

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



Terry C. Anderson, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[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 00-184

AN ORDER to repeal PSC 163.04 (2) (c) 9. and (d) 6.; to renumber PSC 163.04 (2) (c) 6. (intro.), 7. (intro.) and b. and 8. (intro.) and b.; to renumber and amend PSC 163.04 (2) (c) 1. to 5., 6. a. to c., 7. a. and c., 8. a. and 10. and (d) 1. to 5. and 7.; to amend PSC 163.03 (3), 163.04 (1) (c), (2) (a), (bm), (e), (f) and (g) and (8) (a) and 163.06 (1) and (2); and to create PSC 163.02 (2m), 163.04 (2) (c) 1. and 2. (intro.) and c., (cd) 4. and 5., (ch) 2. and 3., (cp) (intro.), (ct), (dc) 4., (dg) (intro.) and (2) (dn) and (dw), relating to telecommunications utilities price regulation.

Submitted by **PUBLIC SERVICE COMMISSION**

12-15-00 RECEIVED BY LEGISLATIVE COUNCIL.

01-16-01 REPORT SENT TO AGENCY.

RNS:WF: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

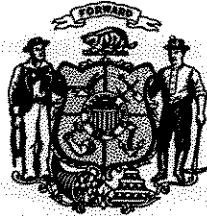
NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



Terry C. Anderson
Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 00-184

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. In the text of each SECTION of the rule, "PSC" and the full rule citation should be shown at the beginning. For example, in SECTION 1, "PSC 163.02" should precede "(2m)."
- b. In s. PSC 163.04 (2) (dn) 2. (intro.), "The" should replace "Such."
- c. The term "as discussed in" in s. PSC 163.04 (2) (f) (intro.) should be replaced with "under." Also, SECTION 42 should repeal and recreate s. PSC 163.04 (2) (f) since all of the current paragraph is stricken.

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

- a. The word "an" in s. PSC 163.02 (2m) should be replaced with the word "the."
- b. It is suggested that the word "percent" in s. PSC 163.04 (2) (c) 1. d. be replaced by the phrase "the percentage of."
- c. It is suggested that the word "actual" be deleted from s. PSC 163.04 (2) (c) 2. c. It is assumed that the data filed will be actual data.

d. The term "service quality components" in s. PSC 163.04 (2) (cd) 4. and 5. should be replaced with the term "quality of service components" because that is the term used in other provisions of ch. PSC 163.

e. The term "of components, standards or benchmarks" should be inserted after the word "combination" in s. PSC 163.04 (2) (cd) 5.

f. Section PSC 163.04 (2) (c) 2. b., as renumbered, would be more clear if "benchmarks" and "performance ranges" were described as separate concepts. A utility's "benchmark" is its average three-year performance with respect to a particular quality of service component. A utility's performance range is a number that is within 10% above and 10% below its benchmark for the quality of service component. Therefore, it is confusing to state that the company's past performance is based upon its prior three years average performance and "shall consider" a performance range based on that average.

g. Section PSC 163.04 (2) (ct) would be more clear if it were drafted as an affirmative statement to the effect that: "if warranted by exceptional or unusual situations," the commission may impose penalties that are lesser or greater than those provided in par. (cp). This comment is also applicable to s. PSC 163.04 (2) (dw). In addition, it is not clear how the commission would impose a "different" penalty under s. PSC 163.04 (2) (ct) than is provided in par. (cp). Section 196.196 (1) (c), Stats., requires the commission to create a penalty mechanism of up to a one percentage increase in the percentage offset. The commission should explain what is meant by a different penalty and how it is consistent with s. 196.196 (1) (c), Stats.

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

In the Matter of Proposed Revision for a Rulemaking of Wis.
Admin. Code Chapter PSC 163 Telecommunications Utility
Price Regulation

1-AC-189

NOTICE OF HEARING

Hearing Date:	Thursday, January 18, 2001 – 9:00 a.m.
Hearing Location:	Public Service Commission, 610 North Whitney Way, Madison, WI

Comments Due: Friday, January 19, 2001 – 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
FAX Due: Thursday, January 18, 2001 – Noon	

