

August 18, 2017

Sandra J. Paske, Secretary
Public Service Commission
P.O. Box 7854
Madison, WI 53707-7854

RE: PSC Docket No. 1-AC-233 Comments

Dear Commissioners:

These comments are filed on behalf of the Municipal Environmental Group - Water Division (MEG - Water). MEG - Water is an association of 61 municipal water systems that provides input on legislative and regulatory issues involving water supply. Our goal is to proactively work with State legislators and regulators to improve laws and regulations affecting water supply.

This proposed comprehensive revision of PSC 185 has been in the works for over 7 years. During the last 7 years, however, PSC 185 has not remained static. Since 2010, PSC 185 has been revised three different times. Docket 1-AC-232 revised PSC 185 (effective 8/1/12) to implement the Commission's water conservation programs for water public utilities, update water loss standards, consolidate provisions related to water supply emergencies and curtailment of service, and establish criteria for voluntary customer incentive and rebate programs. Docket 1-AC-229 revised provisions of PSC 185 (effective 8/1/14) related to applications for service. Docket 1-AC-227 revised provisions of PSC 185 (effective 8/1/15) related to the retention of customer meters. MEG - Water provided input to the PSC on behalf of municipal water utilities with respect to each of these revisions to PSC 185.

Chapter PSC 185 is extremely important to water utilities as it establishes the standards by which they provide public water utility service. Water utilities have been anxious to work with PSC Staff to ensure that the revisions to PSC 185 are sensible, clear, and effective. As described below, MEG - Water and its members have already spent a significant amount of time and effort providing PSC Staff with input on the proposed rule revisions.

HISTORY OF INPUT PREVIOUSLY PROVIDED

In March 2012, water utilities and their associations were invited by PSC Staff to participate in two days of brain-storming meetings to discuss issues and challenges with PSC 185. Many utilities and their associations attended these meetings and provided substantial input. PSC Staff's notes from those brain-storming meetings are filed on ERF as Document # 164211.

Two-and-a-half years later, water utilities and their associations were invited to two more days of meetings in November 2015 to provide comments on an initial draft of a revised version of PSC 185. The first meeting day was to discuss consumer issues and the second day was to

discuss technical issues. Utilities were provided with an initial draft of reorganized and renumbered rules to comment on at those meetings. Again, many utilities and their associations attended these meetings and provided input orally.

After that November 2015 meeting, MEG - Water led an extensive effort to provide Commission Staff with detailed input from water utilities on the issues they were concerned about and what revisions could address those concerns. The lengthy rule revision was broken down into subparts and reviewed by eleven different workgroups made up of utility professionals throughout Wisconsin with extensive real-world knowledge about the provisions reviewed. A list of the workgroups and participants is provided as [Attachment A](#). Each of these workgroups held multiple conference calls to discuss the proposed rules and to develop comments. All total, these workgroups spent well-over 500 hours putting together written comments -- and language suggestions -- on the rule revision. These comments and suggested changes were provided in-person and by e-mail to the PSC's Division Administrator for Water and Consumer Affairs on Thursday, May 12. A copy of this May 12, 2016 submission is provided as [Attachment B](#) to this comment letter.

On August 11, 2016, water utilities and their associations received another version of the PSC 185 rewrite and an invitation to another meeting to discuss the latest version of the rewrite. This version dropped the previously proposed reorganization and renumbering of the rules. Recipients were told to submit written feedback on the proposed rule within two weeks.

As requested, MEG - Water provided comments on the latest version of the rule. MEG - Water's comments can be found on ERF as Document # 290667. A copy of these comments is provided as [Attachment C](#). MEG - Water's comments focused on issues that were previously raised in its May 12, 2016 submission but that remained unaddressed. After receiving these comments, Commission Staff sent out a meeting agenda informing prospective attendees that the August 29, 2016 meeting is to be a forum for productive, open discussions but that the meeting should not be perceived as a "negotiation." Water utilities and their associations again attended the meeting and provided input.

One issue of particular concern for water utilities in the proposed rewrite is the new provision on frozen water laterals. MEG - Water, the League of Wisconsin Municipalities, and the Wisconsin Rural Water Association first provided PSC Staff with input on managing frozen water utilities in July 2014. A copy of the letter along with the "Framework for Managing Frozen Service Laterals in the Future" that was supported by all three organizations is provided as [Attachment D](#) to this comment letter. No response to this letter was received.

MEG - Water sent another letter about frozen water laterals to the DWTCA Administrator after the PSC rewrite meeting on August 19, 2016. The DWTCA Administrator had suggested that utility representatives should provide language suggestions if they were concerned about Staff's proposed language on frozen laterals in the rewrite of PSC 185. MEG - Water did that in an October 19, 2016 letter, a copy of which is provided as [Attachment E](#). The League of Municipalities also submitted a letter supporting MEG - Water's comments. A copy of that letter is provided as [Attachment F](#). No response to these letters were received either.

COMMENTS ON PROPOSED RULE REVISION

MEG - Water appreciates the opportunity to provide the Commission with its formal comments on the proposed revision to PSC 185. As mentioned above, eleven different workgroups previously spent over 500 hours reviewing, commenting on, and discussing recommended changes to the proposed revisions. This review was undertaken by water utility managers, engineers, operation staff, customer service personnel, and billing managers. The results of the review (Attachment B) reflected the issues and concerns that they saw in implementing these rules. The comments that follow summarize the issues raised in that review.

A. Frozen Water Laterals

The proposed rules create a new section -- PSC 185.88 -- on frozen laterals. Utilities have numerous concerns with this new section and other related sections. Utilities believe that the proposed rule is unduly complicated and prescriptive. They also believe some of the provisions in PSC 185.88 are impractical and fail to realistically recognize the challenges utilities face in dealing with frozen service laterals especially during an extraordinarily cold winter like that experienced in 2013-2014.

1. PSC 185.88. Unduly complicated and prescriptive; questionable authority for promulgation. Existing PSC 185.88 (which is less than ½ page long) is proposed to be deleted and replaced with new highly prescriptive language that is 3 pages long. MEG - Water questions the Commission's authority to promulgate this highly prescriptive rule dealing with cold weather situations. The lack of PSC authority in this area was addressed in *Village of Mazomanie v. Wisconsin Public Service Comm'n*, Dane County Case No. 14CV2723, decided July 10, 2015, a copy of the decision is provided as Attachment G.
2. PSC 185.88(3). Requires utility to determine the source of freezing. The proposal requires that if a lateral freezes, a utility must determine and document whether the source of the freezing began in the utility-owned portion or the customer-owned portion of the lateral. If the utility is unable to make this determination, the presumption is that the freezing began in the utility-owned portion. Water utilities see this requirement as completely impractical given what is involved in thawing frozen water pipes. When laterals freeze, utility personnel are working in below-freezing temperatures, often around the clock, to thaw lines and restore water service. Taking time away from this important work to determine and document where the source of the freezing began in each pipe is unrealistic. Even if a utility could do this investigation and documentation, it would take time away from the utility's primary responsibility of making sure that every customer continues to have water service. This requirement should be deleted.
3. PSC 185.88(4). Requires utility to prevent future freezes. The proposal provides that a utility is responsible for preventing future freezes in a utility-owned lateral that freezes. The proposal further provides that if a utility is responsible for

preventing future freezes, the utility shall within a reasonable period of time, “provide a lasting solution which may include adding ground cover or insulation to protect the utility-owned portion from freezing.” A note is included which references PSC 185.52(2) and the requirement to place the utility-owned portion of a service line at such depth as will prevent freezing. While utilities expect to be responsible for their laterals and to install and maintain them to avoid freezing, the proposal’s requirement to provide a “lasting solution” to prevent all future freezes is unrealistic. It would be too expensive to install laterals so deep that there would never be a risk from freezing in any situation. A distinction should be made between protecting against freezing which may occur under normal conditions and freezing which occurs under unusually cold conditions.

The Plumbing Code at SPS 382.40(8)(a), Wis. Admin. Code, includes provisions on what constitutes adequate measures for frost protection for private water mains. All private water mains and water services must be installed below the predicted depths of frost specified in s. SPS 382.30 (11) (c) 2. d., Figure 382.30-1 and Table 382.30-6, unless other protective measures from freezing are taken. This reference back to SPS 382.30 ties into language and tables for frost protection of buried sewer lines based on location in the state (a map with frost zones), soil type, and insulation requirements if minimum depths are not met. Public water mains and laterals that are installed at the minimum depth required under SPS 383.40(8)(a), or if the minimum depths cannot be met, that have been installed with insulation in accordance with SPS 383.40(8)(a), should be deemed to meet the requirement of PSC 185.52(2) to place the utility-owned portion of a service line at such depth as will prevent freezing. This would also put PSC 185 and SPS 382 on the same footing with respect to frost protection.

4. PSC 185.88(2). Paying for thawing. The proposed rule requires the utility to be responsible for thawing a lateral if the freeze began in the utility-owned portion of the lateral and requires the customer to be responsible for thawing if the freeze began in the customer-owned portion of the lateral, unless the utility has provided the customer with a timely notice of deficiency or a run water notice. This distinction requires a determination of where the freezing began for each frozen lateral which as discussed above is impractical. MEG - Water proposes a different approach. It proposes that water utilities be responsible for the cost of thawing frozen service lines, regardless of where the freeze began, except in the following three limited situations:
 - i. if the customer-owned portion of the service line freezes due to the fault or negligence of the customer. This would deal with situations like when a customer leaves a window open and the service line freezes.
 - ii. if a customer has a history of freezing, receives a seasonal notice from the utility of precautions that it needs to take to prevent freezing, and freezing still occurs. This is similar to the existing regulation.
 - iii. if a utility provides a customer a run-water notice that meets PSC requirements for a run-water notice, the customer fails to follow that notice, and the lateral freezes.

This approach is simpler and more practical.

5. PSC 185.88(2)(c). Utility provision of water using an alternative method under certain conditions. This proposal requires a utility “to supply” a customer with water using an alternative method, if practicable, under certain circumstances. One of the circumstances is that the utility is unable to thaw the frozen lateral. “Unable to thaw” is defined in (1)(b) to be an inability to remove a blockage created by freezing “but does not include a utility’s failure to have proper equipment, personnel or training to thaw a utility-owned portion or customer-owned portion. “ This provision fails to recognize that in an exceptionally cold winter where there are many frozen laterals, a utility may not have the personnel or equipment to thaw lines as quickly as desired. In those situations, a utility would provide water by an alternative method where practical. However, this language should be revised to make clear that a utility is not required to deliver bottled water to a customer.

B. Water Audits

PSC 185.85 currently requires utilities to conduct a water audit and in some cases prepare a water loss control plan. This section was totally rewritten just five years ago. Proposed revisions to PSC 185.85 would expand water loss requirements even further. All water utilities would be required to conduct an audit using Commission specified software, to establish a plan and individual goals for reducing non-revenue water, and the plan and a summary of its goals would have to be filed with the PSC. The PSC would be authorized by the rule to consider a utility’s “progress” in reducing water loss during investigations and proceedings and to require a utility to take action. The new requirements would be some of the most restrictive water loss regulations in the United States. Wisconsin statutes contain no delegation of authority to the Commission to regulate water loss in situations where the cost of addressing water loss would be greater than the money saved.

1. PSC 185.85(3). PSC to specify water audit software that utilities must use. Whereas the current rule requires a water audit be conducted, the proposal requires a utility to conduct an annual water audit using specific software specified by the Commission. The expectation is that the Commission will specify the AWWA audit software be used. To MEG - Water’s knowledge, Wisconsin would be the only state where all water systems (regardless of size) would be required to use this software.
2. PSC 185.85(4)(a). All utilities required to establish a plan and individual goals for reducing non-revenue water. The proposed rules require that all utilities -- regardless of their existing non-revenue water levels -- establish a plan and individual goals for reducing non-revenue water. A utility is required to file its plan and a brief summary of its goals at the same time it files its water audit with the Commission. A plan is required even if the utility’s water loss does not exceed an economic level of leakage.

3. PSC 185.85(4)(b) & (c). All utilities required to identify measures to be considered in plan and for individual goals for reducing non-revenue water. The proposed rule identifies the measures that a utility should consider when developing its plan and goals for reducing non-revenue water. Again the proposed rules require all utilities -- regardless of their existing non-revenue water levels -- to establish these measures.
4. PSC 185.85(4)(d). Commission ability to order utility action as a result of water audit too broad. The proposed rule would allow the Commission to “consider a utility’s progress in reducing non-revenue water during investigations and proceedings and require the utility to take any reasonable action.” This authority is too broad and goes beyond the Commission’s jurisdiction.
5. PSC 185.85. Rule exceeds Commission’s jurisdiction. Wisconsin statutes contain no authority for the Commission to mandate such extensive water loss rules especially in situations where the cost of addressing water loss would be greater than the money saved. While the DNR is authorized by Wis. Stat. § 281.346(8)(d) to promulgate water conservation and efficiency rules, there is no similar authorization to the Commission. Furthermore, even the DNR’s rule-making authority cannot require retrofitting of existing fixtures, appliances, or equipment.

