

APR 05 2001

LCRC  
FORM 2



---

---

## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

---

---

**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*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 01-033

AN ORDER to repeal PSC 185.87; to renumber PSC 185.33 (18) (c), 185.88 and 185.89; to amend PSC 185.22, 185.33 (10) (a) and (13) (b), 185.361 (4) (b), 185.37 (1) (b), (2) (e) and (L), (8) (h), (9) and (11) (a), 185.39 (2) (c) and 185.75 (5); and to create 185.33 (18) (c), 185.37 (1m), (2) (am) and (8m), 185.38 (4m) and 185.76 (6), relating to standards for water public utility service.

Submitted by **PUBLIC SERVICE COMMISSION**

03-15-01 RECEIVED BY LEGISLATIVE COUNCIL.

03-27-01 REPORT SENT TO AGENCY.

RS:MM:jal

**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)]

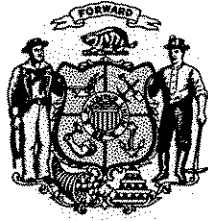
Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



Terry C. Anderson  
Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 01-033

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 2. Form, Style and Placement in Administrative Code

- a. The rule should contain an introductory clause. [See s. 1.02 (1), Manual.]
- b. In s. PSC 185.33 (10) (a), the second occurrence of "shall" in the last sentence should be amended to "may."
- c. In s. PSC 185.37 (2) (e), the last sentence should be redrafted to comply with the rule that when material is deleted and material is added in the same location, the new material always immediately follows the stricken material. [See s. 1.06, Manual.]
- d. In s. PSC 185.38 (4m), "must" should be changed to "shall." In addition, the rule should specify the circumstances under which the commission may require a utility to use written deferred payment agreements. Finally, the phrase "above (PSC 185.38 (4))" should be replaced by the phrase "in sub. (4)."

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

- a. The analysis to the rule should explain why s. PSC 185.22 (1) eliminates the requirement that a utility keep a copy of ch. PSC 185 on file in every general and local office of the utility.

b. How is a customer made aware of the right to have service reconnected based on a potential threat to health or life that results from the combination of heat and loss of service in s. PSC 185.37 (8) (h)?

c. Should s. PSC 185.39 (2) (c) require the utility to provide the names of the designated employees to the commission? In addition, it is unclear whether there are any circumstances under which a utility may first contact a complainant more than 48 hours after receiving a request from commission staff for an investigation. This point should be clarified.

**DATE MAILED**

**MAR 13 2001**

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Proposed Revision of Wis. Admin. Code, ch PSC 185 – Standards for Water Public Utility Service **1-AC-194**

**NOTICE OF HEARING  
AND  
PROPOSED ORDER AMENDING RULES**

**Hearing Date:** Tuesday, May 1, 2001 - 10:00 a.m.  
**Hearing Location:** Amnicon Falls Hearing Room - 1<sup>st</sup> Floor, Public Service Commission, 610 North Whitney Way, Madison, WI

**Comments Due:** Friday, May 11, 2001 - Noon  
**FAX Due:** Thursday, May 10, 2001 – Noon  
**Address Comments To:** Lynda L. Dorr  
Secretary to the Commission  
Public Service Commission  
P.O. Box 7854  
Madison, WI 53707-7854  
FAX (608) 266-3957

The Commission proposes to amend Wis. Admin. Code ch PSC 185 – Standards for Water Public Utility Service.

**ANALYSIS PREPARED BY THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Statutory authority: ss. 196.02(3), 196.03, 196.16(2) and 227.11(2), Stats.

Statute interpreted: ss. 196.02(3), 196.03(1) and 196.16(2), Stats.

A hearing in this matter was originally held on December 5, 2000. However, while notice of that hearing was provided to all Wisconsin water utilities, the notice inadvertently was not published in the Wisconsin Administrative Register. To meet the statutory requirement of

publication – and to allow interested parties the opportunity to comment on changes made as a result of the first hearing – a second hearing is being set for Tuesday, May 1, 2001 at 10:00 a.m. Persons who participated in the December 5, 2000 hearing may wish to submit written comments in lieu of attending the May 1, 2001 hearing.