The Commission proposes an order to amend ss. PSC 163.03(3), 163.04(1)(c), 163.04(2)(a), 163.04(2)(bm), 163.04(2)(e), 163.04(2)(f), 163.04(2)(g), 163.04(8)(a), 163.06(1), and 163.06(2); to create ss. PSC 163.02(2m), 163.04(2)(c)1., 163.04(2)(c)2.(intro.), 163.04(2)(c)2.c., 163.04(2)(cd)4., 163.04(2)(cd)5., 163.04(2)(ch)2. and 3., 163.04(2)(cp)(intro.), 163.04(2)(ct), 163.04(2)(dc)4., 163.04(2)(dg)(intro.), 163.04(2)(dg)2., 163.04(2)(dn), and 163.04(2)(dw); to renumber and amend ss. PSC 163.04(2)(c)1., 163.04(2)(c)2., 3., 4. and 5., 163.04(2)(c)6.a., b., and c., 163.04(2)(c)7.a. and c., 163.04(2)(c)8.a., 163.04(2)(c)10., 163.04(2)(d)1., 163.04(2)(d)2. and 3., 163.04(2)(d)4., 163.04(2)(d)5., and 163.04(2)(d)7.; to renumber ss. PSC 163.04(2)(c)6.(intro.), 163.04(2)(c)7.(intro.) and b., and 163.04(2)(c)8.(intro.) and b.; and to repeal ss. PSC 163.04(2)(c)9. and 163.04(2)(d)6., relating to telecommunications utilities price regulation.

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

Statutory Authority: ss. 196.02(3), 196.196(1)(c), and 227.11, Stats.

Statutes Interpreted: s. 196.196, Stats.

In 1993 Wisconsin Act 496 (Act 496), the legislature enacted a new regulatory model to manage the transition to a competitive telecommunications marketplace. Act 496 allows telecommunications utilities to elect a price regulation plan as specified in s. 196.196, Stats.

(4) The rules in this ^{ch. PSC 163} chapter contain a process to govern implementation of the price regulation plan specified in s. 196.196, Stats. Important features of this process include:

- (1) electing price regulation;
- (2) mechanics of calculating prices for services covered under price regulation;
- (3) rate increases or rate structure changes independent of the price cap index;
- (4) price regulation review.

One objective of the proposed rule revision is to make those changes to this chapter deemed necessary as a result of the Commission's review of price regulation pursuant to s. 196.196(1)(g), Stats., and the annual reviews of price regulation for each price-regulated telecommunications utility. These changes include the new concept of an optional infrastructure investment objectives plan (an option available once a utility has completed its initial infrastructure commitment under s. 196.196(5), Stats.), changing the penalty and incentive mechanism table, and adding two additional service quality components approved by the Commission. An additional objective of the proposed rule revisions is to update the citations and clarify language, where necessary. Finally, two sections where a significant amount of reorganizing was done are described below.

Section PSC 163.04(2)(c), which deals with service quality, has been reorganized into ss. PSC 163.04(2)(c) through (ct) for clarity. Many portions have just been moved to other locations in the section (for example, much of s. PSC 163.04(2)(c)2. has been moved to s. PSC 163.04(2)(cd)1., much of s. PSC 163.04(2)(c)5. now appears in s. PSC 163.04(2)(c)2., and s. PSC 163.04(2)(c) 6. through 8. are now in s. PSC 163.04(2)(cp)). The establishment of initial service quality components, industry-wide standards, and company-specific benchmarks is discussed separately from the ongoing revisions of components, standards, and benchmarks. A new process has been created to ensure that any revisions to service quality benchmarks are completed before the beginning of the year to which they will be applied. Two additional Commission approved service quality components have been added. Finally, the Commission's ability to vary penalties due to exceptional or unusual circumstances has been changed to more closely match the language used in other PSC administrative rule chapters.

Section PSC 163.04(2)(d), which deals with infrastructure investment, has also been reorganized into ss. PSC 163.04(2)(d) through (dw) for clarity. Again, many portions have just been moved to other locations in the section. The establishment of initial infrastructure investment components and benchmarks is discussed separately from the ongoing revisions of components and benchmarks. This section has also been updated to include the new concept of an optional infrastructure investment objectives plan. A new process has been created to ensure that any revisions to infrastructure benchmarks are completed before the beginning of the year to which they will be applied. Finally, the Commission's ability to waive all or a portion of an infrastructure penalty due to exceptional or unusual circumstances has been changed to more closely match the language used in other PSC administrative rule chapters.

TEXT OF PROPOSED RULES

The text of the proposed rules is set forth as Attachment A hereto.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These rules may have an effect on small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats., because they may elect to become price regulated under s. 196.196(1), Stats., which would result in these rules becoming applicable to them. The agency has considered the methods in s. 227.114(2), Stats., for reducing the impact of the rules on small telecommunications utilities and finds that incorporating any of these methods into the proposed rules would be contrary to the statutory objectives which are the basis for the proposed rules. In addition, the election of price regulation under this chapter is voluntary, and more flexibility and less stringent compliance requirements for small telecommunications utilities are available in ss. 196.195(12) and 196.196(4), Stats.

