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## 2013 Wisconsin Act 274 Landlord-Tenant Delinquent Utility Bill Legislation Frequently Asked Questions

Municipal Electric Utilities of Wisconsin, Wisconsin Rural Water Association, Municipal Environmental Group – Water Division, and the League of Wisconsin Municipalities consulted with the Public Service Commission of Wisconsin to prepare this frequently asked questions document to educate our members on the impacts of 2013 Wisconsin Act 274 (Act 274). Act 274 revises the law applicable to residential tenants' delinquent utility charges, and it applies to all municipal public utilities. Act 274 preserves a municipal utility's ability to use tax roll collection tools for delinquent residential tenant utility charges, but establishes a few new requirements to do so. The revisions primarily appear as amendments or additions to Wis. Stat. § 66.0809 which applies to municipal public utility charges.

Most of the new requirements in Act 274 do not apply until Jan. 1, 2015; however, a few provisions go into effect immediately. The following FAQs provide guidance for municipal utilities to implement Act 274.

### **Q-1. The current tax roll process is working well for our utility. Why did our utility association advocate for these changes?**

Nearly every legislative session since the mid 1990s has included proposed legislation that would eliminate a municipal utility's ability to use the property tax roll to collect delinquent residential tenant utility bills from the property owner. Act 274 is compromise legislation between the Wisconsin Realtors Association and several municipal utility stakeholder groups (MEUW, WRWA, MEG-Water, and LWM) designed to protect a municipal utility's ability to use the property tax roll to collect delinquent utility bills while giving municipal utilities and property owners additional tools to help limit delinquent residential tenant utility charges in the first place. Ultimately, we hope the compromise legislation eliminates the perpetual debate over the legitimacy of the tax roll process.

### **Q-2. What provisions in Act 274 are effective immediately?**

The following provisions of Act 274 go into effect immediately:

1. Upon a property owner's request, a municipal utility must disclose whether a prospective residential tenant has outstanding past-due charges in that tenant's name in the utility's service territory; Wis. Stat. § 66.0809 (8).



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2. Utilities are no longer required to offer deferred payment agreements to customers who are residential tenants; Wis. Stat. § 66.0809 (9). See Q-9 and Q-10 for additional information.
3. Utilities may adopt application, deposit, disconnection, or collection rules that distinguish between whether a customer owns or leases a property; Wis. Stat. § 66.0809 (10). See Q-11 for additional information.
4. Utilities may, but do not have to, require an application for service from a prospective customer; Wis. Stat. § 66.0809 (7). This provision applies to residential and residential tenant customers. See Q-11 for additional information.

If you are a utility that does not collect residential tenant electric arrearages via the tax roll process, provision numbers two and three do not apply to your electric service business practices.

**Q-3. Will Act 274 change my utility's current practice related to tax roll collection of delinquent residential tenant utility charges in 2014?**

No. Act 274 does not require you to change your business practices related to the tax roll collection process in 2014. Your practices will change in fall 2015. We will provide specific guidance on changes to the tax roll process in summer 2015.

**Q-4. What changes will be required in 2015?**

Beginning in January 2015, if a landlord has notified the municipal utility that a residential tenant is responsible for the utility bill, a municipal utility will have to:

1. Send bills to the tenant in the tenant's own name and continue to send past-due notices if the landlord provides the municipal utility with the tenant's forwarding address within 21 days after the tenant leaves; Wis. Stat. § 66.0809 (5)(am).
2. Provide notice to the landlord of the residential tenant's past-due charges within 14 days after the charges become past due; Wis. Stat. § 66.0809(5)(b). A utility may comply with this 14-day notice electronically if the landlord has opted to receive electronic notices; Wis. Stat. § 66.0809(5)(c).



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3. Disconnect a residential tenant's electric service if requested by the property owner; Wis. Stat. § 66.0809(5)(bm). The disconnection request can only be made 14 days after notification of the arrears, and the disconnection must be made according to existing rules and procedures of the Public Service Commission of Wisconsin (PSC). This provision does not apply if you do not collect residential tenant electric arrearages via the tax roll process.

**Q-5. Do these provisions apply to all residential customers?**

No. All provisions of Act 274 apply to residential tenant customers only, with one exception. The option of requiring service applications from prospective customers applies to residential and residential tenant customers.

Also, certain provisions in Act 274 only apply if the landlord notifies the municipal utility that the residential tenant is responsible for the payment of utility bills, and provides the utility with both the landlord's and the responsible tenant's name and address.

**Q-6. Can a landlord require a tenant to be responsible for utility bills?**

This is generally a contract issue between the landlord and the tenant. However, state law requires that if gas, electric or water service is measured jointly for two or more rental dwelling units, the owner must maintain the utility account in the name of the owner or the property manager; Wis. Stat. § 196.643(2).

