

## Report From Agency

### PUBLIC SERVICE COMMISSION OF WISCONSIN

Review of Universal Service Fund Rules

1-AC-236

Clearinghouse Rule 13-068

### ORDER ADOPTING PROPOSED RULES

The Public Service Commission of Wisconsin proposes an order to repeal PSC 160.02 (4g), (4m), and (8) 160.031, 160.035, 160.04 (5) and (6), 160.05 (1) (h) to (j) and (L), 160.05 (1) (o) and (r) and (4), 160.062 (1), (2), (5) and (6), 160.071 (1) (d), (2) and (3), 160.073, 160.09 (8), 160.091, 160.092 (4), 160.10, 160.11, 160.14, 160.15, 160.18 (10) and 161.05 (4); to renumber PSC 160.02 (1g), (1m), (3), (5) and (9) to (11), 160.05 (1) (s), 160.071 (1) (b) (intro.) 2., 3., (m) and 160.115 (6) (c); to renumber and amend 160.01 (5), 160.02 (2), (6) to (8), (12) and (13), 160.03 (1), 160.04 (1), 160.06 (1), (4) and (5), 160.062 (3), 160.07 (title), (1) and (2), 160.071 (1) (title), (a), (b) 1., 4. to 6., (c), (e) to (L), (m), (6) (b), 160.09 (1), 160.092 (1), 160.125 (2) (c) 1., and 160.18 (9) (b); to amend 160.01 (1), (2) (b) and (4), 160.05 (intro.), (1) (intro.), (a), (c), (d), (n), (p), (2) and (3), 160.06 (2) and (3), 160.062 (7), 160.063 (1) to (4), 160.071 (title), (4) to (6), 160.08, 160.09 (2), (4) to (7) and (9), 160.092 (2) and (3), 160.115 (1) (a), (b) 1. and 2., (2) (intro.), (b), (c), (3), (4) (a), (5) (intro.), (b), (c) and (g), (6) (a) (intro.), 4., (b) and (6), 160.125 (1) (title), (a), (b), (e), (2) (a) and (b), (c) 2., 3., 5. and (d) to (f), 160.16 (1) and (2), 160.17 (1) (c), (2) and (4), 160.18 (4), (6), and (9) (a), 160.181, 160.19 (1), (2) and (4) (b), and 171.06 (1); repeal and re-create 160.03 (2), 160.04 (title) and (2) to (4), 160.06 (5), 160.061, 160.062 (4), 160.09 (3), and 160.13; and create PSC 160.01 (5) (a) to (c), 160.02 (2) to (4) and (6), (9), (11) to (16), (18), (21), (22), (25), (26), (28), and (31), 160.03 (1), 160.04 (1) (a) 1. to 5., (b) and (c), 160.05 (1) (s) and (t) and (6) to (12), 160.06 (1) (b), (c), and (4) (a), 160.062 (1) to (2r), (3) (title) and (b), (5), (6), (7) (title) and (8), 160.063 (3m), 160.071 (1m) (a), and (L) 2. and 3., (6) (b), (6m) (b) and (c) and (7), 160.09 (1), (1r), 160.092 (1) (intro.), and (b) and (c), 160.115 (6) (c), 160.125 (2) (c) 1. and 160.18 (9) (b) 2. and 3., regarding the provisions and administration of the universal service fund.

### REPORT TO THE LEGISLATURE

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

### FISCAL ESTIMATE

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

### FINAL REGULATORY FLEXIBILITY ANALYSIS

Existing Universal Service Fund (USF) rules may have an effect on small

telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats. These small telecommunications utilities, like other telecommunications providers (both large and small), may have obligations under the USF, including an obligation for payments to the USF.

These rules should have no significant impact on small businesses. The commission already has established, in s. PSC 160.18(1), an exemption from fund assessments to protect entry by and continued operation of small telecommunications providers as directed by statutory objectives. In s. PSC 160.01(2)(b), the existing rules allow the commission to give individual consideration to unusual situations and to adopt different requirements for particular telecommunications providers. Small businesses can request that the commission provide an exception to a rule requirement. Finally, Eligible Telecommunications Carrier status, which is the trigger for most USF obligations, is voluntary.

#### **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, including small business questions, should be directed to Jeff Richter, USF Director, at (608) 267-9624 or jeff.richter@wisconsin.gov. Media questions should be directed to Elise Nelson, Communications Director at (608) 267-3589. Hearing or speech-impaired individuals may also use the commission's TTY number, if calling from Wisconsin (800) 251-8345, if calling from outside Wisconsin (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 24<sup>th</sup> day of September, 2015.

By the Commission:

A handwritten signature in cursive script that reads "Sandra J. Paske". The signature is written in black ink and is positioned above the typed name and title.

Sandra J. Paske  
Secretary to the Commission

Attachments

JMD:mc:DL: 00908850

## REPORT TO THE LEGISLATURE

### A. TEXT OF THE RULE

The text of the rule is included as Attachment A1.

### B. PLAIN LANGUAGE ANALYSIS

#### 1. Statutory Authority and Explanation of Authority

This rulemaking is authorized under ss. 196.02 (1) and (3), 196.218 (5) (b) and (5m), and 227.11(2), Stats.

Section 227.11 authorizes agencies to promulgate administrative rules. Section 196.02 (1) authorizes the commission to do all things necessary and convenient to its jurisdiction. Section 196.02 (3) grants the commission specific authority to promulgate rules. Sections 196.218 (5) (b) and (5m) authorize the commission's creation and revision of these specific rules.

#### Statutes Interpreted

This rule interprets s. 196.218, Stats.

#### Related Statutes or Rules

None.

#### 2. Brief Summary of Proposed Rules

The objective of this rulemaking is to revise the existing chapter PSC 160, Universal Service Support Funding and Programs. These rules were originally created in 1996, and then revised in 2000. Minor changes are also made to chs. PSC 161 and 171. In the proposed rule, the commission revises existing Universal Service programs that provide access to telecommunications service to all Wisconsin customers regardless of geographic location, income or disability. In this same chapter are revisions to the mechanism for funding those programs and for administering the Universal Service Fund (USF).

Any changes made as a result of this rulemaking are intended to continue and enhance support for these general purposes stated in the statutes.

A prior USF rulemaking was withdrawn by act of law on December 31, 2010. That draft of the rules included several issues that were contentious, and time for promulgation expired.

This rulemaking is primarily intended to promulgate those portions of the previously proposed rules that are less contentious, such as program-specific updates. While these proposed rules were being drafted, changes occurred on both the state and federal levels that required additional revisions to these rules. For example, 2011 Wisconsin Act 22 changed the statutory definition of “essential telecommunications services.” Additionally, the federal Lifeline and Link-up programs were changed dramatically. As a result, these proposed rules were also crafted to make changes necessitated by state and federal law changes.

**PSC 160.02 (2), (3) and (4)**

These are definitions of call blocking, call control and call limitation. The changes provide consistency with applicable federal language and usage.

**PSC 160.02 (9), (12), (14) and (22)**

The commission now recognizes three different types of eligible telecommunications carrier (ETC). A definition of each type has been added.

**PSC 160.03**

This section on essential telecommunications services has been extensively rewritten to reflect changes made by 2011 Wisconsin Act 22. The prior requirements for and definition of essential services have been replaced with those in the federal law, as required by 2015 Wisconsin Act 55.

**PSC 160.031**

Pursuant to 2011 Wisconsin Act 22, references to data transmission have been deleted.

**PSC 160.035**

Pursuant to 2011 Wisconsin Act 22, references to advanced service capability have been deleted.

**PSC 160.04**

The section on call limitation (formerly toll blocking) has been rewritten to bring it more into line with current federal rules and definitions.

**PSC 160.05**

This section lists programs that can be funded through the Universal Service Fund (USF). The programs themselves are described elsewhere in the rules. Likewise, a description and explanation of changes appear in the program-specific parts of this analysis.

**PSC 160.06**

This section addresses eligibility requirements for low-income USF programs. Language is added throughout section PSC 160.06 to address the different types of Eligible Telecommunications Carriers (ETCs) now recognized by the commission. Subsection (1) requires all subject providers to use the state verification databases, as required under federal rules. Subsection (1) (c) addresses situations in which the state databases cannot be used for verification. Subsection PSC 160.06 (2) requires providers to re-verify the eligibility of all lifeline recipients annually. This requirement has existed in state rules for years and has now been adopted by the Federal Communications Commission (FCC) as well.

**PSC 160.061**

The FCC has eliminated the federal link-up program (that waives certain service connection charges for low-income customers) for all but tribal lands. This rule change eliminates the existing statewide link-up program. More limited programs targeted at specific customer groups, including those on tribal lands, who show a clear need for support may be authorized under s. PSC 160.125

**PSC 160.062 (1)**

Customers are eligible for only one lifeline credit at a time under federal law. The commission and FCC have both needed to take action to prevent lifeline fraud in this area. The draft rule specifically states that a customer may not request more than one lifeline credit, and requires the providers to take steps to prevent customers from receiving multiple lifeline credits.

**PSC 160.062 (1r)**

ETCs apply the lifeline adjustment to an eligible customer's bill, regardless of whether that customer is purchasing service on a standalone basis or as part of a bundle. The adjustment is made to whatever service or bundle the customer purchases.

**PSC 160.062 (2), (2g) and (2r)**

The lifeline base rate is defined as the rate for essential services, when offered on a standalone basis, or a fixed \$25, when essential service is only offered as part of a service bundle. The lifeline discount is tied to these rates, and is either \$10 or an amount necessary to reduce the lifeline base rate to \$15 (subject to a maximum contribution from the state of \$9.25). Another provision allows for automatic adjustment of lifeline benefits, provided they do not put the state universal service fund at risk. Where federal changes could require additional state payments, the commission would have to consider the impact of those changes before authorizing the resultant state USF expenditures. The draft rules also include a section addressing prepaid wireless service, which offers free minutes of use in lieu of a discount to monthly rates, since prepaid service has no monthly rates. Subsection (2r) contains language for lifeline on tribal lands to keep that portion consistent with the federal program.

**PSC 160.062 (4m)**

This lifeline provision clarifies the process for a provider to follow if it determines that an existing customer is no longer eligible for lifeline discounts.

**PSC 160.062 (5m)**

This section requires providers to file requests for compensation for lifeline credits in a timely manner. The provision strikes a balance: allowing providers sufficient time to file requests for compensation while not requiring the USF to budget for potential reimbursement claims filed years after occurrence.

**PSC 160.063**

The changes to this section clarify application procedures and provide flexibility for low-income outreach programs.

**PSC 160.07**

The provisions on special needs certification are moved into s. PSC 160.071.

**PSC 160.071**

This section addresses service and equipment for individuals with special needs and includes the Telecommunications Equipment Purchase Program (TEPP). Changes in the amount of reimbursement reflect changes to the costs and technologies used to provide the equipment necessary to allow customers with disabilities to use telecommunications services. Subsection (1m) (c) clarifies coverage of TEPP co-payments for low-income customers. Subsection (1m) (j) allows the commission to suspend vendors for cause and stops payments to suspended vendors. Subsection (1m) (L) 2. allows the program to cover the cost of computing equipment, if that is both required and the most cost-effective means of providing the assistance necessary for the customer to utilize telecommunications services. Sections (4), (5) and (6) continue to require providers to waive fees for operator service, directory assistance and custom calling services, when required by an individual with special needs. Providers will receive payment for such waivers. The section which provided for discounted long distance service is obsolete and has been removed. The draft also creates a filing deadline in sub. (7) to prevent providers from claiming reimbursement years after the fact.

**PSC 160.073**

The commission has ceased funding this public interest payphone program, so the language is being removed.

**PSC 160.09**

This section addresses high rate assistance credits, a program that reduces what customers are charged for essential services, when those charges exceed a threshold tied to median household income. The majority of the changes to this section clarify the sources of data used to calculate the credits, the various changes to what is considered part of essential service, and program procedures. Subsection 160.09 (1r) states when providers must recalculate those credits, and allows providers to avoid the expenses involved in such changes when those changes would be insignificant. The changes also set forth the procedure for providers to show what portion of a bundled rate covers essential service. The draft also creates a filing deadline in sub. (5) to prevent providers from claiming reimbursement years after the fact.

**PSC 160.091**

This section on qualifications for high rate assistance credits is eliminated and those requirements have been incorporated into ss. PSC 160.09 and PSC 160.13.

**PSC 160.092**

This section allows the commission to create alternative universal service protection plans on an experimental, temporary basis. The changes clarify the procedure to create such plans and specify what such plans could address. Subsection (4) is eliminated, as the program to which it refers is also being eliminated.

