

SENATOR JUDITH B. ROBSON
CO-CHAIR

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REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

June 26, 2001

BY INTER-D

Ave Bie, Chair
Public Service Commission
610 North Whitney Way
Madison WI

Re: Clearinghouse Rule 00-138, relating to extended area service

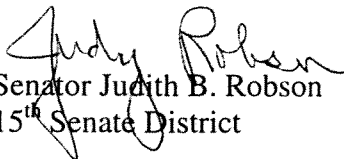
Dear Ms. Bie:


We are writing to inform you that the Joint Committee for the Review of Administrative Rules (JCRAR) held a public hearing and executive session on June 26, 2001. At that meeting, the JCRAR received public testimony regarding Clearinghouse Rule 00-138, relating to extended area service.

Based on that testimony, the committee adopted a motion to nonconcur in the objection to the rule raised by the Assembly Committee on Small Business and Consumer Affairs. The committee approved the motion on a 10 to 0 vote. The Commission is now free to promulgate Clearinghouse Rule 00-138.

Members of the committee have indicated interest in suspending that portion of the PSC code that requires 50% of customers vote in favor of an extended area service petition before the Commission holds a hearing on the petition. This item will be taken up at the next meeting of the committee.

Sincerely,


Senator Judith B. Robson
15th Senate District


Representative Glenn Grothman
59th Assembly District

JBR:GG:da

Examples of potential EAS rate impacts

Exchanges & EAS Route	Monthly Residence Rate before EAS	Monthly Residence Rate after EAS @
Niagara to Iron Mountain - old	\$ 8.20	\$ 14.35 #
Florence to Iron Mountain	\$ 8.20	\$ 12.24 #
Niagara to Iron Mountain * - new	\$ 8.20	\$ 11.78 &
Junction City to Stevens Point	\$ 18.77	\$ 23.54
Bangor to La Crosse *	\$ 16.93 =	\$ 31.89 =
Bangor to West Salem *	\$ 16.93 =	\$ 20.28 =

- # Customers would also pay \$.12 for each EAS call
- & Customers would also pay \$.15 for each EAS call
- = Rate for unlimited local calling service
- * Pending proceeding

@ If these EAS routes were ultimately ordered, all the customers of the indicated exchanges would pay the higher rates. For some customers this would be a savings. For others, it would mean a higher monthly bill - every month - for a calling expansion they do not want or use.



Wisconsin State Telecommunications Association

Fax

TO: Rep. BROTHMAN + SEN. ROBSON

COMPANY: _____

RE: JCRAR HEARING / PSC GAS RUL

DATE: 6/26/01 FAX # _____

PAGES: 2 page(s) total, including this cover sheet.

- Urgent
- For Review
- Please Comment
- Please Reply
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COMMENTS:

FYI

From the desk of...

Chris LaRowe

Manager of Legislative Affairs
 Wisconsin State Telecommunications Association
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 Madison, WI 53719

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 Fax: 608/833-2676
 E-Mail: chrislar@chorus.net
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Wisconsin State Telecommunications Association, Inc.

MICHAEL D. JENSEN, President
 THOMAS R. SQUIRES, Vice President
 RAY J. RIORDAN, J.D. CAE
 Executive Vice President and General Counsel



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June 26, 2001

The Honorable Glenn Grothman, Co-Chairperson
 Joint Committee for Review of Administrative Rules
 Room 15 North/State Capitol
 P.O. Box 8952
 Madison, WI 53708-8952

The Honorable Judy Robson, Co-Chairperson
 Joint Committee for Review of Administrative Rules
 Room 15 South/State Capitol
 P.O. Box 7882
 Madison, WI 53707-7882

Dear Rep. Grothman and Sen. Robson:

I write to you today regarding the Public Service Commission of Wisconsin (Commission) Docket 1-AC-200, relating to Modification of Rules on Extended Area Telephone Service.

WSTA supports the proposed rule as presented by the Commission for your committee's review today. To help meet pressing demands on scarce resources, the telecommunications customer has choices to call the communities in which they are likely to have the greatest interest in calling. Accordingly, the customer can choose from the Commission's approved calling plans or competing telecommunications providers or emerging telecommunications markets.

Nevertheless, the Commission recognized that its adopted calling plans and other choices would not satisfy all customers. As a result, the customer has still another choice, it can petition the Commission for changes such as to EAS. If a petition is granted, all the customers receive new EAS and consequently, at the same time all customers must also bear the cost of the service.

In conclusion, based on WSTA's review of the Commission's proposed Modification of Rules on Extended Area Telephone service, we believe customer community of interest calling choice along with the Commission's proposed Rules individually and collectively have the capability to materially impact customer calling scope demands.

