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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 08-027

#### 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 January 2005.]**

#### 2. Form, Style and Placement in Administrative Code

- The rule preface should include a deadline by which comments regarding the rule should be submitted to the department.

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

a. In the rule preface discussion for the rule content, the word “on” in the first sentence of the second bullet item should be deleted.

b. Since the definition of “provider” is broader than the use of that term in the definition of “appointed provider of long distance telecommunications services,” it would be more accurate to refer, on page 5, lines 10 and 11, to “a provider of long distance telecommunications services.”

c. After discussions with department staff, it appears that the definition of “electronic communication service” is intended to include all Internet access services that involve the transmission of information. If this understanding is correct, it is suggested that the definition of “electronic communication service” be modified by replacing “broadband internet service” with “Internet access service, ” as defined in one of the following federal statutes:

1. 47 USC 231 (e) (4). Note that this definition includes services to *access* content, information, electronic mail, or other services offered over the Internet; it does not

explicitly exclude the services themselves, but would appear to imply such an exclusion.

2. 47 USC 151 (note), s. 1105 (5).<sup>1</sup> Note that this definition is more detailed and, while it excludes most services that do not involve the transmission of information, it explicitly *includes* “a home page, electronic mail and instant messaging ..., video clips, and personal electronic storage capacity ...”.

As an alternative, it may be best to create a definition of “Internet access service” specific to this rule. The definition in 47 USC 151 (note), s. 1105 (5) would be a good starting point; that definition could be modified to include and exclude specific services to accomplish the department’s policy goals.

d. Related to the preceding comment, the language in s. ATCP 123.01 (5) (b) excludes from the definition of “electronic communication service” services that do not involve the transmission of information. First, this could probably be accomplished through the definition of “Internet access service,” in which case the information in s. ATCP 123.01 (5) (b) could be omitted or some version of it could be placed in a note. If the department chooses to retain that provision, it is suggested that a different example be used. Dial-up Internet access is not, in fact, an example of what this describes, since it involves the transmission function. A better example would be an online service, such as a web browser (e.g., Google) or an e-mail service (e.g., Yahoo).

e. For orthographic consistency with such established terms as “telecommunications service,” the department may want to use the term “electronic communications (plural) service” rather than “electronic communication (singular) service.”

f. In s. ATCP 123.04 (1) (note), “~~cable television provider~~ multichannel video programming distributor” should be replaced with “~~cable television provider~~ multichannel video programming distributor”. Further, either: (1) this should be followed by “, as defined in 47 USC 522 (13),”; or (2) “multichannel video programming distributor” should be defined separately in s. ATCP 123.01 and “as defined in 47 USC 522 (13)” should be deleted from the definition of “electronic communication service.”

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<sup>1</sup> The Legislative Reference Bureau has concurred in this unconventional citation format, necessitated by the unconventional codification of the cited provision.