At the time of this notice, there are 84 local exchange companies in Wisconsin, 77 of which are small telecommunications utilities. The agency finds that the availability of a voluntary price regulation election under s. 196.196, Stats., and the process set forth in this chapter to govern the price regulation election are in the public interest for all telecommunications utilities in the state.

FISCAL ESTIMATE

These rules will have no fiscal impact on the agency or on any other state or local units of government as shown on the attached Fiscal Estimate Form (Attachment B). No additional fiscal burden will be imposed on the state or on small businesses as a result of these proposed rules.

NOTICE OF HEARING

NOTICE IS GIVEN that a hearing on these proposed rules will be held beginning on **Thursday, January 18, 2001, at 9 a.m.** in the Amnicon Falls Hearing Room at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, and continuing at

Docket 1-AC-189

in wheelchairs through the Whitney Way first floor (lobby) entrance. Parking for people with disabilities is available on the south side of the building. Any person with a disability who needs additional accommodations should contact the case coordinator listed below.

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, January 19, 2001, at noon** (Thursday, January 18, 2001, at noon, if filed by fax).

All written comments must include a reference on the filing to docket 1-AC-189. **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-189), and the number of pages (limited to 20 pages for fax comments).

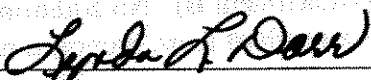
CONTACT PERSONS

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 Thomas Ferris, case coordinator, at (608) 266-1124, or by email at ferrit@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 obtain this document in a different format should contact the case coordinator listed above.

Dated at Madison, Wisconsin, December 14, 2000

By the Commission:



Lynda L. Dorr
Secretary to the Commission

LLD:TJF:reb:g\notice\pending1-AC-189 Hearing.doc
Attachments

Text of Proposed Rules

SECTION 1. PSC 163.02(2m) is created to read:

PJC 163-02
 (2m) "Average employe answer time" means *the* an average speed of answer, including time in queue prior to speaking to an employe representative or otherwise receiving assistance.

SECTION 2. PSC 163.03(3) is amended to read:

(3) Within 60 days after election of price regulation, the utility shall file an investment commitment plan under s. 196.196 (5), Stats. Within 120 days after election of price regulation, the commission, after notice and opportunity for hearing, may rescind the election if the utility fails to meet the requirements of s. 196.196 (5) (d), Stats. If a hearing is held, the time within which the commission may act may be extended an additional 30 days.

SECTION 3. PSC 163.04(1)(c) is amended to read:

(c) A progress report pursuant to s. 196.196 (5) (c), Stats., or, if the utility has fulfilled its infrastructure investment commitment pursuant to s. 196.196 (5) (c), Stats., and has a commission approved optional infrastructure objectives plan under sub. (2)(dn)2., a progress report relating to that plan.

SECTION 4. PSC 163.04(2)(a) is amended to read:

(a) On a utility's first each anniversary date, the annual percentage change in gross domestic product price index or Δ GDPPI shall be calculated by using the most recent quarterly fixed-weight chain-weighted index and it's the prior year's corresponding prior year quarterly index, using the same revision series. On subsequent anniversary dates, the annual percentage change shall be calculated by using the most recent quarterly GDPPI index and the price index which was used in the calculation on the previous anniversary date. If the GDPPI is eliminated, the commission shall by order adopt the most comparable replacement index after comments from interested parties and a hearing, if requested.

SECTION 5. PSC 163.04(2)(bm) is amended to read:

(bm) Each time the productivity factors are reviewed, the commission shall provide for a productivity study for the telecommunications industry in this state. ~~If necessary, this~~ This study shall be completed by September 1, 2000 and every 3 years thereafter, and shall address the above factors plus additional evidence relative to a utility's ability to increase productivity in the future. The commission shall assess all price-regulated telecommunications utilities for these studies.

SECTION 6. PSC 163.04(2)(c)1. is renumbered 163.04(2)(c)2.a. and amended to read:

a. ~~In creating a quality of service penalty mechanism for inadequate service pursuant to s. 196.196 (1) (e), Stats., the~~ The commission, with opportunity for hearing, shall establish by order, initial industry-wide standards for each quality of service component based on a consideration of national and in-state standards and national and in-state measurements of service quality ~~for each quality of service component~~, if available.