The primary objectives of the proposed rule revisions are to update the water code for consistency with customer service provisions in the other utility industries, to clarify language and citations and to better reflect current technology and industry practice. Following is the analyses of the specific proposals. After these analyses are the instructions for the literal changes to the code.

**SECTION 1.** PSC 185.22 is amended for clarity and rewritten to maintain consistency with recent changes to PSC 113 of the electric code.

**SECTION 2.** PSC 185.33(10)(a) is amended to limit the maximum monthly late charge rate from 1½ % to 1 % to comply with Wis. Stat. § 138.05(1)(a), and to be consistent with PSC 113 of the electric code.

**SECTION 3.** PSC 185.33(13)(b) is amended to clarify that both a customer and a utility read of the water meter constitutes an actual read.

**SECTION 4.** PSC 185.33(18)(c) is renumbered PSC 185.33(18)(d).

**SECTION 5.** PSC 185.33(18)(c) is created to allow a utility to request a signed application for residential service and verification of the identity and residency of an applicant for water service.

**SECTION 6.** PSC 185.361(4)(b) is amended to change the time period consistent with **SECTION 13.** PSC 185.37(11)(a) where the utility may not disconnect service until 10 days after the customer was noticed by the utility of the pending disconnection.

**PSC 185.37** is concerned with the disconnection of water service and several parts of this rule have been reorganized and updated to be consistent with PSC 113 of the electric code.

**SECTION 7.** PSC 185.37(1)(b) is amended to change the time period consistent with **SECTION 13.** PSC 185.37(11)(a) where the utility may not disconnect service until 10 days after the customer was noticed by the utility of the pending disconnection.

**SECTION 8.** PSC 185.37(1m) is created so that the utility may transfer past due utility bills of “jointly-metered property” (rental property) to the account of the property owner.

**SECTION 9.** PSC 185.37(2)(am) is created so the utility can disconnect or refuse service to a customer who is delinquent on water service and tries to transfer service to a new account holder while the delinquent customer still resides within the household.

SECTION 10. PSC 185.37(2)(e) and PSC 185.37(2)(l) are amended to clarify the existing rule and to allow the utility to disconnect or refuse service to an applicant for service when the applicant does not provide the information set out in §§ PSC 185.33(18)(a), (b), and (c).

SECTION 11. PSC 185.37(8)(h) is amended to clarify and expand utility requirements when a heat advisory, heat warning, or heat emergency has been issued.

SECTION 12. PSC 185.37(8m) is created to clarify extenuating circumstances that utilities must consider before disconnecting a customer.

SECTION 13. PSC 185.37(9) and (11)(a) are amended to clarify disconnection during the heating season and to change the time spans concerning disconnection and notices.

SECTION 14. PSC 185.38(4m) is created to be consistent with ch. PSC 113 of the electric code and clarify utility responsibilities in handling deferred payment agreements.

SECTION 15. PSC 185.39(2)(c) is amended to maintain consistency with ch. PSC 113 of the electric code. It clarifies expectations for utility response time involving complaints before the Commission.

SECTION 16. PSC 185.75(5) is amended to eliminate the requirement to test water meters upon removal. The replacement language protects the customer who is in a meter accuracy dispute by requiring the utility removing the old meter to test it for accuracy.

SECTION 17. PSC 185.76(6) is created to provide flexibility for qualifying utilities to adopt a metering program that recognizes technological change and local water quality as it relates to meter life cycle costing.

SECTION 18. PSC 185.87 is repealed to eliminate unnecessary duplication with Wis. Admin. Code § NR811.08(5) Maintenance.

### TEXT OF PROPOSED RULE

SECTION 1. PSC 185.22 is amended to read:

**PSC 185.22 Information available to customers.** (1) ~~The utility shall keep on file in every station and office of the utility, where customer payments are received, copies of the rate schedules applicable in such locality. The utility shall keep copies of this chapter and such rules of the utility, as are applicable in every general and local office of the utility. A utility shall have copies of its rates and rules applicable to the locality available in its office where payments are received and at area libraries.~~ A utility shall give reasonable notice to customers as to where the information is available to them.

Why not ch PSC 185?