Sincerely,

Ray J. Riordan
 Executive Vice President

cc: Rep.'s Seratti, Gunderson, Turner & Hebl and Sen.'s Grobschmidt, Hansen, Schultz & Cowles

DIRECTORS:

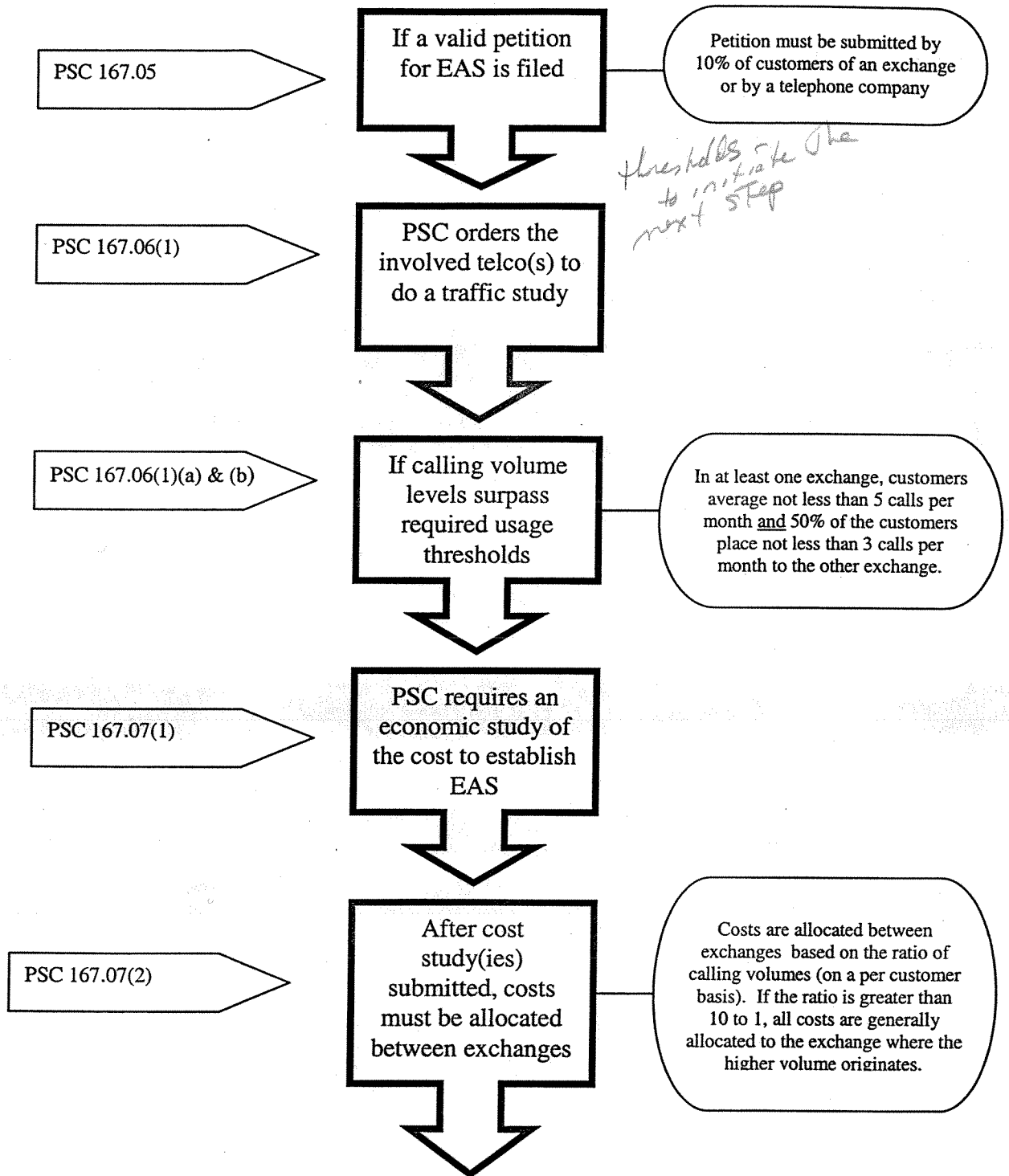
DAVE CARTER, Cable
 GEORGE FRIOU, Madison
 ROGER L. HERMSEN, Abrams
 MICHAEL D. JENSEN, Amery

