

## 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.

(2m) "Average employee answer time" means the average speed of answer, including time in queue prior to speaking to the employee representative or otherwise receiving assistance.

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

(3m) "Day" means a calendar day, unless otherwise specified.

(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.

(10) "Year" means a calendar year, unless otherwise specified.

**History:** Cr. Register, October, 1995, No. 478, eff. 11-1-95; CR-00-184: cr. (2m), (3m) and (10), Register March 2002 No. 555, eff. 4-1-02.

**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 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.

**History:** Cr. Register, October, 1995, No. 478, eff. 11-1-95; CR 00-184: am. (3), Register March 2002 No. 555, eff. 4-1-02.

**PSC 163.04 Mechanics of price regulation.** (1) GENERAL. 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., 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.

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

(2) CALCULATING THE ANNUAL PCI. 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 ▲ 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) *Change in GDPPI.* On each anniversary date, the annual percentage change in gross domestic product price index or ▲ GDPPI shall be calculated by using the most recent quarterly chain-weighted index and the prior year's corresponding quarterly index, using the same revision series. 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) *Productivity factor offset.* 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) *Productivity study.* Each time the productivity factors are reviewed pursuant to par. (b), the commission shall provide for a productivity study for the telecommunications industry in this state. This study shall address the factors in par. (b) 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) *Service quality penalty mechanism and components.* 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 the percentage of repeat trouble reports.
- e. Responsiveness to customer requests for repair as measured by average employee 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 employee answer time for business office calls.

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

a. The commission, with opportunity for hearing, shall establish by order, industry-wide standards for each quality of service component based on a consideration of national and in-state stan-

dards, and national and in-state measurements of quality of service, if available.

b. 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. A company-specific benchmark is equal to the company's most recent 3-year performance average with respect to a particular quality of service component. For purposes of this subsection, "performance range" means a range 10% above to 10% below a telecommunications utility's average performance over the 3 years preceding the date on which the range is calculated.

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

3. Notwithstanding subs. 1. and 2., and pars. (cd) to (cp):

a. A utility may propose an alternative service quality penalty mechanism. Such a proposal shall be filed with the commission before May 1 of the year prior to the year to which the alternative mechanism would first be applied. A utility's proposal shall include proposed components, standards, and weightings, a description of how the penalty percentage is to be calculated based on the performance level, justification for using the alternative service quality penalty mechanism, and a description of how each standard was determined. The commission shall issue an order approving, modifying, or rejecting the proposal before December 1 of the year prior to the year to which the alternative mechanism would first be applied.

b. If approved, the alternative service quality penalty mechanism shall remain in effect unless terminated or modified by the utility or the commission.

(cd) *Initial service quality standards and benchmarks.* 1. When a utility elects price-regulation, it becomes subject to any industry-wide standards for the quality of service components shown in par. (c) 1. that have already been established by the commission for application to the election year.

2. If the commission has not established such industry-wide standards for application to the election year, it shall do so within 30 days of the filing of the utility's investment commitment plan pursuant to s. 196.196 (5), Stats.

3. Notwithstanding par. (c) 1., subs. 1., 2. and 4., and pars. (ch) to (cp):

a. Within 30 days of, a utility electing price-regulation, or the establishment of standards under subd. 2., whichever is later, a utility may propose one or more alternative or additional components for any of the aspects of customer service listed in par. (c) 1., or alternative industry-wide standards, or both. A 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. This filing may also include the weight to be given to each component, if different.

b. The commission may initiate an investigation of a utility's proposal under subd. 3. a. 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 a hearing is held, the time within which the commission shall issue an order may be extended by 30 days. 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.

4. Within 30 days of the filing of the utility's investment commitment plan pursuant to s. 196.196 (5), Stats., the commission shall issue an order establishing initial company-specific quality of service benchmarks, component weightings, and measurement timeframes for each quality of service component in par. (c) 1.

(ch) *Subsequent service quality standards and benchmarks.*

1. Before December 1 of the year in which industry-wide standards under par. (cd) are initially applicable, and before December 1 of every year thereafter, the commission 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. The commission shall issue an order establishing these new standards in conjunction with the order issued under subd. 2. or 3., or both, and following an opportunity for hearing. These updated standards shall be applied to the next year and shall be used in calculating the quality of service penalty on the anniversary date following the end of the year to which these standards are applied.

