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FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

**RULES CLEARINGHOUSE**

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**CLEARINGHOUSE REPORT TO AGENCY**

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[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

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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.]

**DATE MAILED**

**SEP 13 2000**

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

Modification of Rules on Extended Area Telephone Service

1-AC-200

**NOTICE OF HEARING**

**Hearing Date:** Wednesday, November 1, 2000 – 10 a.m.  
**Hearing Location:** Public Service Commission, 610 North Whitney Way,  
Madison, WI

**Comments Due:** Friday, November 17, 2000 –  
Noon  
**FAX Due:** Thursday, November 16, 2000 –  
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

The Public Service Commission of Wisconsin proposes an order to amend ch. PSC 167 relating to the establishment of new extended area telephone service arrangements.

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

Statutory authority: ss. 196.02(3) and 227.11(2), Stats.

Statute interpreted: s. 196.37, Stats.

Section 196.37, Stats., permits the Commission to determine and order reasonable rates, tolls, charges, schedules, or joint rates when it finds, after investigation, that any such rate, toll, charge, schedule, or joint rate is unjust, unreasonable, insufficient, or unjustly discriminatory or preferential or otherwise unreasonable or unlawful.

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. 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.

After a hearing about concerns with the survey balloting process, the Legislature's Joint Committee for Review of Administrative Rules (JCRAR) requested that the details concerning the current balloting process be added to PSC ch. 167.

These rule changes add detail concerning:

- 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.

A Statement of Scope on this rule was approved by the Commission on August 8, 2000, and was published in the Wisconsin Administrative Register on August 31, 2000.

### TEXT OF PROPOSED RULE

SECTION 1. PSC 167.08(1) shall be renumbered 167.08(1)(a) and amended to read:

^ (1)(a) Subsequent to the determination of the rate increments necessary to provide the requested extended area service, or reasonable variations of the requested service, the commission shall direct the utilities to conduct a survey of customer willingness to pay the necessary rate increments. ~~The survey shall be approved by the commission and distributed to all customers who would experience a rate increase if the petition for extended area service is granted.~~

SECTION 2. PSC 167.08(1)(b) and (c) shall be created to read:

^ (b) For purposes of this section, "customer" does not include any person who is provided with free local telephone service, or who for any reason would not experience a rate increase if extended area telephone service is approved.

(c) The survey ballot and accompanying information shall be approved by the commission. Ballots shall be addressed for return to the commission with no additional postage required. The information accompanying the ballot shall indicate all of the following:

1. The number of customers served by the balloted exchange at the time of balloting.
2. The number of "Yes" votes required to move the matter to hearing.

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3. The date determined by the commission by which ballots must be postmarked or filed with the commission in order to be considered valid.

SECTION 3. PSC 167.08(1m)(a) and (b) shall be created to read:

**(1m)(a)** Ballots shall be distributed to all customers who will experience a rate increase if the petition for extended area telephone service is granted. A customer with several lines shall be considered a single customer, if the lines are in the same classification of service.

**(1m)(b)** Ballots shall be counted by the commission no earlier than one week after the deadline for the postmark or filing of ballots in sub. (1)(c)3. Voting results, including preliminary totals, shall not be released prior to this official counting. Only official ballots shall be counted. Ballots returned with no preference indicated shall be counted as "No" votes.

SECTION 4. PSC 167.08(2) shall be amended to read:

**(2)** Unless at least 50% of the customers in one of the surveyed exchanges respond favorably to the requested service, or to a variation of the requested service, the petition shall be denied, ~~and~~. If the petition is denied, the commission need not consider any petition for extended area telephone service between those exchanges for ~~two~~ 2 years.

### INITIAL 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. Further, this rule imposes no new requirements or procedures on utilities since they codify current practice.

### FISCAL ESTIMATE

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

### NOTICE OF HEARING

**NOTICE IS HEREBY GIVEN** that pursuant to s. 227.16(2)(b), Stats., the Commission will hold a public hearing on these proposed rule changes in the **Amnicon Falls Hearing Room**, at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, on

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Wednesday, November 1, 2000 at 10 a.m. This building is accessible to people in wheelchairs through the Whitney Way (lobby) entrance. Handicapped parking is available on the south side of the building.

### WRITTEN COMMENTS

Any person may submit written comments on these proposed rules. The hearing record will be open for written comments from the public, effective immediately, and until **Friday, November 17, 2000, at noon (Thursday, November 16, 2000, at noon, if filed by fax)**. All written comments must include a reference on the filing to docket 1-AC-200. **File by one mode only.**

If filing by mail, courier, or hand delivery: Address 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. Fax filing cover sheet **MUST** state **"Official Filing,"** the docket number (1-AC-200), and the number of pages (limited to 20 pages for fax comments).

### 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 Tom Gross at (608) 267-2337, or by email at [grosst@psc.state.wi.us](mailto:grosst@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 Tom Gross, as indicated in the previous paragraph, as soon as possible.

Dated at Madison, Wisconsin

September 12, 2000

By the Commission.

  
Lynda L. Dorr  
Secretary to the Commission

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Attachment