**PSC 160.10**

Rate Shock Mitigation applied only in cases where commission-ordered retail rate increases would negatively impact customers. Since the commission no longer has authority to order rate changes, the rate shock mitigation program is being eliminated.

**PSC 160.11**

The TEACH Program made this program for institutional assistance obsolete, so the language is being deleted.

**PSC 160.125**

The changes in this section promoting access to telecommunications services provide clarity, codify the procedures the commission is currently following and remove advanced services from the list of supportable services as required by 2011 Wisconsin Act 22.

**PSC 160.13**

This section on ETCs has been extensively revised to codify current practice and to incorporate changes in both federal rules and state statutes. Changes in this section also reflect the fact that the commission authorizes three different types of ETCs. Full ETCs are eligible for all state and federal funds, including high cost funding. Low-income-only ETCs are only eligible for lifeline support. Federal-only ETCs are wireless ETCs authorized under s. 196.218(4) (b), Stats. A provider may be both low-income and federal only, in which case the provider would only be eligible for federal lifeline support.

**PSC 160.13(3)**

This subsection lists the information and certifications providers must file as part of their initial applications for ETC status. The section incorporates federal filing requirements. The section requires a list of wire centers in which the provider seeks designation, a showing that the provider is certified to do business in Wisconsin, and the provision of contact information and so forth.

**PSC 160.13(5)**

This subsection covers periodic reporting requirements for ETCs. The state requirements generally mirror federal requirements and allow ETCs to meet most state requirements by filing copies of their federal filings with the commission.

**PSC 160.13(9)**

Both federal rules and statutes define the smallest area for which a provider can request ETC designation, but the FCC has granted waivers and forbearance of these requirement in certain situations. The general rule states that the smallest allowable area for areas served by rural



incumbent local exchange companies (ILECs) is, with certain exceptions, the entire ILEC service territory. The smallest allowable area for non-rural areas is the wire center.

**PSC 160.13(10)**

This subsection has been modified to conform with FCC directives that call for states to make a public interest finding in designating ETCs in both rural and non-rural areas, although the finding for non-rural areas requires a less detailed analysis.

**PSC 160.13 (12)**

This provision covers the procedures for ETCs to relinquish ETC status. The changes to this section are primarily grammatical, and to address the existence of low-income ETCs. Paragraph (c) incorporates the processes that were referred to in another section which is being eliminated in this rewrite, so that those references appear here. Paragraph (e) addresses the situation of a federal-only ETC which wishes to remain an ETC, but, because of technological change or for other reasons, no longer meets the requirements for federal-only status.

**PSC 160.14**

This section, which ensured customers had access to at least one long distance provider, is being repealed. With the market moving to all-distance pricing, specific protections targeted exclusively at long distance service are no longer necessary.

**PSC 160.18 (9) (b)**

This section clarifies timelines and procedures for providers that wish to object to universal service fund assessments.

**PSC 160.19 (2)**

The modifications to the composition of the universal service fund council reflect the changes to the industry which have occurred since this provision was last drafted. Long distance is no longer a separate nor an affected market segment, while wireless has clearly become significant.

3. Comparison with Existing or Proposed Federal Regulations

There is both a state USF and a federal USF. The state and federal 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.<sup>1</sup>

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

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<sup>1</sup> 47 U.S.C. §. 214(e)(2), 47 C.F.R. § 54.201(b).

codified in the federal rules.<sup>2</sup> The 1996 Telecommunications Act states that, “A State may adopt regulations not inconsistent with the commission’s rules to preserve and advance universal service.”<sup>3</sup> 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 (link-up on tribal lands only) to assist low-income customers. The Wisconsin lifeline program is structured to complement the federal program and to take advantage of the available federal lifeline funds.

The FCC is currently conducting trials around the country where the lifeline credit may apply to internet access service. In these rules the Wisconsin lifeline program is adapted to address the needs of disabled individuals whose principal means of communication is not adequately supported by traditional voice telephony. It allows the lifeline credit to apply to internet access where a certified disabled customer requires it as a substitute for regular essential telecommunications service.

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.

#### 4. Comparison with Similar Rules in Adjacent States

The following discussion focuses on areas where significant changes are being made to the USF rules.

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.<sup>4</sup> 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

<sup>2</sup> 47 U.S.C. § 214(e)(1), 47 C.F.R. § 54.101(a).

<sup>3</sup> 47 U.S.C. § 254(f).

<sup>4</sup> Lifeline helps pay the monthly cost of telephone service. Link-up helps pay the cost of service installation.

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 has a standard lifeline credit if the base rate<sup>5</sup> 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 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

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<sup>5</sup> 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.

main modifications are (1) filing 2-year service quality improvement plans instead of the federal five year requirement, 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 U.S.C. § 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.

##### 5. Summary of Factual Data and Analytical Methodologies Used

Both the state and federal laws in this area changed. This required changes to the state rules. Other changes were the result of experience with various programs. Some of the changes, such as to high rate assistance, were based on comparison of results under old language and results under the new language.

## 6. Effect on Small Business

Existing USF rules may have an effect on small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats. These small telecommunications utilities, like other telecommunications providers (both large and small), may have obligations under the USF, including an obligation for payments to the USF, which is required under statute. Other requirements in the rule only apply to wireless providers who voluntarily choose to become designated as eligible telecommunications carriers. Since the Commission does not regulate wireless providers, it does not have records indicating how many of them are small businesses.

These proposed rules should have no particular impact on small businesses. The commission already has established, in s. PSC 160.18 (1), an exemption from fund assessments to protect entry by and continued operation of small telecommunications providers as directed by statutory objectives. In s. PSC 160.01 (2) (b), the existing rules allow the commission to give individual consideration to unusual situations and to adopt different requirements for particular telecommunications providers. Small businesses can request that the commission provide an exception to a rule requirement. There are no new reporting or bookkeeping requirements created under these proposed rules. Also, most of the requirements in the proposed rules only apply to providers who voluntarily choose to be designated as ETCs.

The agency has considered the methods in s. 227.114 (2), Stats., for reducing the impact of the rules on small businesses. Accordingly, the agency has included provisions for exemption from assessments for small providers, and allowing requests for consideration of unusual circumstances, as noted above. Further application of these methods is not consistent with statutory objectives.

## 7. Agency Contacts

Questions regarding this rule, including small business questions, should be directed to Jeff Richter, USF Director, at (608) 267-9624 or [Jeff.richter@wisconsin.gov](mailto:Jeff.richter@wisconsin.gov). Media questions should be directed to Elise Nelson, Communications Director, at (608) 266-9600. Hearing- or speech-impaired individuals may also use the Commission's TTY number: if calling from Wisconsin, (800) 251-8345; if calling from outside Wisconsin, (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 previous paragraph, as soon as possible.

**C. FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS**

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

**D. BASIS AND PURPOSE OF RULES**

The objective of this rulemaking is to revise the existing chapter PSC 160, Universal Service Support Funding and Programs. These rules were originally created in 1996, and then revised in 2000. Minor changes are also made to chs. PSC 161 and 171. In the proposed rule, the commission revises existing Universal Service programs that provide access to telecommunications service to all Wisconsin customers regardless of geographic location, income or disability. In this same chapter are revisions to the mechanism for funding those programs and for administering the Universal Service Fund (USF).

Any changes made as a result of this rulemaking are intended to continue and enhance support for these general purposes stated in the statutes.

A prior USF rulemaking was withdrawn by act of law on December 31, 2010. That draft of the rules included several issues that were contentious, and time for promulgation ran out. This rulemaking is primarily intended to promulgate those portions of the previously proposed rule that are less contentious, such as program-specific updates. While these proposed rules were being drafted, changes occurred on both the state and federal levels that required additional revisions to these rules. For example, 2011 Wisconsin Act 22 changed the statutory definition of “essential telecommunications services.” Additionally, the federal Lifeline and Link-up programs were changed dramatically. As a result, these proposed rules were also crafted to make changes necessitated by state and federal law changes.

**E. SUMMARY OF PUBLIC COMMENTS AND COMMISSION RESPONSES**

A summary of public comments and commission responses is included as Attachment A3.

**F. APPEARANCES AT PUBLIC HEARING**

The following people appeared at the public hearing, although no one testified:

Peter L. Gardon of Reinhart Boerner Van Deuren S.C for Time Warner Cable LLC, Wisconsin Cable Communications Association, and U.S. Cellular.

Jean Pauk for TDS MetroCom

Bills Haas for T-Mobile USA, Inc.

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

None.

**H. RESPONSE TO LEGISLATIVE COUNCIL COMMENTS**

A copy of the LRB's report is included as Attachment A4. The following are the commission's responses:

2.a. Disagree. The commission feels that its structure for change, in this particular rule, is clearer. For example, in the sections 61-62 referred to by the Legislative Council (now 59-60) it is clearer to repeal 2 provisions and then create the 6 that follow so that the flow of the newly created provisions is apparent.

- b. Agree. Change made.
- c. Agree. Change made.
- d. Agree. Change made.
- e. Agree. Change made.
- f. Agree. Change made.
- g. Agree. Change made.
- h. Agree. Change made.

5 a. Those requirements are spelled out in PSC 160.13.

- b. Agree. Change made.
- c. Because sections may be read individually, eligible telecommunications carrier was used the first time it was used in a section, and used ETC at all other times.

**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 directly or substantially impact housing under s. 227.115, Stats., and concluded that they will not.

## TEXT OF THE RULES

**SECTION 1.** PSC 160.01 (1), (2) (b) and (4) are amended to read:

PSC 160.01 **Scope and purpose.** (1) **PURPOSE.** Chapter PSC 160 is designed to effectuate and implement s. 196.218, Stats., 47 USC 254, 47 CFR 54 and parts of other sections of the Wisconsin and federal statutes, authorizing the commission to establish and operate a universal service fund and programs to further the goal of providing a basic set of essential telecommunications services ~~and access to advanced service capabilities~~ to all customers ~~of~~ in the state.

(2) (b) Nothing in this chapter shall preclude the commission from giving special and individual consideration ~~being given~~ to exceptional or unusual situations and, upon due investigation of the facts and circumstances involved, ~~the adoption of~~ from adopting requirements as to individual providers or services programs that may be lesser, greater, other or different than those provided in this chapter.

(4) **ENFORCEMENT.** The manner of enforcing ch. PSC 160 is prescribed in ss. 196.218, 196.499 (17) and 196.66, Stats., and includes ~~such~~ any other means ~~as~~ provided in statutory sections administered by the commission.

**SECTION 2.** PSC 160.01 (5) is renumbered 160.01 (5) (intro.), and amended to read:

PSC 160.01 (5) (intro.) **ORDERS.** The commission may issue orders it ~~deems~~ considers necessary to assist in the implementation or interpretation of this chapter. ~~Except for declaratory rulings under s. 227.41, Stats., which require the opportunity for a hearing, and commission determinations not subject to judicial review under ss. 227.52 and 227.53, Stats., orders shall be issued~~ The commission shall issue orders only after notice and an opportunity for comment by interested parties including the universal service fund council, except in the following circumstances:

**SECTION 3.** PSC 160.01 (5) (a) to (c) are created to read:

PSC 160.01 (5) (a) The commission issues a determination not subject to judicial review under ss. 227.52 and 227.53, Stats.

(b) The commission receives a request for a declaratory ruling under s. 227.41, Stats., which requires the opportunity for a hearing.

(c) As otherwise provided in this chapter.

**SECTION 4.** PSC 160.02 (1g) and (1m) are renumbered 160.02 (1) and (7).

**SECTION 5.** PSC 160.02 (2) is renumbered 160.02 (8), and amended to read:



PSC 160.02 (8) “Disability” means a physical or sensory impairment that limits or curtails an individual’s access to or usage of ability to use telecommunications services or equipment, or both. ~~“Disability” includes a speech, vision, or hearing impairment and motion impairments that limit an individual’s ability to handle telecommunications equipment.~~

**SECTION 6.** PSC 160.02 (2) is created to read:

PSC 160.02 (2) “Call blocking” means a service that lets customers elect not to allow the completion of any of the calls specified under s. PSC 160.04 (1) on the customer's account.

**SECTION 7.** PSC 160.02 (3) is renumbered 160.02 (10).

**SECTION 8.** PSC 160.02 (3) and (4) are created to read:

PSC 160.02 (3) “Call control” means a service that lets a customer specify a certain amount of the calls specified under s. PSC 160.04 (1) that may be completed per month on the customer's account.