SECTION 7. PSC 163.04(2)(c)1. is created to read:

1. In creating a quality of service penalty mechanism for inadequate service pursuant to s. 196.196 (1) (c), Stats., the commission shall consider all of the following quality of service components:

- a. Responsiveness to customers' requests for service as measured by the average time interval for installation.
- b. Overall network quality as measured by trouble reports per 100 access lines.
- c. Speed of repair as measured by time out of service.
- d. Repair quality as measured by percent repeat trouble reports. (S)
- e. Responsiveness to customer requests for repair as measured by average employe answer time for repair calls.
- f. Customer access to the network as measured by trunk blockage.
- g. Ability of customers to make billing inquiries and to request installation or service changes, as measured by average employe answer time for business office calls.

SECTION 8. PSC 163.04(2)(c)2. is renumbered 163.04(2)(cd)1. and amended to read:

1. The commission shall establish initial industry-wide standards for the quality of service components shown in par. (c)1. within 30 days of the filing of a company's utility's investment commitment plan pursuant to s. 196.196 (5), Stats., or within 30 days of November 1, 1995, whichever is later. ~~The quality of service components are~~

- ~~a. Responsiveness to customers' requests for service as measured by the average time interval for installation.~~
- ~~b. Overall network quality as measured by trouble reports per 100 access lines.~~
- ~~c. Speed of repair as measured by average time out of service.~~
- ~~d. Repair quality as measured by percent repeat trouble reports.~~
- ~~e. Responsiveness to customer requests for repair as measured by average employe answer time for repair calls. Average employe answer time means average speed of answer, including time in queue prior to speaking to an employe representative or otherwise receiving assistance.~~

SECTION 9. PSC 163.04(2)(c)2.(intro.) is created to read:

2. The service quality penalty mechanism shall be based on a combination of past company performance and industry-wide standards as follows:

5 Any reason - is "non actual" data also filed:

SECTION 10. PSC 163.04(2)(c)2.c. is created to read:

c. Actual data filed under sub. (1) (b) shall be compared to the industry-wide standards and company-specific benchmarks that apply to the year the actual data relates.

SECTION 11. PSC 163.04(2)(c)3. is renumbered 163.04(2)(cd)2. and amended to read:

2. Within 30 days of the commission establishing initial industry-wide standards for the quality of service components shown in ~~subd. 2 par. (c)1.~~, a utility may propose one or more industry-wide standards, or both. A company's utility's proposal for alternative or additional components shall include a description of the alternative or additional component, justification for using this alternative component, and an initial industry-wide standard with a description of how the standard was determined. The company filing shall include proposed initial company-specific benchmarks and measurement timeframes along with supporting data for each quality of service component in ~~subd. 2, or any alternative or additional component proposed by the company in this subdivision.~~ This filing may also include the weight to be given to each component, if different.

SECTION 12. PSC 163.04(2)(c)4. is renumbered 163.04(2)(cd)3. and amended to read:

3. The commission may initiate an investigation of the proposed alternative or additional quality of service component, proposed industry-wide standards, or proposed initial company-specific benchmarks, component weightings, and measurement timeframes a utility's proposal under subd. 2 within 30 days after receiving the utility's proposal. Within 60 days after initiating an investigation and following an opportunity for hearing, the commission shall issue an order approving, modifying or rejecting the utility's proposal. If the commission does not initiate an investigation within 30 days after receiving the utility's proposal, the utility's proposal shall be deemed to have been approved.

SECTION 13. PSC 163.04(2)(cd)4. is created to read:

4. Upon the final establishment of initial service quality components and industry-wide standards, the commission shall issue an order establishing initial company-specific service quality benchmarks, component weightings, and measurement timeframes for each quality of service component.

SECTION 14. PSC 163.04(2)(cd)5. is created to read:

5. Initial service quality components, industry-wide standards, and company-specific benchmarks shall be established for use on the utility's first two anniversary dates. Such components, standards, or benchmarks or any combination, may be different for each of the anniversary dates. The components, standards, and benchmarks established for use on the second anniversary date shall remain in effect after that date until updated under par. (ch).

5 details.

SECTION 15. PSC 163.04(2)(c)5. is renumbered 163.04(2)(c)2.b. and amended to read:

b. ~~The service quality penalty mechanism shall be based on a combination of past company performance and industry-wide standards. The commission, with opportunity for hearing, shall establish by order, company-specific benchmarks for each quality of service component based on a consideration of past company performance. Past company performance shall be evaluated based on the company's most recent 3-year average performance and shall consider a performance range based on that average. For purposes of this paragraph-subsection, "performance range" means a range 10% above to 10% below a telecommunications utility's most recent 3-year average performance, measured from the date on which the range is calculated. Any company filing which proposes alternative or additional quality of service components under subd. 3., shall also include proposed performance ranges. Actual data filed under sub. (1) (b) shall be compared to the most recently approved industry-wide standards and company-specific benchmarks.~~

⑤
Clearer
of benchmarks
&
performance
range
describes
separately
of how
they
used.

