by the Federal Communications Commission (FCC), significantly changed the federal landscape with respect to universal service.

The Commission is proposing the following revisions to its universal service rules to reflect experience with the programs created in 1996, the evolution of the telecommunications market and telecommunications technology in Wisconsin, and to ensure that the state universal service programs do not conflict with the new federal programs.

In preparation of these proposed rules, the Commission staff has worked closely with the USFC. The USFC has given extensive advice and input on these proposed rules, and many of the changes result directly from that input. In some cases, the USFC has taken no position on changes that were suggested by staff. The USFC submitted its recommendations on rule changes to the Commission in September 1998. The proposed rules reflect most of the USFC recommendations. Where there are substantive differences from the USFC recommendations, those differences are noted below.

A section by section analysis of the proposed changes follows.

Section PSC 160.01 deals with the scope and purpose of the rules. This section remains basically unchanged. The modifications clarify legal points.

Section PSC 160.02 contains definitions of the terms used in the chapter. The modifications are primarily updates and additions. There are only two substantive changes. One change is to the definition of schools eligible for the institutional program, which now includes cooperative education service agencies and clarifies that school administration buildings are included. The other change is to the definition of local exchange service provider, which now includes those wireless providers who choose to become eligible telecommunications carriers.

Section PSC 160.03, on essential telecommunications services, defines the parts of basic telephone service. The language on telephone relay service and local calling area has been clarified and the connectivity provision now includes the ability to connect with an internet service provider. The latter change was not a part of the rule draft seen by the USFC. The section also changes the definition of public interest payphone to be consistent with recent Federal Communications Commission (FCC) rulings.

Section PSC 160.031, on essential data transmission capability, defines data transmission capability, as required under s. 196.218(4), Stats. It is currently defined as at least 9600 bits per second. The USFC recommended that this rule not be changed, but supported the Commission's additional study of internet access issues. The Commission is not changing the data transmission speed rule and will continue to examine the issue of data transmission capability to determine whether an update to this section should be proposed in the future. It will also consider other universal service issues relative to internet service.

Section PSC 160.035, on the advanced service program, allows customers to request advanced services that are not being offered in an area, or are not offered at an affordable price. The proposed changes clarify the definition of interactive video, and incorporate the concept of reasonably comparable urban and rural pricing.

Section PSC 160.04, on toll blocking, requires telephone providers to offer customers the opportunity to block long distance usage. The only changes are to remove outdated language.

Section PSC 160.05 lists the programs which can receive universal service fund monies. The first change allows fund money to be used for publicizing universal service programs. The remainder incorporate the other programs created by these proposed rules.

Section PSC 160.06 defines the criteria customers must meet to qualify for telecommunications-related low-income universal service fund support programs. The changes to this section update obsolete language, clarify eligibility criteria, and require telecommunications providers to inquire regarding eligibility when contacting customers subject to disconnection or needing payment arrangements.

Section PSC 160.061, on the Link-Up America program, allows telecommunications providers to waive connection charges for low-income customers and to receive reimbursement for those waived fees. The changes include applying the waiver to all connection charges, as required by the FCC, and increasing the amount of reimbursement to cover half the waived fees. The other half will, generally, be covered by the FCC.

Section PSC 160.062, on the lifeline assistance program, provides discounted monthly service fees for low-income customers. Like the Link-Up program, the Lifeline program is provided jointly by the states and the FCC. The FCC has significantly modified its program.

The proposed changes bring the state program into line with the revised federal program, and allow for the maximum amount of federal support.

Section PSC 160.063, on the voice-mail for the homeless program, is intended to allow a social service agency, job service agency or homeless shelter to provide temporary voice-mail boxes to homeless people. This will assist the homeless in finding jobs, as well as aiding social service agencies and others in contacting these people, as needed. The program has not been used, however, because the administrative costs of providing voice-mail service have been beyond the capabilities of homeless shelters. This section has been renumbered and changed to allow the program to pay a part of the administrative costs, and to better align the program with the needs of the homeless and homeless shelters.

A new section PSC 160.063 has been created to provide a limited amount of support to fund collaborative partnerships between community organizations and telecommunications providers to increase participation in the low-income universal service support programs.

Sections PSC 160.07 and 160.071 allow customers with special telecommunications needs to afford the required services and equipment. An example of such equipment is a teletypewriter to allow deaf people to use the telephone network. The program provides discounts to allow all such customers to afford appropriate equipment. The changes update the discounts to reflect changes in the average price and type of equipment used. A change clarifies that the Commission can limit the amount of equipment a single customer can purchase under this program. The changes also call for the fund administrator to maintain a list, in consultation with the commission staff, vendors and interested parties, of equipment which is eligible for discounts. Finally, a provision is added stating that when a second line is necessary for hearing impaired customers to receive service comparable to that provided to other customers (for example, due to equipment needs) there will be no charge for that second line.

