CR 13-025

PUBLIC SERVICE COMMISSION OF WISCONSIN

Changes to Telecommunications Rules as a Result of Retail Deregulation 1-AC-237

Clearinghouse Rule 13-025

ORDER ADOPTING FINAL RULES

The Public Service Commission of Wisconsin adopts an order to repeal PSC 8.07 (7) and (11), 162, 163, 164, 165.02 (1) to (6), (8), (11), (13) to (20), and (23), 165.031, 165.034 to 165.064, 165.065 (2), 165.066 to 165.10, 166, 167, 168.10 (1) (b) to (d) and (2), and 168.11, 168.12 (1) (f), 169, 171.06 (2) and (3), 171.07 (4) and (5), 171.08, 171.10 (3) and 174; to renumber and amend PSC 168.10 (1) (intro.) and (a); to amend PSC 100.01, 102.01, 104.02 (3), 165.01 (2), 165.032 (intro.), (2), (6), (7) and (9), 165.033, 165.065 (1), 168.05 (1) (d) and (3), 168.09 (4), 168.12 (1) (intro.), 168.13 (1) (a), 171.02 (5), 171.06 (1) and 171.10 (1); and to repeal and re-create PSC 171.09, relating to regulation of telecommunications providers and services.

REPORT TO THE LEGISLATURE

The Report to the Legislature is set forth as Attachment A.

FISCAL ESTIMATE

The proposed rule changes and repeals will likely result in a small, positive fiscal impact in that compliance costs will be reduced through the removal of non-applicable regulations or textual clarification that a retained rule does not apply to a particular type of telecommunications service provider. This rulemaking seeks to update and clarify the scope of the commission's

remaining telecommunications jurisdiction in the wholesale, carrier-to-carrier sector of the telecommunications industry, and to effect rule compliance with current federal regulations.

The Economic Impact Analysis for this rulemaking is included as Attachment A2.

FINAL REGULATORY FLEXIBILITY ANALYSIS

The intention of this rulemaking is to clarify those activities removed from state regulation, thereby affording a benefit to providers that might otherwise believe they have to observe both federal and state requirements with respect to those activities. Confusion that could be caused by retention of obsolete provisions in the Wisconsin Administrative Code should be largely, if not completely, avoided. The reduction in compliance costs is a positive financial benefit for both small and large telecommunications providers, effecting an across-the-board reduction of regulatory compliance obligations and associated costs. Those limited duties preserved for the commission largely relate to wholesale interactions among providers. Other duties (chiefly regarding access rates, numbers and service maps) are clarified and updated consistent with the provisions of 2011 Wis. Act 22 (Act 22) that involve federal law. The rule will likely have small, but beneficial impacts upon affected small businesses by reducing or eliminating retail regulations rendered inapplicable by Act 22.

EFFECTIVE DATE

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.

CONTACT PERSON

Questions regarding this matter should be directed to docket coordinator Michael Varda at (608) 267-3591 or mike.varda@wisconsin.gov. Small business questions may be directed to Gary Evenson at (608) 266-6744, or via e-mail at gary.evenson@wisconsin.gov. Media

questions should be directed to Nathan Conrad, Communications Director, at (608) 267-9600. Hearing- or speech-impaired individuals may also use the commission's TTY number. If calling from Wisconsin, use (800) 251-8345; if calling from outside Wisconsin, use (608) 267-1479.

The commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to obtain this document in a different format should contact the docket coordinator listed above.

Dated at Madison, Wisconsin, this 13th day of December, 2013.

By the Commission:

Sandra J. Paske
Secretary to the Commission

Attachments

DL: 00895840

REPORT TO THE LEGISLATURE

A. TEXT OF THE RULE

The text of the proposed rules is set forth in Attachment A1.

B. PLAIN LANGUAGE ANALYSIS

1. Statutory Authority and Explanation of Authority

This rulemaking is conducted by the commission under ss. 196.02 (1) ("do all things necessary and convenient to its jurisdiction"); 196.02 (3) ("The commission may adopt reasonable rules to . . . regulate the mode and manner of all . . . investigations and hearings."); and 196.44, Stats. ("The commission . . . shall enforce all laws relating to public utilities . . . ."). In addition, the commission has the general power granted to all state agencies under s. 227.11 (2) (a), Stats. ("Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, ...").

Statutes Interpreted

The primary purpose of this rulemaking is the removal of all those regulations no longer consistent with the regulatory scheme for telecommunications services in Wisconsin enacted and framed by 2011 Wis. Act 22 (Act 22), effective June 9, 2011. Updating changes in the regulations are also included where appropriate to conform to existing law apart from Act 22.

Related Statutes or Rules

The above-referenced rules are uniquely limited to the commission's jurisdiction under ch. 196, Stats. No other related state or federal statutes or rules are affected, whether adversely or positively.

2. Brief Summary of Proposed Rules

The general purpose of this rulemaking is to remove or clarify the application of existing commission regulations that primarily impose reporting requirements, constraints on retail service offerings, or other regulatory oversight. Almost all of the changes are non-controversial.

Specifically, telecommunications utility regulatory and reporting requirements removed by Act 22 warrant the amendment and repeal of various provisions, as detailed in Attachment A1, in chs. PSC 8, 100, 104, 162, and 168. Act 22's repeal of commission regulation of retail services offered by telecommunications utilities to the consuming public warrant the repeal of most of ch. PSC 165 (retaining minor clarifications of the remaining tariff and map rules), the repeal (with other minor conforming changes) of any retail rate regulation of resellers in ch. PSC 168, and the repeal of all retail ratemaking and service-related regulations in chs. PSC 163, 164, 166, 167, and 174. Reflecting existing federal preemption of most state regulation of payphone providers by the Telecommunications Act of 1996,[1] payphone regulation in ch. PSC 169 is proposed for repeal. Finally, ch. PSC 171 governing cable television telecommunications providers is amended to reflect the reduction in data reporting to the commission and the removal of limitations on alternative telecommunications providers included in Act 22's changes to s. 196.203, Stats.

[1] Pub. L. 104-104, 110 Stat. 56 (1996) (1996 TA).

The proposed changes include repeal of certain regulations that arguably reflect state-imposed service quality standards that also intertwine with promoting wholesale competition: (1) Sections PSC 165.064, 165.085, 165.086 and 165.087, involving trunking duties and transmission service quality between at least two telecommunications providers' networks, and (2) Section PSC 165.055, regarding the distribution and contents of alphabetical local exchange directories ("white pages").

3. Comparison with Existing or Proposed Federal Regulations

Most retail regulation of telecommunications services, apart from long distance and payphone services, and reporting by state-certificated providers to the commission, have been the historical regulatory domain of state commissions. Act 22 has essentially removed these state obligations, leaving to the commission, with some exceptions in s. 196.219, Stats., only those regulatory duties affecting wholesale relations among telecommunications services providers. Section 196.016, Stats., grants the commission the authority to exercise duties within the 1996 TA that have been granted by that law or the FCC to the state commissions to administer if they so elect. The commission retains authority over areas such as telephone numbering, universal service (including designation of eligible telecommunications carriers), and determinations under 47 USC 251 (f) (1) and (2) to terminate or maintain a rural or small incumbent local exchange carrier's claim to an exemption from interconnection. The proposed changes identified in the second paragraph of 2. above arguably can be addressed and resolved through carrier-to-carrier proceedings under the 1996 TA administered by the commission, specifically the negotiation and arbitration of interconnection agreements under 47 USC 251 and 252 and the provisions preserving state service quality standards cognizable under 47 USC 252 (e) (3), 253 (b), 254 (f), and 261.