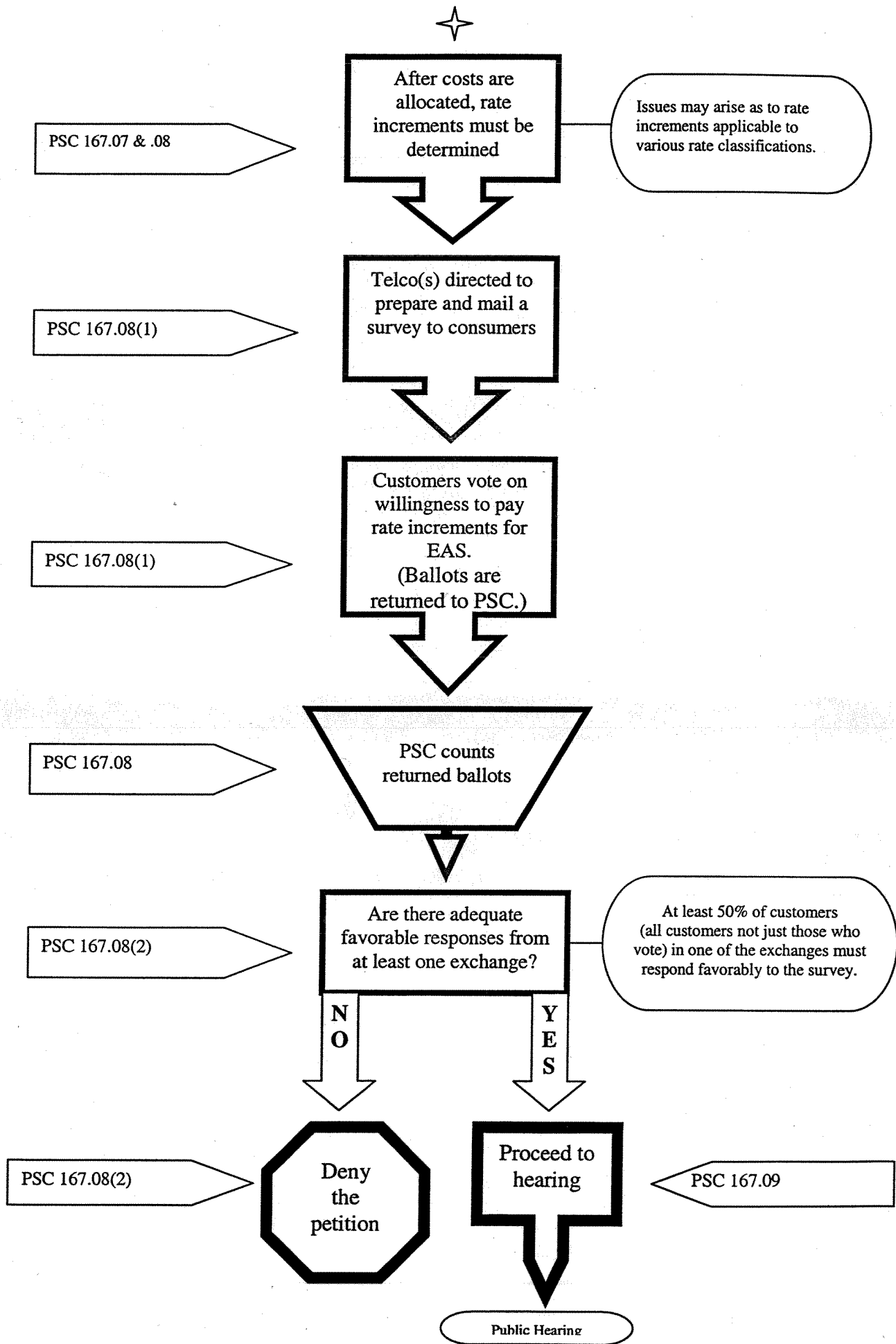
RHONDA J. JOHNSON, Milwaukee
 DIANA LAPOINTE, Oxford
 DAVID J. LULL, Blue River
 AL MAHNKE, Writenberg
 DANIEL W. MATSON, Sun Prairie

MICHAEL A. PANDOW, Madison
 DUANE W. RING, JR., La Crosse
 PATRICK D. RIORDAN, Pulaski
 MARK SCHROEDER, Independence
 BOB SCHULZE, Little Chute

SID SHERSTAD, Siren
 THOMAS R. SQUIRES, Manawa
 DOUGLAS J. WENZLAFF, Wisconsin Rapids
 FRED WEIER, Strum
 WILLIAM C. WISWELL, Elkhorn

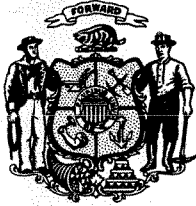
Wis. Admin. Code Chapter PSC 167 - EAS Petition Consideration Process





Clearinghouse Rule 00-138

Relating to extended area telephone service



Public Service Commission of Wisconsin

Ave M. Bie, Chairperson
Joseph P. Mettner, Commissioner
John H. Farrow, Commissioner

610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

The Honorable Fred Risser
C/O Donna Doyle
State Senate Journal and Records
119 Martin Luther King Jr. Blvd., Suite 501
Madison, WI 53703

The Honorable Scott R. Jensen
C/O Ken Stigler
State Assembly Records
1 East Main Street, Suite 402
Madison, WI 53703

Re: Modification of Rules on Extended Area Telephone Service

1-AC-200

Clearinghouse No. 00-138

Dear Senator Risser and Representative Jensen:

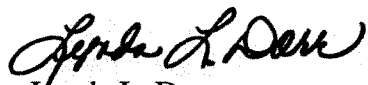
Pursuant to Wis. Stat. § 227.19(2), the Commission hereby submits a proposed rule in final draft form in the above-referenced matter. The Commission proposes making certain changes to Wis. Admin. Code § PSC 167.08. These changes involve customer surveys about extended area telephone service arrangements.

At its open meeting today, the Commission approved delivering this final draft to you for review by the Legislature's standing committees. Enclosed are the Rule Jackets and triplicate copies of the Commission's Proposed Order, which includes the Report to the Legislature, in the form required under Wis. Stat. § 227.19(3).

If you have any questions or concerns, please feel free to contact Tom Gross, Principal Rate Analyst in the Telecommunications Division, at (608) 267-2337, or Gary Evenson, Assistant Administrator of the Telecommunications Division, at (608) 266-6744.

Dated at Madison, Wisconsin, February 6, 2001

By the Commission:


Lynda L. Dorr
Secretary to the Commission

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Enclosures

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Modification of Rules on Extended Area Telephone Service

1-AC-200

Clearinghouse No. 00-138

PROPOSED ORDER ADOPTING RULES

The Public Service Commission of Wisconsin (Commission) proposes an order to renumber and amend PSC 167.08(1); and to create PSC 167.02(1m), 167.08(1), (2)(b) and (3)(a) and (b); relating to extended area telephone service.

