

## SUMMARY OF PUBLIC COMMENTS AND COMMISSION RESPONSES

### Multiple commenters

**COMMENT:** (AT&T, Time-Warner Cable and Time-Warner Telecom)

Delete s. PSC 160.18 (10) about adjustments to correct overcollection or undercollection.

**RESPONSE:**

Agree. Change made although the commission does not agree that it does not have the statutory authority for such a provision or that the provision constitutes rate regulation.

**COMMENT:** (AT&T and CenturyLink)

Eliminate the provision about providing proof that one has filed with the FCC an acceptable plan for eligibility verification and annual reverification.

**RESPONSE:**

Agree. Change made. The definition of low-income has been rewritten to incorporate the additional federal programs, thus making the provision commented on unnecessary.

**COMMENT:** (AT&T and CenturyLink)

Delete s. PSC 160.06 (6) about dependents under the age of 60.

**RESPONSE:**

Agree. Change made. This was based on a federal requirement that appears to have since been repealed.

**COMMENT:** (AT&T and CenturyLink)

Make the call limitation provisions:

- comply with s. 196.218 (4m). (AT&T)
- or match the federal provisions. (CenturyLink)

**RESPONSE:**

Disagree in part. The state statute contains a parenthetical provision.<sup>1</sup> When this provision is removed, one can see that the Commission is directed to “implement . . . the capability to block all long distance or other toll calls from a customer’s telephone service with the goal of universal applicability of the toll blocking service . . .” The parenthetical adds that the capability must be provided cost free to low income customers, but does not limit its availability to low income customers. Indeed the statute explains that universal applicability of the service is the ultimate

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<sup>1</sup> Wisconsin Stat. §196.218(4m) provides:

Toll blocking. The commission shall issue rules to implement, **cost-free to low-income customers**, the capability to block all long distance or other toll calls from a customer's telephone service with a goal of universal applicability of the toll-blocking service no later than January 1, 1996. A telecommunications utility may petition the commission for a waiver from providing toll-blocking service upon a demonstration that providing this service would represent an unreasonable expense for the telecommunications utility and its ratepayers. (Emphasis added.)

goal.<sup>2</sup> This statutory requirement is broader than the federal requirement, which is limited to low-income customers.

Each of the items that a customer can choose to have blocked involves a toll call, with the exception of pay-per-call service. The blocking of pay-per-call service is required by Wis. Stat. § 196.208(9)(a), when technologically feasible.<sup>3</sup> The industry workgroup that developed this language included both wireline and wireless providers, none of which raised technological concerns. Technological concerns have not been raised in any of the rule revisions since that time. Such blocking has been required under ch. PSC 160 since 1996 with no requests for waivers. All of these facts indicate that it is technologically feasible. Wisconsin Stat. § 196.208(9)(b) states that a local exchange telecommunications utility may not charge a customer for the cost of blocking pay-per-call service the first time the customer requests such blocking.

In state law the toll blocking statute is separate from the universal service fund statute. The state statutes about toll blocking (Wis. Stat. § 196.218(4m)) and pay-per-call service blocking (Wis. Stat. § 196.208) are broader than the federal definition. For example, the federal statute refers to “outgoing calls” while the state statutes require the blocking of all long distance and other toll calls. The rule has also been revised to match the federal rules by making clear ETCs do not have to provide call limitation services if they don't charge separately for toll calls, and language has been added to clarify when charging is allowed and what blocking requirements apply to “federal-only” eligible telecommunications carriers.

**COMMENT:** (AT&T and CenturyLink)

Eliminate the requirement to participate in the high rate assistance program and

- Make participation voluntary. (AT&T)
- Open a separate proceeding to develop a revised program. (CenturyLink)

**RESPONSE:**

Agree in part. The high rate assistance program provides that a customer must receive a credit if the price of service exceeds 1.5% of the county's household median income. The provider receives reimbursement for the credit. One of the purposes of the USF is to help ensure that customers in high rate areas of the state have access to telecommunications service. The revised provision does that.

It is important to note that Act 22 was never intended to impact what existing programs could be included in the USF rules. This is demonstrated by an April 16, 2010 e-mail to the Commission from, among others, AT&T which states that “The Bill does not change the programs supported by the USF.” ([DL: 922259](#), [DL: 922260](#).)