4. Comparison with Similar Rules in Adjacent States

To conduct this comparison, inquiries were made to the state commissions of Iowa, Illinois, Michigan and Minnesota about the current telecommunications regulatory framework (statutes and rules) prevailing in each state. The inquiry asked questions regarding (1) the extent of reduction of carrier reporting requirements; (2) whether retail rate regulation remained; (3) what provider of last resort (POLR) duty existed, if any; (4) whether the state was seeking parity of regulation among the incumbents and competitors; and (5) whether wholesale jurisdiction as allowed to the states by the 1996 TA was in place. The responses for the four states indicated variations as to (1) through (4), noted in the next paragraphs, but a uniform retention of state wholesale jurisdiction, as allowed by the 1996 TA, in response to (5).

Illinois still imposes significant financial and service quality reporting duties on incumbent carriers under rate of return regulation. However, many large carriers have elected market regulation of their rates, a scheme which deregulates most pricing except for certain "safe harbor" basic service type packages for consumers. A POLR duty of the incumbent may not be abandoned as to classes of service except upon approval by the Illinois Commerce Commission (ICC). Small carriers having fewer than 35,000 lines are not rate-of-return regulated, but may be subjected to a rate-of-return rate case before the ICC upon complaint by a substantial number of the customers (10 percent). On the wholesale side, it is sufficient for one carrier to complain about a small carrier's access rates and thereby trigger an ICC rate case on those rates. Illinois did undertake some legislation to equalize the reporting among incumbent and new carriers, in Pub. Act 96-0927, effective June 15, 2010.

Iowa had previously reduced reporting requirements and in 2005 deregulated all rates except for retention of complaint jurisdiction over intrastate switched access rates. Tariffing was

removed in favor of mandatory price catalogues of services. Iowa has never had an explicit POLR duty for incumbents, but frames a duty for both incumbents and new competitors to serve "all eligible customers." Incumbent local exchange providers are required to file maps and competitors are obliged to indicate the extent they concur in those maps as to their service territories.

Michigan currently requires reporting to assist the Michigan Public Service Commission prepare an annual "Status of Competition" report. However, that duty expires with the last report due in 2013 and will effectively end the current reporting obligations. Access charge tariffs are still required. In June 2011, Michigan totally ended retail rate regulation, paralleling the effect of Act 22. However, there is still a provider of last resort duty, relief from which is permitted, but only under the state commission's supervision and control. Michigan much earlier equalized level of regulation by unifying its certification process under one certification category for local exchange service, but with defined territories.

Minnesota more than two years ago substantially reduced its reporting requirements to a one-page inquiry. Minnesota has an alternative form of regulation statute enacted before 2010 that has been elected by most incumbents and new competitors. Almost all rates are deregulated except for single-line residential and business customer services that are subject to a $1/year price increase cap. The state still retains a POLR duty and has not to this point engaged in legislative attempts to create more parity of regulation among providers.

5. Summary of Factual Data and Analytical Methodologies Used

The changes brought about by Act 22 provide the basis for the majority of changes being made in this rulemaking.

6. Effect on Small Business

The removal of the proposed regulations should have a positive effect on small business by removing obsolete regulations, thereby simplifying and reducing the costs incurred by small businesses.

7. Agency Contacts

Questions regarding this matter should be directed to docket coordinator Michael Varda at (608) 267-3591 or mike.varda@wisconsin.gov. Small business questions may be directed to Gary Evenson at (608) 266-6744, or via e-mail at gary.evenson@wisconsin.gov. Media questions should be directed to Nathan Conrad, Communications Director, at (608) 267-9600. Hearing- or speech-impaired individuals may also use the commission's TTY number. If calling from Wisconsin, use (800) 251-8345; if calling from outside Wisconsin, use (608) 267-1479.

8. Accommodation

The commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs to receive this document in a different format should contact the docket coordinator, as indicated in the following paragraph, as soon as possible.

C. FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYIS

The proposed rule changes and repeals will likely result in a small, positive fiscal impact in that compliance costs will be reduced through the removal of non-applicable regulations or textual clarification that a retained rule does not apply to a particular type of telecommunications

service provider. This rulemaking seeks to update and clarify the scope of the commission's remaining telecommunications jurisdiction in the wholesale, carrier-to-carrier sector of the telecommunications industry.

The Economic Impact Analysis for this rulemaking is included in Attachment A2.

D. BASIS AND PURPOSE OF RULES

The genesis of this rulemaking is primarily, but not exclusively, the reduction in commission oversight of intrastate telecommunications enacted in Act 22, effective June 9, 2011. The primary objective of this rulemaking is to conform the commission's telecommunications rules to its statutory jurisdiction. A secondary purpose is to remove all non-controversial provisions that are obsolete or inapplicable on account of technological changes, federal law, or rulings of the Federal Communications Commission. Removal of inapplicable regulations, or modification of the scope of retained regulations where required by Act 22, simplifies the rules, thereby reducing legal compliance and monitoring costs for telecommunications providers.

Some of the changes, such as amendments to parts of ch. PSC 165 (see next section), clarify the source of current commission practices under the 1996 TA and s. 196.016, Stats., which was enacted by Act 22 and confirms and clarifies the Commission's jurisdiction and authority to conform state law with federal law and achieve additional compliance monitoring savings.

E. SUMMARY OF PUBLIC COMMENTS AND COMMISSION RESPONSES

1. Public Comments Filed

Comments were filed by Wisconsin Bell, Inc., d/b/a AT&T Wisconsin (AT&T); CenturyLink, the corporate parent of 12 local exchange operating companies in Wisconsin; the Wisconsin Cable Communications Association (WCCA); and the Wisconsin State Telecommunication Association, Inc. (WSTA). The comments of the foregoing entities are available at the Commission's website, in its Electronic Regulatory Filing (ERF) system: AT&T, PSC REF#: 184445; CenturyLink, PSC REF#: 184447; WCCA, PSC REF#: 184452; and WSTA, PSC REF#: 184442.

2. Matters on which Commission Sought Specific Comments.

Section PSC 165.055 Directories.

The issue of the "white pages" directory listing and distribution requirements in Wis. Admin. Code s. PSC 165.055 was a common topic to all comments. AT&T, CenturyLink, and the WSTA argue that (1) by repeal of commission retail service regulation, Act 22 also removed the commission's jurisdiction to impose a service-affecting white pages distribution requirement, (2) the requirement cannot be re-cast as a universal service requirement under Act 22 or federal law, and (3) white pages are in fact in declining demand by consumers.

The WCCA argues that the matter should be deferred to docket 1-AC-236 addressing universal service fund rules, or, failing that, the rule should be updated and retained. The WCCA comments further that if the rule is repealed, the commission should impose on incumbent local exchange carriers (ILECs) four specific conditions on distribution of directories that, it asserts, would ensure parity of treatment for the customers of competitive local exchange carriers (CLECs) still desiring directories. These conditions would be imposed pursuant to the

specifications for interconnection agreements in 47 USC 251 (b) (3), accompanying federal regulations and case law.