A new section PSC 160.073 has been created to be consistent with FCC rulings concerning the provision of pay telephones in the public interest when those payphones might not otherwise be available.

Section PSC 160.075, on payphone usability, reiterates that all pay telephone providers are responsible for ensuring that their payphones comply with state and federal standards, and that customers can complain about non-compliance to the Commission. The changes merely clarify these rules and require providers to post information on how to file a complaint.

Section PSC 160.08, on the Telecommunications Customer Assistance Program (TelCAP), remains primarily a placeholder for rules and pilot programs being developed in other proceedings. The one change allows providers to offer toll limitation, as well as toll blocking, to customers under TelCAP programs.

Section PSC 160.09, on the high-rate assistance program, provides rate reductions in situations where telephone rates would otherwise become unaffordable. The broad outlines of this program remain unchanged. The specifics have been revised, however, to match with the Telecommunications Act of 1996 and the FCC's new universal service support plan. The previous version of this plan subsidized only the cost of the local loop. The revised plan covers the entire cost of basic telephone service. The amount of support depends both on the cost of telephone service, including a reasonable amount of calling, and on the median income in the area in which the rates apply. The formulas for assistance have been revised to reflect the services now being covered.

Section PSC 160.091, on qualifications of providers receiving high rate assistance credits, has been modified to reflect the requirement that the company is designated as an eligible telecommunications carrier (as described below.) In addition, the proposed changes require that any company seeking state reimbursement for high-rate assistance credits show that it has first used any available federal high cost assistance to reduce the affected rates. This provision is intended to prevent a company from diverting federal support away from high cost areas and then seeking to support those high cost areas solely through state funding.

Section PSC 160.10, on the rate shock program, remains unchanged except for the removal of obsolete language.

Section PSC 160.11, on the assistance to institutions program which provides discounts to schools, libraries and hospitals, is being modified. The program used to have a declining level of discounts. This proved difficult for schools to budget, so it is being replaced with a fixed discount. The proposed rule also includes a provision that a school cannot be reimbursed by both the state and federal institutional programs for the same services.

A new section PSC 160.125, entitled Funding to Promote Access to Telecommunications Services, is where the voice-mail for the homeless section has been moved. A new section is created as well and is intended to provide the Commission with an avenue to address groups or situations not foreseen in the current rules, but which require action before a new rulemaking could be completed. These rules allow the Commission to approve partial funding for projects, provided those projects meet the overall goals of the universal service fund. The program is limited to non-profit groups, since the fund cannot afford, nor should it be used, to fund commercial ventures on the part of for-profit companies. The USFC recommendation was that this program be applicable for projects meeting the needs of unserved or underserved low-income persons or persons with disabilities. The proposed rule would allow projects that serve any of the purposes listed in s. 196.218(5)(a)1. to 3., Stats.

Section PSC 160.13, which formerly dealt with local exchange service providers of last resort, now deals with the newly created FCC term Eligible Telecommunications Carrier (ETC). This term means a telecommunications provider that the Commission has found to be eligible for federal (and state) universal service funding. This section lays out the criteria for such a

designation, consistent with the federal rules, as well as laying out the rules for becoming an ETC, and for relinquishing that status. In summary, to become an ETC, a provider must offer basic service to all customers in the area, must advertise that fact, and must not charge different customers unreasonably different prices.

Section PSC 160.14 provides rules for the intraLATA toll provider of last resort. Currently, Ameritech and GTE are the toll providers of last resort for most areas. However, with the advent of intraLATA presubscription, this designation is becoming somewhat meaningless. In the interLATA market, for example, the Commission does not need to designate a provider of last resort as the market ensures that all customers are served. The proposed change to the rules also allows the Commission to eliminate the intraLATA toll provider of last resort requirement in exchanges where competition is firmly established, and the requirement is no longer needed. The rules also codify previous Commission findings that a provider of last resort cannot sell or abandon customers, except at the customer's own request.

Section PSC 160.15, covering identification of the universal charges on customer bills, is being modified. The current rules do not allow the charges to be separately identified on customer bills. The revised rules allow identification of these charges. The rule draft suggested by the USFC stated that the universal service charges related to the TEACH WI initiative could be added as a surcharge to customers' bills. Upon further examination it was learned that the belief that the TEACH statutes allowed such a surcharge was erroneous, so the reference was removed from this proposed rule.