The program has not been eliminated but the rule language has been extensively redrafted. Because of changes in the marketplace, as pointed out by the commenters, the requirement has been changed so that the price of service that triggers the credit requirement is based only on the price of essential (local) service. The percentage of average household income that must be

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<sup>2</sup> Because of the universal applicability goal and the language in Wis. Stat. § 196.208, the rule language has been changed so that this provision applies to all local exchange service providers and not just eligible telecommunications carriers.

<sup>3</sup> Wisconsin Stat. § 196.208(9)(a) provides:

If technically feasible, a local exchange telecommunications utility shall provide a customer the option of blocking access to pay-per-call services that use “900” exchanges.

exceeded has been lowered to 1.2% since the price of service has been changed to a lower amount and since, as suggested by commenters, long distance has been removed.

**COMMENT:** (CenturyLink and WSTA)

Do not add “cognitive impairment” to the list of disabilities.

**RESPONSE:**

Agree in part. “Cognitive impairment” has been moved so that it only applies to the definition of disability used for the Telecommunications Equipment Purchase Program (TEPP.) Having a cognitive impairment does not, by itself, qualify someone for a TEPP voucher. However, if the equipment normally used for the primary disability won’t work to provide telecommunications service because of an accompanying cognitive impairment, this provision allows the TEPP voucher to cover equipment that will address both the cognitive impairment and the qualifying, primary disability.

**COMMENT:** (AT&T, CenturyLink and WSTA)

Either make the lifeline termination notice requirements match the federal or remove them entirely and just refer to the federal requirements.

**RESPONSE:**

Agree. 47 C.F.R. § 54.405(e) has provisions about de-enrollment when the provider has reason to believe the applicant is not eligible, the customer fails re-certification or the customer does not use service for 60 days. The rule language has been amended to refer to the federal language.

**COMMENT:** (AT&T, CenturyLink and WSTA)

Treat those who qualify because of the low-income heating energy assistance program like other lifeline customers. Don't continue eligibility “until the bill date in the next December following the close of the heating season.”

**RESPONSE:**

Agree. Change made. Providers used to have to take steps to deal with a timing issue that could result in customers who originally qualified under certain programs being improperly disqualified later. Staff has since dealt with the timing issue through programming in the databases. As a result, providers no longer have to do anything on their end to resolve the timing problem.

**COMMENT:**

Treat those who qualify because of the homestead tax credit like other lifeline customers. Don't continue eligibility “until the bill date in the next June following the end of the tax year.”

**RESPONSE:**

Agree. Change made. Providers used to have to take steps to deal with a timing issue that could result in customers who originally qualified under certain programs being improperly disqualified later. Staff has since dealt with the timing issue through programming in the databases. As a result, providers no longer have to do anything on their end to resolve the timing problem.

**COMMENT:** (AT&T, CenturyLink and WSTA)

Delete s. PSC 160.02 (5) and 160.062 (1r) concerning a lifeline discount on internet access.

**RESPONSE:**

This response addresses a variety of concerns raised by various commenters.

Section (1) states that most of this rule section on lifeline does not apply to federal-only ETCs. The eligibility provision of this rule section on lifeline states that the discount, including the discount on internet access, must be provided to qualified low-income customers. The discount is not available to disabled customers who are not low-income.

These rules make no attempt to regulate internet access. Providers can choose to offer, or not offer, this service. They can charge whatever they wish to charge and will receive that full amount.

This provision only states that when a low-income disabled customer is using the internet as a substitute for a traditional phone line, the provider of that service<sup>4</sup> must apply the lifeline discount. The company will receive its full retail price, receiving some from the customer and some from the USF funds. A note clarifies that the provision does not require providers to offer internet service, but only to apply the lifeline discount IF it does furnish internet service or bills for an affiliate that provides the service. This provision deals only with where the money comes from.

While the definition of “telecommunications service” refers to voice communications, the definition of “service” states that it is used in its broadest and most inclusive sense. The internet access provision applies to a substitute for voice communications when a traditional voice line does not provide access to communications for a customer, such as when a deaf person uses video signing to communicate. Providing a traditional voice line for this customer is of no use. The USF is supposed to help ensure that disabled people in this state have access to telecommunications service. A traditional voice line does not provide this for certain disabled people, but the internet line does. As a result, any of these customers who are low-income should be able to receive the lifeline discount on their substitute line. Again, however, this does not require a provider to offer this service.