The commission, agreeing with AT&T, CenturyLink, and the WSTA, concludes that there is no legal basis under Act 22 for retention of what is essentially a historic retail service requirement. Act 22 re-defined "essential telecommunications services" for universal service support in s. 196.218, Stats., as the federal standard in 47 CFR 54.101 (a) as of January 1, 2010. That federal definition does not require distribution of a white pages directory. In any event, a CLEC may under federal law, as noted by the WCCA, bargain with interconnecting ILECs to secure continued listing in, and access to, white pages for the benefit of their customers, notwithstanding a repeal of s. PSC 165.055. Act 22's effect upon white pages directories and the rule repeal may constitute a "change of law" permitting either party in an interconnection agreement, depending upon its terms, to seek renegotiation of an affected directory provision. The directory requirements will remain excluded from the language adopted for submission to the Governor and the Legislature.

Sections PSC 165.064 Interconnection service standards; 165.085 Interoffice trunks; 165.086 Transmission requirements; and 165.087 Minimum transmission objectives.

The commission sought comments for or against retaining the above-identified regulations because they arguably represent a form of basic transmission service quality that a state may impose in wholesale interconnection agreement arbitration proceedings, as protected to the states in 47 USC 252 (e) (3), 253 (b) (2), and 261 (b).

AT&T generally supports the proposed repeal as set forth in the March 22, 2013, Notice of Hearing in this docket. AT&T comments that the three specific technical regulations (ss. PSC 165.085, 165.086, and 165.087) apply to retail regulation repealed by the legislature and are

inapplicable to the wholesale regulation retained by the commission. It argues that retention of the rules would have a negative effect on carrier investment. With respect to s. PSC 165.064, AT&T argues that the rule's very text creates a nullity because the abolition of the retail standards of ch. PSC 165 leaves nothing to which the rule could apply.

AT&T also argues that the commission has no authority under state or federal law to impose ss. PSC 165.085, 165.086, and 165.087, even assuming the rules are standards related to interconnection. It notes that the commission may approve and enforce interconnection agreements pursuant to s. 196.199, Stats., and that s. 196.219 (3) (a), Stats., requires telecommunications interconnection services to the "same extent" as the 1996 TA, but nothing in state law permits the commission "to establish, by rulemaking or otherwise, generally applicable service standards for interconnection provided pursuant to [the 1996 TA]." It comments that state interconnection service standards are preempted by the 1996 TA, citing *Indiana Bell Tel. Co. v. Ind. Util. Regulatory Comm'n*, 359 F.3d 493 (2004) (*Indiana Bell*).

CenturyLink agrees with AT&T that the commission should delete ss. PSC 165.064 and 165.085 to 165.087. It argues that retention of the rules would be inconsistent with Act 22 and violate the 1996 TA by enacting "wholesale service quality standards outside of the context of an interconnection agreement," citing *Indiana Bell.*

The WSTA, also citing *Indiana Bell,* commented that s. PSC 165.064 should be repealed because the commission retained only "select jurisdiction with respect to interconnection matters," and that Act 22 did not "preserve or create" commission jurisdiction "to adopt or enforce generic interconnection service standards." As for ss. PSC 165.085 to 165.087, the WSTA argues that these regulations are "retail rules" effectively repealed by Act 22 and that the

commission is preempted by federal law in the matter of rulemakings about wholesale service quality standards.

In contrast to the comments described above, the WCCA argues for retention of the four rules as "default technical criteria" for trunking and transmission standards that could be invoked as between a CLEC and an ILEC when needed. The WCCA urges their updating and their retention.

The commission concludes that it will not retain the four regulations in question, but for different reasons than the legal reasons argued by the commenters. The commenters treat the current regulations as strictly retail in nature and thus effectively repealed by Act 22. This view misapprehends the very text of s. PSC 165.064 that makes the rules applicable to interconnection. In other words, the current rules clearly address functions on the wholesale side, that is, the connections between different carriers' networks not seen at retail. In 1992, when the rule became effective, the term "interconnection" had a more generic meaning. The technical split between "interconnection" as defined in 47 CFR 51.3 as the physical "linking of two networks for the mutual exchange of traffic," but not including "transport and termination of traffic," did not arise until after the enactment of the 1996 TA. The 1996 TA's distinction between "interconnection" and "transport and termination" is actually compatible with the jurisdiction preserved for state service quality standards, including transmission quality standards, as protected by the 1996 TA to the states in 47 USC 252 (e) (3), 253 (b) (2), and 261 (b). Retention of the last three rules, ss. PSC 165.085, 186.086, and 165.087—which are transmission and not interconnection standards—would be permissible under those federal statutes and reflect the commission's duty in s. 196.44, Stats., and authority in s. 196.016, Stats.,

to help enforce the basic duty of a telecommunications utility in s. 196.03 (1) and (6), Stats., to furnish "reasonably adequate services and facilities."

Notwithstanding the commenters' legal misconceptions, the commission in its discretion elects to exclude the four rules from retention. The age of the standards, their focus upon circuit-based networks, the rapid changes towards digital networks using Internet protocol (IP) transmission, and the lack of any significant commission enforcement history, affects the immediate usefulness of the rules in ensuring basic transmission service quality as needed by interconnecting carriers and, ultimately, the consuming public, the primary beneficiary of utility regulation under ch. 196, Stats. At this point, the commission believes the better means for securing service quality is by CLECs vigorously pursuing their interconnection rights, individually or jointly, under 47 USC 251 and 252. In the rare case where a complaint is registered against a telecommunications utility's service quality, a more current standard of transmission service could be proved up at that time and likely be more relevant to the network or networks in question.

3. Other Matters Commented upon by the Public.

AT&T did not comment about matters outside those reviewed in 2. above. This segment will review in numerical order the other commission regulations commented upon by CenturyLink, the WSTA, and the WCCA.

Section PSC 104.02 (3).

The commission is proposing to amend the general rule regarding recording and reporting utility accidents to exclude alternative telecommunications utilities (ATUs) certified under s. 196.203, Stats., from the definition of public utilities obliged by ch. PSC 104 to report to the commission under s. 196.72, Stats. See Wis. Admin. Code § PSC 104.02(3). CenturyLink asks

for clarification that its re-certification of its 12 operating companies under s. 196.50 (2) (j) 1. a., Stats., is indeed an ATU certification under s. 196.203 that makes them ATUs not subject to accident reporting.

The WSTA, while agreeing with the proposed exclusion of ATUs, urges the commission to expand the exclusion from accident reporting to all "telecommunications providers." It argues that (1) telecommunications utilities can seek recertification under ss. 196.50 (2) (j) 1. b., and 196.203, Stats., and be exempted from s. 196.72, Stats., and the regulation requiring accident reporting; (2) safety reporting duties can be legitimately differentiated between types of public utilities (energy, water, and telecommunications); and (3) there is no basis to differentiate safety reporting duties among telecommunications providers, considering Act 22's goal of regulatory parity. The WSTA therefore proposes exclusion of *all* telecommunications providers from the accident recording, notification and reporting requirements in ch. PSC 104.