**Q-7. How do I provide information to a property owner about a prospective residential tenant's outstanding past due charges if my utility tracks billing information by premise address rather than individual customer name?**

You are only required to provide the owner of a rental dwelling unit with information that you have. If you do not have account information about a prospective residential tenant you have no information to provide to the property owner.

**Q-8. Some of the provisions in the new law that allow us to distinguish between residential customers based on whether they own or lease seem discriminatory in nature. How is the utility protected from claims of discrimination?**

Section 13 of Act 274 creates a new statute, Wis. Stat. §196.37 (5), that states "It is not unreasonable or unjustly discriminatory



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for a municipal public utility to adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers based upon whether the customer owns or leases the property that is receiving utility service where the possibility exists for any unpaid bills of a tenant to become a lien on the property that is receiving utility service.”

These optional policies that distinguish between owners and renters are not discriminatory because the property owner bears the ultimate responsibility for residential tenant arrearages.

**Q-9. Are we required to change our current practice of offering deferred payment agreements to residential tenants?**

No. In fact, we encourage municipal utilities to continue the practice of offering deferred payment agreements to residential tenants that do not abuse the opportunity for deferred payment agreements.

Municipal utilities now have the option of discontinuing the practice of offering these agreements to residential tenants that take advantage of the system. However, as each utility’s tariff on file with the PSC currently contains service rules that require the utility to offer deferred payment agreements to residential customers, the PSC has advised that a utility would need to amend the service rules in its tariff if it intends to cease offering such agreements. The PSC encourages changes to these rules be filed separately from a rate case and notes that any rules or practices that result in an increase in rates or a decrease in service may require a public hearing.

We recommend that any changes to your deferred payment agreement rules provide guidance as to when an agreement will be offered.

A municipal public utility must still offer DPAs to all other residential customers, as required by the PSC rules for water, electric, and natural gas service contained in Wis. Admin. Code §§ PSC 185.35, PSC 113.0404, and PSC 134.063.

**Q-10. We have a number of deferred payment agreements in place with residential tenants. Can our utility rescind these agreements?**

The new law does not address this issue. We do not recommend rescinding a deferred payment agreement that a residential tenant is complying with.



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**Q-11. Are we required to adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers that own or rent a property that is receiving service from our utility?**

No. Each utility may adopt policies that distinguish between owners and renters. However, any new application, deposit, disconnection and collection rules or practices adopted by a municipal public utility must be approved by the PSC and included in the utility's tariff on file with the PSC before the rule or practice can take effect. The PSC encourages changes to these rules or practices be filed separately from a rate case and notes that any rules or practices that result in an increase in rates or a decrease in service may require a public hearing.

Some utilities may find it beneficial to adopt rules or practices for residential tenants so that they have greater flexibility to manage these accounts.

For example, utilities could require larger deposits from residential tenant's and require them to pay a larger portion of the past due balance to avoid disconnection. Any new rules or practices should ensure that all residential tenant customers are treated consistently.

**Q-12. Does a municipal electric utility have to disconnect a tenant's electric service if the landlord asks us to?**

Yes, starting April 16, 2015, in most cases. Wisconsin Stat. § 66.0809(5)(bm), as created by Act 274, requires a municipal public utility to disconnect a tenant's electric service if, no earlier than 14 days after receiving notice of the past-due balance, the owner of the rental dwelling unit requests that the electric service be disconnected and the past-due charges are not paid.

However, a municipal electric utility still must follow all Commission rules related to disconnections, and the requirement to disconnect service only applies if the municipal public utility uses the tax roll process to collect unpaid electric charges. While this provision takes effect on January 1, 2015, the winter moratorium, which prohibits the disconnection of electric service if the disconnection would affect the primary heat source, still applies. Consequently, in most cases, this provision cannot be applied before April 16, 2015, when the winter moratorium ends.



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**Q-13. Must a municipal utility disconnect a tenant's water or gas service at the request of a landlord?**

No. The landlord-requested disconnection provision does not apply to water or gas service. In fact, a utility may not disconnect water or gas service in order to knowingly assist a landlord in evicting a tenant. See Wis. Admin. Code §§ PSC 185.37(8)(g) and 134.062(6)(g).

**Q-14. Can a property owner require us to disconnect their tenant's electric service if we have a valid deferred payment agreement in place and the tenant is complying with the agreement?**

No. If your utility has a valid deferred payment agreement in place with a residential tenant and the tenant is compliant, you are not permitted to disconnect the electric service. Wis. Stat. § 66.0809 (5)(bm) specifically states the disconnection must be consistent with "rules of the Public Service Commission relating to disconnection of service and subject to the procedural requirements under those rules..."

**Q-15. Our utility does not collect residential tenant electric service arrearages via the tax roll process. Can a property owner require us to disconnect electric service?**

No. A property owner cannot request disconnection of electric service if your utility does not place past-due electric balances on the tax roll.