As discussed above, a discount for which the provider is reimbursed is not rate regulation. It does not place any limits on what must be offered, what may be charged or will what the provider receives. The only thing this provision does is to provide that some of the money goes to the provider from the customer and some from the fund.

**WSTA****COMMENT:**

The rule should make clear that if the customer qualifies for lifeline, the customer will either get a discount on telephone service or internet access service, but not both.

**RESPONSE:**

Agree. While the rule is clear that the lifeline adjustment is only available on one line, it is not clear that “line” includes internet access as a substitute for traditional access. Language has been added to clarify this.

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<sup>4</sup> Or the biller if a telecommunications utility is billing for an affiliate that provides the service.

**COMMENT:**

The high rate calculation includes the LNP surcharge, but the lifeline base rate does not. It should be included in both.

**RESPONSE:**

Disagree. 47 CFR 52.33 (a) (1) i. C. states that the LNP surcharge may not be applied to lifeline participants, so it is not necessary to include it in the lifeline base rate.

**COMMENT:**

The federal USF charge is not included in either the lifeline base rate or high rate calculation. It should be included in the high rate credit. (The federal USF charge is not applied to lifeline customers so there is no need to include it in lifeline base rate calculation.)

**RESPONSE:**

Agree. Change made.

**Time-Warner Cable**

**COMMENT:**

Section PSC 160.062 (2) (b) should be modified to ensure that ETCs can apply the lifeline discount to any residential plan or package.

**RESPONSE:**

Agree. Change made in s. PSC 160.062 (1g).

**Time- Warner Telecom**

**COMMENT:**

Specify that a CLEC representative will be on the USF Council.

**RESPONSE:**

Agree. Change made in s. PSC 160.19 (2).

**AT&T**

**COMMENT:**

Revise the rule to match the federal rules that make clear ETCs do not have to provide call limitation services if they don't charge separately for toll calls.

**RESPONSE:**

Agree. Change made in s. PSC 160.04 (1) (c).

**COMMENT:**

Match the federal definition of toll calls.

**RESPONSE:**

Disagree. The state statutes about toll blocking (Wis. Stat. §. 196.218(4m)) and pay-per-call service blocking (Wis. Stat. § 196.208) are broader than the federal definition. For example, the federal statute refers to “outgoing calls” while the state statutes require the blocking of all long distance and other toll calls.

**COMMENT:**

Do not require federal only ETCs to provide these call limitation services at no cost to their customers.

**RESPONSE:**

Agree in part. See s. PSC 160.04 (1) (b). In state law the toll blocking statute is separate from the universal service fund statute, and is broader than the related federal statutes. The state law applies to all local exchange telecommunications utilities, not just ETCs. The rule language has been changed so that the call limitation language applies to all local exchange service providers rather than just to eligible telecommunications carriers.

However, the rule has been changed to further clarify the language about charges for toll blocking for customers who are not low income and customers who are making their first request for the blocking of pay-per-call services.

**COMMENT:**

Do not state that ETCs may only impose a nonrecurring charge, and not a monthly charge, for second or subsequent call limitation activations orders for additional residential and business lines. (Delete the second sentence of 160.04 (2).)

**RESPONSE:**

Agree. Change made<sup>5</sup>.

**COMMENT:**

Make the requirement to waive charges for directory assistance, operator-assistance and second line charges voluntary.

**RESPONSE:**

Disagree in part. The language in the noted sections has been changed to clarify that utilities are not being required to offer the service without charge, but to charge the USF instead of the customer for the service. This is a state specific requirement aimed at ensuring that disabled customers have access to telecommunications service. As a result, it does not apply to federal-only ETCs.

**COMMENT:**

Don't require any ETCs to use state databases. Mirror federal process.

**RESPONSE:**

Disagree. The requirement to use state databases when they are available is federal. 47 C.F.R.

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<sup>5</sup> Although the commenter states that it has “no idea of the genesis of this proposal” and is not sure exactly what it means, this provision has been a part of ch. PSC 160 since 1996.