The commission concludes that the proposed limitation of the amendment to exclude only ATUs should be maintained because the legislature, with full input from the industry, elected in Act 22 to retain the accident reporting duties in s. 196.72, Stats., for telecommunications public utilities retaining certification under s. 196.50, Stats. This is not to say the WSTA's arguments are without merit, but Act 22 clearly does not reflect a legislative adoption of the WSTA's arguments. Moreover, those arguments advance a policy change beyond the scope of this rulemaking docket. Finally, any individual telecommunications utility having a problem can use the recertification notice process to eliminate the duty. The WSTA's probable venue for a broad policy change is in the legislature.

CenturyLink's concern about its operating company re-certifications is unwarranted. The commission's view is that, regardless of the multiple statutory references in CenturyLink's

certifications, s. 196.50 (2) (j) 1. a., Stats., unequivocally locates ultimate certification in s. 196.203, Stats. The relevant statutory provision plainly states, "No later than 30 days after receiving notice under this subd.1. a., the commission shall issue an *order granting a certification under s. 196.203*." Section 196.203 (2) (j) 1. a., Stats. (emphasis added).

Section PSC 165.01 (2).

The WSTA argues that none of the rules proposed for retention in ch. PSC 165 has any relation to ss. 196.03, 196.04 and 196.199, Stats., so those three statutes should be removed from the list of statues implemented by the chapter. It also argues that the specific statutes enforced by the map requirement in retained s. PSC 165.033 are s. 196.50 (2) (b) and (g) 2., Stats. Lastly, the WSTA asserts that s. 196.06, Stats., regarding filing of annual balance sheets, is erroneously omitted from any treatment in s. PSC 165.01 (2) and, dealt with properly, should be proposed for elimination.

The commission agrees with the WSTA that treatment of s. 196.06, Stats., was erroneously omitted. It shall be eliminated from s. PSC 165.01 (2) because the statute deals with an annual financial reporting requirement repealed by Act 22. The commission, however, believes retention of ss. 196.03, 196.04, and 196.199, Stats., is useful for the commission's administration of its wholesale responsibilities and those responsibilities under federal law assumable under s. 196.016, Stats., a statute unopposed for addition to s. PSC 165.01 (2). The amended map requirement proposed in s. PSC 165.033 assists the commission in understanding the geographical territory in which a telecommunications utility is legally obliged under s. 196.03(1) and (6), Stats., to provide "reasonably adequate service and facilities." The geographical scope of an exchange also assists in a modest way in determining whether a particular charge may be "just and reasonable." Both service and rates could be the subject of a

consumer request under s. 227.41, Stats., for a declaratory ruling that a particular telecommunications utility's services or rates fall short of any historical understandings in the law of "reasonably adequate service and facilities," and "just and reasonable rates."

By the same token, the filed maps assist the commission's understanding of the geographical territories describing the local exchange territories of incumbent local exchange carriers implicitly offered at wholesale in interconnection agreements that are negotiated, arbitrated, and/or approved under the 1996 TA—which activities the commission may undertake under ss. 196.016, 196.04, and 196.199, Stats. It is quite possible that existing approved interconnection agreements do not specify with maps the geographical areas in which the interconnecting carriers supply each other transport and termination services in local service. For example, in the event of a claim of a breach of contract brought before the commission under s. 196.199, Stats., the maps on file with the commission at the time of the approval of the interconnection agreement may constitute substantial parole evidence of what the disputing parties intended as the service territories offered in the agreement.

Out of an abundance of caution, the commission concludes that retention of the statutes will be materially helpful in the event of certain types of wholesale disputes, while causing no adverse impact upon the industry. Providers still have the ability (1) to seek amendments to the maps under retained special order modification powers in s. PSC 165.02 (3), and (2) to protect themselves through interconnection agreements.

Section PSC 165.02.

This provision sets forth several technical telecommunications definitions. The WSTA comments, at page 5 (erroneously identifying the regulation as s. PSC 165.01 (2)), suggest removal of five additional definitions because the terms are not used in the retained provisions of

ch. PSC 165. The commission agrees with the suggestion and will additionally eliminate ss. PSC 165.02 (1), (6), (8), (17), and (23) which define, respectively, "access line," "calls," "central office," "network interface device," and "toll connecting trunks."

Section PSC 165.032.

The WCCA suggests for additional clarity that a sentence be inserted specifically requiring tariffs for intrastate switched access services to comply with s. 196.191, Stats. The WSTA suggests that for additional clarity that the parenthetical explanation in subsection (2) be removed because "base rate" is proposed for removal from the definitions in s. PSC 165.02. The WSTA also suggests simplifying subsection (2) to read as follows: "A map of each exchange."

The commission concludes that the suggestion of the WCCA does not provide anything not already required by the statutory language of s. 196.191, Stats. In fact, the proposed revision may imply a duty of substantive compliance with s. 196.191, Stats., in possible conflict with federal law. Since the purpose of the regulation is to describe tariff publication standards and permissible contents, the WCCA's proposed change is outside the function of the regulation and is not adopted.

The WSTA's comment to remove the parenthetical in subsection (2) is reasonable and is adopted. The other change is not adopted. Rather, the commission is modifying the language of the subsection to help minimize any ambiguity about where a geographically-defined rate applies—if such a rate is in effect, the offering carrier elects to file its rate tariff with the commission, and the carrier elects to include an exchange map in the tariff. Thus, the commission modifies subsection (2) to read as follows:

(2) A map of each exchange showing any applicable ~~the various~~ rate areas within the exchange. ~~(Base rate, locality, zone and rural areas.)~~

The commission believes that a map reflecting applicable rate areas would be of value to the goal of this regulation to "minimize ambiguity or the possibility of misinterpretation." Of course, if an exchange does not contain differing "rate areas," the map's legend can simply state that fact, and the relevant local exchange rates filed would be construed to be exchange-wide, setting aside any concerns related to extended area service (EAS) or extended community calling (ECC). Nothing is intended here to abridge the right of a carrier to not file any tariff or to omit any exchange map in the tariff if filed.

Section PSC 165.033.

CenturyLink comments that it believes the amended map requirement in this regulation could "be interpreted to require the map showing where within an exchange specific services are actually provided." In lieu of the proposed language for subsection (1) requiring maps "depicting each specific geographical area in which it furnishes a local exchange service, as defined in s. 196.219 (1) (b)," under its statewide telecommunications utility certification under s. 196.50 (2) (g) 1., Stats., CenturyLink proposes maps "depicting each local exchange service area."

The WCCA requests that the proposed rule be modified "to more broadly reference the Commission's jurisdiction and to reference extended area service." It seeks filing of maps covering extended area services and language referencing use of the maps in commission activities generally, without limitation to activities involving number administration and designation of eligible telecommunications carriers.

