

Chapter PSC 163

TELECOMMUNICATIONS UTILITY PRICE REGULATION

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PSC 163.01 Purpose. The purpose of this chapter is to effectuate and implement s. 196.196 (1), Stats., as enacted by 1993 Wis. Act 496 (Act 496), generally effective September 1, 1994. The rules promulgated in this chapter determine the procedures for electing price regulation, establish the mechanics of price regulation, set reporting requirements, and create miscellaneous provisions to make more specific the requirements of s. 196.196 (1), Stats.

History: Cr. Register, October, 1995, No. 478, eff. 11-1-95.

PSC 163.02 Definitions. In this chapter:

(1) "Actual price index" or "API" means the company-specific price index for price-regulated services as weighted by the revenues for such services calculated pursuant to s. PSC 163.04 (5) through (7).

(2) "Anniversary date" means the annual date for administering the mechanics of price regulation.

(3) "Customer" means the end user of the telecommunications services provided by the telecommunications utility.

(4) "Gross Domestic Product - Price Index" or "GDPPI" means the figure as reported by the U.S. Department of Commerce in its *Survey of Current Business*.

(5) "Price cap index" or "PCI" means an index calculated pursuant to s. PSC 163.04 (2) through (4) which determines allowable price increases and mandatory price decreases for price-regulated services.

(6) "Price-regulated services" means a telecommunications service specified in s. 196.196 (1) (a) 1., Stats., or by the commission in s. 196.196 (1) (a) 2., Stats.

(7) "Price regulation" means a form of alternative regulation for telecommunications utilities as set forth in s. 196.196 (1), Stats.

(8) "Productivity factor" means an adjustment factor used to make annual adjustments to the GDPPI as set forth in s. 196.196 (1) (c), Stats.

(9) "Rate structure changes" include an offering of service that does not result in a net increase in options available to customers and which either represents the modification of a method of charging or provisioning a service or the introduction of a new method of charging or provisioning a service.

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PSC 163.03 Election of price regulation. (1) A telecommunications utility opting to be price-regulated under s. 196.196 (1), Stats., shall file with the commission a letter stating its election and containing the following information:

(a) Name and address of the telecommunications utility.

(b) A statement that rates for price-regulated services are not greater than those in effect on December 31, preceding the effective date of election, and any amended tariffs, necessary to comply with the requirements for election in s. 196.196 (1), Stats.

(c) A statement that access rates will be reduced according to the time schedule of s. 196.196 (2), Stats.

(2) Upon satisfactory submission of the foregoing information, and after at least 45 days notice, if applicable under s.

196.196 (1) (b), Stats., the commission shall commence regulating the telecommunications utility in the manner prescribed in s. 196.196 (1), Stats., and this chapter.

(3) Within 60 days after election of price regulation, the utility shall file an investment 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.

History: Cr. Register, October, 1995, No. 478, eff. 11-1-95.

PSC 163.04 Mechanics of price regulation. (1) A utility may not request a price increase for any service until its first anniversary date. The anniversary date shall be based on the date the commission commences regulating the telecommunications utility in the manner prescribed in s. 196.196 (1), Stats., and this chapter. For purposes of this section, the utility and the commission may agree on a mutually acceptable date to be deemed to be the "anniversary date" for purposes of annual reporting and determination of allowable price changes. On its first anniversary date and subsequent anniversary dates, the utility shall file the following information with the commission for it to determine the amount the utility may increase or shall decrease its rates:

(a) Prior annual revenues to be used to calculate a revenue weighted actual price index. If a change in the rate for a price-regulated service has occurred during the prior year, the prior year's revenues for that service shall be adjusted to reflect annual revenues as if the rate in effect at year end had been in effect the entire year.

(b) Prior annual data on the service quality penalty and infrastructure penalty or incentive components as described in sub. (2) (c) and (d).

(c) A progress report pursuant to s. 196.196 (5) (c), Stats.

(d) Any other data requested by the commission related to its discretion to adjust for penalty and incentive factors.