C. Conflict with 2013 Act 274; Disparate Treatment of Customers

Section 196.37(2), Wis. Stat., requires that utility regulations, practices, acts and service be just, reasonable, sufficient, not preferential, and not unjustly discriminatory. Section 196.60, Wis. Stat., similarly provides that no public utility may charge, demand, collect or receive from any person more or less compensation for any service rendered or to be rendered than it charges, demands, collects or receives from any other person for a like contemporaneous service.

Despite this statutory direction, numerous provisions within Subchapter III of PSC 185 mandate that utilities treat customers differently based solely on their income level or whether they have unpaid utility bills. For example, PSC 185.36(1)(b) and (2)(c) prohibits a utility from obtaining a deposit from a new or existing customer with a gross quarterly income at or below 200% of federal income poverty guidelines even if that customer has an existing delinquency or has previously violated a deferred payment agreement. PSC 185.38(1) mandates the use of deferred payment agreements – both before and after disconnection – regardless of the customer’s payment history. It also appears the proposed rule seeks, at PSC 185.38(1)(c), to restrict a utility’s statutory right to place delinquent utility bills on the property tax rolls of all customers by mandating that a deferred payment agreement be offered to customers with delinquent accounts at least once every 15 months thereby limiting a utility’s ability to cost-effectively collect delinquencies by placing them on the tax rolls.

Throughout Subchapter III of PSC 185, regulatory mandates are established giving more protections to those customers who do not pay their bills. As a result, good paying customers

end up subsidizing increased customer service costs and uncollectible accounts from non-paying customers.

Landlords, in particular, have criticized municipal water utilities for their billing and collection practices with respect to tenant customers. But landlords do not understand the billing and collection limitations set out in PSC 185 that municipal utilities have to abide by. In response to this concern, the Legislature adopted 2013 Act 274 which in part created Wis. Stat. § 66.0809(9) and (10), and § 196.37(5). Section 66.0809(9) provides that a municipal utility is not required to offer a customer who is a tenant at a rental dwelling unit a deferred payment agreement. Section 66.0809(10) provides that a municipal utility may adopt application, deposit, disconnection rules and practices that distinguish between customers based on 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. Section 196.37(5) provides that it is not unreasonable or unjustly discriminatory for a municipal 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 and subject to a lien for unpaid utility bills.

Yet despite this clear legislative direction that allows utilities to recognize differences between customers based on more than just their income and delinquent account status, the billing and collection provisions of PSC 185 have not been revised to acknowledge this. Subchapter III of PSC 185 continues to use broad language about deposits, disconnections and deferred payment agreements that mandates specific treatment of customers based solely on their income or delinquent account status. It is inconsistent for the rules to mandate certain conduct while 2013 Act 274 allows different treatment for certain tenant customers. The passing reference to 2013 Act 274 in the rule is not sufficient to resolve this inconsistency which will cause confusion for utilities and their customers alike. For example:

1. PSC 185.36(14). Conflict between PSC 185.36 and 2013 Act 274. PSC 185.36 includes many regulatory limitations on a utility's collection of deposits. At the end of PSC 185.36, subsection (14) acknowledges that 2013 Act 274 provides that a municipal utility may adopt deposit rules and practices as provided in § 66.0809(10). However, does this mean a municipal utility can adopt different deposit rules under § 66.0809(10) regardless of the deposit limitations and prohibitions in the rest of PSC 185.36? For example, under PSC 185.36(1)(a), a municipal utility would not be able to collect a deposit from a new residential customer, who previously as a tenant allowed a delinquent bill to roll to the tax roll at a prior address. Would PSC 185.36(14) allow a utility to collect to deposit from such a customer regardless of the prohibition in PSC 185.36(1)(a)?
2. PSC 185.38(9). Conflict between PSC 185.38 and 2013 Act 274. PSC 185.38 mandates that a utility offers all residential customers with delinquent bills the opportunity to enter into deferred payment agreements. Section 66.0809(9) (adopted by 2013 Act 274) however provides that a municipal utility is not required to offer a customer who is a tenant at a rental dwelling unit a deferred payment agreement. PSC 185.38(9) acknowledges 2013 Act 274 by providing

that a municipal utility may adopt deferred payment agreement rules and practices as provided in § 66.0809(9). However, nowhere does PSC 185.38 state that a municipal utility is not required to offer a customer who is a tenant at a rental dwelling unit a deferred payment agreement. What rule is the utility expected to follow?

The broad mandates of Subchapter III of PSC 185 conflict with 2013 Act 274 and must be revised. In addition, and as part of this revision, MEG - Water urges the Commission to consider whether these billing and collection provisions go too far in protecting customers who do not pay their bills. Wis. Stat. § 196.60 provides that no public utility may charge, demand, collect or receive from any person more or less compensation for any service rendered or to be rendered than it charges, demands, collects or receives from any other person for a like contemporaneous service. Is it fair that good-paying customers pay increased customer service costs and uncollectible accounts because of the regulatory protections provided to non-paying customers?

D. Deposits

PSC 185.36 limits when and how a utility may obtain a deposit from a residential customer. PSC 185.37 applies to nonresidential customers.

Many, perhaps most, water utilities throughout the State do not require deposits because the benefits from obtaining a deposit are outweighed by the regulatory limitations on and the regulatory requirements associated with taking a deposit. The rule revision would place even more limitations on a utility's ability to obtain a deposit making this security mechanism even less useful and more labor intensive to utilize.

1. PSC 185.36(1) and (2). Income limitations on when a deposit may be requested. The rule prohibits a utility from obtaining a deposit from a new or existing customer with a gross quarterly income at or below 200% of federal income poverty guidelines even if that customer has an existing delinquency or has previously violated a deferred payment agreement. MEG - Water questions the statutory authority for this restriction.
2. PSC 185.36(1) and (2). Limitations on which past due accounts can be considered when requesting a deposit. Current rules provide that a utility may request a deposit if a new applicant for residential service has an account balance with any Wisconsin electric, water or sewer utility. The proposal would require that the account balance be with the specific utility from which service is requested. This would prevent, for example, a water utility from obtaining a deposit from a customer that has a sewer utility delinquency.
3. PSC 185.36(4). Length of time for paying a deposit increased. The proposed rules require that if a deposit may be requested, a utility must allow the customer to pay the deposit in not less than three equal monthly installments. This same revision applies to nonresidential deposits. (PSC 185.361(3m))

4. PSC 185.36(7). Size of allowable deposit reduced. This proposed revision reduces the size of the allowable deposit. Under existing rules, the maximum deposit may not exceed the highest estimated gross bill for any consecutive billing period selected by the utility not to exceed 4 months. Under the revision, the maximum deposit may not exceed the highest estimated or actual gross bills for any 3 consecutive months within the preceding 12 months. This same revision applies to nonresidential deposits. (PSC 185.361(7))
5. PSC 185.36 and PSC 185.12(18). Expands who is a "residential customer" covered by deposit limitations. A subtle but important change in the rule revision is that the definition of "residential customer" has been expanded to mean a customer taking service for residential or domestic purposes and includes customers at properties such as duplexes and residential apartment buildings. The owner of a large residential apartment building would therefore be a "residential customer" and entitled to the extra protections provided to residential customers in the rule, as would owners of other enterprises where water is used for residential or domestic purposes. While this change does not have a significant impact with respect to the deposit rule it does have a significant impact with respect to the deferred payment agreement rule which will be discussed below.

E. Deferred Payment Agreements

PSC 185.38 establishes requirements for deferred payment agreements. The rule mandates that utilities offer deferred payment agreements to non-paying customers and establishes minimum terms for those agreements.

In discussions with utilities throughout the State, it appears that customers use deferred payment agreements most often when utilities disconnect for nonpayment. In those situations, customers will enter into a deferred payment agreement to forestall disconnection.

Deferred payment agreements are used less if a utility does not have a practice of disconnecting for nonpayment, but instead collects delinquencies by placing them on the tax roll.

The rule revision would require utilities to offer deferred payment agreements more often and place more limitations on those agreements. Utilities believe these new requirements would make it more difficult and costly to collect delinquencies. MEG - Water questions the Commission's authority and rationale for these deferred payment agreement mandates which go too far in providing preferences to non-paying customers over good-paying customers.

1. PSC 185.38(1). Mandates when deferred payment agreements must be offered. The revised rules mandate that a utility offer deferred payment agreements to residential customers at three different times: (i) prior to disconnecting a customer's service, (ii) after disconnecting a utility's service, and (iii) every 15

months if a utility has a policy or practice to not disconnect customers for nonpayment.

For utilities that pursue disconnection, this creates an endless cycle of deferred payment agreements and disconnections. A deferred payment agreement is offered to avoid disconnection. If the agreement is breached, disconnection occurs, and the customer is entitled to a new deferred payment agreement. When that agreement is breached and disconnection occurs, the customer is entitled to another agreement. This cycle can continue with the utility expending an inordinate amount of resources negotiating, documenting, tracking and enforcing deferred payment agreements for a limited set of customers who do not pay their utility bills.

For utilities that do not regularly pursue disconnection and instead use the tax roll to collect delinquent bills, the revision would require a utility to offer customers a deferred payment agreement every 15 months. This new provision could have a significant impact on utilities' ability to use the tax rolls to collect delinquent payments. The tax roll process, which is allowed by statute, is a cost effective method of collecting delinquencies and should not be hamstrung by PSC rules. Delinquent bills are statutorily allowed to go to the tax roll if a delinquency exists at tax roll time.

2. PSC 185.38 and PSC 185.12(18). Expands who is a "residential" covered by deferred payment agreement provisions. As indicated above, a subtle but important change in the rule revision is that the definition of "residential customer" has been expanded to mean a customer taking service for residential or domestic purposes and includes customers at properties such as duplexes and residential apartment buildings. The owner of a large residential apartment building would therefore be a "residential customer" and entitled to the extra protections provided to residential customers in the rule, as would owners of other enterprises where water is used for residential or domestic purposes. Utilities would be required to offer deferred payment agreements to these large customers to the same extent they are required to offer deferred payment agreements to single residential customers and the same concerns about increased collection hurdles as discussed above would apply. The size of delinquencies for these customers can be substantially higher however.
3. PSC 185.38(2). Establishes minimum terms for deferred payment agreements. The proposal provides that a deferred payment agreement would be reasonable if (a) the customer pays a reasonable amount of the outstanding bill not to exceed the lesser of \$600 or 50% of the amount outstanding, except a utility may require a customer provided with service through a master meter to pay up to 50% of the amount outstanding; and (b) the customer agrees to pay the remaining outstanding balance in not less than three equal monthly installments. Utilities do not object to the 50% floor but feel that the \$600 floor may be too low in some situations. They also do not believe that a minimum of three equal

monthly installments is appropriate in all situations. The number of payments should be based on the amount owing and how close the utility is to the tax roll deadlines.

4. PSC 185.38(6). Deletes current provision limiting obligation to offer additional deferred payment agreement prior to disconnection. Current rules provide that if a customer has not fulfilled the terms of a deferred payment agreement and there has not been a significant change in the customer's ability to pay since the agreement was negotiated, the utility shall have the right to disconnect and shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection. PSC proposes to delete this provision. MEG - Water would like to see this language stay and be expanded to provide that a utility is not obligated to offer a subsequent deferred payment agreement if the balance related to a previous DPA has not been paid to \$0 at the time of the request.

F. Disconnection

Utilities seek clarification and revision of a few items related to the disconnection rules. In particular, utilities want it to be clear that overtime work is not required to reconnect disconnected water service.

1. PSC 185.37(8). Disconnection prohibited for nonpayment unless collection efforts have been made. The rule provides that utility service may not be disconnected or refused for nonpayment of a delinquent account over 6 months old where collection efforts have not been made within that period of time. Utilities would like confirmation that sending a bill constitutes collection efforts.
2. PSC 185.37(14). Requires reconnection promptly as soon as cause of disconnection is eliminated. The proposal requires a utility to "promptly reconnect service as soon as the cause for the disconnection has been eliminated" but, in any event, "to restore service no later than the end of the second day following elimination of the cause for the disconnection, unless the utility cannot gain access to the necessary utility facilities." This provision should be revised to make clear that overtime work for reconnection is not required.
3. PSC 185.405. New provision defining oppressive practices would extend to disconnection threats where utility has a policy or practice not to disconnect. A new provision is included which prohibits and defines oppressive and deceptive practices. In general, water utilities do not object to this provision which (except for one provision) replicates what is included in electric and gas rules. Utilities do object to the one extra provision however which provides that a utility shall not threaten to disconnect a customer if the utility has a policy or practice not to disconnect customers for nonpayment. While a water utility may not typically disconnect customers, disconnection is a legal and viable option for utilities. If a utility has a legal right to disconnect, informing a customer of that right cannot be viewed as being oppressive or deceptive. Furthermore, while a utility may have

a policy of not disconnecting for nonpayment, a utility may be pursuing disconnection for another reason, for example because of failure to repair a service line.