SECTION 2. PSC 185.33(10)(a) is amended to read:

PSC 185.33(10)(a) ~~The amount of the charge shall be no more than one and one-half percent per month for late charges related to service provided for the utility's residential class of customers, and shall be no more than one and one-half percent per month for late charges related to service provided for all other purposes. and The amount of the charge shall be filed with and approved by the Commission before it shall be applied.~~

SECTION 3. PSC 185.33(13)(b) is amended to read:

PSC 185.33(13)(b) The utility may leave a meter reading form when access to a meter cannot be gained. If requested by the customer, the utility shall provide such a form. If no form is left on the premises, or if the form is not returned in time to be processed in the billing cycle, a minimum or estimated bill may be rendered. In cases of emergency the utility may render minimum or estimated bills without reading meters or supplying meter reading forms to customers. ~~Only in unusual cases or when approval is obtained from the customer may more than 3 consecutive estimated or minimum bills be rendered. Except in unusual cases, a meter reading by the customer or the utility shall be obtained after 3 consecutive estimated or minimum bills have been rendered.~~

SECTION 4. PSC 185.33(18)(c) is renumbered PSC 185.33(18)(d).

SECTION 5. PSC 185.33(18)(c) is created to read:

PSC 185.33(18)(c) 1. A utility may request a signed application for residential service and verification of the identity and residency of an applicant for residential service at a premises where a bill remains unpaid for service provided within the previous 24 months.

2. Any one of the items under subd. a. or any 2 of the items under subd. b. shall constitute adequate verification of identity, although a utility may accept other forms of verification:

a. Photo identification card, driver's license, or U.S. military card.

b. Current utility bills, bank statements, rental agreements, or letter of identification from a social service agency or employer.

3. Any two of the following items shall constitute adequate verification of residency, although a utility may accept other forms of verification: current utility bills, bank statements, rental agreements, or letter of identification from a social service agency or employer.

4. An applicant denied or refused service because of this subsection shall be informed in writing of his or her ability to dispute the matter through the public service commission, and shall be provided with the address and telephone number of the commission.



SECTION 6. PSC 185.361(4)(b) is amended to read:

PSC 185.361(4)(b) On termination of a guarantee contract, or whenever the utility deems the amount of surety insufficient, a cash deposit or a new or additional guarantee may be required on a 20-day written notice to the customer. The service of a customer who fails to comply with these requirements may be disconnected on ~~an~~ a 10-day written notice, subject to the establishment of a deferred payment agreement for the deposit.

SECTION 7. PSC 185.37(1)(b) is amended to read:

PSC 185.37(1)(b) At least 8 calendar days prior to disconnection, the utility shall give a written notice of disconnection upon a form approved by the commission and which conforms to the requirements of sub. (11) unless excepted elsewhere.

SECTION 8. PSC 185.37(1m) is created to read:

PSC 185.37(1m) Prior to disconnecting a jointly-metered property containing more than one rental dwelling unit and where service is in the property owner or manager's name, the utility shall first make an attempt to transfer the debt to the property owner's or manager's residence or office service. If a transfer is permitted under sub. (7)(a), the utility shall pursue available collection efforts at the owner's or manager's property prior to disconnecting the jointly-metered property.

SECTION 9. PSC 185.37(2)(am) is created to read:

PSC 185.37(2)(am) Delinquency in payment for service received by a previous account holder or customer at the premises to be served, if an account is transferred to a new account holder or customer and the previous account holder or customer continues to be an occupant of the dwelling unit to be served.

SECTION 10. PSC 185.37(2)(e) and PSC 185.37(2)(l) are amended to read:

PSC 185.37(2)(e) Refusal or failure to permit authorized utility personnel to read the meter at least once every 6 4 months where the utility bills monthly or bimonthly, or at least once every 9 months where the utility bills quarterly or less frequently than quarterly. The 4-6 or 9-month period begins with the date of the last meter reading;

PSC 185.37(2)(l) Failure of an applicant for utility service to provide the credit information necessary to establish new service or evaluate the need for a deposit or deferred payment agreement set forth in s. PSC 185.33(18) (a), (b) and (c). 1.00

SECTION 11. PSC 185.37(8)(h) is amended to read:

PSC 185.37(8)(h) If a heat advisory or warning has been declared by the national weather service for a geographic area which includes part or all of the utility service area. The utility repealed by 1002

15  
copy  
made  
of this  
by [unclear]

may not disconnect service in affected counties when a heat advisory, heat warning, or heat emergency issued by the national weather service is in effect. A utility shall make reasonable attempts to reconnect service to an occupied dwelling that has been disconnected when an occupant states that there is a potential threat to health or life that results from the combination of the heat and loss of service. The utility may require that an occupant produce a licensed physician's statement or notice from a public health, social services, or law enforcement official which identifies the medical emergency for the occupant. Upon expiration of the heat advisory, heat warning, or heat emergency, the utility may disconnect service to a property that was reconnected during this period without further notice if an appropriate payment arrangement has not been established.