(2) At the effective date of election of price regulation, the annual price cap index or "PCI" shall be initialized at 100. The annual PCI shall be calculated on the anniversary date each year using the following formula:

$$[+ \blacktriangle GDPPI - PROD + INC - PEN] * 100$$

where \blacktriangle GDPPI = annual percentage change in GDPPI
 PROD = productivity factor offset
 INC = infrastructure investment incentive
 PEN = quality of service or infrastructure investment penalty

The factors used to calculate the annual PCI shall be determined and calculated by the commission in the following manner:

(a) On a utility's first anniversary date, the annual percentage change in gross domestic product price index or \blacktriangle GDPPI shall be calculated by using the most recent quarterly fixed weight index and its corresponding prior year quarterly index. 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.

(b) According to s. 196.196 (1) (c), Stats., the productivity factor offset to the ▲ GDPPI shall be 2 percentage points. For a telecommunications utility with more than 500,000 access lines, the percentage offset shall be 3 percentage points. Beginning in the year 2000 and every 3 years thereafter, for the purpose of adjusting the GDPPI percentage offset, pursuant to s. 196.196 (1) (c), Stats., to reflect any statewide changes in the productivity experience of the telecommunications industry, the commission may consider the following historical factors:

1. Sales volumes.
2. Labor.
3. Materials.
4. Rent.
5. Services.
6. Other expenses.
7. Plant-in-service.
8. Cost of capital.
9. Any other data relevant to measuring productivity.

(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 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.

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

2. The commission shall establish initial industry-wide standards for the quality of service components within 30 days of the filing of a company's 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.

3. Within 30 days of the commission establishing initial industry-wide standards for the quality of service components shown in subd. 2., a utility may propose alternative or additional components for any of these aspects of customer service. A company'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.

4. 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 within 30 days after receiving the utility's 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 proposal, the utility's proposal shall be deemed to have been approved.

5. The service quality penalty mechanism shall be based on a combination of past company performance and industry-wide standards. Past company performance shall be evaluated based on a 3-year average. For purposes of this paragraph, "performance range" means a range 10% above to 10% below a telecommunications utility's most recent 3-year average performance. 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.

6. No penalty shall be assessed if:

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

b. Actual performance meets industry-wide standards, fails to meet the company's most recent 3-year average performance 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.

7. A penalty equal to 50% of per component value in Table 1 in par. (g) shall be assessed if:

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.

b. Actual performance meets industry-wide standards but fails to meet the company's performance range. The commission may waive this penalty in those circumstances where actual performance meets or exceeds customer expectations.

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 but meets or improves upon the company's performance range.

8. A penalty equal to 100% of per component value in Table 1 in par. (g) shall be assessed if:

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.

b. During the first 3 years after election of price regulation, actual performance fails to meet industry-wide standards and fails to meet the company's performance range.

9. The commission may waive all or a portion of any quality of service penalty in the event of extraordinary circumstances which disrupt service, making it impossible for a company to achieve its benchmarks. The commission may also adjust the service quality benchmarks to eliminate the effects of any extraordinary circumstances which would otherwise distort the 3-year average.

10. On each anniversary date, the commission, following an opportunity for hearing, shall compute new industry-wide stan-

dards 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 used in calculating the service quality penalty on the next anniversary date. 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.

(d) 1. 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.

2. 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 components together with initial benchmark ranges and measurement timeframes within 30 days of the filing of the company's commitment plan pursuant to s. 196.196 (5), Stats., or within 30 days of November 1, 1995, whichever is later.

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

4. The commission may initiate an investigation of the proposed alternative or additional components, component weights, measurement timeframes, and initial benchmarks within 30 days after receiving the utility's filing. 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.

5. 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 be based on cumulative investment levels.

6. The commission may waive all or a portion of any infrastructure investment penalty in the event of extraordinary circumstances, making it impossible or unreasonable for a company to achieve its benchmarks.

7. On each anniversary date, the commission, following an opportunity for hearing, may compute new company-specific benchmarks based on the prior year benchmarks and information filed in a company's report on infrastructure deployment as required under s. 196.196 (5), Stats. These updated benchmarks shall be used in calculating the penalty or incentive mechanism for infrastructure investment on the next anniversary date. 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.

(e) In addition to the quality of service penalty and 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. 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).

(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:

1. Factors pursuant to s. 196.03 (6), Stats.
2. Customer surveys measuring general customer satisfaction such as customer satisfaction regarding company responses to complaint contacts, repair requests, service installations and billing inquiries.
3. Responsiveness to rural development and technology concerns, and demand for new services.
4. The extent to which the utility has reasonably complied with its annual commitment defined in its infrastructure investment plan.
5. The extent to which schools, libraries, hospitals and similar institutions are utilizing the utility's infrastructure investments.
6. The extent to which the utility has established and the effectiveness of customer assistance programs.
7. 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.