G. Billing and Bills

With regard to the provisions related to billing and bills, utilities are particularly concerned about the proposal to reduce the time between reading a meter and issuing a bill from 50 days to 30 days, and the proposal to increase the amount of information included on utility bills.

1. PSC 185.32(3). Reduces utility's time to issue bills. The proposal would reduce the time between reading a meter and issuing a bill from 50 days to 30 days unless specifically authorized by the Commission. No reasonable explanation has been provided for the change and many utilities indicate that they need this amount of time to read meters, review usage, identify and seek to resolve problems, and then send out bills. While 30 days could be a goal, it should not be a mandate. Also requiring Commission approval in order to stay at 50 days seems excessive and unnecessary.
2. PSC 185.32(2). Requires Commission approval to advance or postpone meter reading date. This section has been revised to provide that a meter-reading date may not be advanced or postponed 10 days or more without both Commission approval and adjustment of the billing period. The new requirement for Commission approval seems excessive and unnecessary.
3. PSC 185.33. Requires additional information on bills which will increase costs. Current rules identify the information that must be included on utility bills. The proposed rules would require significantly more information to be included on water utility bills and increase the cost of billing. New information required on bills include an explanation of codes, abbreviations and terminology used on bills, itemized calculations of the rate schedule component (which information currently only needs to be provided annually), and customer usage in both cubic feet and gallons (if a utility bills on a cubic feet basis).

Utilities indicate that these changes will increase costs. Some utilities that currently use postcard billing would no longer be able to do so. Other utilities identify the need for software changes and the addition of more pages to the bill. Others identify problems with including gallons instead of cubic feet on the bill. The Commission should reduce these requirements so that post card billing can still be used and allow utilities to use their websites to provide additional information to customers.

H. Bill Disputes and Adjustments

With regard to bill adjustments and disputes, utilities have a number of concerns.

1. PSC 185.32(7). 30 days too short to resolve issues with AMR. The proposal includes a new provision what would require a utility to investigate if the automatic meter reading system does not provide a meter reading or indicates zero consumption with the intent to resolve the situation within 30 days. Utilities have indicated that 30 days is too short for an investigation and resolution. Utilities that read quarterly propose that the investigation and resolution be done prior to the next scheduled billing read.
2. PSC 185.35(1)(a). Billing adjustment required if existing meter does not meet new meter standards. Under current rules, a billing adjustment is not required unless a meter is found to have an average percent registration below 97 or more than 102. If the average percent registration is below 97, the utility must issue the customer a backbill. The proposal would change the lower limit to 98 – which is the same as that required for new meters. In other words, the proposal would require a billing adjustment if an existing meter does not meet new meter standards. This means that utilities would have to issue more backbills to customers. Utilities do not believe this change is reasonable or cost effective.
3. PSC 185.35(1). Bills must be adjusted for full period of inaccuracy; 6-year limitation for backbilling proposed for deletion. A new provision provides that a utility must recalculate bills for the full period of inaccuracy in certain circumstances. This is inconsistent with existing statutes. Section 196.635, Wis. Stats., includes a 2-year limitation for backbilling. Section 893.93(1)(a), Wis. Stats., prescribes a 6-year limitation for issuing a refund due to overbilling (i.e., an action upon a liability created by statute when a different limitation is not prescribed by law). The existing rule includes the 6-year limitation for overbilling but is proposed for deletion. The rules must reflect the statutory limitation periods.
4. PSC 185.35(8). Summary of adjustments required to be filed with the Commission. The proposed rule requires a utility to keep a record of the number of refunds and charges made because of inaccurate meters, misapplication of rates, and erroneous billing. Utilities have no objection to this, although utilities would like more clarification about what constitutes an inaccurate meter. However, the rule also provides that the record must be submitted to the Commission every year. This seems to be overkill and goes beyond what is required by electric and gas utilities.

I. Meter Testing and Replacement

Current rules allow a utility, in lieu of a meter testing program, to have a new meter replacement program that results in each meter being replaced within 20 years of the original date of installation. This meter replacement program is allowed only if water system losses are below a certain percentage. Many utilities believe that a meter replacement program is a better and more cost effective alternative than testing meters as would otherwise be required under these

regulations. Utilities are very concerned that in this rule revision the Commission seeks to limit utilities' ability to avoid meter testing by adopting a meter replacement program.

1. PSC 185.76(6). Modification to meter replacement program raises concerns. Current rules provide that when system losses are below prescribed percentages, a utility may adopt a new meter replacement program that results in each meter being replaced within 20 years. The proposed rules would delete the reference to system loss percentages (since that concept is being eliminated from the rule) and instead provide that a utility may institute a 20 year meter replacement program in lieu of testing "if the utility has data to demonstrate that the meters remain accurate for the 20-year period." Utilities are concerned that this language could be interpreted as giving the Commission the discretion to direct a utility to begin meter testing again. Utilities oppose making their right to adopt a meter replacement program in lieu of testing completely discretionary with the Commission. Many utilities believe that a meter replacement program is more cost effective than a meter testing program.

J. Commission Dispute Resolution

The Commission's authorization to hear disputes is set by statute. The proposed rule would expand the PSC's dispute resolution process to any customer dispute about a utility's action or inaction. This authority appears to go beyond the authority granted to the Commission by the Legislature. This proposal also goes beyond what is included in the electric and gas rules. If the Commission's dispute resolution process is to change, it should be changed in a separate rulemaking that applies to all utilities.

1. PSC 185.39(1). Dispute resolution process expanded. The existing rule applies to a utility's request for a deposit or other matters related to the disconnection or refusal of service. The proposed rule would expand the PSC's dispute resolution process to any customer dispute about a utility's action or inaction. This authority appears to go beyond the authority granted to the Commission by the Legislature. This proposal also goes beyond what is included in the electric and gas rules.
2. PSC 185.39(2). Cut utility time to respond to Commission after customer complaint in half. Under current rules, a utility has 10 business days to provide the Commission with a response after a customer complaint. The proposal would cut that time in half -- to 7 calendar days. Many utilities commented that they would have difficulty providing Commission staff a response within this time. Staff at municipal utilities -- especially smaller utilities -- wear many hats and cannot always respond as quickly as utilities with more staff. Throughout the rule, there are proposals to extend the time for the Commission or Commission staff to act, but yet for utilities the proposals seek to shorten the time to act.
3. PSC 185.39(2). Commission staff's determination on customer complaint binding unless formal review sought. Under current rules, Commission staff

provides an informal review and a determination for settlement. Under the proposal, Commission staff would be making a binding determination on a customer complaint. As indicated above, this proposal goes beyond what is included in the electric and gas rules. If the Commission's dispute resolution process is to change, it should be changed in a separate rulemaking that applies to all utilities.

4. PSC 185.39(3). Elimination of expedited dispute resolution process delays ability to disconnect. Under the existing rule there is an expedited process for the Commission to consider a customer complaint. This expedited process is important because utility service may not be disconnected while a complaint is being pursued. The proposal eliminates this expedited process and applies the regular process of ch. PSC 2. This greatly extends the time for the Commission to act and will delay a utility's ability to terminate service. This is not consistent with the electric or gas rules. If this process is to change, it should change for all utilities.

K. New Tariffs

The proposed rules require water utilities to file two new tariffs. A filed tariff limits a utility's ability to use its discretion to address different situations. Utilities are concerned about limiting their discretion with respect to the two items discussed below. In particular, some utilities are concerned about mandating a tariff on "extraordinary investment" as this could limit a municipality's ability with respect to negotiated developer agreements.

An area not addressed by the rule revision but which utilities would like addressed is the acceptance of credit card payments. There are benefits to both customers and utilities from the acceptance of credit card payments. Utilities would like to eliminate the existing regulatory hurdles involved in accepting credit card payments.

1. PSC 185.21(1)(bm). Leak credit policies required to be filed as rules with Commission. Under the proposal, utilities would be required to file with the Commission its rates and rules applicable to a reduced rate for water wasted due to a leak unknown to the customer that is found in an appliance or the plumbing, if the utility offers reduced rate. This will limit a utility's discretion to offer credits in appropriate situations.
2. PSC 185.21(1)(cm). New tariff on "extraordinary investment" required to be filed with Commission. Utilities would be required to file with the Commission "rules governing extraordinary investment by the utility to extend service to new customers or significantly increase the quantity of service provided to existing customers." Utilities are concerned that this type of tariff could be used by the Commission to limit a municipality's discretion to negotiate certain aspects of development agreements. Utilities question the Commission's authority to require such rules.

3. Proposal for new tariff on credit cards or allow credit card transaction fees to be an operating expense eligible for recovery through rates. Utilities would like the option of having a tariff related to the terms under which it will take credit cards. Customers want to pay for the bills using credit cards. There are many benefits to utilities from having bills paid by credit cards. Credit card payments take less staff time to handle than checks or in-person payments. They also eliminate risks related to the handling of cash. Current PSC rules create hurdles to utilities' acceptance of credit cards and should be reconsidered and modernized. Alternatively, credit card transaction fees could simply be treated as an operating expense eligible to be recovered through rates as a billing and collections related cost.

L. New Mailing

While this item is last, it is an item of significant concern. This new requirement will increase printing and mailing costs with little customer benefit. The Commission should be supporting the increased use of utility websites to provide information to customers instead of increasing printing and mailing requirements.

1. PSC 185.22(4). New requirement to send written notice of rules to customers annually. Current rules require each utility to have available and provide upon request written notice to its existing residential customers of the rules on deposits, payment options, disconnection and dispute procedures. The proposal would eliminate the need for a customer request and instead require utilities to send a hard copy of this information out to residential customers every year. The extra printing and mailing cost for 580 water utilities would be significant while the benefit provided from mailing as opposed to posting the rules on the utility's website would be small. This proposal goes well beyond what the Legislature requires in Wis. Stat. § 196.19(3). This proposal is a step backwards in regard to providing cost-effective communication to customers. The Commission should be reducing these printing and mailing requirements and supporting the increased use of utility websites to provide information to customers.

CONCLUSION

MEG - Water and its members recognize all the work that PSC Staff have put into these rule revisions. We understand this is not an easy task. However, we are disappointed that PSC Staff did not work more proactively with utilities to address concerns. As the attachments to this letter demonstrate, we reached out to PSC Staff numerous times to try to encourage more meaningful dialogue.

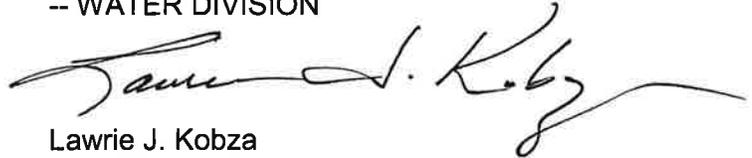
Overall, we are concerned that many provisions in the proposed revision to PSC 185 go well beyond determining whether utility rates, rules and practice are adequate, just and reasonable – and instead seek to precisely mandate how a utility must perform its day-to-day utility functions. We would have hoped that these rules could have become less prescriptive rather than more prescriptive.

Sandra J. Paske
August 18, 2017
Page 17

We are also of the view that much of PSC 185 – both the existing rules and the proposed rules – seek to carry out policies that go well beyond those identified by the Legislature. Since PSC 185 is being revised, it would make sense to examine whether all provisions of PSC 185 are consistent with the Legislature's charge to the PSC.

As always, MEG - Water and its members are willing to work with the Commission and PSC Staff to address concerns. Thank you for your consideration of these suggestions. If you have any questions, please do not hesitate to contact me.

