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
PSC 160 Universal Service Support Funding and Programs

3. Subject
Updating the Universal Service Fund rules

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

5. Chapter 20, Stats. Appropriations Affected

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
Outdated rules that are no longer in compliance with state and federal law. Elimination of outdated or ineffective provisions. Curtail fraud and abuse potential for federal and state USF programs.

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.
Wisconsin Federation of Independent Business; League of Wisconsin Municipalities, Wisconsin Towns Association,. Wisconsin Alliance of Cities, Citizens' Utility Board, Wisconsin State Telecommunications Association, National Federation of Independent Businesses, Universal Service Fund Council, and all telecommunications providers.

11. Identify the local governmental units that participated in the development of this EIA.
League of Wisconsin Municipalities, Wisconsin Towns Association and Wisconsin Alliance of Cities.

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)
The changes made in this rulemaking have minimal, if any, economic impacts

Comments on the economic impact of the rulemaking were more about the substance of the rules. No economic figures were provided. One commenter raised two issues about which the commission has no jurisdiction. Another commenter made a number of comments about te existing rule language rather than changes made as a part of this rulemaking. Some concern was raised about the potential for the size of the fund to increase, but the size of the fund is controlled by the legislature. One economic change was made by deleting a proposed provision about when assessments must be paid.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
Updating and revising outdated rules. Added efficiency. The updates will bring these rules into compliance with recent changes to state and federal laws.

14. Long Range Implications of Implementing the Rule
Added efficiency and compliance with recent changes to state and federal laws.

15. Compare With Approaches Being Used by Federal Government
The state and federal universal service funds and programs are complementary rather than duplicative.

"Eligible Telecommunications Carriers" (ETCs) are designated by the commission and are, thereafter, eligible for funding from the federal USF and for certain funding from the state USF. ETC status was created by the FCC, and codified in 47 U.S.C. § 214(e)(2). Under FCC rules, state commissions are responsible for designating eligible providers as ETCs.[1]

Designation as an ETC is required if a provider is to receive federal USF funding. ETC designation is also required to receive funding from some, but not all, state universal service programs. The FCC established a set of minimum criteria that all ETCs must meet. These are codified in the federal rules.[2] The 1996 Telecommunications Act states that, "A State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service."[3] A court upheld the states' right to impose additional conditions on ETCs in *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 418 (5th Cir. 1999). Therefore, while states must examine the federal requirements, they are allowed to create additional requirements. Wisconsin has done so.

The federal USF provides funding to ETCs that are found to serve high-cost areas. That funding is to be used to help cover the costs of expanding infrastructure into those areas. Doing so should help ensure that rates in those areas stay lower since rates need not provide the funds for that expansion. The Wisconsin USF provides reimbursement to providers that offer credits to customers when rates are higher than as designated in s. PSC 160.09.

The federal USF also includes Lifeline and Link-Up programs to assist low-income customers. The Wisconsin Lifeline and Link-Up programs are structured to complement the federal program and to take advantage of the available federal Lifeline and Link-Up funds.

The federal USF assessment applies to all carriers, including wireless carriers, and is assessed based on interstate revenues. The state USF assessment applies to all providers, including wireless providers, and is assessed based on intrastate revenues. Wisconsin exempts certain providers from assessment, such as those with under $200,000 in intrastate revenues.

There are parts of the federal USF (e.g., the E-Rate program for schools) that do not have a counterpart in the state USF rules. Likewise, some of the state USF rules (e.g., the program to assist persons with disabilities – s. PSC 160.071) address matters not included in the federal USF law or rules.

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

Many state USF programs, both in Wisconsin and in other states, are intertwined with federal universal service programs. As a result, there is a certain amount of similarity among state programs. For example, each of the surrounding states has Lifeline type programs.[4] As required under federal law, each has income-based eligibility criteria although the specifics vary somewhat. The level of credits to customers and the resulting reimbursements to providers are similar, due in part to the federal matching dollars attached to credit/reimbursement levels. A difference in Lifeline programs is that the four other states only have a set figure for the Lifeline credit/reimbursement amount (although in Michigan that amount may vary depending on which company is involved). Wisconsin also has a standard Lifeline credit if the base rate[5] is $25 or below, although, it has a variable component. If the base rate is $25 or above, the reimbursement/credit is the lesser of:

1. Whatever is necessary to bring that rate down to $15.

2. The amount available under the federal USF plus $9.25.

In this way, low-income customers in higher cost (generally rural) areas receive a credit sufficient to bring the base rate to a reasonably affordable level and providers are on a fairly "level playing field."