SECTION 12. PSC 185.37(8m) is created to read:

PSC 185.37(8m) If the utility is provided notice that there are extenuating circumstances, such as infirmities of aging, developmental, mental or physical disabilities, the use of life support systems, or like infirmities incurred at any age, or the frailties associated with being very young, the utility shall take these circumstances into consideration and ensure compliance with PSC 185.37(10) prior to disconnecting service.

SECTION 13. PSC 185.37(9) and (11)(a) are amended to read:

PSC 185.37(9) ~~Notwithstanding ss. PSC 113.1324 and 134.0624, a utility may disconnect residential water utility service at any time, unless water service is a necessary part of a dwelling's heating system.~~ Residential water utility service to an occupied dwelling may not be disconnected during the period November 1 to April 15 if the water service is a necessary part of a dwelling's heating system.

PSC 185.37(11)(a) A utility shall not disconnect service unless written notice by first class mail is sent to the customer or personally served upon a responsible party at least 8 10 calendar days prior to the first date of the proposed disconnection except as provided in pars. (3), (4), and (7). If the billing address is different from the service address, notice shall be posted at each individual dwelling unit of the service address not less than 5 days before disconnection. If access is not possible, this notice shall be posted, at a minimum, to all entrances to the building and in the lobby. The notice shall contain: (1) the date of the notice; (2) the proposed date of disconnection; and (3) that, if feasible, the occupants may apply to the utility to accept responsibility for future bills and avoid disconnection of service. Refusal or acceptance of the application for service is subject to those conditions set out in this chapter. If disconnection is not accomplished on or before the ~~15~~ 20th day after the first notice date, a subsequent notice shall be left on the premises not less than 24 hours nor more than 48 hours prior to the disconnection unless the customer and the utility agree to extend the ~~15~~ 20-day time period.

Docket I-AC-194

SECTION 14. PSC 185.38(4m) is created to read:

PSC 185.38(4m) A utility that does not require a written deferred payment agreement shall communicate to the customer all points listed above (PSC 185.38(4)) except those pertaining to a signature when making the arrangement with the customer. A utility shall send written confirmation of a deferred payment agreement upon customer request. The commission may require a utility to use written deferred payment agreements.

*in sub. (4)*

*How? when?*

*shall*

SECTION 15. PSC 185.39(2)(c) is amended to read:

PSC 185.39(2)(c) The utility shall designate employees for responding to commission complaints who are readily available and have an appropriate and sufficient authority level for investigating and resolving concerns raised by the commission and its staff. Utilities shall promptly inform the commission of any changes in these designations. A utility shall respond to the commission staff's request for an investigation ~~in a prompt manner~~ by attempting to contact the complainant within 48 hours for most circumstances, or 4 hours in an emergency situation, and by providing a response to the commission within 10 business days. Staff may extend this time period if the utility requests more time to complete its investigation. Based on information provided by the utility and the customer, the commission staff shall make an informal determination for settlement of the dispute and communicate that determination to both parties. Either party to the dispute may request and receive the commission staff determination, and the basis for it, in writing. Commission staff shall inform any customer disputing an informal determination of the right to pursue a formal review.

*now?*

SECTION 16. PSC 185.75(5) is amended to read:

PSC 185.75(5) ~~Upon Removal:~~ If a meter is removed while a usage dispute is pending,

SECTION 17. PSC 185.76(6) is created to read:

PSC 185.76(6) When system losses are less than the required percentages under s. PSC 185.85(4), a utility in lieu of testing every meter as required under sub. (1), may satisfy the requirements of this section for 5/8, 3/4, and 1-inch meters by adopting a new meter replacement program that results in each meter being replaced within 20 years of the original date of installation.