MUNICIPAL ENVIRONMENTAL GROUP
-- WATER DIVISION



Lawrie J. Kobza
Legal Counsel

Attachments

cc: MEG - Water Members
Workgroup Members
League of Wisconsin Municipalities
Wisconsin Rural Water Association
Wisconsin Section - AWWA
(via e-mail)

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ATTACHMENT A

PSC 185 WORKGROUPS

General Provisions/Recordkeeping

Jan Bance (Baraboo)
Randy Kerkman (Bristol)
Dave Lawrence (WRWA)
Amy Lesnjak (Racine)
Keith Mueller (Green Bay)
Ed St. Peter (Kenosha)
Annette Stenzel (Oak Creek)
Michelle Ebbert (Fort Atkinson)
Jeffrey Novak (Milwaukee)
Seth McClure (Madison)

Dispute Procedures & Customer Protection

Cathy Brnak (Kenosha)
Randy Kerkman (Bristol)
Dave Lawrence (WRWA)
Amy Lesnjak (Racine)
Keith Mueller (Green Bay)
Ed St. Peter (Kenosha)
Jim Voigt (AWWA/City Water)
Michelle Ebbert (Fort Atkinson)
Jeffrey Novak (Milwaukee)
Nichelle Jackson (Milwaukee)

Meter Reading & Billing

Cathy Brnak (Kenosha)
Lori Bachler (Watertown)
Tina Erickson (La Crosse)
Deb Geier (Wausau)
Wendy Hanley (Baraboo)
Tina Kadrich (Waukesha)
Dave Lawrence (WRWA)
Amy Lesnjak (Racine)
Keith Mueller (Green Bay)
Ed St. Peter (Kenosha)
Annette Stenzel (Oak Creek)
Jim Voigt (AWWA/City Water)
Michelle Ebbert (Fort Atkinson)
Dan Salm (Manitowoc)
Jeffrey Novak (Milwaukee)
Nichelle Jackson (Milwaukee)
Richard Zawlocki (Milwaukee)
Richard Davila (Milwaukee)
Francis Fraundorf (Wauwatosa)
Terry Larsen (Wausau)

Applications For Service

Cathy Brnak (Kenosha)
Dave Lawrence (WRWA)
Joel Mathews (WI Rapids)
Kelli Rindt (Appleton)
Ed St. Peter (Kenosha)
Jim Voigt (AWWA/City Water)
Michelle Ebbert (Fort Atkinson)
Jeffrey Novak (Milwaukee)
Nichelle Jackson (Milwaukee)
Richard Zawlocki (Milwaukee)

Deposits

Cathy Brnak (Kenosha)
Dave Lawrence (WRWA)
Joel Mathews (WI Rapids)
Cara Zipper (Manitowoc)
Ken Scolaro (Racine)
Ed St. Peter (Kenosha)
Jeffrey Novak (Milwaukee)
Nichelle Jackson (Milwaukee)
Richard Zawlocki (Milwaukee)

Deferred Payment Agreements

Cathy Brnak (Kenosha)
Valerie Kraemer (Waukesha)
Dave Lawrence (WRWA)
Keith Mueller (Green Bay)
Lori Nyhus (Cumberland)
Cara Zipper (Manitowoc)
Ken Scolaro (Racine)
Ed St. Peter (Kenosha)
Jeffrey Novak (Milwaukee)
Nichelle Jackson (Milwaukee)
Richard Zawlocki (Milwaukee)

Disconnections & Refusal of Service

Cathy Brnak (Kenosha)
Dave Lawrence (WRWA)
Amy Lesnajak (Racine)
Keith Mueller (Green Bay)
Lori Nyhus (Cumberland)
Kelli Rindt (Appleton)
Cara Zipper (Manitowoc)
Ed St. Peter (Kenosha)
Jim Voigt (AWWA/City Water)
Jeffrey Novak (Milwaukee)
Nichelle Jackson (Milwaukee)
Richard Zawlocki (Milwaukee)
Richard Davila (Milwaukee)
Joel Mathews (WI Rapids)

Water Loss/Water Efficiency/Water Shortage

Stephan Brand (Oshkosh)
Cathy Brnak (Kenosha)
Mike Gitter (Racine)
Mike Kosterman (Racine)
Dave Lawrence (WRWA)
Amy Lesnajak (Racine)
Dave Lewis (Kenosha)
Frank Miller (Cudahy)
Tom Nennig (AWWA/City Water)
Nancy Quirk (Green Bay)
Donna Scholl (Waukesha)
Doug Schwartz (Oak Creek)
Ed St. Peter (Kenosha)
Dave Wasserburger (Marshfield)
Jeffrey Novak (Milwaukee)
Timothy Ignatowski (Milwaukee)
Ross Brzycki (Milwaukee)
Joseph Leszcynski (Milwaukee)
Rob Michaelson (Manitowoc)

Metering & Meter Testing

Dean Bergstrom (Cumberland)
Stephan Brand (Oshkosh)
Cathy Brnak (Kenosha)
Kim Kriewald (Merrill)
Dave Lawrence (WRWA)
Amy Lesnajak (Racine)
John Mahoney (Green Bay)
Tom Nennig (AWWA/City Water)
Wade Peterson (Baraboo)
Doug Schwartz (Oak Creek)
Ed St. Peter (Kenosha)
Dan Salm (Manitowoc)
Jeffrey Novak (Milwaukee)
Richard Davila (Milwaukee)
Frank Miller (Cudahy)

Construction/Operation Standards

Stephan Brand (Oshkosh)
Mark Johnson (La Crosse)
Dave Lawrence (WRWA)
Tom Nennig (AWWA/City Water)
Wade Peterson (Baraboo)
Brian Powell (Green Bay)
Chad Regalia (Racine)
Terry Signlinsky (Fort Atkinson)
Ed St. Peter (Kenosha)
Mike Sullivan (Oak Creek)
Kelly Zylstra (Waukesha)
Jeffrey Novak (Milwaukee)
Rob Michaelson (Manitowoc)

Distribution System/Frozen Laterals

Stephan Brand (Oshkosh)

Cathy Brnak (Kenosha)

Jon Craker (Reedsburg)

Mike Kosterman (Racine)

Mark Johnson (La Crosse)

Dave Lawrence (WRWA)

Dave Lewis (Kenosha)

Tom Nennig (AWWA/City Water)

Paull Pavlik (Green Bay)

Chad Regalia (Racine)

Don Robarge (Rice Lake)

Terry Signlinsky (Fort Atkinson)

Ed St. Peter (Kenosha)

Kelly Zylstra (Waukesha)

Jeffrey Novak (Milwaukee)

Richard Davila (Milwaukee)

 Email

From: Lawrie J. Kobza
To: Stone, Jeff - PSC (Jeff.Stone@wisconsin.gov)
Subject: PSC 185

Sent: 5/12/2016 9:41:50 AM



Attachments may contain viruses that are harmful to your computer. Attachments may not display correctly.

 image002.png (12Kb)  PSC 185 - FINAL DRAFT (A2453702x9DEB4).docx (181Kb)  PSC 185 Final Comments.pdf (912Kb)

Thanks for meeting today. Here are the blacklined comments from MEG-Water water utility members and other water utilities on PSC 185 in a Word version and pdf version.

Lawrie



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PSC 185
Comments and suggestions from MEG - Water members
and other Wisconsin water utilities on PSC draft of proposed revisions to PSC 185
4/28/16

Subchapter I – General

- PSC 185.10 General.
- PSC 185.11 Definitions.
- PSC 185.12 Whistleblower protection.
- PSC 185.13 Protection of water utility facilities.
- PSC 185.14 Interference with public service structures.

Subchapter II - Miscellaneous Service Requirements

- PSC 185.20 General requirement.
- PSC 185.21 Water service.
- PSC 185.22 Free or discriminatory service prohibited.
- PSC 185.23 Schedules to be filed with the commission.

Subchapter III - Billing and Payment Procedures

- PSC 185.30 Application for residential service.
- PSC 185.305 Application for nonresidential service.
- PSC 185.31 Deposits for residential service.
- PSC 185.315 Deposits for nonresidential service.
- PSC 185.32 Meter readings and billing periods.
- PSC 185.33 Billing.
- PSC 185.34 Adjustment of bills.
- PSC 185.35 Deferred payment agreement.

Subchapter IV - Disconnections and Reconnection of Services

- PSC 185.40 Service disconnections and refusals, residential and multi-family accounts.
- PSC 185.405 Service disconnections and refusals, nonresidential.
- ~~PSC 185.41 Cold weather disconnections.~~
- PSC 185.42 Customer-requested termination of service.

Subchapter V - Dispute Procedures and Customer Protection

- PSC 185.50 Information available to customers.
- PSC 185.51 Employees and agents authorized to enter premises.
- PSC 185.52 Unconscionable, oppressive and deceptive practices prohibited.
- PSC 185.53 Complaints.
- PSC 185.54 Dispute procedures.

Subchapter VI - Safety and Service Standards

- PSC 185.60 General requirements.
- PSC 185.61 Distribution system.
- PSC 185.62 Quality of water.
- PSC 185.63 Adequacy of water supply, emergency operations and interruptions of service.
- PSC 185.64 Pressure standards.
- PSC 185.65 Station meters.
- PSC 185.66 Water audits and water loss control.
- PSC 185.67 Flushing mains.
- PSC 185.68 Frozen laterals.
- PSC 185.69 Water supply shortage.

Subchapter VII - General Customer Metering and Equipment Accuracy

- PSC 185.70. Customer metering requirement.
- PSC 185.71 Meter testing equipment and facilities.
- PSC 185.72 Calibration of meter testing equipment.
- PSC 185.73 When to test customer meters.
- PSC 134.74 Comparison of meter index readings and automatic meter reading system readings.
- PSC 185.75 How to test customer meters.
- PSC 185.76 Accuracy requirements for [new, rebuilt or repaired](#) meters.

Subchapter VIII - Meter Testing Programs

- PSC 185.80 Testing of meters before use.
- PSC 185.805 Alternative sample-testing plan for "before-use" testing of 5/8-, 3/4-, and 1-inch meters.
- PSC 185.81 Periodic tests testing of in-use meters.
- PSC 185.815 Alternative sample-testing plan for in-use meters.
- PSC 134.82 Request and referee tests.

Subchapter IX – Water Conservation and Efficiency

- PSC 185.90 Definitions.
- PSC 185.91 Customer Education Requirements.
- PSC 185.92 Voluntary Water Conservation Rebate or Incentive Programs.

Subchapter X – Records and Reports

- PSC 185.100 Location of records.
- PSC 185.101 Records and reports of unplanned service interruptions.
- PSC 185.102 Pumpage records.
- PSC 185.103 Construction records.
- PSC 185.104 Preservation of records

185.10 GENERAL.

(1) PURPOSE. Chapter [PSC 185](#) is designed to effectuate and implement ss. 196.02, 196.03, 196.06, 196.12, 196.15, 196.16, 196.17, and 196.37, Stats., and parts of other sections of the Wisconsin statutes.

(2) SCOPE AND EXCEPTION. (a) Chapter PSC 185 shall be observed by all utilities, both privately and publicly owned, engaged in the pumping, purchasing, transmission, or distribution of water except that an exemption may be given by the commission.

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

(3) ENFORCEMENT. The manner of enforcing this chapter is prescribed in s. 196.66, Stats., and such other means as provided in statutory sections administered by the commission.

(4) EMERGENCY. In case of emergency, where public interest requires immediate action without waiting for compliance with the specific terms of this chapter, immediate corrective action shall be taken by the utility. This action shall be subject to review by the commission.

(5) LIMITATIONS. Nothing in this chapter shall prevent imposition of sanctions, fines, forfeitures, penalties or damages under more than one section of this chapter or ch. 196, Stats., or other statutes, for the same incidence or occurrence.

PSC 185.11 DEFINITIONS.

(1) The following terms as used in this chapter mean:

(a) "Actual meter read" means a reading obtained by the utility or other party in one of the following ways:

1. By physical observation of the meter index.
2. By receiving a reading from an automatic meter reading system.

Comment [11]: READING BY CUSTOMER IS ACTUAL METER READ

(b) "Applicant" means a person or entity that meets both of the following conditions:

1. Is the person or entity requesting water service or for whom which water service is being requested.
2. Is not the last named account holder customer that received water service in its name at the premises from the utility from for which such service is requested.

(c) "Automated meter reading system" means facilities that allow a meter reading to be obtained without the need for a person to physically observe the meter index.

(d) "Class AB utility" means a utility that has more than 4,000 service connections.

(e) "Class C utility" means a utility that has not fewer than 1,000 nor more than 4,000 service connections.

(f) "Class D utility" means a utility that has less than 1,000 service connections.

(g) "Commercial customer" means a business entity, not-for-profit organization, or other nongovernmental institution that provides goods or services. "Commercial customer" includes churches, private schools, and private colleges and universities.

(h) "Class of service" means the category of service such as residential or nonresidential.

(i) "Cold weather period" means the period beginning November 1 and continuing through April 15.

(j) "Commission" means public service commission of Wisconsin.

(k) "Complaint" means a statement or question by any person, whether a utility customer or not, concerning a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action committed or created by a utility, or failure of a utility to meet a utility obligation.

~~(l) "Customer" means the person responsible for the payment of bills issued for the use of water service at a given premises.~~

Comment [12]: DUPLICATE, SEE BELOW.

~~(m) "Customer requested termination" is the discontinuation of water service at the request of the customer.~~

Comment [13]: DUPLICATE, SEE BELOW.

(n) "Curb stop box" means an enclosure and the enclosed pipe that extends from near the edge of a property down to and including the valve used to shut off a water service connection to a building, excluding and the connection to the customer portion of the lateral.

Comment [14]: COMMERCIAL/INDUSTRIAL CONNECTIONS NOT ALWAYS NEAR PROPERTY

(o) "Curtailment plan" means the procedures that a utility will follow to limit the quantity of water its customers consume during a period when, due to unusual or emergency conditions, there is an insufficient supply of water, distribution capacity, or pipeline capacity to meet the requirements of all customers.

~~(p) "Customer" means: the person responsible for the payment of bills issued for the use of water service at a given premises.~~

- 1. the named account holder, or
- 2. an occupant or owner of the premises provided with service if the utility issues a premise-based bill.

(q) "Customer-requested termination" means a request by a customer ~~or occupant~~ for the utility to discontinue providing water service to a premises.

