



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #640

Telecommunications Utility Late Fees (PSC)

[LFB 2005-07 Budget Summary: Page 419, #8]

CURRENT LAW

The Public Service Commission regulates telecommunications utilities (generally, an entity that provides local calling service to consumers, except on a resale basis). Under current Commission rules [PSC 165.05], telecommunications utilities are prohibited from collecting late payment charges on their customers' overdue bills. Further, PSC 165.01(3) requires telecommunications utilities to comply with the standards of service requirements of PSC 165 "except insofar as an exception may be made by the Commission... ." In the case of SBC Wisconsin, the Commission has made an exception with respect to authorizing the utility to collect late payment charges. Under a pilot program, which dates from December 17, 1996, the utility has been authorized to assess late payment charges of 1%. Continuation of this 1% rate and a further extension of the pilot program were recently approved in a January 7, 2005, order of the Commission.

GOVERNOR

Authorize a telecommunications utility to impose a maximum late payment charge on a retail customer of not more than 1.5% of the unpaid overdue amount each month, computed on the declining principal balance.

Provide the following two exceptions to the new maximum allowable late payment charge: (1) authorize a telecommunications utility to impose a late payment fee that does not exceed \$5 per month on the overdue amounts owed by nonresidential customers where the computed monthly late payment amount is less than \$5; and (2) authorize the PSC to approve late payment fees greater than either 1.5% per month or \$5 per month for nonresidential customers (with a computed monthly late payment under \$5), if the additional late fee would be

consistent with current statutory guidelines establishing the Commission's role in ensuring reasonable and just telecommunication charges.

Require any telecommunications utility that collects late fees from nonresidential customers to remit 5% of those amounts on a semiannual basis to the PSC. Provide that these payments would be due no later than 60 days after the conclusion of each semiannual period, first effective with the conclusion of the semiannual period that begins on the effective date of the biennial budget act. Specify that the Commission would not have jurisdiction over late payment charges other than to enforce these semiannual payments. Authorize the Commission to credit all such payments received to a new PR continuing late payment charges appropriation to fund those consumer education purposes as determined by the PSC. The bill provides no estimated expenditure authority under the new appropriation.

DISCUSSION POINTS

1. At the Commission's December 17, 1996, meeting, Ameritech Wisconsin (now SBC Wisconsin) was authorized to implement a telecommunications customer assistance plan on a pilot basis to help keep customers with persistent bill paying problems from losing basic telephone service. As part of the approved program, the PSC granted the company an exemption from the Commission rule provision under PSC 165 ["Standards for Telecommunications Service"] that prohibits the imposition of late payment charges by telecommunications utilities. The pilot program also authorized SBC to implement toll restrictions that limit access to advanced calling features when customers are in arrearage.

2. The pilot program and the late payment charge exception were approved until the earlier of the effective date of proposed revisions to PSC 165 concerning consumer protection for telephone customers or December 31, 1997. Because of the substantial number of proposed changes to PSC 165, the revised rules have yet to be promulgated, and SBC Wisconsin's original pilot program has now been extended eight times. The current extension (described below) now ends the earlier of the effective date of any PSC 165 revisions or December 31, 2005.

3. Under the late payment charge exemption granted by the Commission, SBC Wisconsin may charge its customers a fee of 1% per month for amounts that remain unpaid 20 days after the bill date, excluding: (a) charges that are under dispute; (b) federal excise taxes levied by law directly on the customer; and (c) amounts billed by SBC on behalf of other entities.

4. On September 1, 2004, SBC Wisconsin submitted its most recent request to the PSC to extend the telecommunications customer assistance plan pilot program and associated exemption from the Commission's late payment charge prohibition through the 2004 and 2005 calendar years. As part of that request, SBC Wisconsin requested that late payment fees be increased as follows:

- From 1% to 1.5% of the monthly unpaid balance on residential accounts, subject to the current statutory annual limit of 12% under s. 135.05(1)(a) of the statutes; and

- From 1% to the higher of \$5 or 1.5% of the monthly unpaid balance on nonresidential accounts

5. When SBC Wisconsin presented its request to the Commission to increase the amount of late payment charges, it based the request on the following considerations:

- The SBC proposal would be consistent with the schedule of higher late fees that the Commission had previously authorized for natural gas utilities and water utilities operating in the state.