REPORT TO THE LEGISLATURE

Set forth herein as Attachment A.

FISCAL ESTIMATE

This rule change has no fiscal impact. A completed Fiscal Estimate form is included as Attachment B.

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.

CONTACT PERSON

Questions from the media may be directed to Jeffrey L. Butson, Public Affairs Director at (608) 267-0912. Other questions regarding this matter should be directed to Gary Evenson, Assistant Administrator, Telecommunications Division at (608) 266-6744. 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 to get this

Docket 1-AC-200

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

Dated at Madison, Wisconsin, February 6, 2001

By the Commission:

Lynda L. Dorr
Lynda L. Dorr
Secretary to the Commission

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Attachments

REPORT TO THE LEGISLATURE

A. NEED FOR THE RULE

Wis. Admin. Code ch. PSC 167 contains the process for consideration of petitions seeking the establishment of extended area telephone service arrangements. Extended area telephone service is a telephone service that allows customers in one exchange to call customers in other exchanges that are outside the customers' usual local calling area without incurring toll charges. On June 21, 2000, the Joint Committee for Review of Administrative Rules (JCRAR) held a hearing to discuss concerns relative to customer balloting in extended area service proceedings. JCRAR requested that the Commission begin the rule promulgation process to codify current Commission procedures relative to this balloting process.

B. PLAIN LANGUAGE ANALYSIS

Extended area telephone service is a telephone service that allows customers in one exchange to call customers in other exchanges without incurring charges based on the duration of the call. Chapter PSC 167 contains the process for consideration of petitions seeking the establishment of extended area service (EAS) arrangements. One step in the process is to conduct a survey of customer willingness to pay the rate increase that would result if an EAS petition were granted.

The modification of these rules is intended to make the balloting process more clearly defined. The balloting process changes concern:

- Who will be surveyed.
- What information must be included in the ballot mailing.
- How to determine whether ballots have been timely submitted.
- How to ballot a customer with several telephone lines.
- When ballots will be counted.
- How unmarked ballots will be handled.

1 C. TEXT OF FINAL RULE

2

3 SECTION 1. PSC 167.02(1m) is created to read:

4

5 PSC 167.02(1m) "Customer" means a person billed for a class of telephone service. Each
6 billed account within either the business or residential classification, regardless of the
7 number of lines included, shall be considered one customer. A billed account that includes

1 both residential and business services, regardless of the number of lines included, shall be
2 considered 2 customers.

3 SECTION 2. PSC 167.08(1) is renumbered 167.08(2)(a) and amended to read:

4
5 PSC 167.08(2)(a) Subsequent to the determination of the rate increments necessary to
6 provide the requested extended area service, or a ~~reasonable variations~~ variation of the
7 requested service, the commission shall direct the utilities to conduct a survey of customer
8 willingness to pay the necessary rate increments. ~~The survey shall be approved by the~~
9 ~~commission and distributed to all customers who would experience a rate increase if the~~
10 ~~petition for extended area telephone service is granted.~~

11
12
13 SECTION 3. PSC 167.08(1) is created to read:

14
15 PSC 167.08(1) In this section, "customer" does not include any person who is provided with
16 free local telephone service, or who for any reason would be exempt from a rate increase if
17 extended area telephone service is approved.

18
19
20 SECTION 4. PSC 167.08(2)(b) is created to read:

21
22 PSC 167.08(2)(b) The survey ballot and accompanying information shall be
23 approved by the commission. Ballots shall be mailed separately from the telephone
24 bill and the words "Ballot Enclosed" shall appear on the front of the mailing.
25 Ballots shall be addressed for return to the commission with no additional postage
26 required. Ballots shall have space for the customer signature, printed name and
27 telephone number. The information accompanying the ballot shall indicate:

- 28 1. The number of customers served by the balloted exchange at the time of
29 balloting.
30 2. The number of "Yes" votes required to move the matter to hearing.
31 3. The date determined by the commission by which ballots must be
32 postmarked or filed with the commission in order to be considered valid.
33
34

35 SECTION 5. PSC 167.08(3)(a) and (b) are created to read:

36
37 PSC 167.08(3)(a) Ballots shall be distributed to all customers who may experience a rate
38 increase if the petition for extended area telephone service is granted.

39 (b) Ballots shall be counted by the commission no earlier than one week after the deadline
40 for the postmark or filing of ballots in sub. (2)(b)3. Only official ballots shall be accepted.
41 If a ballot is returned unmarked or incomplete, or if, in the commission's judgment, the
42 intent of the customer is not discernable from a ballot, the ballot shall not be counted as a
43 "Yes" vote. Voting results, including preliminary totals, shall not be released prior to the
44 official counting.

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This rule 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.

D. PUBLIC HEARING ATTENDEES

The names of those who attended the public hearings or who submitted written comments concerning the proposed rule are listed in the attached "Comments and Responses" summary. The summary is included with this Report as Attachment A1.