(r) "Deferred payment agreement" means an arrangement between a utility and a customer for payment of a delinquent amount in installments. A deferred payment agreement is a type of installment payment agreement, but not all installment payment agreements are deferred payment agreements.

(s) "Denied or refused service" means a utility has denied an application for water service to an applicant or refused to provide water service, ~~or both~~, to a customer, ~~applicant, occupant or premises~~.

(t) "Deposit installment payment agreement" means an arrangement between a utility and an applicant or customer ~~for the or applicant or for the~~ customer to pay a deposit in a series of payments rather than all at once.

(u) "Disconnection" means an event or action taken by the utility to discontinue the provision of water service, to a premises, but does not include a customer-requested termination of service or a temporary loss of service due to events such as emergencies, required work, or maintenance.

(v) "Dwelling" ~~or "residence"~~ means a place at which a home or regular abode is maintained, and requires both a personal presence and an intent to remain for a period of time.

Comment [15]: DELETE "RESIDENCE" TERM. NO NEED FOR 2 TERMS FOR ONE DEFINITION

Note: See sub. (2) for more information on how to determine if a location is a dwelling ~~or residence~~.

(w) "Estimated bill" means a bill rendered without an actual meter reading.

(x) "Holiday" means the days listed in s. 230.35(4)(a), Stats.

~~(y) "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 telecommunications facilities and provide basic local exchange service in a particular geographic area.~~

Comment [16]: NOT NEEDED. ONLY USED ONCE IN RELATION TO A TELEPHONE DIRECTORY.

(z) "Industrial customer" means a customer who is engaged in the manufacture or production of goods.

(aa) "Irrigation" means the use of water to sustain crops, lawns, or landscapes, including water used on athletic fields, parks, and golf courses.

(bb) "LIHEAP" means the low income home energy assistance program under s. 16.27, Stats.

(cc) "Lateral" means a water service pipe that connects utility-owned facilities to a ~~customer's~~ premises provided with water service, with no other customer connection downstream from the utility's shut-off valve. "Lateral" does not include piping from a central point to a ~~multi-occupancy~~ premises with multiple units.

Comment [17]: SHOULD THE TERM "CENTRAL POINT" BE DEFINED?

(dd) "Meter" means a device installed to measure the volume or rate of flow, or both, of water delivered through it and includes meter indexes, automated meter reading systems, and the housing around them.

(ee) "Meter index" means the mechanism that indicates the volume of water that has passed through the meter.

(ff) "Minimum bill" means the minimum amount a customer will be billed in each billing period, as specified in the utility's tariff.

(gg) "Multi-family residential customer" means a customer taking water service for a building that is intended primarily for residential purposes, has three or more dwelling units, and is served by a single water meter.

~~Note: For accounting purposes, sales to multi-family residential customers are recorded as commercial sales under to the Commission's Uniform System of Accounts for Municipal Water Utilities (January 2008).~~

(hh) "Municipality" means a town, city or village.

Comment [18]: TERM ONLY USED ONCE

~~"Named account holder" means the specific person, corporation, partnership, nonprofit or other entity responsible for the payment of bills issued for the use of water service at a given premises where the utility does not issue premises-based bills.~~

(ii) "New meter" means a meter that is sold to a utility as unused or as refurbished by its manufacturer.

(jj) "Nonregistering" means that neither the automated meter reading device nor the meter index are functioning.

(kk) "Nonresidential customer" means any commercial, industrial, or public authority customer.

(LL) "Occupant" means the individual or business that resides at or uses a premises to which service is provided.

~~"Owner" means the individual, corporation, partnership, nonprofit or other entity that owns the property to which service is provided.~~

~~"Premises" means the unit, building, property or site served by a single meter or billed as a single account.~~

Comment [19]: THERE ARE SITUATIONS WHERE WATER IS NOT METERED. FOR EXAMPLE, FIRE PROTECTION.,

~~"Premises-based bills" means bills issued by a utility to the occupants or owners of the property provided with service.~~

(mm) "Printed" means words, figures or symbols on paper rather than in electronic form.

Comment [110]: WHERE IS THIS TERM USED? MANDATES PAPER DOCUMENTS INSTEAD OF ELECTRONIC.

(nn) "Prompt full payment" means payment of non-disputed amounts, made on or before the bill due date.

(oo) "Protective services emergency" means a threat to the health or safety of a resident because of the physical, developmental or mental disabilities, or the frailties associated with being very young or very old.

(pp) "Public authority customer" means any department, agency or entity of local, state, or federal government, including public schools, colleges, and universities.

(ppm) "Public utility" includes the entities listed in ss. 196.01(5) (a) and (b) 1., 4., and 5., Stats.

Comment [111]: ENTITIES LISTED IN 196.01(5)(B) 1., 4 AND 5 ARE NOT PUBLIC UTILITIES UNDER THE STATUTE.

~~{qq} "Reconnect service" means restoring a customer's water service after the interruption or disconnection of water service.~~

Comment [112]: DELETE. TERM ONLY USED ONCE.

(rr) "Refurbished meter" means a meter that has been used by a utility and then rebuilt and then calibrated~~refurbished~~ by that utility or a third party hired by that utility.

~~{ss} "Refused or denied service" means that a utility has denied an application for water service or refused to provide water service, or both, to a customer, applicant, occupant or premises.~~

Comment [113]: DELETE DUPLICATE.

~~{tt} "Remote outside meter" means an analog device attached to a building structure which displays the reading of the base meter through electronic pulses sent from the base meter. Remote outside meters are considered part of the utility's metering configuration.~~

Comment [114]: DELETE. TERM NOT USED.

~~(uu) "Residence" or "dwelling" means a place at which a home or regular abode is maintained, and requires both a personal presence and an intent to remain for a period of time.~~

Comment [115]: DELETE DUPLICATE.

~~Note: See sub. (2) for more information on how to determine if a location is a dwelling or residence.~~

~~"Resident" means a person who resides at a dwelling.~~

(vv) "Residential customer" means a customer taking water service for residential purposes.

(ww) "Special payment arrangement" means an arrangement other than one to pay off arrears in a series of installments. "Special payment arrangement" does not include deposit installment payment agreements or deferred payment agreements.

(xx) "Station meter" means a meter used to measure the volume of water pumped from wells, surface water intakes, storage facilities, treatment facilities, or booster pumps produced by a well and discharged to the distribution system and not used to measure customer use.

~~(yy) "Summary bill" means a single billing statement for 2 or more accounts.~~

Comment [116]: DELETE. TERM NOT USED

(zz) "Tariff" means the rate schedules and service rules filed with the commission under ss. 196.19 (1) and (2), Stats.

(aaa) "Termination of service" means the ~~termination customer requested discontinuation~~ of water service to a named account holder and the closing of that customer's account ~~by the utility, the customer, or a third party.~~

(bbb) "Type of utility service" means category of service, such as gas, electric, water, or sewer.

Comment [117]: TERM ONLY USED IN ONE OTHER PLACE.

(ccc) "Utility" means an entity or individual included in s. 196.01 (5), Stats., which provides water for the public and an entity authorized by s. 66.0819, Stats., which provides water and sewer service for the public.

(ddd) "Water conservation" means practices, techniques, and technologies that reduce the demand for water, reduce water loss or waste, or improve water use efficiency.

(dddm) "Water service" includes both water and regulated sewer service.

(eee) "Written" or "in writing" means legibly printed on paper or, with the intended recipient's permission, legibly printed in an electronic form that the recipient can electronically store and retrieve, for future reference. Permission for electronic delivery of commission documents and communications to utilities is considered granted.

(2) When a utility is uncertain about whether a location is a ~~residence or~~ dwelling under subs. (1)(v) ~~and (uu)~~, it shall consider at least all of the following when making its determination:

(a) Whether the alleged resident's personal property and effects are kept at that location.

(b) Whether the alleged resident receives personal mail at that location.

(c) Whether the alleged resident spends his or her free time at that location.

(d) Whether the alleged ~~residence or~~ dwelling is designed to be used as such.

(e) Whether the usual components of a home, such as bathroom facilities and running water, are present at that location.

(f) Whether the alleged resident uses this location as his or her primary dwelling place.

(g) The address on the alleged resident's driver's license.

185.12 WHISTLEBLOWER PROTECTION. (1) No utility may interfere with, restrain, or coerce any employee or other person in the exercise of the right to disclose information to the commission or other governmental body regarding the safety and reliability of any portion of the water or regulated sewer system, provided that the employee or other person reasonably believes that such information is true.

(2) No utility may dismiss, discipline, demote, transfer, reprimand, harass, reduce the pay of, discriminate against, or otherwise retaliate against any employee or other person because that person engaged in any of the activities described in sub. (1).

PSC 185.13 INTERFERENCE WITH UTILITY FACILITIES.

(1) A utility doing any work upon, over, along, or under any public street may not interfere with, destroy, or disturb any public utility or railroad facilities or structures so as to interrupt, impair, or affect the public service for which such facilities or structures may be used, without first reaching an agreement with the public utility or railroad concerning the location and the nature of the proposed work.

(2) (a) A utility shall, in the absence of working arrangements with the public utility or the railroad, give at least 3 business days written notice of proposed construction to all public utilities, railroads, and others that may have facilities or structures in or near the construction area which may be affected by the proposed work.

(b) The utility proposing work shall obtain from the affected party the location of the existing facilities and structures that may be affected or are in or near the construction area. If a utility proposing work contacts a one-call system, such as the diggers' hot line system established under s. 182.0175 (1m), Stats., that contact shall constitute compliance with this paragraph.

(3) A public utility, upon receiving a notice of proposed construction under sub. (2), shall furnish in 3 business days detailed information about the location and type of facilities and structures that are present in and near the proposed construction area. Where practical, the public utility shall ensure that the location of underground is marked physically in the field.

(4) (a) A utility shall exercise care when working in close proximity to the existing facilities and structures of a public utility, a railroad, and others that have facilities or structures in and near the proposed construction area.

(b) A utility shall employ hand digging when the facilities or structures under par. (a) are underground and are to be exposed or possibly may be exposed. In these cases, the utility shall provide whatever support may be reasonably necessary for the protection of the facilities or structures in and near the construction area.

(c) When a utility is backfilling an excavation, it shall employ whatever procedures and materials are necessary to provide reliable support for existing underground facilities and structures in and near the construction area.

(5) Nothing in this section shall prevent a utility from proceeding as quickly as possible with any emergency construction work which might interfere with existing facilities or structures. However, the utility shall take all reasonable precautions to avoid or minimize damage to or interference with the other facilities and structures and shall notify the public utilities, railroads or others that have facilities in or near the construction area of the emergency work as soon as possible.

PSC 185.14 PROTECTION OF WATER UTILITY FACILITIES.

(1) Upon receipt of written notice from a property owner or from a contractor as required by s. 66.0831, Stats., about work which may affect a utility's facilities or structures used for serving the public, the utility:

(a) Shall investigate and decide what action, if any, may reasonably be taken to protect or alter utility facilities or structures in order to protect service to the public and to avoid unnecessary damage, such as identifying in a suitable manner the location of any underground utility facilities or structures which may be affected by the work.

(b) Shall take such action as is reasonably and legally necessary to protect, remove, alter, or reconstruct its facilities or structures, and shall perform this work within a reasonable period of time.

(c) May, in order to protect its interests, require that the property owner or contractor perform certain work upon, or remove, that part of the service piping from the property upon which excavating, building, or wrecking operations are being performed.

(2) Nothing in this section shall be considered to affect any right which the utility may have to require advance payment or adequate assurance of payment by the property owner or contractor of the reasonable cost to the utility of taking action under sub. (1) (b).

(3) This section is not intended to affect the responsibility of the contractor or property owner, or the liability or legal rights of any party.

PSC 185.20 GENERAL REQUIREMENT. Every utility shall furnish reasonably adequate service and facilities at the rates filed with the commission, and subject to this chapter and the tariffs filed with the commission.

PSC 185.21 WATER SERVICE.

(1) METERING GENERALLY REQUIRED. A utility shall sell its water based on meter measurement except that the utility may estimate the volume of water used for the following purposes:

(a) Fire protection.

(b) Sewer or water main flushing.

(c) Construction.

(d) Similar purposes where metering is not practicable.

(e) Where authorized by the commission in a tariff.

(2) UTILITY SUPPLIES METER. A utility shall own and supply the meter being used to measure the water it sells.

(3) STARTING AND STOPPING THE FLOW OF WATER. Only an authorized employee or designee of a utility may open or close utility owned valves and curbstops to provide or discontinue the valve to start the flow of water to a premises.

(4) TEMPORARY METERED SERVICE.

(a) Deposit and other charges.

1. A utility may require an applicant for temporary metered service to pay a reasonable monetary deposit for each meter installed. The utility shall keep the deposit as security for payment for water use and other related charges.

2. The utility may establish a charge for setting the meter and furnishing and setting the meter.

Note: See Schedule BW-1 for the applicable rate.

