



MEMORANDUM

TO: Rep. Robin Vos

FROM: Bill Esbeck, Executive Director
Chris LaRowe, Manager of External Affairs

DATE: April 24, 2007

RE: Request for Modifications to Wisconsin's Universal Service Fund

This memorandum summarizes a proposed legislative package to make various reforms to the statutes that govern the state's universal service fund ("USF"). We believe these proposals will help make the state's USF more efficient and better focused on the purpose of the USF: to promote the availability of telecommunications throughout the state of Wisconsin.

While the following changes are outlined as individual items, this is a proposed package of changes that must be taken up together. As you will see, the package as a whole includes benefits to the telecommunications providers and customers who pay into the fund, as well as benefits for the recipients of USF funds:

Change #1: Remove \$6 Million Cap on PSC USF Programs

Currently, pursuant to Wis. Stat. § 196.218(3)(a)3.a., there is a cap of \$6 million on the PSC administered portion of the fund. The PSC portion of the fund is used to pay for Lifeline/Linkup benefits, high cost rate assistance, public interest pay telephones, the Telecommunications Equipment Purchase Program (TEPP), two grant programs and "Newslines for the Blind."

Anticipating that the uses of these programs may increase in the future, the Wisconsin USF Council adopted a resolution requesting that the cap on the fund be removed. The Governor obliged this request (**PSC, #4, Page 482**) and proposes removing the cap in his budget. However, at this time, the Governor has not proposed increasing any funding beyond the \$ 6 million amount.

[To carry out this change, we would advocate in favor of the Governor's recommendation. However, this change is dependent on the remaining changes (described below) being included in an overall reform package]

Change #2: Revise Statutes to Allow Companies to Establish a Line-Item Surcharge for all State USF Contributions

Under current law, telecommunications providers are allowed to establish a line-item on customer bills for elements of the bill that account for the USF assessment amount levied by the PSC. While companies can establish a line-item surcharge for the non-PSC portion of the USF assessment (which is the larger portion), companies are prohibited from doing so for the portion of the assessment that relates to the PSC administered programs. This distinction makes little sense. The suggested change would eliminate this distinction and allow companies to establish a line-item for the entire amount that is going from the customer to the state USF.

The suggested language change would also eliminate the methods that companies must use to incorporate USF assessment amounts into their billed amounts. The goal would be to allow companies to simply add a surcharge line to the customer bill without having to get prior approval to increase rates. This is essential since the USF surcharge is not really a “rate”, but rather a pass-through charge. The suggested language is as follows:

196.218(3)(e) and (f) are amended to read:

(e) ~~Except as provided in par. (f) and s. 196.196 (2) (d),~~ a A telecommunications provider or other person may ~~not~~ establish a surcharge on customers' bills to collect from customers contributions required under this subsection.

(f) ~~Notwithstanding ss. 196.196 (1) and (5) (d) 2., 196.20 (2m), (5) and (6), 196.213 and 196.215,~~ a telecommunications utility that provides local exchange service may make adjustments to local exchange service rates for the purpose of recovering the portion of its contributions to the universal service fund that is determined by the commission under par. (a) 4. ~~A telecommunications utility that adjusts local exchange service rates for the purpose of recovering all or any amount of that portion shall identify on customer bills a single amount that is the total amount of the adjustment.~~ The public service commission shall provide telecommunications utilities providers the information necessary to identify such surcharge amounts on customer bills.

Change #3: Remove Incremental Increase of Funds Dedicated to Libraries

In the current budget proposal (**DPI, #7, Page 475**), the Governor intends to transfer another significant amount (approximately \$2 million) from the USF to public library system aid. Including similar action from previous budgets, the total amount dedicated to libraries from the USF would be approximately \$6 million. Since this use of the fund is not logically related to telecommunications services, it does not appear to be consistent with the spirit and intent of the USF.

This proposal would simply remove the most recent fund transfer, but would keep in place the previous allocations of USF funding to libraries.

Change #4: Include a Program Audit Covering at Least One USF Program Annually

To ensure that USF funds are being directed to the most meaningful programs and in the most efficient ways, this package would include a requirement that at least one USF program is reviewed each year. This would not eliminate any financial audits performed on the fund as a whole, but would be a program review to complement the financial review.

This requirement would allow policy makers to see the benefits of the fund and a view of how the fund is used in Wisconsin. Having this information available will aid policy makers in the future and will provide continued oversight of the USF.

Change #5: Statutory Fix to Avoid Overpayment Into the Fund

Recently, one telecommunications provider made an error in calculating its assessable revenues making their assessment significantly higher than it should have been. The company notified the PSC and sought an adjustment to their assessment amount. While the PSC changed the assessment on a going-forward basis, the company was still required to pay the higher (and improper) amount for a period of time. The parties disagreed as to how the correction should be made, and the issue is now in court.

Errors in USF assessment amounts need to be corrected back to the original date of the error. This has been the PSC's practice when errors have gone the other way (i.e., when an assessment amount was too low) and it should work both ways. Suggested language:

196.218 would be amended to include:

(8m) Overpayment. If any person pays an amount higher than the contribution required under sub. (3) due to a mistake by either the person or the commission, the person shall be able to recover the entire amount of their overpayment from the fund.

Change #6: Create an Overall USF Cap (Approx. \$30 Million)

While there is a cap on the PSC administered portion of the fund (see above), there is no corresponding cap on the fund as a whole. As such, the amount that providers are required to collect for the USF is increasing annually. Furthermore, the increases are generally being done to fund government programs that are not necessarily related to telecommunications advancements, which goes against the intent of the USF.

Placing an overall cap on the fund will have several benefits. First, it will provide certainty in the amount that providers will have to collect, making the surcharge amount easier to calculate. Further, this cap would limit the availability of these funds for non-telecommunications related items, requiring policymakers to decide which programs are most worthy of funding.

Combining this cap with the elimination of the \$6 million cap on the PSC portion would allow all the interested parties to advocate for their respective portion of this large fund, without

imposing additional pressures (i.e., hidden taxes) on telecommunication customers. One suggestion for language is as follows:

196.218(3)(a)3. is amended as follows:

3. The commission shall designate the method by which the contributions under this paragraph shall be calculated and collected. The total amount collected under this section shall not exceed [total USF collections in current fiscal year] for any fiscal year. Contributions to the fund may be used to fund the appropriations under ss. 20.155(1)(q), 20.255(3)(q) and (qm), 20.285(1)(q), and 20.505(4)(s), (t), (tm), (tu), and (tw).

a. ~~The amount appropriated under s. 20.155 (1) (q), except that in fiscal year 2003-04 the total amount of contributions in that fiscal year under this subd. 3. a. may not exceed \$5,000,000 and except that beginning in fiscal year 2004-05 the total amount of contributions in a fiscal year under this subd. 3. a. may not exceed \$6,000,000.~~

b. ~~The amounts appropriated under ss. 20.255 (3) (q) and (qm), 20.285 (1) (q), and 20.505 (4) (s), (t), (tm), (tu), and (tw).~~