(g) The following table shows the maximum penalty or incentive values to be assigned to a price-regulated utility based on quality of service, infrastructure investment, investment in the Wisconsin advanced telecommunications foundation, and commission discretion.

TABLE 1
Penalty and Incentive Mechanism Values

Adjustment Factor	500,000 or Fewer Access Lines		More than 500,000 Access Lines	
	Penalty	Incentive	Penalty	Incentive
Quality of service	.4 %	N/A	.8 %	N/A
Infrastructure investment	.4 %	.8 %	.8 %	1.6 %
Wisconsin advanced telecommunications foundation	.1 %	.1 %	.2 %	.2 %
Commission discretion	.1 %	.1 %	.2 %	.2 %
Total Maximum Value	<u>1.0 %</u>	<u>1.0 %</u>	<u>2.0 %</u>	<u>2.0 %</u>

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.

(3) At the effective date of election of price regulation the unadjusted cumulative PCI shall be initialized at 100. On the third anniversary date, the unadjusted cumulative PCI shall be equal to the annual PCI. On all other anniversary dates, the unadjusted cumulative PCI shall be calculated by the commission using the following formula:

Unadjusted Cumulative PCI_x =
 Unadjusted Cumulative PCI_{x-1} * [Annual PCI_x / 100]
 where unadjusted cumulative PCI_x = the unadjusted cumulative PCI in year x
 unadjusted cumulative PCI_{x-1} = the previous year's unadjusted cumulative PCI
 annual PCI_x = the annual PCI in year x

(4) At the effective date of election of price regulation, on the third anniversary date, upon implementation of any rate decrease required by this section, and any time a rate increase causes the annual API to exceed the annual PCI, the 3-year maximum PCI shall be initialized at 100. On each anniversary date, the 3-year maximum PCI shall be calculated by the commission using the following formula:

3-Year Maximum PCI_x =
 Annual PCI_x * Annual PCI_{x-1} * Annual PCI_{x-2} / 10,000
 where 3-year maximum PCI_x = the 3-year maximum PCI in year x
 annual PCI_{x-1} = the previous year's annual PCI or 100 if initialized in that year
 annual PCI_{x-2} = the annual PCI 2 years prior to year x or 100 if initialized within the last 2 years

(5) (a) At the effective date of election of price regulation, and at every anniversary date, the annual API shall be initialized at 100. The annual API shall be changed for each increase or decrease in a price for a price-regulated service, according to the following formula:

Annual API = $\sum_i 100 * w_i (p_c/p_n)_i$
 where w_i = the current revenue weight for rate element i
 p_c = the current price for rate element i
 p_n = the price for rate element i which was in effect when the annual API was last initialized

(b) Revenue weights shall be calculated on the first anniversary date as set forth in sub. (1) (a), and reviewed on each subsequent anniversary date. If additional price-regulated services are added pursuant to s. 196.196 (1) (a) 2., Stats., the annual API shall be calculated so that the addition of these services shall not cause a change in the annual API.

(c) The annual API shall exclude any price decreases ordered by the commission under s. 196.196 (5) (e), Stats.

(6) At the effective date of election of price regulation the unadjusted cumulative API shall be initialized at 100. On the third anniversary date, the unadjusted cumulative API shall be equal to the annual API. On all other applicable dates, the unadjusted cumulative API shall be calculated using the following formula:

Unadjusted Cumulative API_x =
 Unadjusted Cumulative API_{x-1} * [Annual API_x / 100]
 where unadjusted cumulative API_x = the current unadjusted cumulative API in year x
 unadjusted cumulative API_{x-1} = the previous year's final unadjusted cumulative API
 annual API_x = the current annual API in year x

(7) At the effective date of election of price regulation, on the third anniversary date, upon implementation of any rate decreases required by this section, and at any time a rate increase causes the annual API to exceed the annual PCI, the 3-year maximum API shall be initialized at 100. On all other applicable dates, the 3-year maximum API shall be calculated using the following formula:

3-Year Maximum API_x =
 Annual API_x * Annual API_{x-2} / 10,000
 where 3-year maximum API_x = the current 3-year maximum API in year x
 annual API_{x-1} = the previous year's final annual API or 100 if initialized in year x-1
 annual API_{x-2} = the final annual API 2 years prior to year x or 100 if initialized within the last 2 years

(8) (a) The commission shall issue an order no later than 30 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 30 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 API which results after such decrease. The resulting unadjusted cumulative API shall be no greater than the unadjusted cumulative PCI.