E. RESPONSE TO LEGISLATIVE COUNCIL REPORT

A copy of the Legislative Council's report, and responses to it, are included with this Report as Attachment A2.

F. FINAL REGULATORY FLEXIBILITY ANALYSIS

The proposed rules would apply to the entities defined in ch.196, Stats. This includes small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats. (There are 76 small telecommunications utilities in Wisconsin.) However, these rules only come into effect if a petition for EAS is filed and certain threshold requirements on calling volumes are met. The agency has considered the methods in s. 227.114(2), Stats., for reducing the impact of the rules on small businesses. However, this rule does not impose any new compliance requirements or any new reporting, bookkeeping, or other procedural compliance requirements other than requiring that customer ballots not be included with bills. This rule basically codifies current practice. Therefore, the impact reduction methods are not really applicable.

Comments and Responses**Representative Lorraine Seratti****Comment:**

There appears to be a conflict between two proposed rule changes: that only official ballots will be counted and that unmarked ballots will be counted as "no" votes. I believe that it is the position of the Joint Committee for Review of Administrative Rules that counting unmarked ballots as "no" votes is not appropriate. The counting of unreturned ballots as "no" votes is also unacceptable. Only ballots returned to the Commission and marked either "yes" or "no" should be counted.

Response:

Change not made.

Current language in s. PSC 167.08(2) is: "Unless at least 50% of the customers of one of the surveyed exchanges respond favorably to the requested service, or to a variation of the requested service, the petition shall be denied," This has the effect of counting as "no" votes all ballots that are not returned or that are returned but not marked.

Under the existing rule, at least half of the customers who will potentially see an increase in their rates due to EAS must vote in favor of it before the matter is moved to hearing. Reducing this threshold could result in a minority of the customers moving forward a rate increase that will affect all customers. Given the intent to have a majority of customers move EAS forward, it is appropriate that ballots not clearly marked as "Yes" not be counted.

Comment:

Ballots should be uniform and include the phone number, address, individual serial number and instructions where the ballots need to be returned.

Response:

Placement of a serial number would be an unnecessary complication of the EAS process. It would certainly be an added expense for the utility that is preparing the ballots. Telephone numbers have been the standard method of establishing validity. Customer signature, printed name and telephone number are required on ballots and should be adequate for ascertaining the validity of ballots.

Comment:

Ballots should be mailed to customers separate from the telephone bill and the words "Ballot Enclosed" should be used to alert customers.

Response:

Change made. Although a separate mailing represents an added cost, the EAS issue should reasonably be treated as a separate and important issue.

Comment:

Clarification is needed regarding the definition of "customer."

Response:

Change made. The term "customer" has been defined to equate with a bill. A person billed for service is a customer regardless of the number of lines charged on that bill, as long as they are in the same service classification. A person billed for both residential and business service is considered two customers, even if the charges for both services are on one bill. Persons billed separately for service, even if the service address is the same, are considered separate customers.

Sydney Peterson (Niagara Telephone Company)**Comment:**

Clarification is needed regarding the definition of "customer." It is much easier to count access lines than customers, and to provide a ballot for each line. If people are aware that they can receive additional ballots by having bills sent to different people, they will do that. Balloting by access line is fair since the proposed rate increase will apply to each access line.

Response:

A definition of "customer" has been added. While there is a small potential problem from people "gaming" the system to increase their votes, use of access lines has problems too. Large businesses, school districts or government offices would have a large number of votes and could have a significant impact on the outcome, possibly outweighing the votes of individuals in the exchange. A balloting method based on one line = one vote would be tantamount to weighting votes on bonding referenda on the basis of the relative value of property owned by each citizen or corporation.

Comment:

It is unfair to count unmarked or unreturned ballots as "no" votes.

Response:

Change not made. See response to first comment by Rep. Seratti (page 1 of "Comments and Responses".)

Wisconsin State Telecommunications Association

Comment:

Customer should be defined as the billed party and the rules should substitute that term for "customer."

Response:

It would appear to be sufficient to retain the word "customer" where it appears in the rules and to deal with this issue by providing a definition of that word for the purpose of the rules. This has been done.

Comment:

A change is proposed that would imply that ballots are to be mailed with the telephone bills and that postage is prepaid only on returned ballots. The purpose of these changes is to reduce telephone company expenses.

Response:

This change has not been made. A fear that customers ignore materials inserted with bills has been expressed. Inserting ballots with bills may also lead to some customers returning the ballot to the utility. Giving due consideration to all comments, and to avoid potential problems or the perception of a problem, a change has been made to require that ballots be mailed separately from bills and that the words "Ballot Enclosed" be added on the front of the mailing to alert customers. Further, current rule language would permit the use of postage paid return envelopes.

Comment:

Insert the word "probably" before "experience a rate increase" in s. PSC 167.08(1)(a) to indicate that a rate increase is not taken for granted.

Response:

The purpose of the balloting is to ascertain customer willingness to pay higher rates in order to receive the proposed service. Experience with the balloting process has revealed cases in which there was a question about whether a particular customer would see a higher bill as a result of the approval of the proposed service. For example, when

there is a usage component in the rate structure, the determination of an increase would depend on the usage by the individual customer. In such cases, all customers should have a voice if there is the potential for an increase in their bill. The addition of the word "may" instead of "probably" is deemed the best way to accomplish this.