The provision in these rules that allows the Lifeline credit to apply to internet access where a certified disabled customer requires it as a substitute for regular essential telecommunications service is unique within the region.

Wisconsin also has a program (TEPP) that helps provide access to telecommunications service for persons with hearing, speech and/or mobility disabilities. TEPP provides vouchers to help persons with disabilities that impair their ability

[1] 47 U.S.C. § 214(e)(2), 47 C.F.R. § 54.201(b).
[2] 47 U.S.C. § 214(e)(1), 47 C.F.R. § 54.101(a).
[3] 47 U.S.C. § 254(f).
[4] Lifeline helps pay the monthly cost of telephone service.
[5] The "base rate" is the monthly residential rate including applicable in-state fees, touch-tone service, 911 charges on the telephone bill, the federal subscriber line charge, access recovery charge and 120 local calls.

to use standard telecommunications equipment for accessing telecommunications service to obtain equipment that will assist them in doing so. Iowa, Illinois, and Minnesota each have similar programs although the specifics vary. For example, Illinois' program is limited to those with hearing or speech disabilities, and in Minnesota the equipment belongs to the state and must be returned if the customer leaves the state or loses his/her telephone line.

Wisconsin also has a program to help lower the monthly cost of telephone service in areas of the state where rates are high. In determining whether assistance under this "high rate assistance" program is required, the program looks both at the rate for basic service and what percentage of a county's median household income that rate entails. Although its commission must vote to activate it, Michigan statutes provide for a similar program that would provide a subsidy to customers of the difference between an affordable rate and the company's forward looking economic cost of providing service (should the latter be higher than the former). Illinois has a high-cost program that provides support to small telecommunications providers if the economic costs of providing certain services exceed the affordable rate set for those services.

Surrounding states have taken a variety of approaches to certification and reporting requirements for ETCs including: adoption of formal rules, orders applicable to either new or all ETCs, and case-by-case determinations.

The Minnesota Public Utilities Commission (docket P999/M-05-741) adopted the FCC's exact language for annual certification requirements, with a couple of modifications. The two main modifications are (1) like these proposed rules, filing 2-year service quality improvement plans, and (2) filing information on a service-area basis instead of a wire-center basis. The new requirements are applied to both new and existing ETCs, and to both landline and wireless providers.

The Michigan Public Service Commission basically adopted the exact language of the FCC's rules unchanged, including the 5-year quality improvement plans. Michigan has service quality and financial reporting rules for wireline companies that do not apply to wireless ETCs, but all ETCs, both existing and new, are required to meet all of the standards and obligations contained in the FCC's ETC rules, FCC 05-46 and 47 USC 214. The one exception to this is ETCs receiving only low-income support; they have lesser reporting requirements. There are no standards for what types of reporting on quality of service issues meet the adopted FCC requirements.

The Illinois Commerce Commission has not officially adopted the FCC rules, but uses them as a base for its ETC decisions, which so far have been on a case-by-case basis. The requirements are not applied to existing ETCs. There have been requests for ETC status where the Illinois Commerce Commission has required wireless ETCs to do more than is spelled out by the FCC, holding that the FCC's requirements are "the minimum requirements." The primary areas where wireless ETCs have been subjected to more scrutiny involve consumer protection, service quality standards, and the public interest analysis. As to telephone directories, wireless providers have been required to provide written disclosure to customers that directories will not be provided and numbers will not be published. The FCC's 5-year plan is retained.

The Iowa Utility Board's (IUB) ETC rules incorporate the FCC rules with some modifications. Similar to these proposed rules, IUB requires maps of signal coverage depicting signal strength (although IUB ILECs may refer to maps already on file with the commission.) IUB adopted service quality standards for ETCs although, again like these proposed rules, they differ for landline and wireless. Rolling one year network improvement and maintenance plans are required. The rules are applied to both new and existing ETCs.

The Indiana Regulatory Commission (case 41052-ETC-47) adopted the FCC's exact language in a proceeding involving an individual ETC applicant, but made that decision applicable to all ETCs, both landline and wireless.

17. Contact Name	18. Contact Phone Number
Lisa Farrell	608-267-9086