(b) Under s. 196.196 (1) (c), Stats., the only service specified by s. 196.196 (1) (a), Stats., for which prices may be increased during the first 3 years after the utility's initial price-regulated rates take effect is basic message telecommunications service. For any price change during the initial 3-year period after a utility elects price regulation, the API shall only include basic message telecommunications service.

History: Cr. Register, October, 1995, No. 478, eff. 11-1-95.

PSC 163.05 Rate increases and rate structure changes independent of the price cap index. (1) Under s. 196.196 (1) (e) 1., Stats., a price-regulated telecommunications utility, not earlier than 3 years after electing to become price-regulated, may alter its rate structure or increase rates for price-regulated services upon 120 days' prior notice to the commission. Under s. 196.196 (1) (e) 2., Stats., the commission upon a complaint by an affected party or on its own motion, may initiate an investigation. Within 120 days after initiating the investigation and following a hearing, the commission shall issue an order approving, modifying or rejecting the rate change.

(2) The API and PCI as set forth in s. PSC 163.04 (2) through (7), shall be reinitialized to 100 upon any rate increase or rate structure change in this section that results in the 3-year maximum API exceeding the 3-year maximum PCI.

(3) The notice required under s. 196.196 (1) (e), Stats., for a price-regulated telecommunications utility to change its rate structure or increase rates for price-regulated services shall be accompanied with the following information:

(a) Documentation that addresses the factors specified in s. 196.03 (6), Stats., for determining what is just and reasonable, and the impact of the proposed change on the public interest.

(b) A cost of service study supporting a change in rates above those allowed in s. 196.196 (1) (c), Stats. The cost of service study shall demonstrate that the cost of providing one or more price-regulated services, and all price-regulated services in the aggregate, have increased due to cost allocations or changes in the costs of providing that service that are outside the control of the telecommunications utility and the change in cost will not be fully offset by resulting changes in the GDPPI.

(c) If the rate change is based on changes in the allocation of costs outside of the control of the telecommunications utility, documentation shall include a description of the change in cost allocation methods, when management became aware of the change, the impact of the change on both the profitability of total company operations and the cost of providing price-regulated services, other steps taken by the utility to mitigate the impact of the change, and evidence that the change will disproportionately impact that utility with respect to other providers or carriers.

(d) If the reason for the rate change is based on effects of competition, a description of the actual or potential harm caused by competition if the proposed alteration of rate structure or rate increase is not granted.

(e) An estimate of the dollar amount of the monthly change for the typical residential customer that will result if the rate change becomes effective.

(f) The percent increase as a result of the rate change by rate element, by class and in total.

(g) If the rate change is based on changes in the costs of providing the service that are outside of the control of the telecommunications utility, documentation shall include a description of and the estimated annual impact of each changed cost given current rates and revenue forecasts, when management became aware of the change, the portion of the impact of the cost change which will

not be fully offset by resulting changes in the GDPPI, support that the impact of the cost change will persist over several years, and the reasons why the cost change is not part of the normal risk of doing business which should be recovered by increasing productivity instead of increasing rates or prices.

(h) Full explanations of reasons for changes in tariff structures, including applicable tariff regulations.

(i) Documentation to reconcile changes in rate design to overall revenue increase and to justify allocation of the proposed increase among various services or customer classes.

History: Cr. Register, October, 1995, No. 478, eff. 11-1-95.

PSC 163.06 Price regulation review. Pursuant to s. 196.196 (1) (g), Stats., in order to perform a review of price regulation after 5 years and any time thereafter, the commission needs to implement an effective monitoring program for price-regulated telecommunications utilities. In order to implement an effective monitoring program each telecommunications utility electing to become price-regulated shall file the following information during the period in which price regulation is in effect:

(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. 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 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. This subsection does not affect the commission's ability to require interim or periodic reports on specific subjects for monitoring purposes.

(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 one year after the utility's election to become price-regulated, and annually thereafter.

History: Cr. Register, October, 1995, No. 478, eff. 11-1-95.