(4) “Call limitation” means either call blocking or call control for providers that are incapable of providing both services and, for providers that are capable of providing both services, it means both call blocking and call control.

**SECTION 9.** PSC 160.02 (4g) and (4m) are repealed.

**SECTION 10.** PSC 160.02 (5) is renumbered 160.02 (17).

**SECTION 11.** PSC 160.02 (6) is renumbered 160.02 (19), and amended to read:

PSC 160.02 (19) “Link-up” means ~~the~~ a program that waives some or all service connection charges for low-income customers.

**SECTION 12.** PSC 160.02 (6) is created to read:

PSC 160.02 (6) “Commission” means the public service commission.

**SECTION 13.** PSC 160.02 (7) is renumbered 160.02 (20), and amended to read:

PSC 160.02 (20) “Local exchange service provider” means any ~~commercial mobile radio service~~ wireless provider that has been designated as an eligible telecommunications carrier under s. PSC

160.13, or a telecommunications utility or any other provider of basic local exchange service or standard business lines and usage.

**SECTION 14.** PSC 160.02 (8) is repealed.

**SECTION 15.** PSC 160.02 (9) is renumbered 160.02 (23).

**SECTION 16.** PSC 160.02 (9) is created to read:

PSC 160.02 (9) “Eligible telecommunications carrier” or “ETC” means a telecommunications provider that the commission has so designated and includes federal-only ETCs, full ETCs and low-income ETCs.

**SECTION 17.** PSC 160.02 (10) and (11) are renumbered 160.02 (24) and (27).

**SECTION 18.** PSC 160.02 (11) is created to read:

PSC 160.02(11) “Extended community calling” means a telecommunications service by which a customer in one exchange may call a customer in another exchange or combination of exchanges under an expanded local calling plan based on usage.

**SECTION 19.** PSC 160.02 (12) is renumbered 160.02 (29), and amended to read:

PSC 160.02 (29) “Two line voice carryover” means the technique of using 3-way calling and 2 telephone lines, one for voice and one for ~~TTY or similar equipment~~ text, to connect a caller who is deaf or hard of hearing but can speak, with another caller via the telecommunications relay service.

**SECTION 20.** PSC 160.02 (12) is created to read:

PSC 160.02 (12) “Federal – only eligible telecommunications carrier” or “federal-only ETC” means a telecommunications provider that the commission has so designated under s. 196.218 (4) (b), Stats., or so designated before June 9, 2011.

**SECTION 21.** PSC 160.02 (13) is renumbered 160.02 (30), and amended to read:

PSC 160.02 (30) “Universal service” means a statewide rapid, efficient, communications network with adequate, economically placed facilities to ~~assure~~ ensure that a basic set of essential telecommunications services is available to all persons in this state within a reasonable time and at affordable prices ~~and that the advanced service capabilities of a modern telecommunications infrastructure are affordable and accessible to all areas of the state within a reasonable time.~~

**SECTION 22.** PSC 160.02 (13) to (16) are created to read:

PSC 160.02 (13) “Federal subscriber line charge” means a monthly per line federal charge that is assessed directly on a local exchange telephone service customer as allowed by the federal communications commission.

**Note:** This is also known federally as the end-user common line charge. See 47 CFR 69.104.

(14) “Full eligible telecommunications carrier” or “full ETC” means a telecommunications provider that the commission has so designated under s. PSC 160.13 for participation in all universal service programs.

(15) “Household” has the meaning given in 47 CFR 54.400 (h).

**Note:** As of April 2015, 47 CFR 54.400 (h) read as follows: A “household” is any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person 18 years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of 18 living with their parents or guardians are considered to be part of the same household as their parents or guardians.

(16) “Incumbent local exchange carrier” means a telecommunications provider, and its successors and assigns, authorized under law or by the commission before September 1, 1994, to place facilities and provide basic local service in a particular geographic area.

**SECTION 23.** PSC 160.02 (18) is created to read:

PSC 160.02 (18) “Line” means an access line or service to an activated wireless handset.

**SECTION 24.** PSC 160.02 (21) is created to read:

PSC 160.02 (21) “Low-income” means a household that meets one of the following criteria:

(a) Receives benefits from one or more of the following programs:

1. Wisconsin works under ss. 49.141 to 49.162, Stats.

**Note:** This includes all programs, including financial and employment assistance, child care subsidy, etc.

2. Medical assistance under 42 USC 1396 *et seq.*

3. Supplemental security income under 42 USC 1381 to 1383.

4. Food stamps under 7 USC 2011 to 2029.

**Note:** As of April 2015, the generic term “food stamps” refers to programs currently known as Supplemental Nutrition Assistance Program (SNAP) and Food Share.

5. The low income household energy assistance program under s. 16.27, Stats.

6. Unless the provider is a federal-only ETC, Wisconsin homestead tax credit under ss. 71.51 to 71.55, Stats.

7. BadgerCare Plus programs under s. 49.471, Stats., consistent with the income limits in par. (h).

8. SeniorCare 1 and 2a under s. 49.688, Stats.

9. The national school lunch program’s free lunch program.

10. Temporary assistance for needy families, other than Wisconsin works under ss. 49.141 to 49.161, Stats.

11. As approved by the commission, other state or federally administered programs for households with income levels less than or equal to 200% of the poverty line as defined in 42 USC 9902 (2).

**Note:** See subs. 160.06 (1) (c) concerning other households that may be considered low-income.

(b) The customer’s income, as defined in 47 CFR 54.400 (f), is at or below 135% of the federal poverty guidelines.

(c) Eligible under any other federal low-income eligibility criteria.

**SECTION 25.** PSC 160.02 (22) is created to read:

PSC 160.02 (22) “Low-income eligible telecommunications carrier” or “low-income ETC” means a telecommunications provider that the commission has so designated under s. PSC 160.13 for participation only in the lifeline or link-up program, or both.

**SECTION 26.** PSC 160.02 (25) and (26) are created to read:

PSC 160.02 (25) “Pay-per-call service” has the meaning given in s. 196.208 (1) (a), Stats.

(26) “Provider” or “telecommunications provider” has the meaning given in s. 196.01 (8p), Stats.

**SECTION 27.** PSC 160.02 (28) is created to read:

PSC 160.02 (28) “Two line hearing carryover” means the technique of using 3-way calling and 2 telephone lines, one for hearing and one for text, to connect a hearing caller who is speech impaired with another caller via the telecommunications relay service.

**SECTION 28.** PSC 160.02 (31) is created to read:

PSC 160.02 (31) “Wireless provider” means a commercial mobile radio service provider as defined in s. 196.01 (2g).

**SECTION 29.** PSC 160.03 (1) is renumbered 160.03 (1m), and amended to read:

PSC 160.03 (1m) ~~Each local exchange service provider eligible telecommunications carrier shall make all essential telecommunications services available to all of its customers at affordable prices.~~

**SECTION 30.** PSC 160.03 (1) is created to read:

PSC 160.03 **Essential telecommunications services.** (1) For purposes of this subsection:

(a) “911” means a service that permits a telecommunications user to use the three-digit code ‘911,’ to access emergency services through a public safety answering point operated by a local government.

(b) “Directory assistance” means a service that includes making available to customers, upon request, information contained in directory listings, such as customer address and telephone number.

(c) “Dual tone multi-frequency” means a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time.

**Note:** This is commonly known as touch tone.

(d) “Emergency services” includes services, such as 911 and enhanced 911, provided by local governments or other public safety organizations.

(e) “Enhanced 911” means 911 service that includes the ability to provide automatic numbering information, which enables the public safety answering point to call back if the call is disconnected, and automatic location information, which permits emergency service providers to identify the geographic location of the calling party.

(f) "Interexchange service" means the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless provider, necessary to access an interexchange provider's network.

(g) "Local usage" means an amount of exchange service, prescribed by the commission, provided free of charge to end users.

(h) "Operator services" means any automatic or live assistance to a customer to arrange for billing or completion, or both, of a telephone call.

(i) "Single-party service" means telecommunications service that permits users to have exclusive use of a landline subscriber loop or access line for each call placed, or, in the case of wireless providers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission.

(j) "Voice grade access" means a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call.

**SECTION 31.** PSC 160.03 (2) is repealed and re-created to read:

PSC 160.03 (2) "Essential telecommunications services" means the service or functionalities listed in 47 CFR 54.101.

**SECTION 32.** PSC 160.031 and 160.035 are repealed.

**SECTION 33.** PSC 160.04 (title) is repealed and re-created to read:

**PSC 160.04 (title) Call limitation.**

**SECTION 34.** PSC 160.04 (1) is renumbered 160.04 (1) (a) (intro.), and amended to read:

**PSC 160.04 (1) (a) (intro.)** ~~BLOCKING CALL LIMITATION OBLIGATIONS. Every~~ Except as provided in pars. (b) and (c), every local exchange service provider in the state shall offer the call limitation capability to block all long distance calls and, separately, the capability to block 900 and 976 number calls and the capability to block extended community calling unless a timely waiver has been granted to the local exchange service provider by the commission. for each of the following:

**SECTION 35.** PSC 160.04 (1) (a) 1. to 5., (b) and (c) are created to read:

PSC 160.04 (1) (a) 1. Long distance toll calls.

2. Pay-per-call service.

3. Collect toll calls.

4. Toll calls charged to a telephone credit card associated with the telephone number for which call limitation has been requested.

5. Toll calls charged to a third telephone number for which call limitation has been requested.

(b) Federal-only eligible telecommunications carriers are not required to offer any call limitation capabilities to customers who are not low income and need only offer blocking of outgoing toll calls to customers who are low income.

(c) A local exchange service provider is not required to offer the blocking under subs. (a) 1., 3., 4., or 5., to a customer that has service that does not include a fee for such calls that is in addition to the per month or per billing cycle price of service.

**SECTION 36.** PSC 160 04 (2) to (4) are repealed and recreated to read:

**(2) CHARGES.** A local exchange service provider may not impose a charge for the cost of blocking pay-per-call services the first time a customer requests such blocking.

**(3) EMERGENCY SERVICE.** A local exchange service provider may not impose a call limitation that prevents a customer from reaching the emergency service numbers appropriate for the customer's location.

**(4) PUBLIC NOTIFICATION AND EDUCATION.** An eligible telecommunications carrier shall make reasonable efforts to inform its customers of the availability of and, where charge-free, eligibility requirements for, call limitation services. An eligible telecommunications carrier shall also make reasonable efforts to instruct customers requesting the service in the use of the service.

**SECTION 37.** PSC 160.04 (5) and (6) are repealed.

**SECTION 38.** PSC 160.05 (intro.) is amended to read:

PSC 160.05 (intro.) **Universal service fund programs.** Universal service fund monies may be used for fund administration; ~~for the purpose of informing the public regarding~~ of the universal

~~service fund, its existence, purpose, intent and areas of use~~ uses of the universal service fund; and for the following purposes:

**SECTION 39.** PSC 160.05 (1) (intro.), (a), (c) and (d) are amended to read:

PSC 160.05 (1) (intro.) For the following programs as adopted by the commission under the appropriation in ~~ss. 20.155 (1) (q) and (3)~~, Stats.:

(1) (a) Link-up ~~America~~ assistance, as specified in s. PSC 160.061.

(c) ~~Voice mail~~ Telephone access service for the homeless, as specified in s. PSC 160.125 (1).

(d) Telecommunications equipment purchase program (TEPP) vouchers, as specified in s. PSC 160.071 ~~(4)~~ (1m).

**SECTION 40.** PSC 160.05 (1) (h) to (j) and (L) are repealed.

**SECTION 41.** PSC 160.05 (1) (n) is amended to read:

PSC 160.05 (1) (n) Eligible telecommunications carriers designated by a process under s. PSC 160.13 ~~(5)~~ (8) (c).

**SECTION 42.** PSC 160.05 (1) (o) is repealed.

**SECTION 43.** PSC 160.05 (1) (p) is amended to read:

PSC 160.05 (1) (p) Second line for 2 line voice or hearing carryover, as specified in s. PSC 160.071 ~~(6)~~ (6m).

**SECTION 44.** PSC 160.05 (1) (r) is repealed.

**SECTION 45.** PSC 160.05 (1) (s) is renumbered 160.05 (1) (u).

**SECTION 46.** PSC 160.05 (1) (s) and (t) are created to read:



PSC 160.05 (1) (s) Directory assistance, operator assistance and custom calling service payments under s. PSC 160.071 (4) to (6).

(t) Broadband expansion grants under s. 196.504, Stats.