A new section PSC 160.155 is created and attempts to incorporate the federal statutory requirement that providers charge reasonably comparable prices in both rural and urban areas. The proposed rules also attempt to preserve reasonably comparable toll service by using universal service money to buy down access rates to a uniform benchmark level. The USFC made no recommendation either supporting or opposing this change.

Sections PSC 160.16 and 160.17 on the fund administrator and fund budget have not been changed.

Section PSC 160.18, on those exempted from universal service fund assessment, has not been modified. The Universal Service Fund Council recommended that the exemption of cellular mobile radio telecommunications utilities from assessments be repealed so that wireless providers would be subject to such assessments. The Commission is not proposing that change. The Commission is concerned about jurisdictional and policy issues related to assessing wireless providers and encourages input on this issue as this rulemaking proceeds.

Section PSC 160.181 provides that the recipients of universal service funds may be subject to audit by the Commission.

Section PSC 160.19 is being changed to remove outdated language from the section on collections and from the section on the Universal Service Fund Council.

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SECTION 1. PSC 160.01(2)(a) is amended to read:

(2) SCOPE AND EXCEPTION. (a) The requirements of ch. PSC 160 shall be observed by the telecommunications providers subject to the jurisdiction of the commission as indicated in this chapter, except insofar as any exemption may be made by the commission. Except as expressly provided by law, s. 196.218, Stats., and the requirements of this chapter shall be deemed imposed on telecommunications providers certified under s. 196.203, Stats.

SECTION 2. PSC 160.01(5) is amended to read:

(5) ORDERS. The commission may issue orders it deems necessary to assist in the implementation or interpretation of this chapter. Except for declaratory rulings under s. 227.41, Stats., and commission determinations not subject to judicial review under ss. 227.52 and 227.53, Stats., Orders orders shall be issued only after notice and an opportunity for comment by interested parties including the universal service fund council.

SECTION 3. PSC 160.02(1) is renumbered 160.02(1m).

SECTION 4. PSC 160.02(1g) is created to read:

(1g) "Calculated charge" means the charge calculated by converting a per call charge into a per minute charge. The conversion to a per minute charge shall be accomplished by dividing the per call charge by the telecommunications provider's average residential call duration. If there are multiple per call charges within one local calling area, the weighted average shall be used as the per call charge.

SECTION 5. PSC 160.02(4)(a) and (b) are amended to read:

(a) Not-for-profit schools, which includes each school in a school district as defined by s. 115.001(3) 115.01(3), Stats., private schools as defined by s. 115.001(3)(r), Stats., charter schools as defined by s. 118.40, Stats., cooperative education service agencies as defined by ch. 116, Stats., colleges and universities as defined by s. 36.05(13), Stats., and vocational, technical and adult education technical college districts as defined by s. 38.01(5), Stats. School administration buildings are included within this definition.

(b) Public libraries, including public library systems.

SECTION 6. PSC 160.02(7) is amended to read:

(7) "Local exchange service provider" means a telecommunications utility, ~~or any other provider of basic local exchange service or standard business lines and usage, or any commercial mobile radio service provider~~ that has been designated as an eligible telecommunications carrier under s. PSC 160.13.

SECTION 7. PSC 160.02(8)(a) is amended to read:

(a) ~~Aid to families with dependent children under 42 USC 601 to 615. Wisconsin works under ss. 49.141 to 49.161, Stats.~~

SECTION 8. PSC 160.02(8d), (8h), (8p) and (8t) are created to read:

(8d) "Non-rural local exchange carrier" means a telecommunications provider designated or about to be designated as an eligible telecommunications carrier in an area other than one served by a rural telephone company.

(8h) "Rural local exchange carrier" means a telecommunications provider designated or about to be designated as an eligible telecommunications carrier in an area served by a rural telephone company.

(8p) "Rural telephone company" has the meaning given in 47 USC 153(37).

(8t) "Two line voice carryover" means the technique of using 2 telephone lines, one for voice and one for TTY or similar equipment, to connect a caller who is deaf or hard of hearing but can speak, with another caller.

SECTION 9. PSC 160.03(2)(a)8., 9., 10., and 14. are amended as follows:

8. A reasonably adequate number of calls within a reasonably adequate local calling area as defined by the commission.

9. Connectivity with all public toll, local, wireline and wireless networks, and the ability to connect with the internet service provider of the customer's choice.

10. Telecommunications relay service for ~~voice to text and text to voice translation~~ telecommunications access between teletypewriter users and non-teletypewriter users.

14. Intercept and announcements for vacant, changed, suspended and disconnected numbers in oral and TTY-readable formats.