§ 54.410 requires providers to first check databases, when they are available, to determine eligibility. FCC 12-11 (released February 6, 2013) makes it clear that this includes both state and federal databases.<sup>6</sup> Kim Scardino, Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, confirmed these statements at the 2014 NARUC winter meetings.

Wisconsin has led the way in the development of state eligibility databases. These databases have been used in Wisconsin since 1997. They were developed to make checking lifeline eligibility easier and more efficient for providers. They have been held up across the country as a model of ease and efficiency. They have also helped prevent the fraud so prevalent when self-certification of eligibility is used. It is certainly easier and more efficient than the current federal process, which involves sending a paper application form. Contrary to the commenter's contention that there is no evidence that the use of state databases provides any significant benefit, the FCC has stated "By accessing state or federal social service eligibility data, ETCs will more efficiently and accurately determine whether a consumer is eligible for low-income support. . . . This rule will reduce administrative burdens on ETCs by allowing them to leverage existing systems and processes." FCC 12-11 (released February 6, 2013), par. 98 (footnotes removed).

**COMMENT:**

Delete requirement to provide broadband mapping information.

**RESPONSE:**

Agree. Change made.

**COMMENT:**

Adopt a flat reimbursement rate for lifeline.

**RESPONSE:**

Disagree. The Wisconsin lifeline program has had 2 parts since 1996. The first provides a flat discount, like the federal program does now. The second part buys down a rate that is higher than \$15.00.<sup>7</sup> Providers, including both wireline and wireless, have been applying these discounts for 19 years without major issues. This rule actually simplifies the process. The only calculations that are now required are for providers that still offer stand-alone local service (certain incumbent local exchange service providers (ILECs) and prepaid wireless providers). For all other providers the base rate, and so the discount, are defined by the rule. The ILECs are required to calculate their lifeline base rate, to which the lifeline discount is applied. Prepaid wireless providers are required to furnish their discounts in minutes rather than a dollar amount, which is the same approach used by the FCC.

**COMMENT:**

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<sup>6</sup> See, for example, par. 98, which states, in pertinent part: "We first amend section 54.410 of the Commission's rules to require all ETCs, prior to enrolling a new subscriber in Lifeline, to access state or federal social services eligibility databases, where available, to determine a consumer's program-based eligibility. By accessing state or federal social service eligibility data, ETCs will more efficiently and accurately determine whether a consumer is eligible for low-income support." (Footnotes removed.)

<sup>7</sup> The \$15 figure was recommended by the Universal Service Fund Council, an industry/consumer council that advises the Commission about the universal service rules and programs. It was intended to meet the statutory use of the fund to help certain customers obtain affordable access to a basic set of essential telecommunications services. Wis. Stat. § [196.218\(5\)\(a\)1](#).

Delete s. PSC 160.075 about pay telephones.

**RESPONSE:**

Disagree. This does not require a provider to furnish pay telephones. It only requires that providers that are offering payphones make the pay telephone usable by people with disabilities. Ensuring that disabled people have access to telecommunications services is one of the goals of the USF. The provision specifies that it does not create any new obligations beyond those imposed under state and federal law.

**COMMENT:**

Do a separate section for federal-only ETCs.

**RESPONSE:**

Disagree. This is not necessary as the various provisions specify what applies to these ETCs and what doesn't. Further, having a separate section would result in repetitive language since many provisions of the rule apply to federal-only ETCs in addition to other ETCs.

**COMMENT:**

Don't risk chilling CAF II (broadband) investment by adopting burdensome USF rules.

**RESPONSE:**

Agree. These rules simplify and eliminate portions of the USF rules. Even before these changes were made, Wisconsin never had any problem attracting providers to ETC status. Further, Wisconsin ETCs have applied for CAF funding.

**COMMENT:**

Delete s. PSC 160.092 about alternative USF programs.

**RESPONSE:**

Disagree. This provision specifically allows the commission to approve and commit USF funds to temporary, experimental alternative programs to ensure universal service. Notice and opportunity for hearing are required before the commission can act on such a plan, thus allowing both providers and the public to comment on whether such a plan should be allowed.

**COMMENT:**

Use language other than "local exchange service provider" when including wireless providers.