**SECTION 47.** PSC 160.05 (2) and (3) are amended to read:

PSC 160.05 (2) For payments by the ~~technology for educational achievement in Wisconsin board department of administration for educational~~ telecommunications access support, as specified in s. 196.218 (5) (a) 5., Stats., under the appropriation in s. 20.505(4) (s), (t), (tm), ~~and (tu) and (tw)~~, Stats., and for payments under the appropriation in s. 20.865 (4) (u), Stats.

(3) For payments ~~to the department of administration~~ for telecommunications services provided to the campuses of the university of Wisconsin system ~~at River Falls, Stout, Superior and Whitewater~~, as specified in s. 196.218 (5) (a) 6., Stats., ~~under the appropriation in s. 20.285 (1) (q), Stats.~~

**SECTION 48.** PSC 160.05 (4) is repealed.

**SECTION 49.** PSC 160.05 (6) to (12) are created to read:

PSC 160.05 (6) For payments by the department of public instruction for newslines for the blind, under the appropriation in s. 20.255 (3) (q), Stats.

(7) For payments by the department of public instruction for supplemental aid to public library systems as specified in s. 43.24, Stats., under the appropriation in s. 20.255 (3) (qm), Stats.

(8) For payments by the department of public instruction for library service contracts as specified in s. 43.03 (6) and (7), Stats., under the appropriation in s. 20.255 (3) (r), Stats.

(9) For grants from the department of administration for training teachers to use educational technology under s. 16.996, Stats.

(10) For payments by the department of public instruction to provide funding for online courses made available under s. 115.28 (53), Stats.

(11) For payments by the department of public instruction to provide funding for the delivery of digital content and collaborative instruction under s. 115.28 (54), Stats.

(12) For other payments authorized by statute.

**SECTION 50.** PSC 160.06 (1) is renumbered 160.06 (1) (a), and amended to read:

PSC 160.06 **Eligibility for low-income programs.** (1) LOW-INCOME ASSISTANCE ELIGIBILITY. (a) (intro.) ~~Local exchange service providers~~ All ETCs shall verify an applicant's eligibility for low-

income assistance programs by making timely queries of the applicable databases of the Wisconsin department of ~~workforce development~~ health services, the Wisconsin department of revenue, or other ~~state government~~ agencies designated by the commission. ~~Applicant~~ An ETC shall verify an applicant's eligibility shall be verified by finding the applicant to be any of the following:

PSC 160.06 (1) (a) 1. An active client of at least one of the programs listed in s. PSC 160.02 ~~(8)~~ (21) (a).

2. A member of the active client's household whose low income qualifies the client for benefits under at least one of the programs listed in s. PSC 160.02 ~~(8)~~ (21) (a).

~~3. A recipient of the Wisconsin homestead tax credit for the most recently completed tax year. If the applicant's tax filing for the most recently completed tax year has not been posted to the records of the Wisconsin department of revenue and if application for low income assistance is made on or before June 30th, then the tax year prior to the most recently completed tax year may be used to determine eligibility.~~<sup>4</sup>

3. At an income level that meets the conditions in s. PSC 160.02 (21) (b).

4. At an income level that meets the conditions of any other federal low-income eligibility criteria.

**SECTION 51.** PSC 160.06 (1) (b) and (c) are created to read:

PSC 160.06 (1) (b) Notwithstanding par. (a), an eligible telecommunications carrier shall verify an applicant as eligible for low-income assistance programs if the applicant qualifies for federal universal service fund support for eligible residents of tribal lands under 47 CFR 54.400 *et seq.*

(c) If an eligible telecommunications carrier cannot verify an applicant's eligibility under par. (a) or (b), in addition to the households considered low-income under the definition in s. PSC 160.02 (21), the ETC shall consider a household that receives benefits from federal public housing assistance (section 8) to be low-income:

**SECTION 52.** PSC 160.06 (2) and (3) are amended to read:

PSC 160.06 ~~(2) ELIGIBILITY RECONFIRMATION REVERIFICATION.~~ Eligibility shall be reconfirmed  
An eligible telecommunications carrier shall reverify eligibility on at least an annual basis for all customers receiving lifeline assistance. The eligible telecommunications carrier shall first attempt to reverify eligibility by making timely queries of the applicable databases of the Wisconsin department of health services, the Wisconsin department of revenue, or other government agencies designated by the commission.

~~(3) ELIGIBILITY INQUIRY. Local exchange service providers~~ Eligible telecommunications carriers other than federal-only ETCs shall inquire of the each customer regarding eligibility of that customer for low-income programs on each order for initial or moved residential service and,

orally or in writing, in the first contact with the customer during a year concerning disconnection or payment arrangements.

**SECTION 53.** PSC 160.06 (4) is renumbered 160.06 (4) (b), and amended to read:

PSC 160.06 (4) (b) ~~Local exchange service providers~~ Eligible telecommunications carriers shall comply with client obtain whatever customer authorization requirements of is required by the Wisconsin department of workforce development health services, the Wisconsin department of revenue, or other state government agencies for the database queries necessary for eligibility verification. Customers shall complete and remit any reasonably required query authorization forms or forfeit eligibility. The commission may revoke the eligible telecommunications carrier designation and order the forfeiture of reimbursements if it accesses a customer's database information without that customer's authorization. The commission may also refer the eligible telecommunications carrier to the Wisconsin department of justice or other state agency for appropriate action.

**SECTION 54.** PSC 160.06 (4) (a) is created to read:

PSC 160.06 (4) (a) Customers shall complete and remit any reasonably required query authorization forms or forfeit eligibility.

**SECTION 55.** PSC 160.06 (5) is repealed and re-created to read:

PSC 160.06 (5) **APPLICANT REQUIREMENTS.** Notwithstanding any other provision of this section, an applicant is only eligible for low-income assistance programs under this chapter if the applicant provides all of the information required under state and federal law.

**SECTION 56.** PSC 160.061 is repealed and recreated to read:

PSC 160.061 **Link-up program.** The commission may fund programs to identify and provide monetary assistance to low-income persons who are unlikely to be able to obtain telecommunications service without such assistance. Such programs may include customers who qualify for federal universal service fund support for eligible residents of tribal lands under 47 CFR 54.400 *et seq.*

**SECTION 57.** PSC 160.062 (1) and (2) are repealed.

**SECTION 58.** PSC 160.062 (1) to (2r) are created to read:

PSC 160.062 **Lifeline program.** (1) DEFINITIONS. (a) For purposes of subs. (2) to (7), “eligible telecommunications carrier” or “ETC” means only full and low – income ETCs, and does not include federal-only ETCs.

(b) For purposes of this section, “line” means an access line, service to an activated wireless handset, or service to an internet connection used as a substitute for a traditional telecommunications connection.

(c) For purposes of this section, “lifeline monthly rate” means the lifeline base rate under sub. (2) minus the lifeline adjustment under sub. (2g) or (2r).

(1g) APPLICABILITY. An eligible telecommunications carrier may apply the lifeline adjustment under sub. (2g) to any residential service that includes voice service, including bundles of voice and data services, and bundles that include optional calling features such as caller identification, call waiting, voice mail and three-way calling.

(1r) ELIGIBILITY. (a) All eligible telecommunications carriers shall offer to all qualified low-income customers a lifeline adjustment to the customer’s rate for either of the following:

1. Essential telecommunications service, whether stand-alone or as part of a service package.
2. Internet access, if the customer demonstrates that, because of his or her disability other than cognitive impairment, certified under s. PSC 160.071 (1), the customer requires internet access that is adequate to support service that is substitutable for and comparable to essential telecommunications service.

**Note:** An example under subd. 2. is video relay service.

**Note:** Subd. 2. does not require a provider to offer internet access service. If provider offers a service needed under subd. 2., or bills for such a service provided by an affiliate, the provider applies the lifeline adjustment to the price of that service and collects some of the payment from the customer and some from the USF.

(b) An ETC taking an application for the lifeline program shall do the following:

1. Unless the ETC uses a state or federal duplication prevention database, ask the applicant if he or she is currently receiving a lifeline adjustment on any other line.
2. Require the applicant to certify that he or she is not currently receiving a lifeline adjustment on any other line or from any other provider.
3. Only offer and apply the lifeline adjustment on one line.
4. Ensure that any federal requirements about lifeline are met.

**Note:** For example, see 47 CFR 54.410 regarding use of state databases for eligibility verification.

(c) A customer may not request a lifeline adjustment on more than one line. An ETC shall not apply the lifeline adjustment unless the customer has certified under par. (b) that the customer is not receiving a lifeline adjustment on another line or from any other provider.

(d) If an ETC becomes aware that a customer is receiving a lifeline adjustment on more than one line or from more than one provider, the ETC shall provide notice and take action under sub. (4m) to ensure that the customer receives a lifeline adjustment on only one line.

(2) LIFELINE BASE RATE. The lifeline base rate is one of the following:

(a) For an eligible telecommunications carrier offering local service on a stand-alone basis, the sum of:

1. The in-state charges and fees for stand-alone single-party residential service with touch-tone, including, as applicable, all of the following:

- a. Police and fire protection fee.
- b. State universal service fund assessment.
- c. Remainder assessment.
- d. Telecommunications utility trade practices assessment.

2. Any 911 charges billed on the telephone bill.

3. The federal subscriber line charge.

4. The access recovery charge.

5. The charge for 120 local calls, excluding extended community calling calls.

6. Other charges as approved by the commission.

(b) \$25, if the eligible telecommunications carrier does not offer local service on a stand-alone basis, and only offers it as part of a service package.

(c) The commission may authorize a different lifeline base rate based on the particular facts and circumstances concerning an eligible telecommunications carrier's local service or internet access charges.

(2g) LIFELINE ADJUSTMENT. (a) Except as provided in par. (b) and sub. (2r):

1. If the lifeline base rate is \$25 or less, the lifeline adjustment shall be \$10.

2. If the lifeline base rate is greater than \$25, the lifeline adjustment shall be the lesser of the following:

a. The amount necessary to reduce the lifeline monthly rate to \$15.

b. The maximum reimbursement available under 47 CFR 54.403, plus \$9.25.

**Note:** Subsection (2g)(a)2.b. caps the adjustment at, essentially, double the maximum amount available from the federal USF at the time the rules went into effect. In the future, the amount available from the federal USF may increase, but the state portion is frozen at \$9.25 so that if, for example, the federal subscriber line charge is raised and paid for through the federal USF, the state does not automatically increase its reimbursement portion. This step was taken to protect the state fund by blocking any automatic increase in state reimbursement due to federal action.

(b) If the ETC offers prepaid wireless service, the lifeline adjustment for that service shall be the greater of the following:

1. The number of minutes that, when calculated using the lowest per minute rate the ETC offers to its prepaid wireless customers, equals or exceeds the value of the adjustment under par. (a) that would otherwise apply.
2. The number of minutes recognized by the federal communications commission as an acceptable compliance plan provision for that provider.

(c) The adjustment under par. (a) 1. shall be increased automatically if both of the following occur:

1. A federal communications commission order or a change in federal law causes an increase in a customer's lifeline base rate.
2. The state reimbursement amount after the increased lifeline adjustment is not greater than it was before the federal communications commission order or change in federal law.

**Note:** A provider may petition the commission under s. PSC 160.01(2)(b) for an increased lifeline adjustment if the increased adjustment would increase the state reimbursement amount.

(d) Notwithstanding subs. (2g) and (2r), the lifeline adjustment for partial months of service shall follow the policy set by the federal universal service administration corporation or its successors.

(2r) ADJUSTMENTS FOR RESIDENTS OF TRIBAL LANDS. (a) When a customer qualifies for federal universal service fund support for eligible residents of tribal lands under 47 CFR 54.400 *et seq.*:

1. If the lifeline base rate under sub. (2) is \$25 or less, the lifeline adjustment shall be \$10, plus whatever federal universal service fund support the customer qualifies for as an eligible resident of tribal lands.
2. If the lifeline base rate under sub. (2) is greater than \$25, the lifeline adjustment shall be the amount necessary to reduce the lifeline monthly rate to the level at which the adjustment results in a state reimbursement amount that is equal to what it would be under sub. (2g) (a) 2., plus whatever federal universal service fund support the customer qualifies for as an eligible resident of tribal lands.

(b) The adjustment under par. (a)1. shall be increased automatically if both of the following occur:

1. A federal communications commission order or a change in federal law causes an increase in a customer's lifeline base rate.

2. The state reimbursement amount after the increased adjustment is not greater than it was before the federal communications commission order or change in federal law.

