



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

<b>2003 Wisconsin Act 125</b> [2003 Assembly Bill 729]	<b>Telecommunications: Petitions to PSC Regarding Unbundled Network and Service Elements</b>
2003 Acts: <a href="http://www.legis.state.wi.us/2003/data/acts/">www.legis.state.wi.us/2003/data/acts/</a>	Act Memos: <a href="http://www.legis.state.wi.us/lc/act_memo/act_memo.htm">www.legis.state.wi.us/lc/act_memo/act_memo.htm</a>

2003 Wisconsin Act 125 allows a telecommunications provider to file a petition with the Public Service Commission (PSC) requesting the PSC to determine rates and costs of unbundled network or service elements under federal or state law. The Act addresses the petition and the PSC determination as to whether the petition is complete, as well as timeframes and requirements for PSC final decisions.

### **Background Information**

At the federal level, telecommunications is governed by common carrier regulation under Title II of the federal Communications Act of 1934, as amended by the federal Telecommunications Act of 1996. The 1996 Act restructured local telephone markets to promote competition and, in general, requires large telephone companies in existence prior to the restructuring, known as incumbent local exchange carriers (ILECs), to share their local exchange networks with competitors, known as competitive local exchange carriers (CLECs). An ILEC must negotiate an interconnection agreement with a requesting CLEC that allows the CLEC to interconnect with the ILEC's local exchange network, in part by unbundling network elements. In general, federal law directs the Federal Communications Commission (FCC) to determine which elements are required to be unbundled, and the PSC to provide guidance on what cost-based wholesale rates ILECs can charge CLECs in interconnection agreements for the unbundled elements, within regulatory parameters established by the FCC. This PSC guidance on cost-based wholesale rates for specific unbundled elements is an important reference during the negotiation process between a CLEC and ILEC, which can include arbitration before the PSC, to establish an interconnection agreement.

### **2003 Wisconsin Act 125**

The Act allows a telecommunications provider, including an "alternative telecommunications utility" such as a CLEC, to file a petition with the PSC to determine rates and costs of unbundled

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

network elements or unbundled service elements under federal or state law. (Such a petition could occur in response, for example, to a change in projected costs since the prior time the PSC undertook such a docket.) The Act does not apply to the PSC's treatment of any petition for arbitration that might occur, such as arbitration in the course of interconnection agreement negotiations between a CLEC and ILEC.

### ***Petition Requirements and PSC Completeness Determination***

The Act establishes criteria that the PSC must use in determining whether a petition for rates and costs of unbundled elements (the petition) is complete, and requires the PSC to make a completeness determination no later than 30 days after the date on which the petition is filed. If the PSC fails to meet this deadline, the petition is considered to be complete. If the PSC meets the deadline but determines that the petition is incomplete, the PSC must state the reason and identify the information needed to complete the petition. A petitioner may supplement such a petition, in which case the PSC must determine whether the supplemented petition is complete using specified criteria no later than 15 days after it is filed. Again, if the PSC fails to meet this deadline, the petition is considered to be complete, and if the PSC meets the deadline but determines that the supplemented petition is incomplete, the PSC must state the reason and identify the needed information. There is no limit on the number of times that a petitioner may supplement the petition. The petitioner must provide a copy of the petition or supplemented petition to any other telecommunications provider that may be affected by the petition at the same time that the petition is filed or supplemented, and allows an affected telecommunications provider to respond to the petition and provide the PSC any additional information.

### ***PSC Final Decisions***

The Act establishes timeframes for PSC final decisions based on how many rates the petition requests the PSC to determine. If the petition requests the PSC to determine 100 or fewer rates, the PSC must enter a final decision on the petition within a 180-day period after the date on which the petition is determined or considered complete, unless there is an extension. An extension can happen either by mutual agreement between the petitioner and the PSC, if such agreement occurs within the 180-day period, or by the PSC petitioning the Dane County Circuit Court for an extension of up to 60 days, if such petition occurs within the 180-day period or within a prior extension by mutual agreement between the petitioner and the PSC. The PSC cannot receive more than one extension by petitioning the Dane County Circuit Court. If the petition requests the PSC to determine more than 100 rates, the same requirements apply as for 100 or fewer rates except that the 180-day period is extended to a 270-day period, and a Dane County Circuit Court extension can be for up to an additional 90 rather than 60 days.

The PSC may reject the petition, grant the petition, or approve a petition with modifications or conditions. The PSC must issue a final decision that determines rates for the unbundled network elements and unbundled service elements specified in the petition, except to the extent that the evidence in the record is not sufficient for making such a determination with respect to a particular rate, unbundled network element, or unbundled service element.

***Effective Date:*** The Act takes effect on February 21, 2004, and first applies to petitions that are filed on that date.

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