**RESPONSE:**

Disagree. Local exchange service providers are just providers that furnish local service within one or more exchanges. Wireless providers do this. The definition only applies in this rule. The only place this phrase is now used in the rule is in the provisions about call limitation and mandating access to emergency services.

**COMMENT:**

160.02 (21) Refer to "Supplemental Nutrition Assistance Program (SNAP)" rather than "food stamps."



**RESPONSE:**

Agree in part. SNAP is the current federal name for what is generically known as food stamps. Food Share is the current state name. "Food stamps" was used as a generic reference. However, a note has been added explaining that this generic term refers to SNAP and Food Share.

**COMMENT:**

Add federal program specific-based programs in the same place that the state programs are listed.

**RESPONSE:**

Agree. See section 52 in the rule language. The provision has been rewritten to incorporate the federal programs.

**COMMENT:**

160.02 (21) Delete reference to 200% of the poverty line or substitute 135%.

**RESPONSE:**

Disagree. However, this section has been rewritten to clarify that there are 2 ways to qualify for lifeline: income level and program participation. 135% is the figure below which a customer's income must fall in order to qualify for lifeline under the income eligibility criteria. This is the same as the FCC requirement. However, Wisconsin has always used a state-specific 200% level when determining what programs may be included in the program-based eligibility requirements. This provision just applies a limit to which programs may be added in the future. It also helps ensure that if a Wisconsin program is changed to include those with incomes over 200% of the poverty line, those with incomes over 200% are not considered eligible for low income programs.

**COMMENT:**

Include the specific tribal lifeline eligibility criteria.

**RESPONSE:**

Disagree. Eligibility criteria for the general lifeline program are specified so that the state names for the federal programs can be used, since those are the names with which customers and Wisconsin providers are more likely to be familiar. When it comes to the tribal lifeline and link-up programs, the reference to the federal statute is sufficient since there are no Wisconsin-specific names for the federal programs, like there are in the general lifeline program.

**COMMENT:**

Remove statement that lifeline eligibility remains until the bill date following the failure to meet eligibility requirements.

**RESPONSE:**

Agree. Change made.

**COMMENT:**

Remove the provision that allows an ETC extra time to review an eligibility claim before termination.

**RESPONSE:**

Agree. Change made.

**COMMENT:**

Wisconsin Admin. Code § PSC 160.062(4m) to provide a notice “separate from a customer’s monthly bill” should be revised to provide “if a bill is provided.”

**RESPONSE:**

This provision has been removed.

**COMMENT:**

Change the rule so that ETCs can advertise their general service offerings separate from their lifeline services. Delete s. PSC 160.13 (2) (a) 2. c.

**RESPONSE:**

Agree in part. Change made.

**COMMENT:**

Change 160.013 (3) (b) 1. to include own facilities and resale.

**RESPONSE:**

Agree. Change made.

**COMMENT:**

Delete the requirement to provide list of wire centers and partial wire centers for which ETC status is sought.

**RESPONSE:**

Disagree. ETC designation is for a particular area. This information is used for more than a determination of whether an ETC is covering a required area. For example, it is used for a cream-skimming analysis, knowing which providers serve where, etc.

**COMMENT:**

Require a disabled person to provide a professional’s certification to qualify as disabled.

**RESPONSE:**

Disagree. Requiring a disabled person to do this is a burdensome, expensive barrier to use of the program. The program has been running for 18 years without requiring such certification. Oversight by vendors and administrators has shown that such certification is not necessary.

**CenturyLink**

**COMMENT:**

Just follow the federal rules.

**RESPONSE:**

Disagree. While there are many places where the Wisconsin rules mirror the federal rules, states are allowed to create their own USF programs too. There are valuable programs offered under the

Wisconsin USF rules that are not offered under the federal USF laws. There are also Wisconsin specific provisions that mesh with and complement the federal law. Finally, the Wisconsin statutes are different from the federal ones and, so, there are items required to be part of the Wisconsin USF that are different from those required to be in the federal USF.

**COMMENT:**

Eliminate any qualifying circumstances that are not also in the federal law, specifically the Homestead Tax Credit.