2. Before December 1 of the year in which industry-wide standards under par. (cd) are initially applicable, and before December 1 of every year thereafter, the commission shall compute new company-specific benchmarks based on the prior year's benchmarks, information filed under sub. (1) (b), and rules or orders regarding quality of service. The commission shall issue an order establishing these new benchmarks in conjunction with the order issued under subd. 1. or 3., or both, and following an opportunity for hearing. These updated benchmarks shall be applied to the next year and shall be used in calculating the quality of service penalty on the anniversary date following the end of the year to which these benchmarks are applied. 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.

3. Before December 1 of the year in which industry-wide standards under par. (cd) are initially applicable, and before December 1 of every year thereafter, 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 in: s. PSC 163.04 (2) (c) 1., an alternative plan approved under par. (cd) 3., any applicable order of the commission, or any combination thereof. The commission may issue an order revising these quality of service components, following an opportunity for hearing. If such an order is issued, it shall be issued in conjunction with the order issued under subd. 1. or 2., or both, whenever possible. These revised components shall be applied to the next year and shall be used in calculating the quality of service penalty on the anniversary date following the end of the year to which these components are applied.

(cp) *Service quality penalties.* Quality of service penalties shall be calculated as follows:

1. No penalty shall be assessed if:

a. Actual performance meets industry-wide standards and meets or improves upon company-specific benchmarks.

b. Actual performance meets industry-wide standards, fails to meet 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 company-specific benchmarks.

2. 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 company-specific benchmarks.

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 company-specific benchmarks, but meets or improves upon the company's performance range.

3. 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 company-specific benchmarks.

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.

(ct) *Exceptions.* 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 components that may be lesser, greater, or different than those provided in par. (cp).

(d) *Infrastructure investment incentive and penalty mechanism and components.* 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 benchmark ranges and measurement timeframes for each price-regulated 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.

(dc) *Initial infrastructure investment components and benchmarks.* 1. The commission shall establish initial infrastructure investment components together with initial benchmark ranges and measurement timeframes within 30 days of the filing of the utility's commitment plan pursuant to s. 196.196 (5), Stats.

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

3. The commission may initiate an investigation of a utility's proposal under subd. 2. within 30 days after receiving the 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.

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 thereof, may be different for each of the anniversary dates.

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

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 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 anniversary date following the year to which these benchmarks are applied.

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 anniversary date following the end of the year to which these components are applied.

(dn) *Subsequent optional infrastructure investment objectives.*

1. 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 an infrastructure incentive or penalty based on Table 1 in par. (g), it shall file, on or before March 1 of the plan year, a proposed infrastructure investment objectives plan. The plan shall include benchmark ranges proposed to be applied to that year. Objectives 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 anniversary date following the end of the year to which they are applied. These benchmark ranges shall provide incentives for improvements for which the utility would otherwise have few economic investment incentives. The 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. Improvements in switching technology.

3. If a utility that has fulfilled its infrastructure investment commitment under s. 196.196 (5), Stats., does not file, on or before March 1 of the plan year, 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.

(dr) *Infrastructure investment penalties and incentives.* 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 may be based on cumulative investment levels.

(dw) *Exceptions.* 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.

(f) *Discretionary penalty and incentives.* In addition to the penalty and incentives under pars. (c) to (d), the commission may also assign, at its discretion, an additional penalty or incentive, which is shown in Table 1.

1. To determine a discretionary penalty, the factors the commission may consider to the extent they relate to the utility's infra-

structure 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 or objectives 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 quality of service 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. 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 or objectives defined in its infrastructure investment plan.
- e. The extent to which schools, libraries, hospitals and similar institutions are utilizing the utility's infrastructure investments.

(g) *Maximum total penalty and incentive values.* 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 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	.8 %	N/A	1.6 %	N/A
Infrastructure investment	.1 %	.9 %	.2 %	1.8 %
Commission discretion	<u>.1 %</u>	<u>.1 %</u>	<u>.2 %</u>	<u>.2 %</u>
Total Maximum Value	<u>1.0 %</u>	<u>1.0 %</u>	<u>2.0 %</u>	<u>2.0 %</u>

<sup>1</sup>These 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.

<sup>2</sup>If 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.