**Note:** A provider may petition the commission under s. PSC 160.01(2)(b) for an increased lifeline adjustment if the increased adjustment would increase the state reimbursement amount.

**SECTION 59.** PSC 160.062 (3) (title) is created to read:

PSC 160.062(3) (title) SHOWING THE ADJUSTMENT.

**SECTION 60.** PSC 160.062 (3) is renumbered 160.062 (3) (a), and amended to read:

PSC 160.062 (3) (a) ~~The~~ Except as provided in par. (b), the eligible telecommunications carrier shall show the lifeline monthly rate may appear as a credit against adjustment either as an adjustment to the full standard tariffed or standard rate on a customer's bill or as a special rate designation. Whenever possible, the eligible telecommunications carrier shall begin showing the lifeline adjustment or rate shall begin to appear on an eligible customer's bill on the next bill date following the date of application for lifeline assistance. If the ETC does not apply the lifeline adjustment or rate does not begin to appear on the next bill date, when it the ETC does appear back apply the credit will it shall be given applied back to the date of application. In cases where a customer's eligibility date as found in the records of the Wisconsin department of workforce development, the Wisconsin department of revenue, or other state agencies precedes the last bill date prior to application, credit shall also be given for one month's prior bill.

**SECTION 61.** PSC 160.062 (3) (b) is created to read:

PSC 160.062 (3) (b) If an eligible telecommunications carrier offers prepaid service and does not render a bill for that service, if it maintains a statement of account or account balance for a prepaid service customer the provisions of par. (a) apply to the statement of account or account balance. If the ETC does not maintain a statement of account or account balance, the ETC shall include information about adjustments and applicability dates in its terms of service.

**SECTION 62.** PSC 160.062 (4) is repealed and recreated to read:

PSC 160.062 (4) TERMINATION AND NOTICE OF IMPENDING TERMINATION. (a) Providers shall follow the provisions of 47 CFR 54.405 (e) to terminate lifeline enrollment. The provider shall query the state database used to verify the customer's eligibility in order to obtain information about whether the customer is still eligible according to that database. If that database indicates that the customer is no longer eligible, the ETC shall follow the de-enrollment procedures in 47 CFR 54.405 (e). The ETC shall send the notice separately from the customer's regular monthly bill, if

one is provided. The notice shall state the termination date and shall provide information about how to demonstrate continued eligibility.

**SECTION 63.** PSC 160.062 (5) and (6) are repealed.

**SECTION 64.** PSC 160.062 (5) to (6) are created to read:

PSC 160.062 (5) PROVIDER REIMBURSEMENT. (a) Only low-income and full eligible telecommunications carriers may receive reimbursement from the state universal service fund.

(b) An ETC may only receive reimbursement if it complies with all federal lifeline requirements, including the requirement to stop requesting federal universal service fund reimbursement for a prepaid wireless telephone that has not been used in 60 days and the requirement to use the appropriate state database where possible to verify lifeline eligibility.

(c) The commission may withhold or suspend reimbursement while investigating compliance with state or federal lifeline requirements.

(d) If an ETC is eligible to receive lifeline reimbursement under the federal lifeline program, it may receive reimbursement from the state universal service fund for the difference between what it is eligible to receive in federal reimbursement and what its reimbursement would otherwise be under sub. (2g).

(e) Notwithstanding par. (c), the provider reimbursement for partial months of service shall follow the policy set by the federal universal service administration corporation or its successors.

(5m) DEADLINE FOR FILING. An eligible telecommunications carrier shall file its reimbursement request with the fund administrator before April 1 of the year following the year during which the customer was charged the lifeline monthly rate for which reimbursement is sought. A provider may obtain an extension from commission staff for good cause, if the extension request is received before the April 1 deadline.

(6) LIMITATIONS ON CHARGES. (a) An eligible telecommunications carrier may not do any of the following to a lifeline customer:

1. Charge a deposit for service if the customer voluntarily accepts call limitation.
2. Request that the customer pay in advance for more than one month's local service bill.
3. Disconnect the customer from local service for nonpayment of toll charges.

(b) An ETC may counsel a customer that otherwise would be subject to disconnection to accept call limitation.



**SECTION 65.** PSC 160.062 (7) (title) is created to read:

PSC 160.062 (7) CALL LIMITATION UNDER SPECIAL PROGRAMS.

**SECTION 66.** PSC 160.062 (7) is amended to read:

PSC 160.062 (7) ~~A local exchange service provider~~ An eligible telecommunications carrier acting under the limited conditions specified in its commission approved telecommunications customer assistance program under s. PSC 160.08 may impose ~~toll blocking or restriction~~ call limitation on lifeline customers.

**SECTION 67.** PSC 160.062 (8) is created to read:

PSC 160.062 (8) FEDERAL-ONLY ETCs. Federal-only eligible telecommunications carriers shall comply with all federal lifeline requirements, including the requirement to stop requesting federal universal service fund reimbursement for a prepaid wireless telephone that has not been used in 60 days and the requirement to use the appropriate state database where possible to verify lifeline eligibility.

**SECTION 68.** PSC 160.063 (1) to (3) are amended to read:

PSC 160.063 **Outreach for low-income assistance programs.** (1) Funding ~~shall~~ may be available to fund ~~collaborative partnerships between community-based organizations and telecommunications providers~~ projects to increase participation of the eligible populations in the universal service fund low-income support programs.

(2) Funding from the universal service fund for ~~these collaborative efforts~~ projects under sub. (1) ~~shall~~ may not exceed \$250,000 in one year. Funding shall be limited to not more than 6 projects with at least one project focused statewide and one project focused on the Milwaukee area, if feasible.

(3) The commission ~~shall annually~~ may periodically review applications and grant funding, when funding is available, based on complete responses to a request for ~~proposals~~ applications. Funding shall be limited to not more than 6 projects with at least one project focused statewide and one project focused on the Milwaukee area, if feasible. An application may involve disbursement of support during multiple state fiscal years. All applications become public documents upon filing.

**SECTION 69.** PSC 160.063 (3m) is created to read:

PSC 160.063 (3m) An application for funding under sub. (1) shall include all of the following:

(a) A description of the proposed project.

- (b) The name and a description of any project partners and the role of each partner.
- (c) A description of the proposed activities and an explanation of how those activities may increase participation of eligible populations in the universal service fund low-income support programs.
- (d) A budget showing a breakdown of costs and how a grant under this section would be used.
- (e) Any other information that the commission considers necessary.

**SECTION 70.** PSC 160.063 (4) is amended to read:

PSC 160.063 (4) The commission ~~shall~~ may authorize funding to conduct or contract for an evaluation of the effectiveness of this program in promoting enrollment in low-income programs and subscribership to ~~telephone telecommunications service to~~. This evaluation shall be completed within 2 years of May 1, 2000 the date on which the commission grants the project funding. The cost of this evaluation shall not exceed \$25,000. This \$25,000 shall be included as part of the \$250,000 maximum total funding available under this section during the year in which the evaluation occurs.

**SECTION 71.** PSC 160.07 (title), (1) and (2) are renumbered 160.071 (1) (title), (a) and (b), and amended to read:

PSC 160.071 SPECIAL TELECOMMUNICATIONS NEEDS CERTIFICATION. (1) (a) A person with a disability may determine whether that disability presents a barrier to use of telecommunications services, or equipment, or both. That person shall determine what accommodations are needed to ensure effective telecommunications access.

(b) When a ~~local exchange service provider or~~, the fund administrator, a vendor, or the commission has sound reason to question the self-certification of a customer under ~~sub. (1) par. (a),~~ additional verification of disability, such as an appropriate ~~doctor's written~~ medical professional's written diagnosis and description of physical limitations and special needs resulting from that diagnosis, may be required for certification of special telecommunications needs. An appropriate medical professional is one who is qualified to make such a diagnosis and provide such a description.

**SECTION 72.** PSC 160.071 (title) is amended to read:

PSC 160.071 **Service and equipment pricing for individuals with special telecommunications needs.**

**SECTION 73.** PSC 160.071 (1) (title) and (a) are renumbered 160.071 (1m) (title) and (am), and amended to read:

PSC 160.071 (1m) TELECOMMUNICATIONS EQUIPMENT PURCHASE PROGRAM. (~~TEPP~~)

(am) ~~Vouchers shall be~~ The universal service fund administrator shall make vouchers available to assist customers with a disability who have special telecommunications needs certification under s. PSC 160.071 (1) in the purchase of equipment needed to personally access and use essential services of the telecommunications network. ~~Vouchers may not be used~~ A customer may not use a voucher to purchase equipment which will be used exclusively for commercial purposes.

**SECTION 74.** PSC 160.071 (1) (b) (intro.) is renumbered PSC 160.071 (1m) (b) (intro).

**SECTION 75.** PSC 160.071 (1) (b) 1. is renumbered PSC 160.071 (1m) (b) 1., and amended to read:

PSC 160.071 (1m) (b) 1. \$~~200~~ 100 for hard of hearing.

**SECTION 76.** PSC 160.071(1) (b) 2. and 3. are renumbered PSC 160.071 (1m) (b) 2. and 3.

**SECTION 77.** PSC 160.071 (1) (b) 4. to 6. and (c) are renumbered PSC 160.071 (1m) (b) 4. to 6. and (c), and amended to read:

PSC 160.071 (1) (b) 4. \$1,600 for mobility or motion impaired.

5. \$2,500 for severely hard of hearing - low vision or deaf - low vision.

6. \$7,200 for severely hard of hearing - blind or deaf - blind.

(c) A voucher recipient under par. (b) 1. is not required to make a co-payment. All other voucher recipients are required to make a co-payment of \$100 ~~at the time when~~ when the equipment is purchased. ~~Pursuant to~~ Under par. (f), for certain low income customers the co-payment may be supplied by funding through the telecommunications assistance program (~~TAP~~) administered by the Wisconsin department of health services under s. 46.297, Stats., and ch. DHS 78. For certain low-income customers in the categories under pars. (b) 3. and 4. the co-payment may be supplied by the universal service fund if the customer provides a medical professional's statement confirming the need for telecommunications equipment available under this section and if the customer certifies that he or she would meet the income requirements of the telecommunications assistance program.

**SECTION 78.** PSC 160.071 (1) (d) is repealed.

**SECTION 79.** PSC 160.071 (1) (e) to (k) are renumbered PSC 160.071 (1m) (e) to (k), and amended to read:

PSC 160.071 (1) (e) ~~Customers with disabilities may obtain voucher application forms from the fund administrator, their local exchange service provider, or other sources. Completed~~ An applicant shall submit a completed, commission-approved voucher application forms shall be submitted form to the universal service fund administrator.

Note: Customers with disabilities may obtain commission-approved voucher application forms from the fund administrator, the commission, or other sources, including the commission's website psc.wi.gov.

(f) Applicants for vouchers under this section shall be Wisconsin residents. An applicant may not receive a voucher for equipment for the same disability more than once every 3 years. An applicant may receive a voucher for equipment even if another person in the same household has also received a voucher. ~~Applications~~ The fund administrator shall refer applications filed by low-income ~~deaf and hard of hearing~~ individuals in the categories under par. (b) 2., 5., and 6., shall be referred to the Wisconsin department of health services for telecommunications assistance program (TAP) funding to provide any customer co-payment required under par. (c). If the applicant is found eligible, the fund administrator may issue an alternative voucher ~~may be issued~~ to include that program's funding. If found ineligible, the fund administrator shall process a voucher application shall be processed in priority according to its original date of receipt ~~by the fund administrator.~~

(g) ~~Applications shall be granted~~ The fund administrator shall grant applications on a first-come, first-served basis; except, no single disability classification described in par. (b) may be issued vouchers ~~totalling~~ totaling more than 75% of the total annual budget within the first 3 quarters of the budget year.

(h) ~~A-The fund administrator shall establish a waiting list shall be established~~ for applications held pending available funding or ~~pursuant to~~ under par. (g).

(i) The commission may establish new disability categories and voucher maximums if it identifies a need is identified.

(j) Vendors may redeem vouchers, submitted with an invoice, from the universal service fund administrator. ~~Reimbursement~~ A vendor may not exceed receive reimbursement that exceeds the total purchase price of the equipment with tax less, where applicable, a customer co-payment of \$100. The commission may, for good cause, suspend a vendor's eligibility to redeem vouchers under this program. Suspended vendors may not receive reimbursement for vouchers submitted for purchases or customer orders made after the date of suspension.

(k) ~~The commission~~ Commission staff may impose reasonable limits on the types and quantities of devices that may be purchased with one voucher.