**RESPONSE:**

Disagree. The vast majority of state requirements mirror the federal. The only one that's different is use of the Wisconsin homestead tax credit. The USF Council recognized that low-income elderly people were not being covered through the other eligibility criteria. Including the tax credit as an eligibility criteria was, and still is, the "fix" for this.

The vast majority of eligibility determinations are made using the other program criteria verified under the CARES database, so that there is no need to query the DOR database about the homestead tax credit unless eligibility can't be verified using the CARES database. The Commission is in the process of revamping its automated eligibility verification system so that it will automatically check DOR records as well so that only one query must be made.

Finally, some items listed separately in the state rule are the state names for things on the federal list of eligibility criteria. For example, W2 is where Wisconsin uses TANF funds.

**COMMENT:**

In the s. PSC 160.02 (30) definition of "universal service," remove the phrases "within a reasonable time" and "affordable rates."

**RESPONSE:**

Disagree. This is a definition and does not place any requirement on providers. In the rule it is generally used as part of a larger phrase like "universal service fund" or "universal service fund council." When used otherwise, it is in the description of the commission's ability to create and fund an alternative plan to protect universal service, after notice and opportunity for hearing.

Further, in the state statutes the goal of the USF is to help particular groups obtain affordable access to a basic set of essential services<sup>8</sup>. The "reasonable time" language was added based on an FCC order in which it clarified that a provider seeking ETC designation did not have to be able to provide service throughout the territory at the time of designation, but only had to be able to provide them within a reasonable time after a request for service.

**COMMENT:**

The rules should provide for state support for service to high-cost areas.

**RESPONSE:**

Disagree. These rules were described in the Statement of Scope as primarily intended to deal with the less controversial portions of a prior rulemaking and to make changes necessitated by federal

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<sup>8</sup> Section 196.218 (5) (a) 1, Stats.

and state law changes. This comment goes far beyond this scope by suggesting the creation of a new program. Further, regardless of whether a provider of last resort obligation remains or a provider receives federal or state support, ETCs are required under both state and federal law to offer service to all those within their designation areas.

**COMMENT:**

Eliminate sections 31 and 32.

**RESPONSE:**

Agree. Change made.

**COMMENT:**

Remove the requirement to ask whether a customer is eligible for lifeline at each order for initial or moved residential service.

**RESPONSE:**

Disagree. Providers are only required to advertise lifeline four times a year. Asking an applicant whether s/he might be eligible is not an unreasonable way to ensure that those who are eligible for the program are identified. Use of the CARES database generally allows immediate verification of eligibility.

**COMMENT:**

Do not require ETCs to ask an applicant whether he or she is currently receiving a lifeline adjustment on another line.

**RESPONSE:**

Agree in part. The language in s. PSC 160.062 (1r) (b) 1., has been changed so that this does not have to be asked if the provider is querying a duplication prevention database. It is a federal requirement that when initially enrolling someone, this question is asked of the customer on the federally required form. In fact, asking a customer this up front can save a utility time because if the customer does have other lifeline coverage, the utility can avoid gathering all of the information necessary and checking the federal duplication database.

**COMMENT:** Eliminate provisions about the extended eligibility of customers who qualify under the low income heating energy assistance program or the homestead tax credit.

**RESPONSE:**

Agree in part. Adjustments to the CARES database queries have taken care of the issue that these provisions were intended to address. Providers no longer need to treat these lifeline participants any differently.

**COMMENT:**

Provide guidance on when or under what circumstances the commission would withhold or suspend reimbursement while investigating compliance with state or federal lifeline requirements.

**RESPONSE:**

Disagree. This is too fact specific to try to define. The provision does state that the commission may suspend or withhold while investigating compliance issues. Doing so is optional for the commission.

**COMMENT:**

Define “appropriate medical professional” or allow ETCs to make a good-faith interpretation about who this is.

**RESPONSE:**

Agree in part. This will vary according to the person’s impairment. However the rule language helps define who is appropriate by specifying that the medical professional must be able to provide a written diagnosis and description of physical limitations and special needs resulting from that diagnosis. As always, ETCs can make a good-faith interpretation in a non-discriminatory manner.

**COMMENT:**

In s. 160.071 (4) to (6), add the basis for determining when a utility will or will not be reimbursed for waived directory assistance, operator assistance, custom calling services, and second line charges.

