

**2001 DRAFTING REQUEST**

**Bill**

Received: **10/13/2000**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Judith Robson (608) 266-2253**

By/Representing: **Ron Skalansky**

This file may be shown to any legislator: **NO**

Drafter: **kunkemd**

May Contact:

Alt. Drafters:

Subject: **Public Util. - telco**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Universal service fund surcharge

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	kunkemd 11/10/2000	csicilia 11/10/2000	pgreensl 11/10/2000	_____	lrb_docadmin 11/10/2000	lrb_docadminState 01/16/2001	

FE Sent For:

01-19-01

<END>

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/?	kunkemd	1 jrs 11/10 00	11/10 PG	11/10 Self			

FE Sent For:

<END>

for Stalovsky

CMRSP (wireless)

- USF amount a surcharge

196.218(3)(e)

Action taken  
by

PSC rules 3 US Cir Ct App decisions:

- regulated - / applicant - of USF  
to wireless is not  
rate, ~~is~~ regulated -

§(∴) wireless still pay USF

SCAR

SO NOW:

227.19  
(4)(d) 6.

- wireless want to show as a surcharge  
suspended part - of rule that  
regs

PSC 160.18(10)

lang. after "providers"  
is suspended

But also need to suspend statute

Eg rule is  
suspended

rule 60.15 →

227.26  
(2)(d)

~~Handwritten scribble~~

2 opt-ns for bills:

(1) let everyone put as surcharge  
- grant permiss -

(2) only wireless may be allowed

sendin copy  
Motion



P.O. Box 7882  
MADISON, WI 53707-7882  
(608) 266-2253

P.O. Box 8952  
MADISON, WI 53708-8952  
(608) 264-8486

## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

October 11, 2000

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

Dear Chairperson Bie:

The Joint Committee for the Review of Administrative Rules met in Executive Session on October 11, 2000 and adopted the following motion:

### Chapter PSC 160

### Relating to Universal Service Support Funding and Programs.

Moved by Senator Robson, seconded by Representative Grothman that, pursuant to s. 227.26(2)(d), Stats., and for the reason set forth in ss. 227.19(4)(d) 6, stats., the Joint Committee for Review of Administrative Rules suspends all the words following "providers" in Chapter PSC 160.18(10).

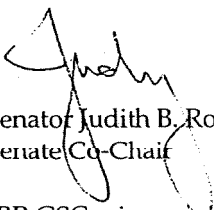
*arbitrariness,  
capriciousness,  
or imposition of  
undue  
hardship*


- Ayes: (8) Representatives Grothman, Gunderson, and Kreuser ; Senators Robson, Grobschmidt, Shibilski\*, Schultz and Welch.
- Noes: (1) Representative Black
- Absent: (2) Senator Shibilski, Representative Seratti

Motion Carried: Extension Granted.  
8 Ayes, 1 No, 2 Absent.  
\*voted by paper ballot

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

  
Senator Judith B. Robson  
Senate Co-Chair

  
Representative Glenn Grothman  
Assembly Co-Chair

JBR:GSG:mjg

cc: Secretary of State Doug LaFollette  
Revisor of Statutes Gary Poulson

1. The petitioner is seeking authority to deny service to some or all customers within the exchange.

2. Toll services in the future may be available only from other telecommunications providers, or from only one telecommunications provider.

3. If a new provider of last resort is designated, all customers may be switched to that provider's service, although they may choose to obtain service from any other intralata toll service provider in the area after reassignment of the provider of last resort requirement.

(d) If intralata 1+ presubscription service has been in effect in an exchange for at least one year, and if the designated telecommunications utility toll provider has less than 50% of all presubscribed residential access lines in that exchange, then the commission may lift the provider of last resort requirement for that exchange. If future circumstances so require, the commission may designate a new provider of last resort pursuant to sub. (3).

(3) If a petition under sub. (2) is filed, the commission shall issue a notice requesting applications from all telecommunications providers interested in becoming the provider of last resort for that exchange. The provider seeking to abandon provider of last resort requirements for that exchange may not file an application to become the new provider of last resort once again.

(4) If only one telecommunications provider responds to the request for applications, that provider becomes the provider of last resort, effective in 90 days. All customers shall be notified of the proposed change at least 60 days prior to the effective date. The notice shall include a telephone number which they may use to designate their intralata toll service provider. On the effective date, all customers who do not designate an intralata toll service provider shall be presubscribed to the new provider of last resort.

(5) (a) If more than one telecommunications provider applies to become the provider of last resort, the local exchange service provider at that exchange shall ballot customers on their choice of intralata toll service provider.