Comment [I18]: HOW IS WATER FOR FIRE PROTECTION PAID FOR? IS THIS COVERED IN THE FIRE PROTECTION CHARGE? WHO PAYS – MUNICIPALITY OR PROPERTY OWNER? WHAT ABOUT IN A MUTUAL AID SITUATION? IS THIS ESTIMATE JUST FOR CALCULATING WATER LOSS?

Comment [I19]: IS STREET SWEEPING INTENDED TO BE INCLUDED UNDER THIS SUBSECTION? EXISTING RULE INCLUDES STREET SWEEPING.

Comment [I20]: DO SOME UTILITIES REQUIRE A LARGE CUSTOMER TO SUPPLY AND INSTALL THE METER AND DEDICATE IT TO THE UTILITY?

Comment [I21]: WHAT ABOUT PRIVATE FIRE PROTECTION SYSTEMS?

(b) Use of hydrants.

1. A utility may grant permission to use a hydrant in cases where no other water supply is available.
2. A utility shall install the proper equipment before a hydrant may be used. Only a utility employee or designee may install or move such equipment.

(5) UNMETERED WATER. A utility shall require an applicant for unmetered water use to file a written application with the utility. The application shall include a statement of the expected amount of water use.

(6) DEPOSIT REFUNDS. (a) A utility shall refund all deposits collected under this section on the discontinuation of the use of water, the payment of all charges levied against the depositor, and the return of any water utility equipment.

(b) A utility may retain all or a portion of a deposit if not all charges are paid, or if equipment is not returned or is returned damaged.

PSC 185.22 FREE OR DISCRIMINATORY SERVICE PROHIBITED. A utility may not provide water service free or at a rate different than provided for in its tariffs. This section applies to, but is not limited to, water service for all nonutility municipal purposes such as street flushing, sewer flushing, and service to nonutility public buildings.

Note: See ss. 196.22 and 196.60, Stats.

PSC 185.23 SCHEDULES TO BE FILED WITH THE COMMISSION.

(1) DEFINITIONS. For purposes of this section, "rate" includes fees and charges billed to a customer by a utility.

(2) TARIFFS. Each utility shall file tariffs with the commission. The tariffs shall be definite and minimize ambiguity. A utility shall classify, designate, arrange, and submit tariffs in conformity with the requirements of any instructions issued by the commission.

(a) TARIFF ITEMS. The tariffs filed shall include all of the following that apply:

1. Rate schedules under par. (b).
2. Definitions of classes of service.
- ~~3. Rules governing leak credits, if the utility offers them.~~
4. Designation of the facilities that the utility furnishes, owns, or maintains, or some combination thereof.
5. Rules with which prospective and current customers must comply as a condition of receiving water service, and the terms of any contracts required.
6. Rates and rules governing water service disconnection and reconnection.
7. Rules governing customer-requested water service termination and utility-initiated disconnection, and reconnection.
8. Rules governing temporary, emergency, auxiliary, and standby water service.
9. The charge for late payment, if any, and the period during which the bill may be paid without late charges.
10. Rules for extending water service to new customers indicating what portion of the extension or cost shall be furnished by the utility and, if the rule is based on cost, the items of cost included.
11. Rates other than those in par. (b).

Comment [I22]: A UTILITY SHOULD BE ABLE TO HAVE A LEAK CREDIT POLICY, BUT A TARIFF SHOULD NOT BE REQUIRED.

~~12. Other rules, terms and conditions of water service, and other pertinent information regarding water service.~~

Comment [I23]: TOO OPEN-ENDED.

(b) RATE SCHEDULES.

1. A utility shall adopt general service water rates that reflect the cost of service for each class of customer and include a volume charge based on actual customer consumption.
2. Each rate schedule under subd. 1., shall contain all of the following that apply:
 - a. The class of customers to which the rate schedule is available, along with a description of the customer characteristics necessary to be eligible for that rate schedule.
 - b. Any limitations on the water service.

- c. The billing period.
- d. All rates for water service.
- e. The prices per unit of water service.
- f. The number of units per billing period to which the rates apply.
- g. The method of measuring demand and consumption.
- h. The minimum bill.
- i. Any special terms and conditions applicable.

PSC 185.30 APPLICATION FOR RESIDENTIAL AND MULTI-FAMILY SERVICE.

(2) APPLICATION REQUIREMENTS. (a) If a utility requires an application, a residential or multifamily user of water service shall apply for service.

(b) A utility may require a verbal or written application for residential water service. The utility shall establish a written policy for when a written application is required. A utility may accept an application for water service from an applicant or a person or entity acting on an applicant's behalf other than the user or potential user of water service.

Comment [I24]: APPLICATION PROCESS USED WHEN CUSTOMER IS AN INDIVIDUAL, NOT A SERVICE ADDRESS

(c)1. Except as provided in par. (d) and sub. (3), a utility may only require ~~that an applicant provide~~ the following information in an application:

a. Legal name and birthdate of the applicant, and the user of water service ~~and the person responsible for bill payment,~~ if different than the user.

b. If the user of water service has telephone service, the telephone number of the user of service. If the ~~applicant person responsible for bill payment~~ applicant is different than the user and the ~~person responsible for bill payment~~ applicant has telephone service, the utility may also require the telephone number of the ~~applicant person responsible for bill payment.~~ applicant person responsible for bill payment. Lack of telephone service is not grounds for water service refusal.

c. Address where water service is to be provided.

d. Mailing address for billing purposes if different from service address.

e. Date requested for water service to begin.

f. The most recent previous address of the ~~applicant person responsible for bill payment.~~ applicant person responsible for bill payment.

g. Initial identification data under subd. 2.

2. A utility shall accept any of the following items as adequate initial identification data, although it may accept other forms of identification:

a. Driver's license number.

b. State identification card number.

c. Passport number.

d. Social security number or the last 4 digits of the social security number.

3. If a utility requests the initial identification data under subd. 2., it shall inform the applicant of all acceptable forms of initial identification data and allow the applicant to choose which the applicant wishes to provide.

(d) If a utility determines that an applicant's response under par. (c) 1. a. to f. indicates that additional information is necessary to further evaluate the applicant's credit history or identity, the utility may require the applicant's addresses for the past 6 years as part of its application for water service. Each utility shall establish a written policy for requesting the application information under this paragraph.

Note: Also see s. PSC 185.31 (2), which allows a request for a deposit if an applicant has an outstanding account balance that accrued within the last 6 years.

(e) A utility may request information other than that listed in pars. (c) and (d), but before requesting it the utility shall inform the applicant that providing that information is optional.

(f) A utility may refuse or disconnect water service for failure to provide any information specified in par. (c) 1. a., c., e., and f. or par. (d).

Note: See sub. (3) (a) about what can be required if an applicant refuses to provide the initial identification data under s. PSC 185.30 (2) (c) 1. g.

(3) IDENTITY AND RESIDENCY VERIFICATION.

(a) A utility may require verification of the initial identification data or the residency, or both, of the ~~applicant person responsible for bill payment~~ under any of the following circumstances:

1. The application is for water service at a premises where a bill remains unpaid for service provided within the previous 24 months.

2. The ~~applicant person responsible for bill payment~~ has an outstanding bill with the utility but claims that the bill was accrued in the person's name as a result of identity theft.

3. The applicant fails to provide the initial identification data under sub. (2) (c) 1. g. or the utility finds, with reasonable certainty, that the initial identification information is inaccurate.

(b) A utility shall establish a written policy for when it will require verification of identity or residency under par. (a).

(c) A utility shall accept any of the following items as adequate verification of identity, although it may accept other forms of verification:

1. Any one of the following items:

a. Valid driver's license or other photo identification issued by a state, U.S., or tribal governmental entity.

b. Valid U.S. military or military dependent identification card.

c. Valid passport.

2. Any two of the following items:

a. Social security card.

b. Certified copy of a marriage certificate.

c. Certified copy of a judgment of divorce or legal separation.

- d. Military discharge papers, including federal form DD-214.
- e. Valid student identification card with the applicant's photo.
- f. Current employee photo identification card that includes information, such as the employer's telephone number or address, which can be used for verification purposes.
- g. Letter of identification from a social service agency or employer that includes information, such as the agency or employer's telephone number or address, which can be used for verification purposes.

(d) 1. A utility shall accept any one of the following items as adequate verification of the applicant's person responsible for bill payment's residency, although it may accept other forms of verification:

- a. Current utility bill.
- b. Current financial institution statement.
- c. Rental agreement.
- d. Documents indicating home purchase.
- e. Current paycheck or pay stub showing the applicant's person responsible for bill payment's name and address, and the employer's name.
- f. Verification of address provided by a social service or government agency.

2. A utility may require an applicant person responsible for bill payment to provide information that may be used for verification purposes, such as a telephone number or address, if the applicant person responsible for bill payment submits one of the items in subd. 1. b., c., e., or f. to the utility.

(e) If a request for verification of identity or residency is based on par. (a) 2., the utility may require that the applicant person responsible for bill payment provide the information in s. 196.23 (1), Stats.

(f) If a utility requests information under this subsection, it shall inform the applicant person responsible for bill payment of all items that are acceptable for verification of identity or residency, and allow the applicant person responsible for bill payment to choose which items it wishes to provide.

(g) If the applicant person responsible for bill payment refuses to provide the information under pars. (c) or (d) or a utility finds, with reasonable certainty, that the verification is falsified, the utility may request an additional item, refuse service or disconnect service.

(4) PROCESSING APPLICATIONS AND PROVIDING NOTICE.

(a) Except under exceptional circumstances, a utility shall approve or deny an application for water service no later than 10 calendar days after receipt of the information required under this section. An unexpectedly high volume of requests for service shall not constitute exceptional circumstances.

(b) A utility shall notify the applicant in writing within 5 days of its denial. A utility may notify an applicant verbally before written notification is sent. An application shall be considered denied when a water service refusal has been finalized and no immediate conditions that could change that refusal remain. The notification shall include all of the following:

- 1. An explanation of why water service is being refused.

2. The applicant's right to ask commission staff to review the refusal.

3. The commission's address, telephone number and web site.

Note: For example, if a utility has told ~~an applicant-customer~~ that it would supply service if the ~~applicant-customer~~ makes a payment, enters a deferred payment agreement or provides additional identity or residency information under sub. (3), the refusal is still conditional and has not been finalized.

(c) If a third party applies for service on an applicant's behalf, a utility shall send written notification of the application to the most recent previous address of the ~~applicant-person responsible for payment~~ and the address for which water service has been requested.

(d) If an applicant indicates that a third party is responsible for payment, a utility shall send written notification of the approval or denial of an application to both the third party and the applicant within 5 days of the application's approval or denial, although a utility may notify the third party and applicant before written confirmation is sent. If water service is refused, the written notification shall include the information in par. (b) 1. to 3.

PSC 185.305 APPLICATION FOR NONRESIDENTIAL SERVICE.

(2) APPLICATION REQUIREMENTS. (a) If a utility requires an application, a user of water service shall apply for service in a form specified by the utility.

(b) A utility may require a verbal or written application for nonresidential water service. The utility shall establish a written policy for when a written application is required. A utility may accept an application for service from an applicant or a person or entity acting on the applicant's behalf ~~person other than the user or potential user of service.~~

(c) The utility may only require that the ~~applicant-person responsible for bill payment~~ provide the following information in an application:

1. Legal name of the applicant, and user of service ~~and the person responsible for bill payment~~, if different than the user.

2. Telephone number of the applicant, and the user of water service ~~and the person responsible for bill payment~~, if different than the user.

3. Address where water service is to be provided.

4. Mailing address for billing purposes if different from service address.

5. Date requested for water service to begin.

6. The most recent previous address of the ~~applicant-person responsible for bill payment~~.

7. Credit information under par. (e).

8. Initial identification data under par. (f).

(d) A utility may request information other than that listed in par. (c), but before requesting it the utility shall inform the ~~applicant-person responsible for bill payment~~ that providing that information is optional.

(e) A utility may request reasonable credit information from an ~~applicant-person responsible for bill payment~~ for nonresidential water service as part of its application for service. A utility shall establish a written policy about when it will request credit information and what credit information it will request.

(f) A utility shall accept any of the following items as adequate initial identification data, although it may accept other forms of identification:

1. Federal employer identification number or proof that it has been applied for but not yet granted.
2. Wisconsin department of financial institutions identification number.
3. Wisconsin seller's permit identification number.

(g) A utility may refuse or disconnect water service for failure to provide any information specified in pars. (c) 1. to 7. or (f).

Note: See sub. (3) (a) about what can be required if an applicant refuses to provide the initial identification data under par. (c) 8.

(3) IDENTITY VERIFICATION.

(a) A utility may require verification of the initial identification data of an ~~applicant-person responsible for bill payment~~ for nonresidential water service under any of the following circumstances:

1. An ~~applicant-person responsible for bill payment~~ refuses to provide the information under sub. (2) (c), (e), or (f).
2. The utility finds, with reasonable certainty, that the information provided under sub. (2) (c), (e) or (f) is falsified.

(b) A utility shall establish a written policy for when it will require verification of identity under this subsection.