The commission concludes that the WCCA has not provided a sufficient reason for changing the proposed amendments. To describe the maps as available on some kind of open-ended basis is actually a policy choice outside the scope of this rulemaking. It is also unnecessary and beyond the scope of the purpose of this rulemaking to require for the first time a mapping duty with respect to extended area service. Chapter 196, Stats., does not define extended area service (EAS) anywhere, but does include EAS, apparently as a technical industry term, in the definition of "basic local exchange service" in s. 196.01 (1g), Stats. Because Act 22 did not alter that definition, the commission concludes that Act 22 did not intend any substantive alteration of basic local exchange services, including the related duty to file maps with respect to the geographical scope of those services where there is an obligation to serve. (See response to WSTA Comments below). The commission finds that the second proposed WCCA change is not consistent with Act 22 or the scope of this docket, and therefore is not accepted.

The WSTA criticizes this proposed rule's (1) specification of the uses of exchange boundary maps, (2) the restriction to only use the maps on file with the commission as of June 9, 2011, and (3) requiring maps of *any* geographical area in which a telecommunications utility provides a local exchange service, including those areas beyond those a telecommunications utility is obliged to serve under s. 196.50 (2) (g) 2., Stats.

The commission concludes that these comments have some merit and will adopt modifications, as set forth below, to address the concerns. With respect to CenturyLink's comments, the commission clarifies that exchange maps in this particular regulation depict where the telecommunications utility is offering, not necessarily actually furnishing, any local exchange service. The commission is aware that historically facilities have not always been extended to the mapped limits of an exchange because there were simply no customers in remote

areas of exchanges, especially in exchanges in rural areas. With the foregoing in mind, the commission will substitute the word "offers" for "furnishes" in the first sentence of proposed subsection (1) of the regulation.

With respect to the WSTA's first criticism about specifying the uses of exchange maps, the commission believes it is required to identify implementation of a statute by any standard policy or practice that is tantamount to a rule. In this situation, the use of maps to assist administration of numbering resources, federal local number portability, and designation of eligible telecommunications carriers, is authorized to the commission by s. 196.016, Stats., to undertake any duties permitted to state commissions by the 1996 TA. The foregoing regulatory activities that affect the industry at large are essential and explicitly ratified by s. 196.016, Stats. The commission concludes that proposed amendments serve the industry by affording clarity as to the source and scope of the commission's regulation of number resource, number portability, and ETC matters.

With respect to the WSTA's criticism about limiting the maps to those on file as of June 9, 2011, the commission clarifies that that is not its intent. The use of June 9, 2011, is simply to establish a starting point for number resource administration and ETC designations, primarily because those activities are authorized to exchanges or rate centers having specific geographical coverage. Today, two neighboring telecommunications utilities cannot unilaterally overlap all or part of the other's local exchange territory without causing chaos in the routing of calls by other providers using the industry routing database that is uploaded monthly in central offices across the country and is known as the Local Exchange Routing Guide (LERG). Rather, the commission believes neighboring telecommunications utilities could engage in negotiations when a change is being prompted by customer demand or carrier needs. Thus, interested

industry providers (perhaps with commission staff assistance), particularly when numbering or ETC issues are involved, could engage in stakeholder discussions and then approach the commission with a petition for a special order to adjust the exchange boundary maps to reflect the changes in local exchange service areas. The retention of the special order powers in s. PSC 165.01 (3) is, in part, for the purpose of providing a path by which affected utilities may in the future adjust the exchange boundary maps on file as of June 9, 2011.

The WSTA's final criticism highlights a need to better reflect in the proposed regulation the duty of telecommunications utilities to provide maps of the geographical areas that they are obliged to serve and which define them as telecommunications utilities. The commission notes that telecommunications utilities in existence as of September 1, 1994, have state wide certifications under s. 196.50 (2) (g) 1., Stats., but also are required to file maps of the geographical limits, in other words, exchange maps, of the territories they are "obliged to serve." See ss. 196.50 (2) (b) and (g) 2., Stats. The certificates may be amended; six places in s. 196.50 (2) (e) to (g), Stats., reference amendment to an existing certificate of a telecommunications utility. Since the telecommunications utility certificates are statewide, the reference to amendments, in practical terms, means the addition or deletion of obliged-to-serve territories, that is, those territories where a telecommunications utility offers at least one of the services (usually all are offered) comprising telecommunications local exchange service: business access line and usage, basic local exchange service, and switched access service. See ss. 196.01 (1g), (8e) and (9m), Stats, and s. 196.219 (1) (b) 1., Stats.

The commission understands the WSTA's concern that just because a telecommunications utility commences local exchange services outside of its historical "obliged-to-serve" territories, it should not be obliged to include the areas so served in a map and file that

map with the commission under the regulation proposed. The commission will modify the proposed amended regulation so that the exchange map filing requirement applies with respect to obliged-to-serve areas that a telecommunications utility already has or which it may choose to add as obliged-to-serve territories under its certification under s. 196.50 (2), Stats. To be clear, a telecommunications utility can use its statewide certification to provide local exchange service at its option in other parts of the state outside its obliged-to-serve territories; but if the telecommunications utility wishes to treat the new areas as obliged-to-serve territories—with all the associated duties under state and federal law—then the utility needs to secure an amendment of its utility certification under s. 196.50 (2), Stats., and thereupon file exchange boundary maps to include the new areas.[2]

The first sentence of subsection (1) of the proposed amended regulation is modified to read as follows:

> **(1)** For purposes of its statewide telecommunications utility certification under s. 196.50 (2), Stats., a ~~Each~~ telecommunications utility shall file accurate exchange area boundary maps depicting each specific obliged-to-serve geographical area in which it offers a local exchange service, as defined in s. 196.219 (1) (b), Stats.

By the above language, the commission understands two compliance implications arising from the modified language. First, incumbent telecommunications utilities on September 1, 1994, already have exchange boundary maps on file for their obliged-to-serve territories as of that date. Second, any changes to the obliged-to-serve territories, whether by certification amendment or authorized abandonment, requires a corresponding change in the telecommunications utility's exchange boundary maps on file. As noted above, each telecommunications utility holding

[2] Going in the other direction, that is, removing obliged-to-serve territories, requires a telecommunications utility to file under s. 196.81, Stats., for commission authorization to abandon service. By implication, a telecommunications utility properly certified under s. 196.50 (2), Stats., must have, and have on file an exchange map for, at least one obliged-to-serve local exchange service territory.

certification under s. 196.50 (2), Stats., retains the right to provide local exchange service under its statewide certification, but need not make the new geographical service areas involved obliged-to-serve territories for which maps are required under the proposed amended rule.

Sections PSC 165.065, 165.066, and 165.067

The WSTA proposes that ss. PSC 165.066 and 165.067 regarding utility facilities and construction work in public rights-of-way be eliminated because, it argues, there is no statutory authority for them in ch. 196, Stats., or a statute listed in s. PSC 165.01 (2) that the rules would actually implement. WSTA Comments, 11-12.

The WSTA's comments caused the commission to further scrutinize the two regulations and the immediately preceding regulation, s. PSC 165.065, dealing with emergency planning, because of their potential relationship to the ability and duty of a telecommunications utility to maintain adequate services and facilities as required by s. 196.03 (1) and (6), Stats., a statute which *is* listed in s. PSC 165.01 (2).