(b) Only those telecommunications providers that file applications to be the provider of last resort for the exchange may appear on the ballot, although customers may "write-in" another telecommunications provider if desired.

(c) Customers who do not return ballots shall be randomly allocated to the telecommunications providers appearing on the ballot, according to the percentage of customers who chose each listed provider.

(d) All telecommunications providers appearing on the ballot shall be the providers of last resort for at least one year. After that date, these providers may notify the commission that they wish to be relieved of provider of last resort responsibility. When the last provider of last resort files to exit the market, the process described in this section recommences.

(e) Half of the costs of balloting shall be paid by the local exchange carrier serving the exchange and half will be paid by the providers appearing on the ballot.

(6) If no toll providers apply to be provider of last resort for an exchange, the commission shall hold an auction of the provider of last resort responsibility. The commission may authorize compensation from the universal service fund for the provider of last resort selected by the auction.

(7) If the provider of last resort for an exchange files a petition for withdrawal of its provider of last resort requirements at an exchange where intralata 1+ presubscription is not available, the commission may investigate that petition and order that the provider of last resort obligation be withdrawn for that provider subject to conditions, notice requirements and balloting procedures the commission deems necessary and reasonable for the service change at that exchange. Those conditions, requirements and pro-

cedures shall be as designated in this section to the extent the commission determines they are applicable.

(8) A provider of last resort may not sell or dispose of any intralata toll customer to another provider, except at the express request of the customer.

History: Cr. Register, April, 1996, No. 484, eff. 5-1-96; am. (1), (2) (a), (b), (c) 3., (3) to (5) (a), (b), (d), (6) and (7), cr. (2) (d) and (8), Register, April, 2000, No. 532, eff. 5-1-00.

**PSC 160.15 Identification of charges caused by universal service funding liability.** Telecommunications providers may not establish a surcharge on customer bills for contributing to or recovering any portion of the providers' payment of universal service fund obligations.

History: Cr. Register, April, 1996, No. 484, eff. 5-1-96; am., Register, April, 2000, No. 532, eff. 5-1-00.

**PSC 160.16 Fund administrator.** (1) The commission shall designate the fund administrator and provide for an annual audit of the fund. The commission shall establish guidelines for administration and assignment of liabilities.

(2) The fund administrator may propose changes or modification to the mechanisms of administration of the fund. The commission may approve such requests without hearing.

(3) The universal service fund shall compensate the administrator for the administrator's costs of administering the fund as approved by the commission.

History: Cr. Register, April, 1996, No. 484, eff. 5-1-96; reprinted to restore dropped copy, Register, May, 1996, No. 485; r. (3) to (5), renum. (6) to be (3), Register, April, 2000, No. 532, eff. 5-1-00.

**PSC 160.17 Fund budget and assessment rates.**

(1) At least annually, the commission shall set the budget for fund administration and the programs specified in s. PSC 160.05 (1). The commission may make adjustments to the budget as needed to address unforeseen circumstances. Adjustments may include:

(a) Reallocating the budget among programs.

(b) Modifying the support formulas or benefits within a program.

(c) Deferring support payments to a later period.

(2) At least annually, the commission, in consultation with the technology for educational achievement in Wisconsin board and department of administration, shall determine the amounts necessary for funding the payments specified in s. PSC 160.05 (2) and (4).

(3) Based on the need for funds under subs. (1) and (2) and s. 196.218 (5) (a) 6., Stats., and subject to the appropriation amounts in ch. 20, Stats., the commission shall determine the assessment rates to apply to providers. The commission may modify the assessment rates at any time based on changes in funding needs or provider revenues subject to assessment.

(4) The commission shall provide notice of the proposed budget under sub. (1) and any proposed changes to the budget to the universal service fund council and other interested parties with an opportunity for comment prior to commission action.

History: Cr. Register, April, 1996, No. 484, eff. 5-1-96; emerg. am. eff. 2-27-98; r. and recr. (1), r. (2), renum. (3) to be (4) and am., cr. (2) and (3), Register, October, 1998, No. 514, eff. 11-1-98.

**PSC 160.18 Collection of universal service fund monies.** (1) Each assessed provider shall pay the amount of its assessment to the universal service fund. Assessed providers include all telecommunications providers operating within Wisconsin, except those with intrastate gross telecommunications revenues of less than \$200,000 during the preceding calendar year.