- SBC believed that late payment charges deter late payments, thereby reducing the customer's risk of disconnection, and helping to defray the costs of collections.

- No other states in which SBC serves customers have regulatory constraints on late payment rates that are lower than 1.5% per month.

- The costs of late payment fees fall only on those customers who submit their payments after the due date of the bill.

6. With respect to SBC Wisconsin's first consideration, it may be noted that under PSC 134 governing standards for natural gas service in the state, the Commission may authorize gas companies to impose monthly late charges that may not exceed 1.5% per month on the total unpaid balance for utility service. Under PSC 185 governing standards for water utility service in the state, the Commission may authorize such utilities to impose a monthly late charge that may not exceed 1% per month on the unpaid balance for residential customers and 1.5% of such balances for other customer classes. However, the Commission has not authorized any gas or water utility to charge a late fee of greater than 1% per month, based on utility charges, for either residential or nonresidential customers.

7. With respect to the second consideration, documentation provided to the Commission showed that since 1997, when late payment charges and toll restrictions were first authorized, the total amount of such charges had declined from approximately \$2.9 million per year to approximately \$1.1 million per year by 2003. Further the average number of disconnections per month trended downward during the same period; however, improvements in the annual amounts of uncollectibles write-offs were less clearly impacted because of the operation of factors other than the imposition of late charges. Nonetheless, the Commission staff found that the pilot program, when properly administered generally appeared to be a fair and effective management tool for controlling the level of bad debt from residential accounts.

8. With respect to the third consideration, current allowable late fee charges in the states served by SBC Wisconsin are as follows:

Allowable Late Fees for SBC by State

<u>State</u>	<u>Residential Fee</u>	<u>Business Fee</u>
Arkansas	10% on the first \$30 and 2% on the remaining balance	10% on the first \$30 and 2% on the remaining balance
California	1.5% on overdue balances of \$20 or more	1.5% on overdue balances of \$20 or more
Connecticut	1.5%	1.5%
Illinois	1.5%	1.5%
Indiana	10% on the first \$3 and 3% on the remaining balance	10% on the first \$3 and 3% on the remaining balance
Kansas	2%	2%
Michigan	\$5 + 1.5%	1.5%
Missouri	\$1.50 on overdue balances of \$5 or more	1.5%
Nevada	1.5% on overdue balances of \$20 or more	1.5% on overdue balances of \$20 or more
Ohio	\$5 or 1.5% whichever is greater, on overdue balances of \$25 or more	\$10 or 1.5%, whichever is greater, on overdue balances of \$10 or more
Oklahoma	3%	1.5%
Texas	\$5 on overdue balances of \$10 or more	6.5%
Wisconsin	1%	1%

9. In Wisconsin, no other telecommunications utility has been authorized to charge a late fee. Nonetheless, SBC Wisconsin does have wireless competitors, which are not subject to PSC regulation. The following is a listing of the late charge policies of some of these companies:

<u>Company</u>	<u>Late Payment Charge</u>
Cingular	\$5 or 1.5% of balance, whichever is greater
Next Tel	1% of overdue amount after 30 days
Sprint	\$5 flat fee
T-Mobile	1% of overdue amount after 10 days
US Cellular	No fee assessed
Verizon	\$5 flat fee

10. Commission staff sought information to correlate whether the amount of the late fee that the utility could charge would demonstrate that late payments acted as a deterrent to customer arrearages. Information provided by SBC compared Wisconsin to four other states in the region where SBC operated (Michigan, Indiana, Ohio, and Illinois). Information was presented showing the ratio of receivables on a given day to the estimated number of days that it would take to pay off all outstanding bills. According to the company, this statistic is a reasonable measure of accounts receivable. A lower figure for a state reflects a higher level of prompt payment activity by customers. The following table ranks the five states from highest prompt payment activity (Michigan) to lowest prompt payment activity (Illinois) and indicates the current late payment charge rates authorized in each state.

Timeliness of Residential Customer Bill Payments

<u>State</u>	<u>Measure of Prompt Payment Activity</u>	<u>Late Payment Charge</u>
Michigan	43.1	\$5 and 1.5% of local service charges
Wisconsin	47.7	1%
Indiana	48.1	10% of first \$3 and 3% of balance
Ohio	52.4	Greater of \$5 or 1.5%
Illinois	57.8	1.50%

11. PSC staff found that this data was inconclusive with respect to demonstrating the impact of late payment charge rates on customers' promptness in making bill payments. While Michigan's higher late payment charge rate seemed to be associated with a higher rate of prompt payments than in Wisconsin (43.1 in Michigan compared to 47.7 in Wisconsin), Ohio's equally high late payment charge rate seemed to be associated with a lower rate of prompt payments than in Wisconsin (52.4 in Ohio compared to 47.7 in Wisconsin).