The commission concludes, upon further research, that it is appropriate to eliminate ss. PSC 165.066 and 165.067 because those provisions are largely superseded by the expanded scope of s. 182.0175, Stats., as amended by Act 22. Section 182.0175, Stats., creates a comprehensive scheme of duties and responsibilities respecting all utilities operating in public rights-of-way including excavation and notice obligations of the type covered in the two regulations proposed for retention. The commission concludes that the two rules should be removed, consistent with objective of this docket to remove unneeded regulations; the scheme of s. 182.0175, Stats., is sufficiently comprehensive as to moot the need to retain the regulations.

However, in the course of reconsidering protection of facilities, the commission concludes that s. PSC 165.065 should be retained, in part, to confirm the current duty upon any

responsible public telecommunications utility to plan provisions for emergencies. The commission finds, especially in light of the substantial devastation to utility infrastructure caused by Superstorm Sandy on the East Coast in October 2012, that the provisioning of adequate services and facilities is not legally sufficient under s. 196.03 (1), Stats., without a forward-looking emergency provisioning process. This is nothing new for the industry, but the protection of the public—and the industry—justifies explicit articulation of the duty by retaining the core of the rule. The commission will remove those parts that prescribe how to effect emergency provisioning as unduly intrusive in a rapidly changing industry. Indeed, given the increased competition in the industry, any provider not planning and provisioning for emergency operations, is courting disaster for the enterprise's ability to survive. Accordingly, s. PSC 165.065 is proposed to be amended, and retained, as follows:

> **PSC 165.065 Emergency operation.**
>
> **(1)** Each telecommunications utility shall make reasonable provision to meet emergencies resulting from national security requirements, failures of lighting or power service, sudden and prolonged increases in traffic, illness of personnel, or from fire, storm, or similar emergencies~~, and each telecommunications utility shall inform employees as to procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of telecommunications service~~.
>
> ~~**(2)** It is essential that all central offices and remote switching units have reasonably adequate provision for emergency power. For offices or remote switching units without installed emergency power facilities, there shall be a mobile power unit available which can be delivered on reasonably short notice, and which can be readily connected.~~

Section PSC 168.05 (3).

The WSTA comments that this reseller rule unnecessarily uses a 2009 statute reference when the needed text is available elsewhere in ch. 196, Stats., and uses a second statutory reference that is no longer in effect. The commission finds that use of s. 196.219 (1) (b), Stats.,

in lieu of a reference to the 2009 statutes is reasonable. The commission also finds that the WSTA's second proposed revision to use "provide facilities-based local exchange service" to simplify the regulation is too vague. The commission believes it more precise to draft the rule to trigger a duty on the part of a telecommunications reseller to obtain facilities-based service authority if the reseller proposes offering any one of the local exchange services defined by s. 196.219 (1) (b), Stats. The commission finds it within the scope of this rulemaking to specifically reference ss. 196.203, 196.499 (16), and 196.50 (2), Stats., to better maintain the current purpose of s. PSC 168.05 (3) to deny any implied authorization for facilities-based services. The re-wording proposed in the next paragraph will better serve the aim of the WSTA comments.

In light of the above analysis, the commission changes its proposed amendments to Wis. Admin. Code § PSC 168.05 (3) to read as follows:

> **PSC 168.05 (3)** Nothing in this section authorizes a telecommunications reseller to provide a facilities-based local exchange service, as defined in ~~s. 196.50 (1) (b) 1.~~ s. 196.219 (1) (b), Stats., in municipalities served by small telecommunications utilities having 150,000 or fewer access lines in service in this state and for which certification in compliance with ~~s. 196.50 (1) (b),~~ ss. 196.203, 196.499 (16) or 196.50 (2), Stats., is required.

Section PSC 168.09 (1).

The above-identified regulation lists statutes in ch. 196, Stats., with which a reseller must comply. The WSTA comments that the list is broader than the list of statutes with which facilities-based ATUs must comply, and does not list new statutes created under Act 22 that, it asserts, ATU resellers should observe in the interest of parity of regulation. The commission concludes that, while there might be merit in the WSTA's concerns about parity, the proposal to make changes must be rejected. First, this docket is not about making major policy

determinations, and, second, the WSTA has not suggested what statutes are appropriate or necessary to make a proper parity determination. Much more industry input is necessary than can be afforded in this docket.

Chapter PSC 171.

Finally, the WSTA comments that the list of statutes imposed upon cable television telecommunications service providers, a little used-category of ATU, is not consistent with the parity objectives of Act 22.

Consistent with the overall purpose of this rulemaking, the several changes proposed for ch. PSC 171 are required by existing law as amended by Act 22, or for belated commission compliance with controlling federal law. The objective of parity for ATUs generally, as set forth in s. 196.203 (3), Stats., requires specific commission action in response to a party petition or a commission's "own motion." This rulemaking does not satisfy that particular procedural requirement for any commission action addressing "ATU parity." The commission concludes that the search for parity among ATUs cannot be legally commenced or pursued in this rulemaking docket. This is not to say the concerns of the WSTA are without merit; the only determination here is that this is not the proper docket in which to raise them.

F. APPEARANCES AT PUBLIC HEARING

No members of the public appeared to comment for or against the proposed rules at the public hearing held in this matter on May 6, 2013.

G. ANY CHANGES TO THE FISCAL ESTIMATE OR THE ANALYSIS UNDER s. 227.14 (2), STATS.

The commission concludes that there are no major changes to the fiscal estimate or its original analysis for rule repeals and amendments. Although comments were received, the changes proposed in light of the comments do not add any new costs. The Economic Impact Analysis for this rulemaking is included as Attachment A2.

H. RESPONSE TO LEGISLATIVE COUNCIL COMMENTS

The Legislative Council had three non-substantive comments regarding form, style, and placement in the Administrative Code. A copy of the Clearinghouse Report to the Agency is included as Attachment A3.

The commission accepts without modification all three changes proposed by the Legislative Council.

I. MISCELLANEOUS DETERMINATIONS

The Commission's WEPA Coordinator examined whether the rules have an environmental impact and concluded that they do not. Commission staff also considered whether the rule will impact housing, Wis. Stat. § 227.115, and concluded that they will not.

TEXT OF RULES

SECTION 1. PSC 8.07 (7) and (11) are repealed.

SECTION 2. PSC 100.01 is amended to read:

PSC 100.01 Person defined. Under s. 196.52 (1), Stats., ~~the term~~ "person" includes trustees, lessees, holders of beneficial equitable interest, voluntary associations, receivers and partnerships. "Person" does not include a telecommunications provider, as defined in s. 196.01 (8p), Stats. This definition should be observed in filing information in response to this order.

SECTION 3. PSC 102.01 is amended to read:

PSC 102.01 Record of disbursements. Each public utility for which a system of accounts is prescribed by this commission shall so maintain its records as to disclose full particulars concerning any disbursement, including the name of the payee and the purpose of the payment. The records shall likewise disclose the name of the person intended to be paid and the purpose of such disbursement, regardless of whether payment is made by check, cash, cashier's check, bank draft, postal money order, property or other means, whether paid directly to the ultimate recipient, or indirectly through an affiliated company, officer, employee, attorney, or other intermediary. The purpose of any disbursement, regardless of size, shall be shown by the records and the provisions of this order shall apply in their entirety to each disbursement in excess of $10. This chapter does not apply to a telecommunications provider, as defined in s. 196.01 (8p), Stats.

