

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

Clearinghouse No.00-184

**FINAL ORDER ADOPTING RULES**

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

**ANALYSIS PREPARED BY THE COMMISSION**

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

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 values table, and adding two additional quality of service components approved by the Commission. References to the Wisconsin Advanced Telecommunications Foundation (WATF) have been deleted as that body has dissolved. 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 quality of service, 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 quality of service 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 quality of service benchmarks are completed before the beginning of the year to which they will be applied. Two additional Commission-approved quality of service 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. New processes have been created to ensure that revisions to infrastructure benchmarks are completed either before the beginning of, or before March 1 of the year to which they will be applied (depends on whether the utility is following a mandatory or optional infrastructure investment plan.) 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.

**Section PSC 163.04(2)(g)**, which sets forth the maximum penalty or incentive values for quality of service, infrastructure investment, WATF, and Commission discretion, has been revised. The order in docket 05-TI-174, found that a portion of the penalty and incentive values associated with infrastructure investment be transferred to quality of service. The proposed rule would also transfer the penalty and incentive values associated with the defunct WATF to quality of service. An additional 0.1 percent penalty value has also been transferred from infrastructure investment to quality of service, in order to shift more emphasis to service quality, given the serious problems encountered by Ameritech customers in 2000.

Docket 1-AC-189

**TEXT OF FINAL RULES**

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

Dated at Madison, Wisconsin, \_\_\_\_\_

By the Commission:

\_\_\_\_\_  
Lynda L. Dorr  
Secretary to the Commission

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Attachments



**TEXT OF FINAL RULE**

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

PSC 163.02 (2m) “Average employe answer time” means the average speed of answer, including time in queue prior to speaking to the employe representative or otherwise receiving assistance.

SECTION 2. PSC 163.02(3m) is created to read:

PSC 163.02(3m) “Day” means a calendar day, unless otherwise specified.

SECTION 3. PSC 163.02(10) is created to read

PSC 163.02(10) “Year” means a calendar year, unless otherwise specified.

SECTION 4. PSC 163.03(3) is amended to read:

PSC 163.03(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 5. PSC 163.04(1)(title) is created to read:

PSC 163.04(1) GENERAL.

SECTION 6. PSC 163.04(1)(c) is amended to read:

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

PSC 163.04(2) CALCULATING THE ANNUAL PCI.

SECTION 8. PSC 163.04(2)(a)(title) is created to read:

PSC 163.04(2)(a) *Change in GDPPI.*

SECTION 9. PSC 163.04(2)(a) is amended to read:

PSC 163.04(2)(a) On ~~a utility's first~~ each anniversary date, the annual percentage change in gross domestic product price index or  $\Delta$  GDPPI shall be calculated by using the most recent quarterly ~~fixed-weight~~ chain-weighted index and ~~it's the prior year's~~ 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 10. PSC 163.04(2)(b)(title) is created to read:

PSC 163.04(2)(b) *Productivity factor offset.*

SECTION 11. PSC 163.04(2)(bm)(title) is created to read:

PSC 163.04(2)(bm) *Productivity study.*

SECTION 12. PSC 163.04(2)(bm) is amended to read:

PSC 163.04(2)(bm) 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. ~~If necessary, this~~ This study shall be completed by September 1, 2000 and every 3 years thereafter, and shall address the ~~above~~ above 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.

SECTION 13. PSC 163.04(2)(c)(title) is created to read:

PSC 163.04(2)(c) *Service quality penalty mechanism and components.*

SECTION 14. PSC 163.04(2)(c)1. is renumbered 163.04(2)(c)2.a. and amended to read:

PSC 163.04(2)(c)2.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 quality of service ~~for each quality of service component~~, if available.

SECTION 15. PSC 163.04(2)(c)1. is created to read:

PSC 163.04(2)(c)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 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 16. PSC 163.04(2)(c)2. is repealed.