**SECTION 80.** PSC 160.071 (1) (L) is renumbered 160.071 (1m) (L) 1., and amended to read:

PSC 160.071 (1) (L) 1. The fund administrator shall ~~maintain lists, and make accessible, a list~~ of the types and quantities of equipment eligible for purchase with a single voucher in each category under par. (b). Revisions to the list shall be done periodically by the fund administrator in

consultation with the commission staff and representatives selected by the universal service fund council. ~~Input~~ The fund administrator and commission may solicit input regarding revisions ~~may be solicited~~ from vendors, representatives of interested groups serving the disabled and others, as appropriate.

Note: The equipment list will be posted on the commission's website ([psc.wi.gov](http://psc.wi.gov)). A vendor may submit an e-mail address to the commission and request e-mail notification of whenever a revised list is posted.

**SECTION 81.** PSC 160.071 (1m) (L) 2. and 3. are created to read:

PSC 160.071 (1m) (L) 2. The commission staff and fund administrator may include equipment that can be used to access the internet for telecommunications service on the list of equipment available to individuals in the categories under pars. (b) 3.to 6. Internet access equipment includes a personal computing device and necessary software, but does not include customer premises wiring, telephone or cable access lines, or telecommunications services.

3. Individuals requesting equipment under subd. 2. shall provide a medical professional's statement to the fund administrator stating that the equipment is necessary to meet the telecommunications needs of that individual.

**SECTION 82.** PSC 160.071 (1) (m) is renumbered 160.071 (1m) (m).

**SECTION 83.** PSC 160.071 (1) (n) is renumbered 160.071 (1m) (n), and amended to read:

PSC 160.071 (1) (n) Equipment purchases involving individual exceptions to the eligible equipment lists under par. (L) may be granted by the fund administrator only following consultation with commission staff. Commission staff, the fund administrator, or both, may solicit input regarding such exceptions from vendors, representatives of interested groups serving the disabled and others, as appropriate.

(n) Objections to items included on or excluded from the eligible equipment lists and determinations regarding individual exceptions shall be ~~handled as informal complaints~~ submitted to the commission in writing. The commission staff shall review the objection and issue a letter addressing it. ~~Such~~ Commission staff decisions may be appealed to the commission.

**SECTION 84.** PSC 160.071 (1m) (a) is created to read:

PSC 160.071 (1m) (a) Definitions. In this subsection:

1. “Cognitive impairment” means a condition that limits every day practical skills and involves significant difficulty with memory, information processing, executive functions, or some combination thereof.

2. “Disability” means a physical, cognitive, or sensory impairment that limits or curtails an individual’s ability to use telecommunications services or equipment, or both.

**SECTION 85.** PSC 160.071 (2) and (3) are repealed.

**SECTION 86.** PSC 160.071 (4) to (6) are amended to read:

**PSC 160.071 (4) DIRECTORY ASSISTANCE CHARGES.** ~~(a) Customers with certified disabilities that prevent them from using the telephone directory shall not be charged~~ An eligible telecommunications carrier other than a federal-only ETC shall waive the charge for a reasonable number of directory assistance calls in a month for a customer with a disability that meets all of the following:

1. Is certified under s. PSC 160.071 (1).
2. Prevents the customer from using the telephone directory.

(b) The ETC shall receive reasonable reimbursement from the universal service fund for these calls.

**(5) OPERATOR ASSISTANCE CHARGES.**<sup>6</sup> ~~(a) Customers with certified disabilities that prevent them from directly dialing or keying calls shall not be charged~~ An eligible telecommunications carrier other than a federal-only ETC shall waive the charge for operator assistance to place calls for a customer with a disability that meets all of the following:

1. Is certified under s. PSC 160.071 (1).
2. Prevents the customer from directly dialing or keying calls.

(b) The ETC shall receive reasonable reimbursement from the universal service fund for these calls.

**(6) CUSTOM CALLING SERVICE CHARGES.** ~~(a) Customers with certified disabilities who deem one or more custom calling~~ An eligible telecommunications carrier other than a federal-only ETC shall waive the charge for a custom calling services essential in order to receive service that is useful and comparable to the essential service provided to other customers shall receive those services without charge. service for a customer with a disability that meets all of the following:

1. Is certified under s. PSC 160.071 (1)
2. In the customer’s opinion, requires the custom calling service in order for the customer to receive service that is comparable to the essential service provided to other customers.

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<sup>6</sup> While AT&T states that these rules are backward looking because operator assisted calls are rapidly declining, under 2011 Wis. Act 22, both operator assistance and directory assistance are considered essential services that all ETCs must offer.

**SECTION 87.** PSC 160.071 (6) (b) is renumbered 160.071 (6m), and amended to read:

PSC 160.071 (**6m**) SECONDLINE CHARGES. ~~Hearing impaired customers who are able and choose to use 2 line voice carryover shall not be charged~~ An eligible telecommunications carrier other than a federal-only ETC shall waive any intrastate nonrecurring charge or monthly rate for a second line for all of the following:

1. A hearing impaired customer who is able and chooses to use 2 line voice carryover.
2. A speech impaired customer who is able and chooses to use 2 line hearing carryover.

**SECTION 88.** PSC 160.071 (6) (b) is created to read:

PSC 160.071 (6) (b) The ETC shall receive reasonable reimbursement from the universal service fund for these services.

**SECTION 89.** PSC 160.071 (6m) (b) and (c), and (7) are created to read:

PSC 160.071 (6m) (b) If a customer requests a service that is equivalent to those listed in par. (a), the ETC shall waive the same amount it would waive under par. (a).

(c) The ETC shall receive reasonable reimbursement from the universal service fund for the amount waived.

(7) **FILING DEADLINE.** A provider may not receive reimbursement under sub. (4) to (6m) unless it files its reimbursement request with the fund administrator no later than April 1 of the year following the year during which the provider would have billed the charge to a customer. The provider may obtain an extension from commission staff for good cause.

**SECTION 90.** PSC 160.073 is repealed.

**SECTION 91.** PSC 160.08 is amended to read:

PSC 160.08 **Telecommunications customer assistance program.** The commission may authorize individual telecommunications providers to establish telecommunications customer assistance programs that meet authorized goals and objectives for increasing or stabilizing subscription levels for non-optional, essential ~~telephone~~ telecommunications service within its service territory or to address avoidance of disconnection or limitation of service to low-income households with payment problems. ~~Such~~ The customer assistance programs may allow a provider to not make available certain essential services, as defined in s. PSC 160.03 (2), in order to ~~preserve~~ keep at least minimal ~~telephone~~ telecommunications service to certain low-income households with payment problems. The commission shall determine on a case-by-case basis whether or not a telecommunications customer assistance program may receive universal service fund monies.

**SECTION 92.** PSC 160.09 (1) is renumbered 160.09 (1g), and amended to read:

PSC 160.09 (1g) ~~A local exchange service provider that is an eligible telecommunications carrier under s. PSC 160.13~~ full ETC shall provide high rate assistance credits to residential customers when the price of service exceeds levels set in this section.

**SECTION 93.** PSC 160.09 (1) is created to read:

PSC 160.09 **High rate assistance credits.** (1) In this section, “median household income” means the estimated median household income per county published annually by the U.S. census bureau’s small area income and poverty estimate program.

**Note:** This may be found on the commission’s website at [psc.wi.gov](http://psc.wi.gov)

**SECTION 94.** PSC 160.09 (1r) is created to read:

PSC 160.09 (1r) A full ETC shall recalculate credits under this section whenever the fixed monthly charge for essential telecommunications service, as defined in s. PSC 160.03(2), is changed, or when ordered to do so by the commission. If the recalculation results in a de minimis change, the ETC may request that the administrator of the division of business and communications services stay the requirement to increase or decrease the credit.

**SECTION 95.** PSC 160.09 (2) is amended to read:

PSC 160.09 (2) ~~Credits shall be applied to the price of service~~ Full eligible telecommunications carriers shall calculate credits as specified in sub. (3) (4) utilizing the price of service determined under sub. (3). ~~except that if a local exchange service provider charges a single rate covering basic local exchange service and other telecommunications or related services, the commission may determine, by order and after opportunity for hearing, the portion of such bundled rates to which rate assistance credits apply.~~

**SECTION 96.** PSC 160.09 (3) is repealed and recreated to read:

PSC 160.09 (3) For purposes of calculating credits under sub. (4):

(a) If a full ETC offers essential services on a stand-alone basis, the price of service calculated under this paragraph for its stand-alone essential services shall be considered the price of service when calculating credits for all of the ETC’s offerings, whether provided on a stand-alone basis or as part of a bundle. The price of service for stand-alone essential services that is used to calculate credits under sub. (4) shall include all of the following charges and fees:



1. The in-state charges and fees for residential stand-alone essential services, including, as applicable, all of the following:

- a. Police and fire protection fee.
- b. State universal service fund assessment.
- c. Remainder assessment.
- d. Telecommunications utility trade practices assessment.
- e. Federal universal service fund assessment.

2. Any 9-1-1 charges billed on the telephone bill.

3. The federal subscriber line charge.

4. The access recovery charge.

5. The charge, if any, for 120 local calls, excluding extended community calling calls.

6. The federal communications commission authorized charge for implementation of local number portability.

7. Other charges as approved by the commission.

(b) The price of service for residential stand-alone essential services does not include charges for items and services such as:

1. Data service.
2. Handsets, modems, or other customer premises equipment.
3. Caller identification.
4. Call waiting.
5. Texting.
6. Voicemail.

(c) If a full ETC only offers essential services bundled with other services, and not on a stand-alone basis, the price of service used to calculate credits under sub. (4) shall be the charges and fees for the service, minus the charge for optional items or services such as the following:

1. Handsets, modems, or other customer premises equipment.
2. Caller identification.
3. Call waiting.
4. Texting.
5. Voicemail.

(d) If a full ETC's charge for bundled service includes a charge for data service, it is rebuttably presumed that that the ETC's customers are not eligible for high rate assistance for that bundled service. The ETC may rebut this presumption by showing that the charge for the bundled service minus the cost of providing data service totals an amount high enough to qualify the customer for high rate assistance. The commission may, upon complaint or if it has a reasonable basis to believe

that a credit should be applied when it is not, require the ETC to provide the relevant cost information.

**SECTION 97.** PSC 160.09 (4), and (5) to (7) are amended to read:

**PSC 160.09 (4)** ~~Local exchange service providers~~ Full eligible telecommunications carriers shall issue high rate assistance credits according to the following criteria:

- (a) For the portion of the price of service below ~~4.5~~ 1.2 % of median household income, per month, for the area in which the rate applies, no credits apply.
- (b) For the portion of the price of service equal to or above ~~4.0~~ 1.2% but below ~~2.0~~ 1.7 % of median household income, per month, for the area in which the rate applies, ~~the local exchange service provider shall issue~~ a credit equal to 50% of that amount.
- (c) For the portion of the price of service equal to or above ~~2.0~~ 1.7 % but below ~~2.5~~ 2.2 % of median household income, per month, for the area in which the rate applies, ~~the local exchange service provider shall issue~~ a credit equal to 75% of that amount.
- (d) For the portion of the price of service equal to or above ~~2.5~~ 2.2% but below ~~3.5~~ 2.7 % of median household income, per month, for the area in which the rate applies, ~~the local exchange service provider shall issue~~ a credit equal to 85% of that amount.
- (e) For the portion of the price of service equal to or above ~~3.5~~ 2.7 % of median household income, per month, for the area in which the rate applies, ~~the local exchange service provider shall issue~~ a credit equal to 95% of that amount.
- (f) When a rate applies in only one county, the median household income, ~~as published by the Wisconsin department of workforce development,~~ used to calculate the credit shall be that of that county in which the rate applies. When a rate applies in more than one county, the median household income used to compute the credit shall be the average of the median household incomes in each county in which the rate applies, weighted by the number of customers paying that rate in each county.
- (g) If the amount of money required to reimburse ~~local exchange service providers~~ full ETCs for credits under this section exceeds the amount budgeted for this program under s. PSC 160.17, the commission may modify the formula for high rate assistance credits. ~~Such modification may be done by commission order, after notice and an opportunity for hearing.~~
- (5) Except as provided in sub. (9), each ~~local exchange service provider shall~~ full ETC may be reimbursed by the universal service fund for the value of the credits it issues, ~~provided that it qualifies under s. PSC 160.094~~ if it files its reimbursement claims with the fund administrator by April 1 of the year following the year during which it issued the credit. The full ETC may obtain an extension of the filing deadline from commission staff for good cause.