SECTION 4. PSC 104.02 (3) is amended to read:

PSC 104.02 (3) The term "public utility" or "utility" is defined by s. 196.01 (5), Stats., but does not include a telecommunications utility or an alternative telecommunication utility.

Note: Alternative telecommunications utilities certified by the commission under s. 196.203, Stats., includes those certified through use of the notice procedure in s. 196.50 (2) (j) 1. a., Stats.

SECTION 5. Chapter PSC 162 is repealed.

SECTION 6. Chapter PSC 163 is repealed.

SECTION 7. Chapter PSC 164 is repealed.

SECTION 8. PSC 165.01 (2) is amended to read:

PSC 165.01 (2) The rules making up ch. PSC 165 are designed to effectuate and implement, in part, commission responsibilities and jurisdiction in ss. ~~196.02,~~ 196.016, 196.03, 196.04, ~~196.06,~~ 196.191, 196.199, ~~196.10, 196.12, 196.15, 196.16, 196.17, 196.19, 196.21, 196.22,196.60, 196.625, 196.72,~~ and 196.50 (2) (b), (c), (f), and (g) ~~1.,~~ Stats., and parts of other sections of Wisconsin statutes.

SECTION 9. PSC 165.02 (1) to (6), (8), (11), (13) to (20), and (23) are repealed.

SECTION 10. PSC 165.031 is repealed.

SECTION 11. PSC 165.032 (intro.), (2), (6), (7), and (9) are amended to read:

PSC 165.032 Schedules to be filed with the commission. (intro.) The provisions of the schedules of rates and rules filed with the commission and comprising the filed tariff of the utility shall be definite and so worded as to minimize ambiguity or the possibility of misinterpretation, and ~~shall~~ may include, together with such other information as may be deemed pertinent, any of the following subjects:

(2) A map of each exchange showing any applicable ~~the various~~ rate areas within the exchange. ~~(Base rate, locality, zone and rural areas.)~~

(6) Rules governing the establishment or re-establishment of service including credit requirements. ~~(See s. PSC 165.052.)~~

(7) Rules governing the procedure followed in disconnecting and reconnecting service. ~~(See s. PSC 165.051.)~~

(9) Rules governing the billing procedures and payment requirements. ~~(A sample bill form should be submitted.)~~

SECTION 12. PSC 165.033 is amended to read:

PSC 165.033 Exchange area boundaries. (1) For purposes of its statewide telecommunications utility certification under s. 196.50 (2), Stats., a ~~Each~~ telecommunications utility shall file accurate exchange area boundary maps ~~in compliance with ch. PSC 166~~ depicting each specific obliged-to-serve geographical area in which it offers a local exchange service, as defined in s. 196.219 (1) (b), Stats. Except as provided in sub. (2), the commission shall use the exchange area boundaries designated by the maps on file with it on June 9, 2011, to assist in the following activities:

(a) Administration of numbering resources and federal local number portability requirements by determining rate center boundaries.

(b) Designation of eligible telecommunications carriers by determining wire center boundaries to the extent feasible.

(2) Where multiple rate centers or wire centers existed within an exchange on June 9, 2011, the commission shall use the rate centers or wire centers existing on that date to assist its activities identified in subs. (1) (a) and (b).

Note: Identification of the use of exchange boundary maps is not intended to delimit the entire scope of commission activities in its administration of numbering resources and federal local number portability requirements or in its designation of eligible telecommunications carriers.

SECTION 13. PSC 165.034 to 165.064, 165.065(2), and 165.066 to 165.10 are repealed.

SECTION 14. PSC 165.065 (1) is amended to read:

PSC 165.065 Emergency operation. ~~(1)~~ Each telecommunications utility shall make reasonable provision to meet emergencies resulting from national security requirements, failures of lighting or power service, sudden and prolonged increases in traffic, illness of personnel, or from fire, storm, or similar emergencies~~, and each telecommunications utility shall inform employees as to procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of telecommunications service~~.

SECTION 15. Chapter PSC 166 is repealed.

SECTION 16. Chapter PSC 167 is repealed.

SECTION 17. PSC 168.05 (1) (d) is amended to read:

PSC 168.05 (1) (d) Own, operate, manage or control, in Wisconsin, transmission facilities, including wire, cable, fiber optics or radio, and associated electronics, whose cost basis, including capital leases as defined by generally accepted accounting principles, does not exceed $400,000. The requirements of this paragraph shall be determined for the reseller as of the date of its application for certification and as of December 31 of each calendar year, based upon responses to annual ~~reports~~ commission questionnaires filed ~~pursuant to~~ under s. PSC 168.12.

SECTION 18. PSC 168.05 (3) is amended to read:

PSC 168.05 (3) Nothing in this section authorizes a telecommunications reseller to provide facilities-based local exchange services, as defined in ~~s. 196.50 (1) (b) 1.,~~ s. 196.219 (1) (b), Stats., in municipalities served by small telecommunications utilities having 150,000 or fewer access lines in service in this state and for which certification in compliance with ~~s. 196.50 (2),~~ ss. 196.203, 196.499 (16), or 196.50 (2), Stats., is required.

SECTION 19. PSC 168.09 (4) is amended to read:

PSC 168.09 (4) ~~Pursuant to~~ Under s. PSC 168.12, alternative telecommunications utility resellers shall file with the commission responses to annual ~~reports for~~ questionnaires regarding Wisconsin operations.

SECTION 20. PSC 168.10 (1) (intro.) and (a) are renumbered PSC 168.10 and amended to read:

PSC 168.10 General notification requirement. An alternative telecommunications utility reseller certified under this chapter shall ~~do the following; (a) Within~~ , within 20 days of the

occurrence, notify the commission in writing of any change to information supplied in response to s. PSC 168.06 (2) (a), (b), (c) or (g).

SECTION 21. PSC 168.10 (1) (b) to (d), and (2) are repealed.

SECTION 22. PSC 168.11 is repealed.

SECTION 23. PSC 168.12 (1) (intro.) is amended to read:

PSC 168.12 (1) (intro.) Each reseller shall file with the commission by April 1 of each year responses to an annual ~~report providing~~ commission questionnaire that provide details concerning the following:

SECTION 24. PSC 168.12 (1) (f) is repealed.

SECTION 25. PSC 168.13 (1) (a) is amended to read:

PSC 168.13 (1) (a) Failure to file ~~a~~ substantially complete responses to the commission's annual ~~report~~ questionnaire required by s. PSC 168.12.

SECTION 26. Chapter PSC 169 is repealed.

SECTION 27. PSC 171.02 (5) is amended to read:

PSC 171.02 (5) "Telecommunications service" has the meaning ~~prescribed~~ given in s. 196.01 (9m), Stats.~~, and includes but is not limited to, point-to-point service for the transport of electronic signals.~~

SECTION 28. PSC 171.06 (1) is amended to read:

PSC 171.06 (1) All qualified cable television telecommunications service providers shall be subject to the following sections of ch. 196, Stats.: ss. 196.02,~~ 196.08, 196.12,~~ 196.025 (6), 196.203, 196.25, 196.39, 196.395, 196.40, 196.41, 196.43, 196.44, 196.65,~~ and~~ 196.66, 196.85, 196.858, and 196.859, Stats.