12. Finally, with respect to the fourth consideration that the costs of late payment fees fall only on those customers making late payments, SBC has indicated that during the third quarter of 2004, approximately 127,000 residential customers in the state were subject to a monthly late payment charge and approximately 18,200 nonresidential customers were subject to such monthly charges. SBC also reports that late fees currently result in annual charges of approximately \$914,000 for Wisconsin residential customers and approximately \$698,000 for Wisconsin nonresidential customers.

13. It is estimated that under the Governor's recommendation, late payment charges would increase to \$1,371,000 annually for residential customers and \$1,738,000 annually for nonresidential customers, based on SBC Wisconsin's recent experience with customer arrearages. Under the bill, 5% of the amounts collected from nonresidential customers would be remitted to the PSC for consumer education activities. The payments would be transmitted to the Commission

semi-annually, with the first transfer occurring six months after enactment.

14. Based on the above late payment charge projections, it is estimated that the PSC would receive late payment revenues for consumer education activities of \$43,500 in 2005-06 and \$86,900 in 2006-07. Other telecommunications utilities in the state would also be authorized to collect late payment charges for the first time; however, it is not known the degree to which such utilities would act to impose the fees.

15. On January 7, 2005, the PSC denied SBC Wisconsin's request to increase late payment charges and maintained the current 1% rate for all classes of customers through 2005. With respect to the requested rate change for residential customers, the Commission found that current law [s. 138.05(1)(a)] generally limits interest charges to 12% per year unless otherwise specified by law. With respect to the requested change for nonresidential customers, the Commission found that: (a) there was a lack of compelling or consistent evidence of the benefit of such an increase; (b) the original purpose of the charge was to offset expected increased labor costs to administer the pilot program; (c) late payment charges are viewed as unusual, as SBC is the only telecommunications utility authorized to impose such a charge; and (d) there was an absence of a compelling reason to charge residential and commercial customers a different fee.

16. Based on the information presented above on late payment fees and in light of the Commission's recent January 7, 2005, order denying to SBC Wisconsin's request to increase late fee charges beyond the current 1%, the Committee could conclude that no change to current law should be made at this time and that the Commission's current order should continue to govern such rates.

17. However, if the Committee determines that the proposal is desirable public policy and that the application of higher late payment charges could encourage customers to make more timely payments on overdue accounts, it could approve the Governor's recommendation. Under this alternative, the Committee should include estimated revenues and associated expenditure authority of \$43,500 PR in 2005-06 and \$86,900 PR in 2006-07 under the Commission's late payment charges appropriation for consumer education activities.

18. SBC Wisconsin has now indicated an interest in establishing a sunset at the end of the 2005-07 biennium on the provision that would transfer 5% of the late payment fee amounts collected from nonresidential customers to the PSC for consumer education activities. If the Committee believes that such a sunset is appropriate, the transfer provisions could be sunset following the fourth semi-annual transfer to the PSC.

ALTERNATIVES

1. Approve the Governor's recommendation authorizing a telecommunications utility to impose late fees of up to 1.5% on residential customers and the greater of \$5 or 1.5% on nonresidential customers on the unpaid amounts of their bills and requiring the transfer of 5% of the amounts collected from nonresidential customers to a late payment charges appropriation under the PSC for consumer education activities. Estimate revenues and associated expenditure authority of

\$43,500 PR in 2005-06 and \$86,900 PR in 2006-07.

<u>Alternative 1</u>	<u>PR-REV</u>	<u>PR</u>
2005-07 REVENUE (Change to Bill)	\$130,400	
2005-07 FUNDING (Change to Bill)		\$130,400

2. *[Alternative 2 may be adopted in addition to Alternative 1.]* Provide that transfers of 5% of the late payment fee amounts collected from nonresidential customers to the PSC for consumer education would sunset after the fourth semi-annual transfer following enactment of the biennial budget act.

3. Delete the Governor's recommendation.

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