(6) When a ~~local exchange service provider~~ full ETC charges a pro-rated portion of the normal monthly charge for service because the customer has had service for only a portion of the month, the rate assistance credit for that customer shall be pro-rated by the same percentage.

(7) ~~High A full ETC shall show and identify the high~~ rate assistance credits ~~shall be shown and identified~~ on bills issued to customers.

**SECTION 98.** PSC 160.09 (8) is repealed.

**SECTION 99.** PSC 160.09 (9) is amended to read:

PSC 160.09 (9) ~~Local exchange service providers shall~~ Full ETCs may not be reimbursed by the universal service fund for the value of credits issued to customers receiving essential telecommunications service under a contract if the contract has a duration of greater than one year. The commission may grant waivers of this subsection by order. This subsection does not apply to rural line extension contracts entered into before January 1, 1996.

**SECTION 100.** PSC 160.091 is repealed.

**SECTION 101.** PSC 160.092 (1) is renumbered 160.092 (1) (a), and amended to read:

PSC 160.092 (1) (a) ~~As an An~~ alternative to the high rate assistance credit mechanism in s. PSC 160.09, ~~the commission may, by order, after notice and an opportunity for hearing, implement other plans under this section.~~

**SECTION 102.** PSC 160.092 (1) (intro.) is created to read:

PSC 160.092 **Alternative universal service protection plans. (1) (intro.)** After notice and opportunity for hearing the commission may, by order, implement one or more of the following plans:

**SECTION 103.** PSC 160.092 (1) (b) and (c) are created to read:

PSC 160.092 (1) (b) A measure to ensure provision of intralata and interlata essential services.

(c) A measure approved by the commission as necessary to protect universal service and ensure provision of services.

**SECTION 104.** PSC 160.092 (2) and (3) are amended to read:

PSC 160.092 (2) Alternative plans under ~~sub. (1)~~ this is shall be implemented on an experimental basis. These ~~experiments~~ plans shall be reviewed within 3 years of inception and shall terminate within 5 years of inception, unless made permanent by commission order after notice and an opportunity for hearing.

(3) Alternative ~~high-cost support~~ plans under this section may make use of cost studies, bidding, auctions, defined service territories or other mechanisms to protect universal service. The commission may, by order, authorize payment of universal service fund monies as part of an alternative plan.

**SECTION 105.** PSC 160.092 (4), 160.10 and 160.11 are repealed.

**SECTION 106.** PSC 160.115 (1) (a) and (b) 1. and 2. are amended to read:

PSC 160.115 (1) (a) “Initial application” means ~~an~~ the first application for universal service fund support under this section that ~~is the first such application filed by the~~ an applicant during files in a state fiscal year.

(b) “Non-profit medical clinic” includes any clinic or hospital that meets all of the following:

1. Is a non-profit organization governed by a board of directors;
2. Serves federally designated health professional shortage areas as defined in 42 USC 254e (a) (1), medically underserved areas, or medically underserved populations, ~~and~~.

**SECTION 107.** PSC 160.115 (2) (intro.), (b), (c), (3),(4) (a), (5) (intro.), (b), (c) and (g), (6) (a) (intro.) and 4. and (b), and (6) are amended to read:

PSC 160.115 (2) (intro.) ~~Funding may be available~~ The commission may grant funding to non-profit medical clinics and public health agencies for the purchase of telecommunications equipment for any of the following purposes:

(b) To directly or indirectly enhance access to medical care in rural or underserved areas of the state, or both.

(c) To directly or indirectly enhance access to medical care by underserved populations or persons with disabilities in the state, or both.

(3) ~~A~~ The commission may grant a maximum of \$500,000 in universal service fund support ~~may be dispersed~~ granted under this section per state fiscal year, or \$1,000,000 per state biennium.

(4) (a) An ~~application applicant~~ applicant for universal service fund support under this section may not ~~involve disbursement, in its application, request disbursement of support during multiple state fiscal years for a time period longer than that specified in the solicitation for grant applications.~~

(5) ~~Applications~~ An applicant for funding shall include all of the following in its application:

(b) An explanation of how the applicant's purchase of ~~such~~ the telecommunications equipment will support the purposes identified in sub. (2).

(c) Identification of the vendor that ~~will~~ may supply the telecommunications equipment.

(g) Any other information that the commission ~~deems~~ considers necessary.

(6) (a) The commission shall evaluate all applications submitted under this section. ~~Provided that funds remain for this purpose, the~~ The commission may approve all or part of an application if it includes the information required under sub. (5) and if the commission determines the following:

1. The applicant is a non-profit medical clinic or public health agency located in Wisconsin.
2. The applicant's purchase of telecommunications equipment will support the purposes identified in sub. (2).
3. The applicant will be able to pay for the portion of the cost of the equipment not funded under this section.
4. The ~~medical clinic or public health agency~~ applicant has taken steps to secure the equipment at reasonable prices.

(b) Public health agencies and non-profit organizations that operate more than one location may receive universal service fund support for telecommunications equipment at more than one location, but before approving an application involving an additional location, the commission shall consider how much total universal service fund support has been received by ~~such~~ the agency or organization during the ~~state fiscal year~~ time period specified in the solicitation for grant applications and the total amount remaining available to be ~~dispersed~~ granted under this section during ~~the fiscal year~~ that time period. ~~Preference may be given to initial applications filed by a public health agency or non-profit medical clinic.~~

**SECTION 108.** PSC 160.115 (6) (c) is renumbered 160.115 (6) (d).

**SECTION 109.** PSC 160.115 (6) (c) is created to read:

PSC 160.115 (6) (c) The commission may give preference to initial applications filed by a public health agency or non-profit medical clinic.

**SECTION 110.** PSC 160.125 (1) (title), (a) and (b) are amended to read:

PSC 160.125 (1) (title) ~~VOICE-MAIL~~ TELEPHONE ACCESS SERVICE FOR THE HOMELESS.

(a) ~~Any~~ The commission may compensate any voice mail provider ~~may be compensated~~ for providing, on request, to a social services agency, a job service agency or ~~other~~ a homeless shelter authority, voice-mail service without charge to be used by that agency or authority for the benefit of its homeless clients or residents.

(b) A voice-mail provider that is providing voice-mail boxes to a qualifying agency or authority at no charge may request and receive reimbursement only for its incremental usage and administrative costs of providing this service using available capacity. As an alternative, a provider may request and receive reimbursement ~~may be requested and received~~ from the fund at a standard rate set by the commission to cover expected incremental costs of providing this service using available capacity.

**SECTION 111.** PSC 160.125 (1) (e) and (2) (a) and (b) are amended to read:

PSC 160.125 (1) (e) A social services agency, job service agency or homeless shelter authority participating in this program shall maintain a list of all individuals receiving voice mail under this section ~~shall be maintained by the social services agencies, job service agencies or homeless shelter authorities participating in this program.~~

(2) ACCESS PROGRAMS OR PROJECTS BY NON-PROFIT GROUPS. (a) ~~Partial~~ The commission may grant partial funding ~~may be available~~ to non-profit groups for the facilitation of affordable access to telecommunications ~~and information~~ services through programs or projects, or both, not supported elsewhere in this chapter, but that are consistent with the purposes identified in s. 196.218 (5) (a) 1. ~~and 2.~~, Stats.

**Note:** As of ~~November 1999~~ April 2015, s. 196.218 (5) (a) 1. ~~and 2.~~, Stats., reads in pertinent part:

*(5) USES OF THE FUND. (a) The commission shall use the moneys in the universal service fund only for any of the following purposes:*

*1. To assist customers located in areas of this state that have relatively high costs of telecommunications services, low-income customers and disabled customers in obtaining affordable access to a basic set of essential telecommunications services.*

*2. ~~To assist in the deployment of advanced service capabilities of a modern telecommunications infrastructure throughout this state.~~*

(b) Any non-profit group may apply for universal service funding to fund any portion of a program or project or both. Funding shall be ~~provided~~ granted on a state fiscal year basis, but funding for more than one fiscal year may be approved at one time. ~~Applications for funding in the following fiscal year shall be submitted by November 15th.~~ The commission shall issue a list of approved programs or projects, or both, ~~by April 15th, with funding for those programs or projects, or both, to begin that July 1st when grants are awarded.~~ All applications ~~shall~~ become public documents upon filing.

**SECTION 112.** PSC 160.125 (2) (c) 1. is renumbered 160.125(2) (c) 1m., and amended to read:

PSC160.125 (2) (c) 1m. A description of a public need which is not being met at present;.

**SECTION 113.** PSC 160.125 (2) (c) 1. is created to read:

PSC 160.125 (2) (c) 1. A statement that the applicant is a non-profit group, as defined in s. PSC 160.02 and (23).

**SECTION 114.** PSC 160.125 (2) (c) 2. 3., 5., and (d) to (f) are amended to read:

PSC 160.125 (2) (c) 2. A description of how the program or project is consistent with the ~~purposes~~ purpose identified in s. 196.218 (5) (a) 1. ~~and 2.~~, Stats.

3. A description of the program or project proposed, including a description of how the public need described in subd. ~~1~~ 1m. may be met through affordable access to telecommunications ~~or information services;~~.

5. Identification of the providers of each portion of the telecommunications services or equipment and a specific description of the ~~following~~ components of the program or project including all of the following:

a. The costs of telecommunications services and telecommunications equipment used by the program or project;.

b. The cost of training for those who are served by the program or project so that they can ~~utilize~~ use the services;.

c. The administrative costs directly attributable to the program or project;.

d. The cost of technical expertise required to complete the program or project; ~~and.~~

e. Revenue from services or training described in subd. 5. b.

(d) The commission shall evaluate all complete and timely applications submitted. In evaluating the applications the commission shall consider information including, ~~but not limited to,~~ all of the following:

1. The basis of the public need to be met;.

2. The extent to which other programs or projects, either funded under this section or otherwise under this chapter, meet that need; ~~and.~~

3. The overall cost of the proposed program or project.

(e) The universal service fund shall reimburse applicants for up to ~~50%~~ 75% of the cost of reimbursable portions of the program or project, or both. The reimbursable costs include those listed in par. (c) 5. a. to d. The applicant may include in-kind goods or services, or both, as resources to be used for the remainder of the costs of the program or project, or both.

(f) The commission shall determine the programs or projects, or both, to be funded and the amount of reimbursement for each program or project shall be determined by the commission. ~~The commission shall seek comments on the programs or projects to be funded, but shall not hold a hearing.~~ A The commission may grant a maximum of \$500,000 in funding may be dispersed under this subsection per state fiscal year, or \$1,000,000 per state biennium.

**SECTION 115.** PSC 160.13 is repealed and recreated to read:

PSC 160.13 (1) GENERAL. (a) The commission may designate a telecommunications provider as an eligible telecommunications carrier. This designation is not transferable.

(b) The commission may suspend or revoke an ETC designation if the designee violates the requirements in this section.

(2) REQUIREMENTS FOR ETC DESIGNATION. (a) A full or low-income ETC, but not a federal-only ETC, is eligible to receive universal service funding for an area, under both applicable federal and state universal service programs, if it meets all of the following requirements:

1. Holds itself ready to offer all elements of essential telecommunications service, as defined in s. PSC 160.03 (2), to all customers in the area for which it is requesting ETC status.

2. Regularly advertises its service in the area for which it is requesting ETC status, with the advertisements meeting all of the following requirements:

a. Are disseminated in media of general distribution in the area, at least 2 times per year.

b. Describe the services offered.

3. Offers lifeline-service, as defined in s. PSC 160.062, wherever service is offered in the area for which it is requesting ETC status, and publicizes the availability of those offerings in a manner reasonably designed to reach those likely to qualify for them.

4. Meets all of the applicable federal eligibility requirements in 47 CFR 54.201 and 54.202 (a).

(b) An applicant for federal-only ETC designation under s. 196.218 (4) (b), Stats., is required to meet all of the applicable federal eligibility requirements in 47 CFR 54.201 and 54.202, and any state requirements or processes that federal law requires ETCs to follow.



**Note:** For example, federal ETC regulations require all providers to follow some provisions of state law, such as use of state lifeline eligibility verification databases.

(3) APPLICATION FOR NEW OR EXPANDED ETC STATUS. An applicant for new or expanded eligible telecommunications carrier status shall demonstrate its ability to meet the requirements under sub. (2) by including all of the following information in its application:

(a) Certification that it will meet the requirements in sub. (2) (a) or (b).

