



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 09-086

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

a. Section PSC 172.01 (2) creates an exception so broad that it effectively negates this rule. That provision says, essentially, that the Public Service Commission (PSC) is promulgating a rule, but it reserves the right to change the policy contained in the rule in any way, at any time, and for any reason, without notice. At the least, the rule should state the provisions to which the Commission may make exceptions and the standard it must apply in making an exception.

b. The term “reseller,” which is used frequently in the rule, should be defined.

c. The rule uses the word “communications” extensively, including in the defined term “communications service,” but occasionally uses “voice service,” as in the defined terms “basic local voice service” and “wireless voice service.” Since “communications service” is defined in terms of three types of voice service, it would appear that these terms refer to the same thing. If so, it would appear that “basic local voice service” and “wireless voice service” should be replaced with “basic local communications service” and “wireless communications service,” and other parallel substitutions should be made throughout the rule. If they do *not* refer to the same thing, the difference between them should be clarified.

d. In s. PSC 172.02 (10), “means” should replace “are.”

e. In s. PSC 172.02 (13), “of” should follow “period.”

f. Section PSC 172.04 requires communications providers to register “in the manner prescribed by the department” (DOR). This should include a reference to where DOR has specified the manner for registering, or at least include a note informing the reader how to find this out.

g. In s. PSC 172.05 (1) (e) 2. (intro.), “all of” should follow “message of.”

h. Section PSC 172.08 refers to form PFP-211. A note should be included indicating where to obtain this form. Note, also, that the PSC must include a copy of the form with the proposed rule. See s. 227.14 (3), Stats.

i. The title of SECTION 2 of the rule should be in bold face and end with a period, rather than a colon. It should state: “This rule takes effect on the first day of the month following publication.” Publication is in the Wisconsin Administrative Register, not the Wisconsin State Journal. Also, the effective date provision should follow the applicability provision.

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

a. The cross-reference in s. PSC 172.02 (18) (a) is incorrect; it appears that the correct reference is s. PSC 172.05 (2) (b). Also, “, as determined” should be inserted following “Wisconsin”.

b. The cross-reference in s. PSC 172.05 (1) (b) is overly broad. This provision should give a complete explanation of the requirements for assessing fees, without referring readers to the statutes governing unrelated programs.

c. In s. PSC 172.01 (2), “sub. (1)” should replace “sub. (a).”

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

a. In the definition of “basic local voice service,” what is “essential usage,” and what constitutes “high-quality” voice communication? Also, does this term include wireless voice service and VOIP service, as defined in this rule?

b. In s. PSC 172.05 (1) (c) 1. a., “less” should be “fewer”.

c. In each subdivision of s. PSC 172.05 (2) (b), “the sale is sourced to” is stilted. To conform with the more standard wording in s. PSC 172.02 (18) (a), this should be rewritten as “the source of the sale is”.

d. In s. PSC 172.05 (2) (b) 3., “the” should be inserted before the last occurrence of “seller’s”.

e. Section PSC 172.05 (2) (e) does not appear to say what it intends to accomplish, as illustrated in the note following. This provision needs to state an affirmative obligation of the communications provider or retailer. Perhaps the language “but establishes to the satisfaction of the commission and the department that the customer is aware” should be replaced with something such as “the communications provider or retailer shall ensure that the customer is

aware”. Instead of a note, a second sentence could be added stating that a communications provider or retailer may comply with this requirement by prominently posting or printing a notice stating “The price includes the police and fire protection fee.”

f. Section PSC 172.10 would be clearer if it began with “The department may determine compliance with this chapter by office or field audit and....”