SECTION 16. PSC 163.04(2)(c)6.(intro.) is renumbered 163.04(2)(cp)1.(intro.).

SECTION 17. PSC 163.04(2)(c)6.a., b., and c. are renumbered 163.04(2)(cp)1.a., b., and c. and amended to read:

a. Actual performance meets industry-wide standards and meets or improves upon the company's most recent 3-year average performance company-specific benchmarks.

b. Actual performance meets industry-wide standards, fails to meet the company's most recent 3-year average performance company-specific benchmarks, but meets or improves upon the company's performance range.

c. During the first 3 years after election of price regulation, actual performance fails to meet industry-wide standards but meets or improves upon the company's most recent 3-year average performance company-specific benchmarks.

✓
②
falls within
range
(range)

SECTION 18. PSC 163.04(2)(c)7. (intro.) is renumbered 163.04(2)(cp)2. (intro.).

SECTION 19. PSC 163.04(2)(c)7.a. is renumbered 163.04(2)(cp)2.a. and amended to read:

a. After the first 3 years after election of price regulation, actual performance fails to meet industry-wide standards but meets or improves upon the company's most recent 3-year average performance company-specific benchmarks.

SECTION 20. PSC 163.04(2)(c)7.b. is renumbered 163.04(2)(cp)2.b.

SECTION 21. PSC 163.04(2)(c)7.c. is renumbered 163.04(2)(cp)2.c. and amended to read:

c. During the first 3 years after election of price regulation, actual performance fails to meet industry-wide standards, fails to meet the company's most recent 3-year average performance company-specific benchmarks, but meets or improves upon the company's performance range.

SECTION 22. PSC 163.04(2)(c)8.(intro.) is renumbered 163.04(2)(cp)3.(intro.).

SECTION 23. PSC 163.04(2)(c)8.a. is renumbered 163.04(2)(cp)3.a. and amended to read:

a. After the first 3 years after election of price regulation, actual performance fails to meet industry-wide standards and fails to meet the company's most recent 3-year average performance company-specific benchmarks.

SECTION 24. PSC 163.04(2)(c)8.b. is renumbered 163.04(2)(cp)3.b.

SECTION 25. PSC 163.04(2)(c)9. is repealed.

SECTION 26. PSC 163.04(2)(c)10. is renumbered 163.04(2)(ch)1. and amended to read:

(ch) 1. On each anniversary date following the establishment of initial company-specific service quality standards under par. (cd), the commission, following an opportunity for hearing, shall compute new industry-wide standards and company-specific benchmarks based on the prior year benchmarks, information filed under sub. (1) (b), and rules or orders regarding quality of service. These updated benchmarks shall be applied to the next year and shall be used in calculating the service quality penalty on the next anniversary date following the end of the year to which these benchmarks are applied. If the updated benchmarks are not set before the start of the year to which the actual data relates, the previous benchmarks shall remain in place. For purposes of computing the updated company-specific benchmarks and subject to a showing to the contrary, past performance for the most recent 3-year average shall meet or exceed past performance for the initial 3-year average. On each anniversary date, upon a request by the utility or on the commission's own motion, the commission may also initiate a review of the appropriateness of the quality of service components. The commission may issue an order revising these quality of service components, following an opportunity for hearing.

SECTION 27. 163.04(2)(ch)2. and 3. are created to read:

2. Once during each year following the establishment of initial industry-wide service quality standards under par. (cd), the commission, following an opportunity for hearing, shall compute new industry-wide standards based on the prior year's standards, information filed under sub. (1)(b), national performance data, in-state performance data, and rules or orders regarding quality of service. These updated standards shall be applied to the next year and shall be used in calculating the service quality penalty on the anniversary date following the year to

5
Amended?

amended

which these benchmarks are applied. If the updated benchmarks are not set before the start of the year to which the actual data relates, the previous standards shall remain in place.

Handwritten signature/initials

3. Once during each year following the initial establishment of industry-wide service quality standards under par. (cd), upon a request by the utility or on the commission's own motion, the commission may initiate a review of the appropriateness of the quality of service components. The commission may issue an order revising these quality of service components, following an opportunity for hearing. These revised components shall be applied to the next year and shall be used in calculating the service quality penalty on the anniversary date following the year to which these components are applied. If the revised components are not set before the start of the year to which the actual data relates, the previous components shall remain in place.