SECTION 29. PSC 171.06 (2) and (3) are repealed.

SECTION 30. PSC 171.07 (4) and (5) are repealed.

SECTION 31. PSC 171.08 is repealed.

SECTION 32. PSC 171.09 is repealed and recreated to read:

PSC 171.09 New franchise areas. A qualified cable television telecommunications service provider may offer telecommunications services in a franchise area other than the one specified in a qualified petition by notifying the commission in a transmittal updating the information supplied under s. PSC 171.03. The transmittal shall be filed no later than 20 days after the initial offering of the telecommunications services in the additional franchise area.

SECTION 33. PSC 171.10 (1) is amended to read:

PSC 171.10 (1) File with the commission responses to an annual ~~report~~ questionnaire providing details as to its identity, franchise service areas, and revenues ~~and number of customers~~.

SECTION 34. PSC 171.10 (3) is repealed.

SECTION 35. Chapter PSC 174 is repealed.

SECTION 36. **Effective date.** This rule 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.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
Wis. Admin. Code chs. PSC 8, 100, 104, 102, 162-171, 174

3. Subject
Repeal and amendment of PSC telecommunications rules to conform with 2011 Wis. Act 22, with miscellaneous updates and clarifications.

4. Fund Sources Affected
☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected
None

6. Fiscal Effect of Implementing the Rule
☐ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☒ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☒ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes ☒ No

9. Policy Problem Addressed by the Rule
Clarifies law by removing regulations no longer needed due to statutory change.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.
This rulemaking removes regulations no longer needed as a result of statutory change. Since these regulations will no longer exist, any costs of complying with them will disappear. As a result, any economic impact will be a positive one. Telecommunications providers, trade associations for wireline providers, wireless providers, and cable providers. Public interest group (CUB) also contacted.

11. Identify the local governmental units that participated in the development of this EIA.
Not Applicable

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
Expected reduction in costs as entities previously subject to rules can substantially simplify compliance with state telecommunications requirements. The issues raised by commenting parties were substantive rather than economic.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
Expected reduction in costs as entities previously subject to rules can substantially simplify compliance with state telecommunications requirements.

14. Long Range Implications of Implementing the Rule
See No. 12 above. Also reduced regulation will lead to more entrants, more vigorous competition, and a greater variety

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of price and service options.

15. Compare With Approaches Being Used by Federal Government

There is no strict comparability with federal governement regulations in this area because Communications Act of 1934, as amended by the Telecommunications Act of 1996, leaves retail telecommunications regulation to the states.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Not applicable as level of deregulation in WI matches or exceeds levels of adjacent states.

17. Contact Name	18. Contact Phone Number
Sarah Klein	(608) 266-3587

This document can be made available in alternate formats to individuals with disabilities upon request.

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

Implements Act 22 by removing or amending rules rendered obsolete or inapplicable, and makes miscellaneous language updates. Since these rules will no longer exist, any costs of complying with them will disappear. As a result, any economic impact will be a positive one.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

Not deemed necessary.

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

☐ Less Stringent Compliance or Reporting Requirements
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
☒ Consolidation or Simplification of Reporting Requirements
☐ Establishment of performance standards in lieu of Design or Operational Standards
☐ Exemption of Small Businesses from some or all requirements
☒ Other, describe:

Almost all substantive repeals and amendments are required by Act 22. However, in the process minor technical changes will be made to improve rule organization, clarify rule application, modernize rule language, and remove obsolete requirements. Since certain rules will no longer exist, any costs of complying with them will disappear. As a result, any economic impact will be a positive one.

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

As Act 22 already created the effect on small businesses, this proceeding simply advances the clarity of the rules remaining, simplifying management of compliance obligations that remain. This rulemaking removes regulations no longer needed as a result of statutory change. Since these regulations will no longer exist, any costs of complying with them will disappear. As a result, any economic impact will be a positive one.

5. Describe the Rule's Enforcement Provisions

Not applicable.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☒ No

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

Implements Act 22 by removing or amending rules rendered obsolete or inapplicable, and makes miscellaneous language updates. Since these rules will no longer exist, any costs of complying with them will disappear. As a result, any economic impact will be a positive one.

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☐ Exemption of Small Businesses from some or all requirements
☒ Other, describe:

Almost all substantive repeals and amendments are required by Act 22. However, in the process minor technical changes will be made to improve rule organization, clarify rule application, modernize rule language, and remove obsolete requirements. Since certain rules will no longer exist, any costs of complying with them will disappear. As a result, any economic impact will be a positive one.

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5. Describe the Rule's Enforcement Provisions

Not applicable.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☒ No

COMMENTS FROM AND RESPONSES TO LEGISLATIVE COUNCIL

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **13-025**

AN ORDER to repeal PSC 8.07 (7) and (11), 162, 163, 164, 165.02 (2) to (5), (11), (13) to (16), and (18) to (20), 165.031, 165.034 to 165.065, 165.07 to 165.10, 166, 167, 168.10 (1) (b) to (d) and (2), 168.11, 168.12 (1) (f), 169, 171.06 (2) and (3), 171.07 (4) and (5), 171.08, 171.10 (3) and 174; to renumber and amend PSC 168.10 (1) (intro.) and (a); to amend PSC 100.01, 102.01,
104.02 (3), 165.01 (2), 165.032 (intro.), (6), (7), and (9), 165.033, 168.05 (1) (d) and (3), 168.09 (4), 168.12 (1) (intro.), 168.13 (1) (a), 171.02 (5), 171.06 (1) and 171.10 (1); and to repeal and recreate PSC 171.09, relating to regulation of telecommunications providers and services.

Submitted by **PUBLIC SERVICE COMMISSION**

03-26-2013 RECEIVED BY LEGISLATIVE COUNCIL.

04-19-2013 REPORT SENT TO AGENCY.

SG:DLL

One East Main Street, Suite 401 • P.O. Box 2536 • Madison, WI 53701–2536
(608) 266–1304 • Fax: (608) 266–3830 • Email:
leg.council@legis.wisconsin.gov http://legis.wisconsin.gov/lc/

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

   Comment Attached YES ☐ NO ☑

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2)

   (c)] Comment Attached YES ☑ NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2)

   (d)] Comment Attached YES ☐ NO ☑

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

   Comment Attached YES ☐ NO ☑

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2)

   (f)] Comment Attached YES ☐ NO ☑

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

   Comment Attached YES ☐ NO ☑

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2)

   (h)] Comment Attached YES ☐ NO ☑

CLEARINGHOUSE RULE 13-025

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated November 2011.]

2. Form, Style and Placement in Administrative Code

a. The Commission's proposed rule should include a relating clause in the introductory clause that concisely states the subject matter of the proposed rule. Based on other materials submitted to the Clearinghouse, the phrase "relating to regulation of telecommunications providers and services" would serve as a suitable relating clause.

b. In the enumeration of rule provisions treated by the proposed rule, "PSC" should be inserted after "repeal and recreate".

c. The proposed rule should include a numbered section indicating the effective date of the proposed rule. [s. 1.02 (4), Manual.]