Comment:

The requirement that at least 50% of customers in an exchange respond favorably before the Commission holds a hearing to further consider the question of the proposed EAS should be retained. Otherwise a minority of those who will experience rate increases could force the rate increases on the majority.

Response:

This requirement has been retained.

Verizon

Finds no objections to the proposed rules.

Comment:

Providing a ballot to each billing address is not a problem. It would be economically and technically burdensome to reconcile access line counts and individual customers. Though there may be cases in which an individual customer receives more than one ballot, this is not a significant problem.

Response:

The rules will continue to require the balloting of each customer and a definition of that term has been added.

Ameritech

Generally supportive of the rule draft.

Comment:

The term "access line" should be inserted before the words "rate increase" in s. PSC 167.08(1)(b) and in s. PSC 167.08(1m)(a) in order to avoid a possible reading that would deny a vote to customers who do not make calls between the exchanges.

Response:

The proposed change would have the undesirable effect of denying a vote in cases where customers would not see an increase in their access line rate but would pay more in usage charges. Current language provides flexibility to accommodate the variety of rate structures for local service.

Comment:

The word "billed" should be inserted before the word "customer" in s. PSC 167.08(1m)(a) in order to foreclose voting by plural members of a household or business.

Response:

This matter is addressed in the definition of "customer" that is now included in the proposed rules.

Comment:

The rules should continue to require a majority of the customers of an exchange to respond favorably in order to advance consideration of the proposed EAS.

Response:

This requirement has been retained.

WISCONSIN LEGISLATIVE COUNCIL STAFF

**RULES CLEARINGHOUSE**

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Director
(608) 266-1946

Richard Sweet
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(608) 266-2982



Terry C. Anderson, Director
Legislative Council Staff
(608) 266-1304

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Madison, WI 53701-2536
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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 00-138

AN ORDER to renumber and amend PSC 167.08 (1) (a); to amend PSC 167.08 (2); and to create PSC 167.08 (1) (b) and (c) and (1m) (a) and (b), relating to extended area telephone service.

Submitted by **PUBLIC SERVICE COMMISSION**

09-18-00 RECEIVED BY LEGISLATIVE COUNCIL.

10-06-00 REPORT SENT TO AGENCY.

RNS:REL:jal;tlu

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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Madison, WI 53701-2536
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CLEARINGHOUSE RULE 00-138

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 introductory clause does not contain the correct sections treated by the proposed order and the nature of the treatment. The phrase "to amend ch. PSC 167" should be replaced by the phrase "to renumber and amend PSC 167.08 (1) (a); to amend PSC 167.08 (2); and to create PSC 167.08 (1) (b) and (c) and (1m) (a) and (b)." [See s. 1.02 (1), Manual.]

b. In s. PSC 167.08 (1) (b), "For purposes of" should be replaced by the word "In." [See s. 1.01 (7) (a), Manual.]

c. In the treatment clauses for SECTIONS 1 and 4, "is" should replace "shall be." For SECTIONS 2 and 3, "are" should replace "shall be."

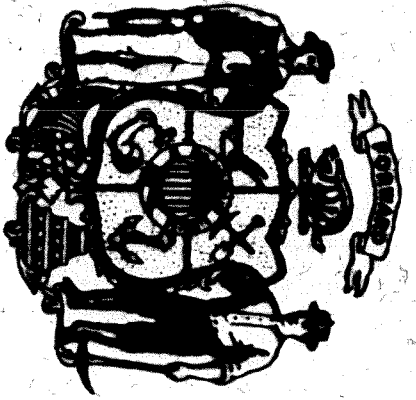
d. In each SECTION, the full citation for the rule should appear at the beginning of the text. For example, in SECTION 1, "PSC 167.08" should precede "(1) (a)."

e. An effective date provision should be inserted at the end of the rule-making order. [See s. 1.02 (4), Manual.]

Response to report from Legislative Council

2. Form, Style and Placement in Administrative Code

- a. Agree. Suggested change done.
- b. Agree. Suggested change done.
- c. Agree. Suggested changes done.
- d. Agree. Suggested changes done.
- e. Agree. Suggested change done.



STATE OF WISCONSIN
PUBLIC SERVICE COMMISSION OF WISCONSIN

GARY A. EVENSON

ASSISTANT ADMINISTRATOR
TELECOMMUNICATIONS DIVISION
evensg@psc.state.wi.us

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6/13

①

2 issues:

1) 50% of customers as opposed to 50% of votes
unreturned & unmarked ballots = no votes

at pub hrg on rule, testimony on both sides
of this issue.

- no process for reversing EAS determination
- EAS generally results in local rate increase. That is why PSC requires 50% of customers.
- vote is not determinative. Yes vote leads to public hrg. Then PSC makes final decision based on totality of evidence. If policy was 50% of ballots, it would trigger a pub hrg. What if majority at hrg opposed?

- EAS evolved in 1950's when calls were connected by operator and cost was calculated by hand based ~~at~~ on distance and time. EAS was way for phone companies to save time ~~and~~ on calculations for calls that did not generate much income.
- in EAS, ~~total~~ cost is spread equally among all customers. so, low-volume customers subsidize high-volume customers. customers that don't call pay for the service just like everybody else.