(c) A utility shall accept any of the following items as adequate verification of identity, although it may accept other forms of verification:

1. State or federal income tax returns.
2. Internal Revenue Service letter assigning federal employer identification number.
3. Wisconsin seller's permit or department of revenue letter assigning a Wisconsin seller's permit identification number.
4. Business articles of incorporation, partnership agreement, limited liability company articles of organization, or similar organizational documents.

(d) A utility may refuse or disconnect water service if it does not obtain adequate verification of identity.

(4) PROCESSING APPLICATIONS AND PROVIDING NOTICE.

(a) Except under exceptional circumstances, a utility shall approve or deny an application for water service no later than 10 calendar days after receipt of the information required under this section. An expected high volume of requests for service shall not constitute exceptional circumstances.

(b) A utility shall notify the applicant in writing within 5 days of the denial of application. A utility may notify an applicant verbally before written notification is sent. An application shall be considered denied when a water

service refusal has been finalized and no immediate conditions that could change that refusal remain. The notification shall include all of the following:

1. An explanation of why water service is being refused.
2. The applicant's right to ask commission staff to review the refusal.
3. The commission's address, telephone number and web site.

Note: For example, if a utility has told an ~~applicant-customer~~ that it would supply water service if the ~~applicant-customer~~ makes a payment, enters a deferred payment agreement or provides additional identity information under sub. (3), the refusal is still conditional and has not been finalized.

(c) If a third party applies for water service on an applicant's behalf, a utility shall send written notification of the application to the applicant's potential user's mailing address and the address for which service has been requested.

(d) If a third party applies for water service on an applicant's behalf ~~an applicant indicates that a third party is responsible for payment~~, a utility shall send written notification of the approval or denial of an application to both the third party and the applicant within 5 days of the application's approval or denial, although a utility may notify the third party and applicant before written confirmation is sent. If water service is refused, the written notification shall include the information in par. (b) 1. to 3.

PSC 185.31 DEPOSITS AND GUARANTEES FOR RESIDENTIAL SERVICE.

(1) APPLICABILITY. (a) This section applies only to deposits or guarantees for residential water service.

(b) This section does not apply to any of the following:

1. Deposits for temporary metered service.
2. Prepayments made or promissory notes given to a utility by a customer in connection with the financing of extensions of water service or equipment.

Note: See s. PSC 185.21 (4) about deposits for temporary metered service.

(2) NEW RESIDENTIAL SERVICE. (a) 1. A utility may require a deposit or other guarantee from an applicant for new residential service ~~only~~ if all of the following are true:

a. The applicant has a delinquent account balance with Wisconsin gas, electric, water or sewer utility ~~the utility~~ that accrued within the last 6 years.

b. The delinquent account balance remains outstanding and not in dispute, as defined in s. PSC 185.54.

c. There is no existing agreement or arrangement for payment of the delinquent account balance being honored by the applicant.

2. A utility may require a deposit or other guarantee from an applicant for new residential service if the applicant had an arrears that was ~~A utility may not consider a balance that has been~~ included on the list furnished to the treasurer under s. 66.0809 within the last 6 years to be outstanding under subd. (a) 1. b.

(b) A utility may not require a deposit or guarantee if ~~either of the following are true:~~

Comment [I25]: RETURN TO LANGUAGE OF CURRENT RULE WHICH EXTENDS TO OUTSTANDING ACCOUNT BALANCE WITH ANY WISCONSIN GAS, ELECTRIC, WATER OR SEWER UTILITY.

Comment [I26]: ADD NEW PROVISION THAT ALLOWS DEPOSITS FOR TENANT WHERE DELINQUENCY WENT TO THE TAX ROLL.

~~1. If~~ the applicant provides the utility with documentation showing that the applicant's household gross income over the ~~previous 12 last 3 completed~~ months ~~was~~ at or below 200% of the federal income poverty guidelines used by the LIHEAP at the time of the request for new service .

~~2. The utility or applicant can verify that the applicant has been determined to be eligible for LIHEAP support during the previous 12 months.~~

Note: If an applicant has filed for bankruptcy protection, the bankruptcy law rather than this chapter controls matters related to deposits.

(c) 1. In ~~addition to requiring lieu of~~ a deposit or guarantee, ~~a utility may require~~ an applicant for new residential service who has a delinquent account balance that accrued within the last 6 years with the same Wisconsin utility with which the current application is being filed ~~but who is not subject to an existing deferred payment agreement to enter into a new deferred payment agreement in order shall have the right~~ to receive water service from that utility ~~under a deferred payment agreement~~. The utility may require that it receive the down payment under the deferred payment agreement before it provides service.

Comment [127]: UTILITY SHOULD BE ABLE TO GET BOTH A DEFERRED PAYMENT AGREEMENT FOR PAST DEBT, AND A DEPOSIT AS SECURITY GOING FORWARD.

2. A utility ~~may require an individual who defaults on a deferred payment agreement offered under this subsection to furnish a deposit or guarantee, and~~ is not required to offer another deferred payment agreement ~~to an individual who defaults on a deferred payment agreement offered under this subsection, in lieu of a deposit,~~ although the utility may agree to do so.

(d) A utility shall inform the customer of the customer's right to appeal any deposit request or amount required under this section to the commission.

(3) EXISTING RESIDENTIAL SERVICE. (a) A utility may require a deposit or guarantee as a condition of continued residential service only if one or more of the following are true:

1. The utility has disconnected the customer's water service within the last ~~128~~ months for one of the following reasons:

Comment [128]: KEEP 12 MONTHS WHICH IS WHAT IS IN CURRENT RULE

a. Nonpayment of a delinquent account not currently in dispute.

b. The utility obtains subsequent information indicating that the initial application for water service was falsified.

2. A customer accrues charges for water service that become 60 or more days past due ~~within the first 8 months of service.~~

Comment [129]: DEPOSITS SHOULD NOT BE LIMITED TO JUST FIRST 8 MONTHS OF SERVICE. UTILITIES SHOULD CONTINUE TO HAVE THE ABILITY TO ASK FOR A DEPOSIT

~~3. The customer had an arrears that was both incurred and 80 days or more past due during the cold weather period. The utility may request a deposit or guarantee under this subsection even if the customer's water service has not been disconnected, but any request for a deposit or guarantee under this subsection shall be made before the beginning of the following cold weather period.~~

Comment [130]: COVERED BY CHANGE IN 2. ABOVE. IF CHANGE IN 2. ABOVE IS NOT ACCEPTED, NEED 3.

~~Note: In general, arrears must be incurred prior to January 26th for this to apply, otherwise it cannot become 80 days past due during the cold weather period.~~

4. A utility has reasonable evidence that the customer has obtained water utility service by using a device or method that interferes or could interfere with the proper metering of utility service.

5. The utility disconnected water service and service was reconnected without the utility's authorization, regardless of whether the reconnection interferes with proper metering.

(b) A utility may not require a deposit or guarantee if ~~either of the following are true:~~

~~1. If~~ the customer provides the utility with documentation showing that the customer's household gross income over the ~~previous 12~~~~last 3 completed~~ months ~~was~~ at or below 200% of the federal income poverty guidelines used by the LIHEAP at the time of the request for the deposit.

~~2. The utility or customer can verify that the customer has been determined to be eligible for LIHEAP support during the previous 12 months.~~

Note: If a customer has filed for bankruptcy protection, the bankruptcy law controls whether a deposit may be taken.

(c) When the utility requests a deposit of an existing customer, the utility shall allow the customer at least 30 days to provide the deposit, guarantee, or enter into a deposit installment payment agreement.

(4) DEPOSIT INSTALLMENT PAYMENT AGREEMENT. (a) A customer or applicant for residential service from whom a deposit is requested shall have the right to receive service while paying the deposit under a reasonable deposit installment payment agreement.

(b) The utility may not require a down payment of more than one ~~half~~~~third~~ of the deposit, or require that the remaining balance be paid over fewer than 3 months when establishing a deposit installment payment agreement.

(5) GUARANTEE TERMS AND CONDITIONS. (a) 1. A utility may accept, in lieu of a deposit for new or existing residential service, a contract signed by a guarantor satisfactory to the utility in which payment of a specified sum not exceeding the cash deposit requirement is guaranteed, or in which the guarantor accepts responsibility for payment of all future bills. The term of the contract shall be for no longer than one year but may be renewed for subsequent periods of time.

2. If the guarantor accepts responsibility for payment of future bills, the utility shall notify the applicant or customer in writing of the agreement, and of the applicant's or customer's right to refuse such an agreement.

3. The guarantee shall automatically terminate if one of the following has occurred:

a. The ~~named account holder~~~~customer~~ has closed his or her account with the utility and the account is paid in full.

~~b. If the utility issues premise-based bills, the person or entity for whom the guarantee was provided no longer resides at or uses the premises as a tenant or owner, and the account is paid in full.~~

~~c.~~ The guarantor requests termination and provides at least a 30 day written notice to the utility. The utility shall notify the customer of the guarantor's request for termination within 10 days after receiving such a request.

4. If the utility still requires a deposit or guarantee from the customer after receiving notice of intent to terminate from the guarantor, the customer notice under subd. 3. shall inform the customer that the requirement remains and that the deposit or guarantee must be received, or a deposit installment payment agreement must be entered into, before the date on which the terminated guarantee ends. The water service of a customer who fails to comply with this requirement may be disconnected subject to the rules pertaining to disconnection of service, as provided in s. PSC 185.40 and 185.41.

(b) A utility ~~that requires guarantees~~ shall have written guidelines concerning what it will consider when determining whether a guarantor under subd. (a) 1. is satisfactory and shall make those guidelines available to the commission upon request.

(c) If a utility rejects a guarantor as unsatisfactory, it shall notify the applicant or customer of the reason for that rejection.

(d) The amount of a customer's guarantee may be reviewed annually and adjusted under sub. (10).

~~(e) The utility shall offer the guarantor the option to receive copies of all disconnect notices sent to the customer whose account has been guaranteed.~~

Comment [I31]: VERY LABOR INTENSIVE. FROM A PRACTICAL PERSPECTIVE NO DISCONNECTIONS WHERE THERE IS A GUARANTEE

(6) INFORMATION PROVIDED BY UTILITY AND TIME TO RESPOND TO REQUEST. (a) A utility shall notify an applicant or customer if a deposit or guarantee is required. If a deposit or guarantee is required, the utility shall also inform the customer or applicant that if he or she demonstrates that he or she meets the income requirements under sub. (2) (b) or (3) (b), the deposit or guarantee will be waived. The utility shall provide the notice within 107 days of the later of the following:

Comment [I32]: HOW DOES 7 DAYS WORK FOR EXISTING CUSTOMERS.

1. The water service request date.
2. The date on which the applicant or customer provides all reasonable and relevant information requested by the utility.

Note: This notice requirement may be met using the written notice required in par. (b).

(b) The utility shall provide written information to an applicant or customer if a deposit or guarantee is required. The written information shall do all of the following:

Comment [I33]: UTILITIES HAVE A STANDARD LETTER THAT GOES TO APPLICANTS THAT MUST PROVIDE A DEPOSIT. THE LETTERS ARE NOT CUSTOMIZED.

- ~~1. Provide an explanation of why a deposit or guarantee is being required.~~
- ~~2. Disclose what information was relied on in determining that a deposit or guarantee is required.~~
3. Inform the applicant or customer of the right to:
 - a. Provide additional information and request reconsideration of the decision to require a deposit or guarantee.
 - ~~b. If applicable, enter into a deferred payment agreement in lieu of a deposit or guarantee.~~
 - c. Submit information showing that he or she meets the income requirements under sub. (2) (b) or (3) (b).
 - d. Enter into a deposit installment payment agreement.
 - e. Appeal any deposit or guarantee request or its amount, or both, to the commission.

4. Explain the terms and conditions for the return of a deposit or the release of a guarantee.

(c) 1. When a utility requests a deposit or guarantee from an applicant or customer, the utility shall give the applicant or customer at least 20 days, from the date the utility sends the written information under par. (b), to do one of the following:

- a. Provide the deposit or guarantee.
- b. Enter into a deposit installment payment agreement for a deposit amount.

~~c. Except when the deposit is required under sub. (3) (a) 3., enter into a deferred payment agreement in lieu of a deposit or guarantee.~~

2. The utility may disconnect the water service of a customer or refuse service to an applicant who fails to comply with subds. 1.a. to c. within the required time period, subject to the rules pertaining to disconnection and refusal of service, as provided in ss. PSC 185.40 and 185.405.

(7) AMOUNT OF DEPOSIT. (a) The deposit amount a utility may request for a new residential account may not exceed the equivalent of the highest reasonable estimated gross bills for any 2-3 months selected by the utility.

Comment [I34]: 3 MONTHS CONSISTENT WITH QUARTERLY BILLING.

Note: To determine reasonableness a utility could consider the prior bills of the prior customer at that location, ~~but must take into account factors such as household size and conservation efforts.~~

(b) Except as provided in par. (c), the deposit for an existing residential account may not exceed the equivalent of the highest actual gross bills for any 3-2 consecutive months, as selected by the utility, within the preceding 12 months.