**(3) CALCULATING THE UNADJUSTED CUMULATIVE PCI.** 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:

$$\text{Unadjusted Cumulative PCI}_x = \text{Unadjusted Cumulative PCI}_{x-1} * [\text{Annual PCI}_x / 100]$$

where unadjusted cumulative PCI<sub>x</sub> = the unadjusted cumulative PCI in year x

unadjusted cumulative PCI<sub>x-1</sub> = the previous year's unadjusted cumulative PCI

annual PCI<sub>x</sub> = the annual PCI in year x

**(4) CALCULATING THE 3-YEAR MAXIMUM PCI.** 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:

$$\text{3-Year Maximum PCI}_x = \text{Annual PCI}_x * \text{Annual PCI}_{x-1} * \text{Annual PCI}_{x-2} / 10,000$$

where 3-year maximum PCI<sub>x</sub> = the 3-year maximum PCI in year x

annual PCI<sub>x-1</sub> = the previous year's annual PCI or 100 if initialized in that year

annual PCI<sub>x-2</sub> = the annual PCI 2 years prior to year x or 100 if initialized within the last 2 years

**(5) CALCULATING THE ANNUAL API.** (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:

$$\text{Annual API} = \sum_i 100 * w_i (p_c / p_n)_i$$

where w<sub>i</sub> = the current revenue weight for rate element i

p<sub>c</sub> = the current price for rate element i

p<sub>n</sub> = 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) CALCULATING THE UNADJUSTED CUMULATIVE API.** 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:

$$\text{Unadjusted Cumulative API}_x = \text{Unadjusted Cumulative API}_{x-1} * [\text{Annual API}_x / 100]$$

where unadjusted cumulative API<sub>x</sub> = the current unadjusted cumulative API in year x

unadjusted cumulative API<sub>x-1</sub> = the previous year's final unadjusted cumulative API

annual API<sub>x</sub> = the current annual API in year x

**(7) CALCULATING THE 3-YEAR MAXIMUM API.** 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:

$$\text{3-Year Maximum API}_x = \text{Annual API}_x * \text{Annual API}_{x-1} * \text{Annual API}_{x-2} / 10,000$$

where 3-year maximum API<sub>x</sub> = the current 3-year maximum API in year x

annual API<sub>x-1</sub> = the previous year's final annual API or 100 if initialized in year x-1

annual API<sub>x-2</sub> = the final annual API 2 years prior to year x or 100 if initialized within the last 2 years

**(8) RATE ADJUSTMENTS.** (a) The commission shall issue an order no later than 60 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 60 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 result 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; CR 00-184: am. (1) (c), (2) (a), (bm), (g) and Table 1, (8) (a), renum. (2) (c) 1. to be (2) (c) 2. a., 3. to be (2) (cd) 3. a. 4. to be (2) (cd) 3. b., 5. to be (2) (c) 2. b., 6. (intro.) to be (2) (cp) 1. (intro.), a. to c. to be (2) (cp) 1. a. to c. 7. (intro) to be (2) (cp) 2. (intro.), 7. a. to be (2) (cp) 2. a., 7. b. to be (2) (cp) 2. b., 7. c. to be (2) (cp) 2. c. 8. (intro.) to be (2) (cp) 3. (intro.), 8. a. to be (2) (cp) 3. a., 8. b. to be (2) (cp) 3. b., 10. to be (2) (ch) 2., (2) (d) 1 to 4. to be (2) (d) and (dc) 1. to 3., 5. to be (2) (dr), 7. to be (2) (dg) 1., r. (2) (c) 2. and 9., (d) 6., (e), cr. (2) (c) 1., 2. (intro.), c., 3., (2) (cd), 1. to 3. (intro.), 4., (2) (ch) 1., 3., (2) (cp) (intro.), (2) (ct), (2) (dc) 4., (2) (dg) (intro.), 2., (dn) 1. to 3., (dw), r. and recr. (2) (f), Register March 2002 No. 555, eff. 4-1-02; **reprinted to restore dropped copy in (7) Register August 2005 No. 596.**

**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 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. 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.

(2) Financial results in summary form, showing revenues, expenses, net investment rate base, capital structure, and rate of return on utility common equity. This information shall be submitted no later than April 1 of each year, for the previous calendar year.

**History:** Cr. Register, October, 1995, No. 478, eff. 11-1-95; CR 00-184: am. (1) and (2), Register March 2002 No. 555, eff. 4-1-02.