(2) The commission may require a person other than a telecommunications provider to contribute to the universal service fund, if after notice and opportunity for hearing the commission

determines that the person is offering nontraditional broadcast services in competition with a telecommunications service for which a contribution is required under this chapter.

(3) Telecommunications providers shall be assessed on the basis of their gross intrastate operating revenues from telecommunications services.

(4) Each telecommunications provider shall submit information, on a schedule and in a format to be set by the commission, on the telecommunications provider's gross intrastate telecommunications revenues during the preceding calendar year.

(5) The percentage liability for a given telecommunications provider is the ratio of that provider's intrastate gross telecommunications revenues to the sum of the intrastate gross telecommunications revenues for all contributory providers.

(6) The amount to be assessed to a given telecommunications provider is the percentage liability of that provider under sub. (5) multiplied by the total amount to be collected.

(7) Telecommunications providers who provided telecommunications service in Wisconsin for only part of the preceding calendar year shall be assessed based on actual revenues for the year, without adjustments to annualize that revenue.

(8) Failure to receive a bill is not grounds for relief from a telecommunications provider's liability for assessment.

(9) (a) Assessments shall be paid within 30 days after the bill is mailed. A telecommunications provider that has not paid within 30 days after the bill is mailed shall be deemed to have not paid under s. 196.218 (8), Stats. Assessments not paid within 30 days after the bill is mailed shall be collected using the process described in s. 196.85 (3), Stats.

(b) Objection to an assessment amount shall be made within 30 days after the bill is mailed. The making of the objection and commission action regarding that objection shall follow the process described in s. 196.85 (4), Stats.

(10) The commission shall obtain the information necessary to process the assessment of commercial mobile radio service providers and shall mail bills to such providers within 90 days of May 1, 2000. These bills will include assessments back to the effective date of May 1, 2000.

History: Cr. Register, April, 1996, No. 484, eff. 5-1-96; renum. (1) (intro.) and (9) to be (1) and (9) (a), r. (1) (a) and (b), cr. (9) (b) and (10), Register, April, 2000, No. 532, eff. 5-1-00.

**PSC 160.181 Use audit.** Recipients of universal service fund monies may be audited by the commission to ensure that the funding was applied for and used appropriately.

History: Cr. Register, April, 2000, No. 532, eff. 5-1-00.

**PSC 160.19 Universal service fund council.** (1) The commission shall appoint a universal service fund council to advise the commission concerning the administration of s. 196.218, Stats., the content of administrative rules adopted pursuant to s. 196.218, Stats., and any other matters assigned to the universal service fund council by the commission.

(2) The universal service fund council shall consist of telecommunications providers and of consumers of telecommunications services. The commission shall appoint a diverse member-

ship to the universal service council including representatives of the local exchange telecommunications industry; the interexchange telecommunications industry, including facilities-based carriers and resellers; the cable television industry; other telecommunications providers and consumers of telecommunications services including residential, business, governmental, institutional, and public special interest group users of telecommunications services.

(3) A majority of the members of the universal service fund council shall be representatives of consumers of telecommunications services.

(4) (a) Universal service fund council members shall be appointed to staggered three-year terms.

(b) The commission may appoint a replacement member when necessary to serve the remaining term of a member withdrawing from the universal service fund council.

(5) The universal service fund council shall elect a chairperson and a vice-chairperson from its membership, not including the commission staff liaison. The term of office for these positions shall be one year. Elections may be held at the first meeting of each calendar year or may be conducted by mail prior to the first meeting of each calendar year.

(6) The universal service fund council shall meet at least twice annually. Other meetings may be called, upon adequate notice to all members, to address matters of the fund as they arise. Meetings of the universal service fund council shall be open to the public.

(7) Members of the universal service fund council shall serve without compensation. Members, other than those members representing the telecommunications industry and any members representing state agencies, may be reimbursed for their actual and necessary expenses incurred in the performance of their duties as part of the universal service fund council, subject to budget guidelines adopted by the commission.

(8) (a) The universal service fund council may adopt bylaws appropriate for its operation.

(b) The universal service fund council may form subcommittees of its membership as necessary to review issues and make recommendations for consideration of the full council.

(9) The commission shall assign staff members as needed to facilitate the work of the universal service fund council. The commission shall appoint a member of the commission staff to serve as staff liaison for the universal service fund council. The liaison shall be a non-voting member and shall do all of the following:

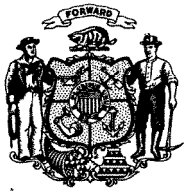
(a) Assist the universal service fund council in obtaining subject matter expertise in the area of universal telecommunications service.