(b) A demonstration of how the applicant meets the requirement of 47 USC 214 (e) (1) (A). This shall be demonstrated in one of the following ways:

1. An explanation of how the applicant will use its own facilities, or a combination of its own facilities and resale, to provide voice telecommunications service to a Wisconsin customer.
2. An electronic link to or copy of the federal communications commission order approving the applicant's compliance plan, and an electronic link to the approved compliance plan.

**Note:** A provider may apply for ETC designation before its compliance plan is approved by the Federal Communications Commission, but the commission will not act on the application until the plan is approved.

(c) One of the following:

1. A copy of the applicant's 5 year plan, and associated documentation, as required by 47 CFR 54.202 (a) (1) ii., including certification that it will use any federal high cost support monies for the purposes allowed under 47 USC 254 (e), 47 CFR 54.313 (a) and 54.314 (a).
2. A certified statement that the applicant will not seek high cost assistance funding from the federal universal service fund or high rate assistance funding from the state universal service fund.

(d) A copy of any certifications, information and demonstrations required under 47 CFR 54.201 and 54.202.

(e) A list of all of the exchanges or wire centers, or both, for which ETC status is sought and identification of any wire center for which status is sought for only a portion of the wire center.

(f) The applicant's name, any other name under which the applicant does business, the applicant's commission utility identification number and proof of registration with the department of financial institutions.

(g) The applicant's contact information for each of the following:

1. Commission inquiries about financial or assessment issues.
2. Commission inquiries about customer issues.
3. Customers to use to contact the applicant directly about customer issues.

4. Potential customers to use to obtain service from the applicant.

(h) A statement that the applicant will timely update the information in pars. (f) and (g).

(i) Any other information the commission considers necessary.

(4) ETC REPORTING. All eligible telecommunications carriers shall submit to the commission, within 14 days of the associated federal filing date, all of the following:

(a) For full ETCs that are eligible for high cost assistance, all of the following:

1. All of the information required under 47 CFR 54.313.
2. Any information necessary for the commission to certify that the ETC has this year, and will next year, use its high cost assistance monies for the purposes allowed under 47 USC 254 (e), and 47 CFR 54.313 (a) and 54.314 (a).
3. Any other information that federal regulations require such ETCs to provide to state commissions.

(b) For all full and low-income ETCs, all of the following:

1. The information required under 47 CFR 54.422.
2. Any other information that federal regulations require such ETCs to provide to state commissions.

(c) For all ETCs, all of the following within 14 days of the occurrence:

1. Updates to all of the information in subs. (3) (g) and (h).
2. Any other information that federal regulations require ETCs to provide to state commissions.

**Note:** Some of the information required under this section can be provided to the commission by submitting copies of filings with the FCC.

(5) AREA COVERED BY ETC DESIGNATION. (a) The area in which a provider shall be designated as an eligible telecommunications carrier shall be one of the following:

1. If requesting ETC designation for an area that is served by an incumbent local exchange provider that is not a rural telephone company, one of the following:
  - a. For a full ETC applicant, one or more of the incumbent local exchange service provider's wire centers.

b. For a low-income ETC applicant, the area designated by the applicant and approved by the commission.

2. If requesting ETC designation for an area that is served by an incumbent local exchange service provider that is a rural telephone company, one of the following:

a. Except as provided in sub. 2. b., the incumbent local exchange service provider's entire service territory.

b. If the federal communications commission has granted a provider forbearance from the requirement that its designated area match the boundaries of a rural incumbent local exchange carrier's service territory, the area designated by the applicant and approved by the commission.

(b) Notwithstanding any other provision in this subsection, unless approved by the commission and, if necessary, the federal communications commission, no ETC designation area may include only a portion of a wire center.

(6) DESIGNATION OF MULTIPLE ETCs IN AN AREA . (a) The commission may only designate an additional eligible telecommunications carrier in an area where one has already been designated after finding that doing so is in the public interest. For an area served by an incumbent local exchange service provider that is not a rural telephone company, the commission may perform a less detailed public interest analysis than if the area is served by an incumbent local exchange service provider that is a rural telephone company.

(b) In its public interest analysis under par. (a), the commission shall include consideration of all of the following:

1. The factors in s. 196.03 (6), Stats.

2. The potential for cream-skimming.

(7) LIST OF ETCs. The commission shall maintain a list of the eligible telecommunications carriers for all areas of the state.

(8) RELINQUISHING ETC DESIGNATION. (a) An eligible telecommunications carrier may relinquish that designation for an area by notifying the commission and the administrators of both the state and federal universal service funds, in writing, of its intention.

(b) If at least one other-ETC is designated for that area, the relinquishing ETC shall be relieved of ETC status for that area, without commission action, on the later of 14 days after commission receipt-of the notification or the effective date proposed by the provider.

(c) If no other ETC is designated for that area, the relinquishing ETC shall remain as the ETC for that area until the commission designates an alternative ETC. In that case, the commission shall notify the relinquishing, ETC and the administrators of the state and federal funds, that ETC status is still in effect. The commission may use an auction or other reasonable process to designate a

new ETC for an area for which the only existing ETC is seeking to relinquish that status. The commission may authorize compensation from the universal service fund as part of this process.

(d) A provider may continue to furnish services in an area for which it has relinquished ETC status. If a provider seeks to abandon facilities or discontinue any service, it shall notify affected customers and follow any abandonment or discontinuance procedures required by the commission, Wisconsin department of agriculture, trade and consumer protection or the federal communications commission.

(e) A federal-only eligible telecommunications carrier that is no longer eligible for that designation because it is no longer a wireless provider or because it wants to access state USF support may apply for a new ETC designation. The ETC's federal-only ETC status remains in effect while the commission investigates and acts on the ETC's new application.

**SECTION 116.** PSC 160.14 and 160.15 are repealed.

**SECTION 117.** PSC 160.16 (1) and (2) are amended to read:

PSC 160.16 **Fund administrator.** (1) The commission shall designate the fund administrator and provide for an annual independent audit of the fund. The commission shall establish guidelines for administration and assignment of liabilities.

(2) The fund administrator may propose ~~changes~~ a change or modification to the mechanisms of administration of the fund. The commission may approve ~~such requests~~ the request without hearing.

**SECTION 118.** PSC 160.17 (1) (c), (2) and (4) are amended to read:

PSC 160.17 (1) (c) Deferring support ~~payments~~ payment decisions to a later period.

(2) At least annually, the commission, in consultation with the ~~technology for educational achievement in Wisconsin board and department of administration~~ appropriate agencies, shall determine the amounts necessary for funding the payments specified in s. PSC 160.05 (2), ~~(3)~~ and ~~(4)~~ (5) to (8).

(4) The commission shall provide notice of the proposed budget under sub. (1) ~~and any proposed changes to the budget~~ to the universal service fund council and other interested ~~parties~~ persons with an opportunity for comment prior to commission action.

**SECTION 119.** PSC 160.18 (4), (6) and (9) (a) are amended to read:

PSC 160.18 (4) Each telecommunications provider shall submit information, on a schedule and in a format to be set by the commission, on the telecommunications provider's gross intrastate telecommunications revenues during the preceding calendar year.

~~(6) The amount to be assessed to a A~~ given telecommunications provider is shall be assessed the percentage liability of that provider under sub. (5) multiplied by the total annual amount to be collected. For monthly billings, the annual assessment amount shall be divided into 12 equal parts. For quarterly billings the annual amount shall be divided into four equal parts.

~~(9) (a) Assessments shall be paid~~ The commission may bill telecommunications providers for the assessments as calculated in sub. (6) on a monthly, quarterly or annual basis. A telecommunications provider shall pay its monthly, quarterly or annually billed portion of its calculated assessment within 30 days after the bill is mailed. A telecommunications provider that has not paid within 30 days after the bill is mailed shall be deemed considered to have not paid under s. 196.218 (8), Stats. Assessments not paid within 30 days after the bill is mailed shall be collected, and the commission may collect the bill using the process described in s. 196.85 (3), Stats.

**SECTION 120.** PSC 160.18 (9) (b) is renumbered 160.18 (9) (b) 1., and amended to read:

PSC 160.18 (9) (b) 1. ~~Objection to an assessment amount shall be made~~ A telecommunications provider that disagrees with a new assessment amount as calculated under sub. (6) shall object within 30 days after the bill using the new assessment amount is mailed. ~~The making of the objection and commission action regarding that objection shall follow the process described in s. 196.85 (4), Stats.~~ The commission shall consider an objection to an assessment amount made more than 30 days after the first bill using the new assessment amount is mailed as an objection to the assessment amount beginning with the most recent assessment bill.

**Note:** For example, if a new assessment amount is billed on October 1 and an objection is filed on October 15, the objection will be to the amount on all bills from October 1 on. If an objection is filed on November 15, the objection will be to the amount on all bills from November 1 on.

**SECTION 121.** PSC 160.18 (9) (b) 2. and 3. are created to read:

PSC 160.18 (9) (b) 2. The making of an objection and commission action regarding that objection shall follow the process described in s. 196.85 (4), Stats.

3. Notwithstanding subd. (b) 1., if the objection is due to a mistake in calculating or reporting data, and the mistake results in a provider overpaying, then the commission shall reimburse the provider the amount overpaid even if the objection is made more than 30 days after the first bill using a new assessment amount.

**SECTION 122.** PSC 160.18 (10) is repealed.

**SECTION 123.** PSC 160.181 is amended to read:

PSC 160.181 **Use audit.** Recipients of universal service fund monies may be audited by the commission to ensure that the funding was ~~applied for~~ requested and used appropriately.

**SECTION 124.** PSC 160.19 (1), (2) and (4) (b) are amended to read:

PSC 160.19 **Universal service fund council.** (1) The commission shall appoint a universal service fund council to advise the commission concerning the administration of s. 196.218, Stats., the content of administrative rules adopted ~~pursuant to~~ under s. 196.218, Stats., and any other matters assigned to the universal service fund council by the commission.

(2) The universal service fund council shall consist of telecommunications providers and of consumers of telecommunications services. The commission shall appoint a diverse membership to the universal service council including representatives of the incumbent and competitive local exchange telecommunications industry; ~~the interexchange telecommunications industry, including facilities-based carriers and resellers;~~ the cable television industry; the wireless industry; and consumers of telecommunications services including residential, business, governmental, ~~institutional,~~ and public special interest group users of telecommunications services.

(4) (b) The commission may appoint a replacement member ~~when necessary~~ to serve the remaining term of a member withdrawing from the universal service fund council.

**SECTION 125.** PSC 161.05 (4) is repealed.

**SECTION 126.** 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, 196.203, 196.218, 196.25, 196.39, 196.395, 196.40, 196.41, 196.43, 196.44, 196.65 and 196.66, Stats.

**SECTION 127.** 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.



## 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 the 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.<sup>7</sup>

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.<sup>8</sup> The 1996 Telecommunications Act states that, “A State may adopt regulations not inconsistent with the Commission’s rules to preserve and advance universal service.”<sup>9</sup> 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.

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#### 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.<sup>10</sup> 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<sup>11</sup> 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.”

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<sup>7</sup> 47 U.S.C. § 214(e)(2), 47 C.F.R. § 54.201(b).

<sup>8</sup> 47 U.S.C. § 214(e)(1), 47 C.F.R. § 54.101(a).

<sup>9</sup> 47 U.S.C. § 254(f).

<sup>10</sup> Lifeline helps pay the monthly cost of telephone service.

<sup>11</sup> 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.

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 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.

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## 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>12</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

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<sup>12</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.)

customers. Indeed the statute explains that universal applicability of the service is the ultimate goal.<sup>13</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>14</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](#).)

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<sup>13</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>14</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.

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 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>15</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.

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<sup>15</sup> Or the biller if a telecommunications utility is billing for an affiliate that provides the service.

## **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.

### **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>16</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. § 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>17</sup> Kim Scardino, Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, confirmed these statements at the 2014 NARUC winter meetings.

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<sup>16</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.

<sup>17</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

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>18</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:**

Delete s. PSC 160.075 about pay telephones.

**RESPONSE:**


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service eligibility data, ETCs will more efficiently and accurately determine whether a consumer is eligible for low-income support." (Footnotes removed.)

<sup>18</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](#).

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>19</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 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:**

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<sup>19</sup> Section 196.218 (5) (a) 1, Stats.

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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*Legislative Council Deputy Director*

#### 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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Clearinghouse Rule No. 13-068

**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    ✓



**WISCONSIN LEGISLATIVE COUNCIL**

**RULES CLEARINGHOUSE**

**Scott Grosz and Jessica Karls-  
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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.).

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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?