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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 08-067

#### 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 January 2005.]**

#### 1. Statutory Authority

Section 66.0420 (8) (b) 2., Stats., provides that a large telecommunications video service provider must file an annual report regarding its progress in meeting access requirements. The department may waive this requirement for certain statutorily specified hardship reasons. Section ATCP 123.24 (2) provides in part that a large telecommunications video service provider must file the annual report for five consecutive years unless the department makes a written determination that the provider has fully complied with access requirements. The statute appears to require annual reports indefinitely or until the occurrence of one or more statutorily specified factors occur. The department should explain the statutory authority for the third sentence of s. ATCP 123.24 (2).

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

a. The rule preface should follow the format described in s. 1.02 (2) (a), Manual. For example, the rule preface should note any statutes or rules related to the rule proposal and should include a statement concerning the deadline for submission of comments about the rule.

b. In the note following ch. ATCP 123, subch. III, title, the phrase “as modified by the governor’s partial veto” is superfluous and so should be omitted. A veto modifies a bill, not an act, and becomes part of the act.

c. In s. ATCP 123.20 (1) (b), the phrase “, as defined in s. 66.0420 (2) (s), Stats.,” should be inserted following “PEG channels.”

d. The order of the definitions of “video service provider” and “video service network” should be reversed, to maintain the alphabetical order of definitions.

e. In s. ATCP 123.20 (13), the notation “Wis.” should be deleted.

f. The definition of the term “access” in s. ATCP 123.28 should be incorporated into the definitions in s. ATCP 123.20, unless there is some specific reason for not doing so.

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

It appears that the reference in s. ATCP 123.26 (2) (c) should be to par. (b), rather than subd. 2.

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

a. In the rule preface discussion of federal regulations, it appears that the word “on” should be inserted following the word “based” in the third paragraph. Also, in the next-to-last paragraph of the discussion of Iowa law, it appears that the word “subscribers” should be replaced by the word “subscriber’s.”

b. In the note to subch. II of ch. ATCP 123, the reference to “100.26 (3), (6)” should be replaced by reference to “100.26 (3) and (6).”

c. In s. ATCP 123.20 (1) (intro.), both occurrences of “which” should be replaced with “that.”

d. Section ATCP 123.22 (1) provides that a video service provider may not discriminate against any group of households in a franchise area because of their race or income of residents in any local area in which the households comprising the group are located. How does this statement comport with the definition of the term “group” in s. ATCP 123.20 (5)? The definition refers to any two or more households in an entire franchise area. It seems that the use of the phrase “in any local area” in s. ATCP 123.22 (1) narrows the notion of the defined term “group.” Further, what is the meaning of the term “local area”?