Handwritten signature/initials

SECTION 28. PSC 163.04(2)(cp)(intro.) is created to read:

(cp) Service quality penalties shall be calculated as follows:

SECTION 29. PSC 163.04(2)(ct) is created to read:

(ct) Nothing in this chapter shall preclude special and individual consideration being given to exceptional or unusual situations and upon due investigation of the facts and circumstances involved, the adoption of penalties as to individual providers or services that may be lesser, greater, or different than those provided in par. (cp).

Handwritten note: (5) Affirmative statement would be more clear

SECTION 30. PSC 163.04(2)(d)1. is renumbered 163.04(2)(d) and amended to read:

(d) In creating a penalty or incentive mechanism for infrastructure investment pursuant to s. 196.196(1)(c), Stats., the commission, with opportunity for hearing, shall establish by order, infrastructure investment components together with initial benchmark ranges and measurement timeframes for each price-regulated company utility. The infrastructure investment components shall be based on all of the following:

1. Section 196.196(5), Stats.
2. The utility's filed infrastructure commitment plan under s. 196.196(5), Stats., if applicable.
3. The utility's filed optional infrastructure objectives plan under par. (dn), if applicable.
4. Current technology.

Handwritten signature/initials

SECTION 31. PSC 163.04(2)(d)2. and 3. are renumbered 163.04(2)(dc)1. and 2. and amended to read:

1. ~~The infrastructure investment components shall be based on s. 196.196 (5), Stats., the utility's filed infrastructure commitment plan and current technology.~~ The commission shall establish these initial infrastructure investment components together with initial benchmark ranges and measurement timeframes within 30 days of the filing of the company's utility's commitment plan pursuant to s. 196.196 (5), Stats., ~~or within 30 days of November 1, 1995, whichever is later.~~

2. Within 30 days of the commission establishing initial infrastructure investment components, a price-regulated utility may ~~file proposed~~ propose one or more alternative or additional infrastructure investment components, component weights, if different, initial benchmarks ~~and or~~ measurement timeframes.

SECTION 32. PSC 163.04(2)(d)4. is renumbered 163.04(2)(dc)3. and amended to read:

3. The commission may initiate an investigation of the ~~proposed alternative or additional components, component weights, measurement timeframes, and initial benchmarks~~ a utility's proposal under subd. 2 within 30 days after receiving the ~~utility's filing proposal.~~ Within 60 days after initiating an investigation and following the opportunity for hearing, the commission shall issue an order approving, modifying or rejecting the utility's proposal. If the commission does not initiate an investigation within 30 days after receiving the utility's filing, the utility's proposal shall be deemed to have been approved.

SECTION 33. PSC 163.04(2)(dc)4. is created to read:

4. Initial infrastructure investment components, benchmarks, and measurement timeframes shall be established for use on the utility's first two anniversary dates. Such components, benchmarks, and measurement timeframes, or any combination, may be different for each of the anniversary dates. The components, benchmarks, and measurement timeframes established for use on the second anniversary date shall remain in effect after that date until updated under par. (dg).

SECTION 34. PSC 163.04(2)(d)5. is renumbered 163.04(2)(dr) and amended to read:

(dr) If the reported investment associated with a component is outside the benchmark range, then the annual component will be assigned an appropriately weighted penalty or incentive value based on Table 1 in par. (g). The range ~~shall~~ may be based on cumulative investment levels.

SECTION 35. PSC 163.04(2)(d)6. is repealed.

SECTION 36. PSC 163.04(2)(d)7. is renumbered 163.04(2)(dg)1. and amended to read:

1. On each anniversary date following the establishment of initial infrastructure investment components together with benchmark ranges and measurement timeframes under par. (dc), the commission, following an opportunity for hearing, shall compute new company-specific benchmarks based on the prior year benchmarks and information filed in a company's utility's report on infrastructure deployment as required under s. 196.196 (5), Stats. These updated benchmarks shall be applied to the next year and shall be used in calculating the penalty or incentive mechanism for infrastructure investment on the next-anniversary date following the year to which these benchmarks are applied. If the updated benchmarks are not set before the start of the period to which they would be applied, the previous benchmarks shall remain in place. On each anniversary date, upon a request by the utility or on the commission's own motion, the commission may also initiate a review of the appropriateness of the infrastructure investment components. The commission may issue an order revising these infrastructure components, following an opportunity for hearing.