SECTION 18. PSC 185.87 is repealed.

SECTION 19. PSC 185.88 and 185.89 are renumbered PSC 185.87 and PSC 185.88.

### FISCAL IMPACT

The Commission anticipates that there will be minimal or decreasing effect on state expenditures. Local government expenditures should be reduced. See attachment A.

### INITIAL REGULATORY FLEXIBILITY ANALYSIS

The proposed rules would apply to public utilities as defined in s. 196.01(5), Stats. The proposed rules do not affect small businesses as defined in s. 227.114, Stats.

### NOTICE OF HEARING

**NOTICE IS HEREBY GIVEN** that the Commission will hold a hearing on these proposed rules in the **Amnicon Falls Hearing Room**, at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, on **Tuesday, May 1, 2001 at 10:00 a.m.** This building is accessible to people in wheelchairs through the Whitney Way (lobby) entrance. Handicapped parking is available on the south side of the building. Any person with a disability who needs additional accommodations should contact the case coordinator listed below.

### WRITTEN COMMENTS

Any person may submit written comments on these proposed rules. The hearing record will be open for written comments from the public, effective immediately, and until **Friday, May 11, 2001, at noon (Thursday, May 10, 2001, at noon, if filed by fax).**

All written comments must include a reference on the filing to docket 1-AC-194. **File by one mode only.**

If filing by mail, courier, or hand delivery: Address as shown in the box on page 1. Industry parties should submit **an original and 15 copies**. Members of the general public need **only file an original.**

If filing by fax: Send fax comments to (608) 266-3957. Fax filing cover sheet **MUST** state "**Official Filing**," the docket number (1-AC-194), and the number of pages (limited to 20 pages for fax comments).

### CONTACT PERSONS

Questions from the media may be directed to Jeffrey L. Butson, Public Affairs Director, at (608) 267-0912.

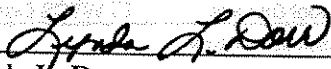
Docket 1-AC-194

Questions regarding this matter should be directed to case coordinator Bruce Schmidt at (608) 266-5726, or by email at *schmib@psc.state.wi.us*. Hearing or speech-impaired individuals may also use the Commission's TTY number, (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 case coordinator listed above.

Dated at Madison, Wisconsin, March 13, 2001

By the Commission:



Lynda L. Dorr  
Secretary to the Commission

LLD:brs:tlm:g:\notice\pending\1-AC-194 PSC 185 2<sup>nd</sup> Hearing Notice.doc

2001 Session

LRB or Bill No./Adm. Rule No.

1-AC-194

Amendment No. if Applicable

**FISCAL ESTIMATE**

DOA-2048 N(R10/96)

 ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL
**Subject**

Rulemaking for PSC 185 – Standards for Water Public Utility Service

**Fiscal Effect****State:**  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

 Increase Costs - May be possible to Absorb  
 Within Agency's Budget  Yes  No

 Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation
 Decrease Costs**Local:**  No local government costs
 1.  Increase Costs  
 Permissive       Mandatory  
 2.  Decrease Costs  
 Permissive       Mandatory

 3.  Increase Revenues  
 Permissive       Mandatory  
 4.  Decrease Revenues  
 Permissive       Mandatory

5. Types of Local Governmental Units Affected:

 Towns       Villages       Cities  
 Counties       Others - Sanitary Districts  
 School Districts       WTCS Districts
**Fund Sources Affected**
 GPR     FED     PRO     PRS     SEG     SEG-S
**Affected Ch. 20 Appropriations**

20.155(l)(g)

**Assumptions Used in Arriving at Fiscal Estimate**

PSC 185 Rulemaking deals with standards for public water utility service. There are 18 section changes to the rule. Of those 18 section changes, 13 will have no effect on state and local costs. Of the five remaining section changes, all have a minimal or decreasing effect on state expenditures. The two sections on meter testing might reduce local costs. No other fiscal effects are foreseen for these rule changes.

**Long-Range Fiscal Implications**

Agency/Prepared by: (Name &amp; Phone No.)

PSC/Bruce Schmidt

266-5726

Authorized Signature/Telephone No.

Gordon O. Hunt 267-9086

Date

2/5/2001