SECTION 17. PSC 163.04(2)(c)2.(intro.) is created to read:

PSC 163.04(2)(c)2. The quality of service penalty mechanism shall be based on a combination of past company performance and industry-wide standards as follows:

SECTION 18. PSC 163.04(2)(c)2.c. is created to read:

PSC 163.04(2)(c)2.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.

SECTION 19. PSC 163.04(2)(c)3. is renumbered 163.04(2)(cd)3.a. and amended to read:

PSC 163.04(2)(cd)3.a. Within 30 days of ~~the commission establishing initial industry-wide standards for the quality of service components shown in subd. 2, 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 these the aspects of customer service listed in par. (c)1., or alternative 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 20: PSC 163.04(2)(c)3. is created to read:

PSC 163.04(2)(c)3. Notwithstanding subds. 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.

SECTION 21. PSC 163.04(2)(c)4. is renumbered 163.04(2)(cd)3.b. and amended to read:

PSC 163.04(2)(cd)3.b. 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. 3.a. within 30 days after receiving the utility's proposal. Within 60 days after initiating an investigation and following ~~the~~ 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.



SECTION 22. PSC 163.04(2)(c)5. is renumbered 163.04(2)(c)2.b. and amended to read:

~~PSC 163.04(2)(c)2.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 a~~ 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 ~~paragraph-subsection~~, "performance range" means a range 10% above to 10% below a telecommunications utility's ~~most recent 3-year average performance;~~ over the 3 years preceding 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.~~

SECTION 23. PSC 163.04(2)(c)6.(intro.) is renumbered 163.04(2)(cp)1.(intro.).

SECTION 24. 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:

PSC 163.04(2)(cp)1.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.

SECTION 25. PSC 163.04(2)(c)7. (intro.) is renumbered 163.04(2)(cp)2. (intro.).

SECTION 26. PSC 163.04(2)(c)7.a. is renumbered 163.04(2)(cp)2.a. and amended to read:

PSC 163.04(2)(cp)2.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 27. PSC 163.04(2)(c)7.b. is renumbered 163.04(2)(cp)2.b.

SECTION 28. PSC 163.04(2)(c)7.c. is renumbered 163.04(2)(cp)2.c. and amended to read:

PSC 163.04(2)(cp)2.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 29. PSC 163.04(2)(c)8.(intro.) is renumbered 163.04(2)(cp)3.(intro.).

SECTION 30. PSC 163.04(2)(c)8.a. is renumbered 163.04(2)(cp)3.a. and amended to read:

PSC 163.04(2)(cp)3.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 31. PSC 163.04(2)(c)8.b. is renumbered 163.04(2)(cp)3.b.

SECTION 32. PSC 163.04(2)(c)9. is repealed.

SECTION 33 PSC 163.04(2)(c)10. is renumbered 163.04(2)(ch)2. and amended to read:

PSC 163.04(2)(ch)2. ~~On each anniversary date~~ 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, ~~following an opportunity for hearing,~~ shall compute new ~~industry wide standards and~~ company-specific benchmarks based on the prior year 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 quality penalty on the next 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. ~~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 34. PSC 163.04(2)(cd)(title), 1., 2., and 3.(intro.) are created to read:

PSC 163.04(2)(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., subds. 1., 2. and 4., and pars. (ch) to (cp):

SECTION 35. PSC 163.04(2)(cd)4. is created to read:

PSC 163.04(2)(cd)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.

SECTION 36. PSC 163.04(2)(ch)(title) is created to read:

PSC 163.04(2)(ch) *Subsequent service quality standards and benchmarks.*

SECTION 37. PSC 163.04(2)(ch)1. is created to read:

PSC 163.04(2)(ch)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.

SECTION 38. PSC 163.04(2)(ch)3. is created to read:

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.

SECTION 39. PSC 163.04(2)(cp)(title) and (intro.) are created to read:

PSC 163.04(2)(cp) *Service quality penalties.* Quality of service penalties shall be calculated as follows:

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

PSC 163.04(2)(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).