SECTION 37. PSC 163.04(2)(dg)(intro.) is created to read:

(dg) During the time when a utility is fulfilling its infrastructure investment commitment under s. 196.196(5)(a), Stats.:

SECTION 38. PSC 163.04(2)(dg)2. is created to read:

2. On each anniversary date following the establishment of initial infrastructure investment components together with benchmark ranges and measurement timeframes, upon a request by the utility or on the commission's own motion, the commission may also initiate a review of the appropriateness of the infrastructure investment components. The commission may issue an order revising these infrastructure components, following an opportunity for hearing. These revised components shall be applied to the next year and shall be used in calculating the penalty or incentive mechanism for infrastructure investment on the next anniversary date following the end of the year to which these benchmarks are applied. If the revised components are not set before the start of the year to which the actual data relates, the previous components shall remain in place.

SECTION 39. PSC 163.04(2)(dn) is created to read:

(dn) After a utility has fulfilled its infrastructure investment commitment under s. 196.196 (5)(a), Stats., it may, at its option, continue to be eligible for infrastructure incentives and penalties, based on the company's progress in meeting benchmark ranges established in an optional infrastructure investment objectives plan.

2. If a utility that has fulfilled its infrastructure investment commitment under s. 196.196(5), Stats., wishes to be eligible for the full infrastructure incentive or penalty based on Table 1 in par. (g), it shall file, on its anniversary date, a proposed infrastructure investment

objectives plan. The plan shall include benchmark ranges proposed to be applied to the next year. Benchmark ranges for both retail-related and wholesale-related infrastructure investments shall be included in the proposal. The commission shall review the reasonableness of the proposed benchmark ranges and may approve or modify them. The approved infrastructure investment components, benchmark ranges, and measurement timeframes shall be used in calculating the penalty or incentive mechanism for infrastructure investment on the next anniversary date following the start of the year to which the actual data relates. These benchmark ranges shall provide incentives for improvements for which the utility would otherwise have few economic investment incentives. Such improvements may include, but are not limited to, investments which improve or promote the following:

- a. Route diversity.
- b. High-speed data transmission.
- c. Competition.
- d. Wholesale services.
- e. Improvements in switching technology.

3. If a utility that has fulfilled its infrastructure investment commitment under s. 196.196(5), Stats., does not wish to be eligible for the full infrastructure incentive or penalty, it shall not file a proposed infrastructure investment objectives plan. The incentive, penalty and total maximum values in Table 1 of par. (g) shall be adjusted as indicated in that table.

SECTION 40 PSC 163.04(2)(dw) is created to read:

(dw) Nothing in this chapter shall preclude special and individual consideration being given to exceptional or unusual situations and upon due investigation of the facts and circumstances involved, the waiving of all or a portion of any infrastructure investment penalty as to individual providers.

SECTION 41. PSC 163.04(2)(e) is amended to read:

(e) In addition to the quality of service penalty and infrastructure investment penalty or incentive, the commission shall establish specific ranges for the commitment to the Wisconsin advanced telecommunications foundation for each price-regulated company based on the utility's filed infrastructure commitment plan or information provided by the foundation. If the company's contribution to the foundation is outside the range, then the annual component shall be assigned a penalty or incentive value based on Table 1 in par. (g).

SECTION 42. PSC 163.04(2)(f) is amended to read:

ref. sec

3
Necessary?
5
Affirmative

(f) ~~In addition to the penalty and incentives as discussed in pars. (c) and (d), the commission may also assign, at its discretion, an additional penalty or incentive, which is shown in Table 1. To determine this discretionary penalty or incentive, the factors the commission may consider to the extent they relate to the utility's infrastructure investment and quality of service, include but are not limited to:~~ In addition to the penalty and incentives as discussed in pars. (c) to (e), the commission may also assign, at its discretion, an additional penalty or incentive, which is shown in Table 1. *had intro*

*Ask
com-
rule*

1. To determine a discretionary penalty, the factors the commission may consider to the extent they relate to the utility's infrastructure investment and quality of service, include but are not limited to:

- a. Factors pursuant to s. 196.03 (6), Stats.
- b. Customer satisfaction as measured by customer surveys and customer complaints.
- c. Responsiveness to rural development and technology concerns, and demand for new services.
- d. The extent to which the utility has reasonably complied with its annual commitment defined in its infrastructure investment plan.
- e. The extent to which schools, libraries, hospitals and similar institutions are utilizing the utility's infrastructure investments.
- f. The extent to which the utility has established and the effectiveness of customer assistance programs.
- g. Compliance with other measures or standards for telecommunications service included in rules or orders, but not included in the service quality penalty components set forth in this subsection.

h. The extent to which the utility has established and the effectiveness of programs to keep consumers knowledgeable concerning prices, options, features, rights, changes, and the availability of more detailed information.