(b) Maintain the official record of the universal service fund council, including membership, minutes of meetings, agendas and reports.

(c) Assist the chairperson of the universal service fund council in planning the agendas, times and places of meetings.

(d) Provide other administrative assistance as required.

History: Cr. Register, April, 1996, No. 484, eff. 5-1-96; am. (4) (a) and (5), Register, April, 2000, No. 532, eff. 5-1-00.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-0747/1

MDK:.....

FRIDAY 11/10  
2:00

ejs

2001 BILL

1 AN ACT <sup>ge</sup> relating to: universal service fund surcharges on customer bills by  
2 telecommunications providers.

---

*Analysis by the Legislative Reference Bureau*

Under current law, with certain exceptions, a telecommunications provider is required to contribute to the universal service fund. In addition, a telecommunications provider may not establish a surcharge on customer bills to collect the contributions to the universal service fund. This bill allows a telecommunications provider to establish a surcharge on customer bills to collect the contributions that the telecommunications provider is required to make to the universal service fund.

This bill is introduced as required by s. 227.26 (2) (f), stats., in support of the action of the joint committee for review of administrative rules in suspending section PSC 160.18 (10), Wis. adm. code, a rule of the public service commission (PSC), on October 11, 2000. The suspended rule required the PSC to send bills to telecommunications providers that are commercial mobile radio service providers for collecting universal service fund contributions.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*



**BILL**

**SECTION 1**

1            <sup>X</sup>  
**SECTION 1.** 196.218 (3) (e) of the statutes is amended to read:

2            196.218 (3) (e) ~~Except as provided in s. 196.196 (2) (d), a~~ telecommunications  
3            provider or other person may ~~not~~ establish a surcharge on customers' bills to collect  
4            from customers contributions required under this subsection.

5            History: 1993 a. 496; 1997 a. 27, 41, 237; 1999 a. 9, 29, 185.

(END)

## Barman, Mike

---

**From:** Kunkel, Mark  
**Sent:** Friday, November 10, 2000 11:34 AM  
**To:** Barman, Mike  
**Subject:** Bills to suspend rules

Mike,

I submitted the following drafts to editing today: 01-0747 and 01-0748. Both drafts are bills to support suspension of rules. I'm telling you this because of s. 1.02 (15) of the Drafting Manual, which sez:

"If you draft a bill to support a rule suspension under s. 227.26 (2) (f), stats., or to prevent a promulgation under s. 227.19 (5) (e), stats., notify the LRB program assistants when you turn in the draft to the legislative editors. The program assistants will arrange to obtain and print the reports required as an appendix to the bill under ss. 227.19 (6) (a) and 227.26 (2) (g), stats."

---

Mark Kunkel  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131 mark.kunkel@legis.state.wi.us

**Smith, Irma**

**From:** Kunkel, Mark  
**Sent:** Monday, January 15, 2001 2:06 PM  
**To:** Smith, Irma  
**Subject:** FW: jcrar bills

Irma, can you jacket the 2 bills below for the Senate? I am in the process of preparing companion bills for jacketing for the Assembly.

Also, see s. 1.02 (15) of the Drafting Manual sez:

Bills to Support Suspension or Prevent Promulgation of Rules. If you draft a bill to support a rule suspension under s. 227.26 (2) (f), stats., or to prevent a promulgation under s. 227.19 (5) (e), stats., notify the LRB program assistants when you turn in the draft to the legislative editors. The program assistants will arrange to obtain and print the reports required as an appendix to the bill under ss. 227.19 (6) (a) and 227.26 (2) (g), stats. See sec. 4.036 (3), Drafting Manual, for an example of the last paragraph of the analysis to a bill to support suspension or prevent promulgation of a rule.

---

Mark Kunkel  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131 [mark.kunkel@legis.state.wi.us](mailto:mark.kunkel@legis.state.wi.us)

-----Original Message-----

**From:** Austin, David  
**Sent:** Thursday, January 11, 2001 3:59 PM  
**To:** Kunkel, Mark  
**Subject:** jcrar bills

Mark:

I am writing in regards to **LRB 0747** and LRB 0748. JCRAR has voted to introduce both these bills. Can you have each one jacketed for both the Assembly and the Senate? (If you have any questions about jacketing for the Assembly, you can contact Maggie Grimm in Representative Grothman's office. Her number is 4-8486.)

The committee report that needs to be attached to each bill is attached to this message.

Thanks for your help.

David Austin  
Senator Robson's office  
6-2253



Report to the Legislature - wi...