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(608) 266-2253

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MADISON, WI 53708-8952
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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 6, 2000

Ave Bie, Chairperson
Public Service Commission
P.O. Box 7854
Madison, WI 53707-7854

RECEIVED

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Commissioners' Office

2000 JUL -7 A 9:15
WISCONSIN PUBLIC SERVICE
COMMISSION

Dear Commissioner Bie:

On June 21, 2000, the Joint Committee for the Review of Administrative Rules held a hearing on ch. PSC 167, relating to elections for extended area telephone service. The hearing was prompted by a request from Representative Lorraine M. Seratti that expressed concerns about the policies of the Public Service Commission regarding the following issues:

1. The distribution, collection and counting of election ballots.
2. The duration of the election period.
3. The definition of a customer.
4. The eligibility of a customer to vote.
5. Notification of the number of customers eligible to vote.

At the hearing on June 21, a representative of the Commission, Gary Evenson, presented testimony regarding ch. PSC 167 and agency modifications of the ch. PSC 167 procedures for conducting an extended service election. The modifications and statements of policy contained in Mr. Evenson's testimony included all of the following:

1. There will be a specific and firm deadline for the consideration of returned ballots.
2. The postmark date on ballots will be used to determine if they are timely.
3. Only official ballots will be counted.
4. Unmarked ballots will be counted as "no" votes.
5. There will be no release of preliminary ballot counts.
6. The number of "yes" votes that will be needed to advance the extended area service request will be included in the material that is mailed to customers.
7. The telephone company will be instructed not to mail ballots to employees who are provided with free local telephone service.
8. The telephone company will include in its mailing the number of customers served by the requesting exchange at the time of the ballot mailing.
9. A customer with several lines will be considered a single customer, if the lines are in the same classification of service.

The Joint Committee has concluded that the procedures and statements of policy outlined by Mr. Evenson meet the definition of the term "rule" as contained in s. 227.01 (13), Stats., and requests that the Public Service Commission begin the rule promulgation process to modify ch. PSC 167 accordingly. The Joint Committee requests the PSC to respond to this letter by July 21, 2000 and have delivered a rule draft to the Clearinghouse by September 1, 2000.

Sincerely,

Senator Judith B. Robson
JCRAR Co-Chair

Representative Glenn Grothman
JCRAR Co-Chair

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Parr

Assembly Committee on Small Business and Consumer Affairs

March 21, 2001

Extended Area Telephone Service Proposed Public Service Commission Rules (Clearinghouse No. 00-138)

Gary A. Evenson, Assistant Administrator
Telecommunications Division
Public Service Commission of Wisconsin

Good afternoon. My name is Gary Evenson. I am an Assistant Administrator in the Telecommunications Division of the Public Service Commission.

Extended Area Service (EAS) is an arrangement that treats calling between two exchanges as local, generally (though not always) subject to the same rates that apply to calling within an exchange. I have provided for your background a three-page document entitled *Local Calling in Wisconsin*, which provides background about local calling arrangements and charges. Requests for the establishment of EAS are addressed in the Commission's rules at Wis. Admin. Code ch. PSC 167. It is modifications to these rules that are before this Committee today.

The process for the consideration of a petition to create an EAS arrangement between exchanges has several steps. Put simply, the process is 1) petition, 2) traffic study, 3) cost study, 4) rate determination, 5) balloting, and 6) hearing.

In general, the steps have thresholds to be met, before an EAS petition can advance to the next step. These various provisions are described more fully in both the EAS rules and in the *Local Calling* handout.

One of the steps in this process is the balloting of the affected customers to determine if they are willing to pay the rate increase that would be needed to recover the costs of providing the new EAS. The purpose of my testimony is to explain the Commission's procedures on EAS balloting and the Commission's proposed rule modifications related to that balloting process. It is this balloting step in the EAS consideration process that led to the rule making that is being addressed at this time.

When an EAS case reaches the balloting stage in the process, and the Commission has determined the rate increment(s) needed for the requested EAS, the telephone company that serves the exchange of the petitioners is instructed to prepare a ballot and a written explanation of the ballot. The Commission staff reviews those materials before they are mailed. The company then mails this material to customers. The mailing includes a ballot card that is pre-stamped and that is addressed for return to the Public Service Commission. Customers indicate their preference on the cards - are they or are they not in favor of the additional EAS at the rate increment determined necessary to cover the costs of the service. They then mail the completed ballots to the Commission by a given deadline. After that deadline, the Commission staff counts the ballots. At least 50 % of the customers of an exchange need to vote affirmatively for the EAS at the indicated rates for the matter to proceed. If 50 % of the customers do not return "yes" ballots, the EAS rules specify, "the petition shall be denied." To be very clear, this does mean that an unreturned ballot or an uncompleted ballot, does effectively count as a "no" vote on the EAS issue.

Since the adoption of the EAS rules in 1983, there have been many petitions handled under the rules process. Only a few of those have reached the ballot process. In general, the process has worked well. Some ballot results met the threshold requirements and others did not.