2. To determine a discretionary incentive, the factors the commission may consider to the extent they relate to the utility's infrastructure investment, include but are not limited to:

- a. Factors pursuant to s. 196.03 (6), Stats.
- b. Responsiveness to rural development and technology concerns, and demand for new services.
- c. The extent to which the utility has reasonably complied with its annual commitment defined in its infrastructure investment plan.
- d. The extent to which schools, libraries, hospitals and similar institutions are utilizing the utility's infrastructure investments.

SECTION 43. Table 1 in PSC 163.04(2)(g) is amended to read:

Adjustment Factor ¹	500,000 or Fewer Access Lines		More than 500,000 Access Lines	
	Penalty	Incentive	Penalty	Incentive
Quality of service	-4.6%	N/A	-8.2%	N/A
Infrastructure Investment ²	-4.2%	.8%	-8.5%	+6.7%
Wisconsin advanced tele-communications foundation	.1%	.1%	-2.1%	-2.1%
Commission Discretion	.1%	.1%	.2%	.2%
Total Maximum Value	1.0%	1.0%	2.0%	2.0%

¹These adjustment factors consist of a number of components as discussed in pars. (c) and (d). Penalty or incentive values per individual component shall vary depending on the number of components and the assigned weights, but the total of the penalty or incentive values shall not exceed the maximum value shown for the adjustment factor.


²If a utility has fulfilled its infrastructure investment commitment pursuant to s. 196.196(5) (a), Stats., and does not file an optional infrastructure objectives plan under sub. (2) (dn) 2., the infrastructure investment penalty value shown above shall be added to the penalty value assigned to quality of service and the infrastructure investment penalty shall be set at zero. The infrastructure investment incentive shall be set at zero and the total maximum incentive value shall be decreased by the maximum infrastructure investment incentive value shown above.

SECTION 44. PSC 163.04(8)(a) is amended to read:

(8) (a) The commission shall issue an order no later than 3060 days after the utility's anniversary date authorizing the amount the utility may increase its rates or mandating the amount it shall reduce them based on the calculated PCI. If a hearing is held, the time within which the commission shall issue an order may be extended by 3060 days. The order shall set forth the PCI and API values as of the anniversary date. Once the commission issues an order authorizing the change, the utility shall have until the next anniversary date to raise its prices by the amount the 3-year maximum PCI exceeds the 3-year maximum API. The increase in any rate element shall not at any time exceed 10% or the annual change in the GDPPI index, whichever is greater. The commission's order may also set the revenue weights for calculating the API. If the utility elects to increase rates, it shall file with the commission tariffs

implementing the increase. It shall also file a calculation of the annual API, unadjusted cumulative API and 3-year maximum API which results after an increase in rates. Any such increase shall become effective 45 days after the date on which notice is received by the commission, unless the commission determines it is in violation of the authorized increase. If the 3-year maximum PCI is less than the 3-year maximum API, and the unadjusted cumulative PCI is less than the unadjusted cumulative API, the utility shall file tariffs implementing the decrease. Any such decrease shall become effective no later than 45 days after the date of the commission order mandating the decrease unless the commission determines it is in violation of the authorized decrease. The utility shall also file a calculation of the annual API, unadjusted cumulative API, and 3-year maximum API which results after such decrease. The resulting unadjusted cumulative API shall be no greater than the unadjusted cumulative PCI.

SECTION 45. PSC 163.06(1) is amended to read:

(1) A report on how competition, economic development, consumer choice, quality of life, societal goals, and universal service have changed ~~during the period in which price regulation has been in effect since the utility's election of price regulation or since the last such report on the impact of price regulation was submitted by the utility as part of a price regulation review by the commission, whichever is later.~~ The report shall, where possible, include quantifiable data, disaggregated into separate services, demographic groups and geographic areas, and compare measures of the above factors under price regulation to measures of the above factors before price regulation. ~~Telecommunications Price-regulated telecommunications utilities with more than 150,000 access lines in use in this state which elect to be price-regulated before December 31, 1997, shall file the report no later than August 1, 1998. Other price-regulated telecommunications utilities shall file such report no later than four and one-half years after the date the commission commences regulating the utility in the manner prescribed in s. 196.196 (1), Stats., and this chapter. For subsequent reviews of price regulation, price-regulated telecommunications utilities shall file such reports at such times as specified by the commission.~~ This subsection does not affect the commission's ability to require interim or periodic reports on specific subjects for monitoring purposes. 

SECTION 46. PSC 163.06 (2) is amended to read:

(2) Financial results in summary form, showing revenues, expenses, net investment rate base, capital structure, and rate of return on utility common equity. ~~Reported revenues shall be adjusted to reflect uncollectible accounts directly written off, net of collections of previously written off accounts.~~ This information shall be submitted no later than April 1 of each year for the previous calendar year.

These rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.