SECTION 41. PSC 163.04(2)(d)(title) is created to read:

PSC 163.04(2)(d) *Infrastructure investment incentive and penalty mechanism and components.*

SECTION 42. PSC 163.04(2)(d)1., 2., 3., and 4. are renumbered 163.04(2)(d) and (dc)1., 2., and 3., and amended to read:

PSC 163.04(2)(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.

PSC 163.04(2)(dc)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 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 ~~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 43. PSC 163.04(2)(d)5. is renumbered 163.04(2)(dr) and amended to read:

PSC 163.04(2)(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 44. PSC 163.04(2)(d)6. is repealed.

SECTION 45. PSC 163.04(2)(d)7. is renumbered 163.04(2)(dg)1. and amended to read:

PSC 163.04(2)(dg)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, ~~may~~ 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. ~~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 46. PSC 163.04(2)(dc)(title) is created to read:

PSC 163.04(2)(dc) *Initial infrastructure investment components and benchmarks.*

SECTION 47. PSC 163.04(2)(dc)4. is created to read:

PSC 163.04(2)(dc)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.

SECTION 48. PSC 163.04(2)(dg)(title) and (intro.) are created to read:

PSC 163.04(2)(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.:

SECTION 49. PSC 163.04(2)(dg)2. is created to read:

PSC 163.04(2)(dg)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.

SECTION 50. PSC 163.04(2)(dn)(title), 1., 2., and 3. are created to read:

PSC 163.04(2)(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.

SECTION 51. PSC 163.04(2)(dr)(title) is created to read:

PSC 163.04(2)(dr) *Infrastructure investment penalties and incentives.*

SECTION 52 PSC 163.04(2)(dw) is created to read:

PSC 163.04(2)(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.

SECTION 53. PSC 163.04(2)(e) is repealed.

SECTION 54. PSC 163.04(2)(f) is repealed and recreated to read:

PSC 163.04(2)(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 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 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.

SECTION 55. PSC 163.04(2)(g)(title) is created to read:

PSC 163.04(2)(g) *Maximum total penalty and incentive values*.

SECTION 56. PSC 163.04(2)(g) and Table 1 are amended to read:

PSC 163.04(2)(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**  
 500,000 or Fewer  
 Access Lines

Adjustment Factor <sup>1</sup>	500,000 or Fewer Access Lines		More than 500,000 Access Lines	
	Penalty	Incentive	Penalty	Incentive
Quality of service	<del>.4.8%</del>	N/A	<del>.81.6%</del>	N/A
Infrastructure Investment <sup>2</sup>	<del>.4.1%</del>	<del>.8.9%</del>	<del>.8.2%</del>	<del>1.61.8%</del>
<del>Wisconsin Advanced Telecommunications Foundation</del>	<del>.1%</del>	<del>.1%</del>	<del>.2%</del>	<del>.2%</del>
Commission Discretion	.1%	.1%	.2%	.2%
Total Maximum Value	1.0%	1.0%	2.0%	2.0%

<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.

SECTION 57. PSC 163.04(3)(title) to 163.04(8)(title) are created to read:

PSC 163.04(3) CALCULATING THE UNADJUSTED CUMULATIVE PCI.

(4) CALCULATING THE 3-YEAR MAXIMUM PCI

(5) CALCULATING THE ANNUAL API

(6) CALCULATING THE UNADJUSTED CUMULATIVE API

(7) CALCULATING THE 3-YEAR MAXIMUM API

(8) RATE ADJUSTMENTS.

SECTION 58. PSC 163.04(8)(a) is amended to read:

PSC 163.04 (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~~ result after such decrease. The resulting unadjusted cumulative API shall be no greater than the unadjusted cumulative PCI.

SECTION 59. PSC 163.06(1)and (2) are amended to read:

PSC 163.06(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.

(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~~ 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.