In late 1999, customers of the Florence and Niagara exchanges filed petitions with the Commission seeking EAS with Iron Mountain, Michigan. When the proceeding reached the balloting step, ballots were mailed to customers. At Niagara, the results of the balloting were very close.; the final result was that just under 50% of Niagara customer voted in favor of the EAS arrangement. The EAS issue and the balloting were very contentious issues in the area. Because this ballot was so close, questions and concerns were raised about the balloting process. Although, under the rules, the Commission was required to deny the petition, the Commission recognized that customer skepticism about the process was real, and that improvements in the process could be made. As a result, the Commission directed the staff to modify the procedures that apply to balloting for EAS. These revised procedures addressed:

- A specific and firm deadline for the consideration of returned ballots.
- Use of the postmark date on ballots to determine if they are timely.
- A requirement that only official ballots will be counted.
- Unmarked ballots will be counted as "no" votes.
- No release of preliminary ballot counts.
- The number of "yes" votes that will be needed to advance the EAS request shall be included in the material that is mailed to customers.
- The telephone company is instructed not to mail ballots to employees who are provided with free local telephone service. (The rules state that ballots go only to customers "who would experience a rate increase if the petition for extended area service is granted.")

These changes were established by the Commission and intended for application to any future EAS proceedings.

On June 21, 2000, the Joint Committee for Review of Administrative Rules (JCRAR) held a hearing on this EAS process. I testified at that hearing and there many questions from the JCRAR members about this balloting process. Subsequently, the JCRAR wrote to the Commission and asked that the various procedural matters that I mentioned above be promulgated as rules. The JCRAR also asked the there be clarifications as to the definition of a customer for purpose of the rules. (A copy of that JCRAR letter has also been provided to you.)

The Commission responded affirmatively to that JCRAR request. The Commission opened a rulemaking docket in its proceeding, 1-AC-200. Public hearing was held and comments on the proposed rules were accepted. Subsequently, the Commission issued is Proposed Order Adopting Rules on February 6, 2001. It is the rules in that Proposed Order that were referred to this Committee for review.

The Commission's proposed rule revisions in this Order are responsive to each of the points raised by the JCRAR letter and codify the procedural directives of the Commission that I mentioned earlier. Specifically, the new rules:

1. Set a specific deadline for the consideration of returned ballots.
2. Establish that the postmark date on ballots will determine if the ballots are timely.
3. Establish that only official ballots will be counted.
4. Specify that only official ballots will be accepted.
5. Require that there will be no release of preliminary ballot counts.

6. Require that materials mailed with the ballots include the number of customers in the exchange to be balloted and the number of "yes" votes that will be needed to advance the EAS process.
7. Clarify that a customer for purpose of balloting does not include a person who is provided with free telephone service.
8. Define a customer for purposes of the EAS rules.

Based on comments that were filed in the rulemaking proceeding, the Commission's proposed rules also require that EAS ballots be mailed separately from telephone bills and that the envelopes containing the ballot information will have the words "Ballot Enclosed" on the front.

As I noted previously, the current rules require that at least 50% of the customers of an exchange must vote favorably on an EAS proposition to move it to the next step in the process. This means that ballots not returned are effectively "no" votes. During the rulemaking proceeding, two parties, including Rep. Seratti, suggested that only returned ballots should be considered and that the EAS vote should be determined by the majority of those returned ballots. The Commission did not make this change, so the current process would continue under the rules as proposed.

EAS cannot be provided without cost. The EAS rules are predicated on having the customers of the exchange or exchanges that will benefit from the new EAS being the ones who will pay to cover its costs. The rate increments needed to cover the cost of new EAS are not insignificant; in recent EAS balloting situations, the calculated rate changes for residence customers have been as follow:

Exchanges & EAS Route	Monthly Residence Rate before EAS	Monthly Residence Rate after EAS
Niagara to Iron Mountain	\$ 8.20	\$ 14.35 #
Florence to Iron Mountain	\$ 8.20	\$ 12.24 #
Junction City to Stevens Point	\$ 18.77	\$ 23.54
Bangor to La Crosse	\$ 16.93 =	\$ 31.89 = *
Bangor to West Salem	\$ 16.93 =	\$ 21.30 = *

Customers would also pay \$.12 for each EAS call.

= Rate for unlimited local calling service.

* Pending proceeding; rate estimate is preliminary.

Although adding EAS will eliminate toll charges for long distance or the per-minute charges for extended community calling (ECC) service, given the impacts that adding EAS can have on customers' local bills (as evidenced above), the rules seek a favorable indication from a majority of the affected customers in order to continue the process. By retaining the current rule that requires 50% of all customers to favor the EAS in order to proceed, the rules maintain the sequential consideration process that only moves forward on the implementation of the generally expensive new service when there are indications that it is likely to meet with customer approval.

A positive vote on the proposed EAS service and related rate increments is not the final step in the EAS consideration process. If the ballot passes, the rules then require a public hearing. After that there would be a Commission decision on whether to approve the service change and rates. Even if there is a positive vote, the Commission could find it not to be in the public interest to actually implement the service. To date, this has never happened.

I hope that my comments have clarified the process of EAS balloting and the Commission proposed rules on this step in an EAS proceeding. The EAS process includes customer interest as a key component of considering service and rate changes, so a process that is fair and understandable to those involved is important. The proposed EAS rules are intended to implement the procedural changes described earlier and thus improve this process.

Thank you. I am of course willing to take your questions.

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