**RESPONSE:**

Agree in part. This language has been changed to state that a reasonable reimbursement of waived charges shall be provided.

**COMMENT:**

Eliminate the web address for how to determine median household income. Instead, provide the information on the commission’s website.

**RESPONSE:**

Agree. Change made.

**COMMENT:**

Eliminate one of the references to local minutes in s. PSC 160.09.

**RESPONSE:**

This provision has been rewritten.

**COMMENT:**

Correct inconsistent numbering.

**RESPONSE:**

Agree. Numbering has been reviewed and corrected where necessary.

**COMMENT:**

Allow the transfer of ETC designation when a company and its affiliates merely engage in restructuring activities if the corporate entity and the customer base have not changed through the restructuring.

**RESPONSE:**

Disagree in part. ETC status is designated to a particular entity. If that entity remains after restructuring, the ETC designation remains with it. However, if the entity is merged with another, the original entity no longer exists and the new entity must apply for ETC designation. It is a designation, not a transferable asset. The rule provision merely codifies existing practice.

**COMMENT:**

Remove the requirement that an ETC provide essential telecommunications service to all customers in the area for which it is requesting ETC status, or add “subject to the terms and conditions of its service offering and its policies regarding extension of facilities.”

**RESPONSE:**

Offering essential services throughout an ETC’s designation area is required by both state and federal law.

**COMMENT:**

Eliminate the requirement in s. PSC 160.13 (4) (a) 2., to provide any information the commission requires.

**RESPONSE:**

Disagree. The commission must certify certain things to the FCC. As a result, it needs the ability to gather the information it needs to make that certification, which is what this provision allows.

**COMMENT:**

Correct the cross-references (pars. 160.13 (3)(g) and (h). should be (3) (f) and (g)).

**RESPONSE:**

Agree. Change made.

## WISCONSIN LEGISLATIVE COUNCIL

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### RULES CLEARINGHOUSE

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#### 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 **13-068**

AN ORDER to ..., relating to the provisions and administration of the universal service fund.

Submitted by **PUBLIC SERVICE COMMISSION**

09-16-2013 RECEIVED BY LEGISLATIVE COUNCIL.

10-09-2013 REPORT SENT TO AGENCY.

SG:LAK

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**WISCONSIN LEGISLATIVE COUNCIL**

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**RULES CLEARINGHOUSE**

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**CLEARINGHOUSE RULE 13-068**

**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. Throughout the proposed rule, a substantial number of sections relate to the rearrangement of existing material in the code and to the replacement of existing sections of the code. The Commission should consider whether these changes are unnecessarily confusing. For example, in the sections affecting s. PSC 160.02, would it be more appropriate to achieve proper alphabetical order by using the alphabetic numbering described in s. 1.03 (5) (b), Manual? Additionally, when repealing and recreating material, the Commission should use the “repeal and recreate” treatment in a single section, rather than repealing the material in one section and creating new material in another. If new material is inserted between two repealed and recreated provisions, it may be clearer to indicate each treatment separately. [See, e.g., SECTIONS 61 and 62, and 68 and 69 of the proposed rule, where alphabetically numbered provisions are created in between repealed and recreated provisions.]

b. In SECTION 15, new material should be fully underscored.

c. SECTIONS 31 and 32 repeat the changes made in SECTIONS 29 and 30.

d. SECTION 79 should refer to the treatment of s. PSC 160.071 (1) (b) (intro.).

e. Did the Commission intend to refer to s. PSC 160.071 (1m) (L) 2. and 3. in SECTION

86?

f. In SECTION 100, a colon should be placed at the end of s. PSC 160.09 (3) (b) (intro.).

g. In s. PSC 160.13 (8), stricken text should not be used, as the section treatment indicates repeal and recreation of the rule provision.

h. The treatment in SECTION 126 should be creation of the subdivisions, not amendment.

**5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In SECTION 17, it is not clear what criteria the Commission will use in determining whether an entity is an eligible telecommunications carrier.

b. In SECTION 54, should the Commission add “receives benefits from” before “temporary assistance for needy families” in s. PSC 160.06 (1) (c) 4.?

c. Throughout the proposed rule, why does the Commission use “ETC” in some instances and “eligible telecommunications carrier” in others?