Comment [I35]: 3 MONTHS CONSISTENT WITH QUARTERLY BILLING. CURRENT RULE REFERS TO 4 MONTHS.

~~Note: For example, if a utility bills quarterly, then to calculate a 2-month deposit the utility would divide the highest estimated or actual bill by 3 and multiply by 2. If the deposit amount is the 4 highest months the utility~~

~~would use the entire highest quarter bill in the preceding 12 months plus 1/3 of the second high consecutive bill in the past 12 months.~~

(c) If a utility cannot disconnect during the cold weather period under s. PSC 185.41 and the customer had an arrear that was both incurred and 80 days or more past due during the cold weather period, the deposit may not exceed the equivalent of the highest actual gross bills for any 4 consecutive months, as selected by the utility, within the preceding 12 months.

Comment [I36]: CONSISTENT WITH ELECTRIC

(d) The amount of a customer's deposit or guarantee may be reviewed annually and adjusted under sub. (10). The utility may not continue to require a cash deposit or guarantee unless a deposit is permitted under ~~under~~ sub. (4) or (10).

(8) REASONABLENESS OF DEPOSIT. For the purpose of determining the reasonableness of a deposit, the utility shall consider at least the following factors:

(a) The amount in arrears.

(b) Customer's or applicant's recent payment history, ~~including factors such as the following:~~

~~1. Number of late payments.~~

~~2. Number of missed payments.~~

~~3. Number of defaulted or satisfied deferred payment agreements.~~

~~4. Number of payments made during the cold weather period.~~

Comment [I37]: KEEP LANGUAGE FROM CURRENT RULE

(c) Length of time that the account has been in arrears.

(d) Reasons why the account has been in arrears.

(e) Other relevant factors, such as household size, income and reasonable expenses.

(9) INTEREST. (a) Interest shall ~~be paid~~ accrue on deposits from the date a deposit ~~is paid in full or portion of a deposit, is paid~~ to the date it is applied to an account balance or is refunded.

Comment [I38]: TOO COMPLEX TO CALCULATE BASED ON INSTALLMENTS

(b) The interest rate to be paid shall be subject to change annually. The commission shall determine the rate of interest to be paid on deposits held during the following year and notify the utilities of that rate by December 15 of each year. The rate shall be equal to the weekly average yield of one-year United States treasury securities adjusted for constant maturity for the week ending on or after December 1 made available by the federal reserve board, rounded to the nearest tenth of one percent.

(c) Utilities shall calculate the interest earned on each deposit at the time the deposit is applied to an account balance or is refunded, and at the end of each year. The interest rate in a year shall apply to the amount deposited and to all interest previously accrued.

(10) REVIEW. (a) A utility shall ~~periodically~~ review a deposit or guarantee ~~at the end of each 12-month period during which a deposit or guarantee that~~ is held by a utility ~~or if the customer indicates he or she is low income~~. A utility may not continue to require a deposit or guarantee for a residential account unless it is permitted under this section.

Comment [I39]: REVISED TO ALLOW PERIODIC REVIEW INSTEAD OF ONE REVIEW AFTER 12 MONTHS.

(b) If the review under par. (a) shows that a deposit or guarantee is still permitted under this section, the utility may choose to recalculate the deposit or guarantee amount by determining whether the amount of the deposit or guarantee still meets the deposit calculation requirements in subs. (7) and (8). ~~A utility choosing to do such a recalculation shall do one for all deposits and guarantees.~~ A customer may, no more often than once a year, request that a recalculation be done.

(c) When a recalculation is done, a utility shall refund, ~~using a credit to the customer's bill,~~ any deposit amount held which is 10% or more and at least \$50 over the recalculated deposit amount. The refund may be by check or a credit to the customer's bill. If the guarantee amount is 10% or more and at least \$50 more than the recalculated deposit amount, the utility shall notify the guarantor and the customer so that a new guarantee may be issued.

(d) When a recalculation is done, a utility may require an additional deposit or guarantee amount if the recalculated deposit amount is 10% or more and at least \$50 more than the deposit or guarantee the utility is holding for that customer. If a customer fails to pay or enter into an installment payment agreement for the additional deposit, or to obtain a new guarantee, within 20 days of the date on which the utility sends a written request for payment, then the utility may pursue disconnection subject to the rules pertaining to disconnection of water service, as provided in s. PSC 185.40.

(11) DEDUCTING ARREARS. (a) Except as provided in par. (c), a deposit may be used by the utility only to satisfy an arrear occurring after the deposit was requested~~made~~.

(b) If the utility deducts arrears from a customer deposit, it may require the customer to bring the deposit up to its currently required amount. The customer's failure to do so within 20 days of the date on which the utility sends a written request to bring the deposit up to its new required amount is grounds for disconnection: subject to the rules pertaining to disconnection of water service, as provided in s. PSC 185.40.

(c) When a deposit is to be refunded to a customer, the utility may first deduct any arrears owed by the customer, whether the arrears arose prior to or after the date of the deposit, if no deferred payment or other payment arrangement exists for the arrears or if a payment arrangement exists but is not being honored by the customer.

(12) DEPOSIT REFUND OR GUARANTEE RELEASE. (a) A utility shall refund a deposit, with ~~prorated~~accrued interest, or end the requirement for a guarantee and provide written notice of this to the customer and the guarantor, if any of the following are true:

1. The customer has demonstrated one year of prompt full payment of amounts due, measured from the first bill payment after a deposit ~~is requested regardless of whether a deposit has been paid in full at the time of that payment.~~

~~2. The utility has not disconnected water service during the last 2 years, measured from the first bill payment after a deposit is requested, and the deposit was not requested because a customer had an arrear that was both incurred and 80 days or more past due during the cold weather period.~~

~~3. The customer provides verification that household gross income over the last 3 completed months is at or below 200% of the federal income poverty guidelines used by LIHEAP at that time.~~

(b) Paragraph (a) does not apply if the utility could reassess a deposit or guarantee immediately after issuing the refund under par. (a) or ending the existing guarantee requirement.

(c) Upon customer- requested termination of service, the utility shall release the guarantee or credit the deposit, with ~~prorated~~accrued interest, to the customer's final bill and return any balance within 30 days of issuing the final bill, as provided in sub 11.

(13) METHOD OF REFUND. Except as provided in subs. (10) (c) and (12) (c), any deposit or portion of a deposit refunded to a residential customer shall be refunded directly to the customer unless both the customer and the utility agree to a credit on the regular billing.

PSC 185.315 DEPOSITS AND GUARANTEES FOR NONRESIDENTIAL SERVICE.

(1) APPLICABILITY. (a) This section applies only to deposits or guarantees for nonresidential water service.

(b) This section does not apply to any of the following:

1. Deposits for temporary metered service.
2. Prepayments made or promissory notes given to a utility by a customer in connection with the financing of extensions of service or equipment.

Comment [140]: CONFIRM UTILITIES ARE NOT LOSING THE RIGHT TO HAVE DEPOSITS FOR HYDRANT METERS

Note: See s. PSC 185.21 (4) about deposits for temporary metered service.

(2) NEW NONRESIDENTIAL SERVICE. (a) A utility may require a deposit or guarantee from an applicant for new nonresidential service only if the credit of the applicant has not been established satisfactorily to the utility, based on the following information:

1. Credit information from credit reporting services.
2. Letter of credit from a financial institution.
3. Letter or other communication from another utility showing the applicant's payment history with that utility.
4. Applicant's business characteristics, such as type of business, length of time the applicant has operated, the applicant's business experience and knowledge, and estimated size of the applicant's bills.
5. Assets of the business.
6. The financial condition of the business, as indicated in a financial statement.

~~(b) A utility may conclude that the credit of an applicant has not been satisfactorily established if the applicant is producing the same product or offering the same service as a previous customer with arrears, and at least 50% of the owners, partners, or limited liability company members of the applicant are the same as the previous customer.~~

Comment [141]: UNCLEAR ON PURPOSE.

Note: If an applicant has filed for bankruptcy protection, the bankruptcy law rather than this chapter controls matters related to deposits.

Comment [142]: ADD LANGUAGE COMPARABLE TO THAT USED IN RESIDENTIAL DEFINITIONS

(3) EXISTING NONRESIDENTIAL SERVICE. (a) A utility may require a deposit or guarantee as a condition of continued nonresidential service only if one or more of the following are true:

1. The customer has not made prompt full payment of all bills issued within the last 12 months.
2. The utility has disconnected the customer's service within the last 12 months for one of the following reasons:
 - a. Nonpayment of a delinquent service account not currently in dispute.
 - b. The utility obtains subsequent information indicating that the initial application for water service was falsified.

3. A utility has reasonable evidence that the customer has obtained water utility service by using a device or method that interferes or could interfere with the proper metering of utility service.

4. The utility disconnected water service and service was reconnected without the utility's authorization, regardless of whether the reconnection interferes with proper metering.

(b) When the utility requests a deposit of an existing customer, the utility shall allow the customer at least 30 days to provide the deposit, guarantee, or to enter into a deposit installment payment agreement.

Note: If a customer has filed for bankruptcy protection, the bankruptcy law controls whether a deposit may be taken.

Comment [143]: ADD NOTE COMPARABLE TO WHAT IS INCLUDED IN RESIDENTIAL SECTION

(4) DEPOSIT INSTALLMENT PAYMENT AGREEMENT. (a) A customer or applicant for nonresidential service from which a deposit is requested shall have the right to receive water service while paying the deposit under a reasonable installment payment agreement.

(b) The utility may not require a down payment of more than one-half~~third~~ of the deposit, or require that the remaining balance be paid over fewer than 3 months when establishing a deposit installment payment agreement.

(5) GUARANTEE TERMS AND CONDITIONS. (a) 1. A utility may accept, in lieu of a deposit for new or existing nonresidential service, a contract signed by a guarantor satisfactory to the utility where in which payment of a specified sum not exceeding the deposit requirement is guaranteed, or in which the guarantor accepts responsibility for payment of all future bills. The term of such a contract shall be for no longer than 2 years, but may be renewed for subsequent periods of time.

2. If the guarantor accepts responsibility for payment of future bills, the utility shall notify the applicant or customer in writing of the agreement, and of the applicant's or customer's right to refuse such an agreement.

3. The guarantee shall automatically terminate if one of the following has occurred:

a. The named account holder~~customer~~ has closed its account with the utility and the account is paid in full.

b. If the utility issues premises-based bills, the individual or business no longer resides or uses the premises as a tenant or owner and the account is paid in full.

cb. The guarantor requests termination and provides at least a 30 day written notice to the utility.

de. The utility shall notify the customer of a guarantor's request for termination within 10 days after receiving such a request.

4. If the utility still requires a deposit or guarantee from the customer after receiving notice of intent to terminate from the guarantor, the customer notice under subd. 3. shall inform the customer that the requirement remains and that the deposit or guarantee must be received, or a deposit installment payment agreement must be entered into, before the date on which the terminated guarantee ends. The water service of a customer who fails to comply with this requirement may be disconnected subject to the rules pertaining to disconnection and refusal of service, as provided in s. PSC 185.405, except that if the meter also serves a residential dwelling on the premises then the service shall be considered residential service under PSC 185.40 and 185.41.

(b) A utility that requires guarantees shall have written guidelines concerning what it will consider when determining whether a guarantor under sub. (a) 1. is satisfactory and shall make those guidelines available to the commission upon request.

(c) If a utility rejects a guarantor as unsatisfactory, it shall notify the applicant or customer of the reason for that rejection.

(d) The amount of a customer's guarantee may be reviewed annually and adjusted under sub. (9)(b).

~~(e) The utility shall offer the guarantor the option to receive copies of all disconnect notices sent to the customer whose account has been guaranteed.~~

(6) INFORMATION PROVIDED BY UTILITY AND TIME TO RESPOND TO REQUEST. (a) A utility shall notify an applicant or customer if a deposit or guarantee is required.

1. The utility shall provide the notice within 107 days of the later of the following:

- a. The water service request date.
- b. The date on which the applicant or customer provides all reasonable and relevant information requested by the utility.

Note: This notice requirement may be met using the written notice required in par. (b).

(b) The utility shall provide written information to an applicant or customer if a deposit or guarantee is required. The written information shall do all of the following:

~~1. Provide an explanation of why a deposit or guarantee is being required.~~

~~2. Disclose what information was relied on in determining that a deposit or guarantee is required.~~

Comment [144]: UTILITIES DO NOT CUSTOMIZE THESE LETTERS.

3. Inform the applicant or customer of the right to:

- a. Provide other information under sub. (2)(a)1. to 6. and request reconsideration of the decision to require a deposit or guarantee.
- b. Enter into a deposit installment payment agreement.
- c. Appeal any deposit or guarantee request or its amount, or both, to the commission.

4. Explain the terms and conditions for the return of a deposit or the release of a guarantee.

(c) 1. When a utility requests a deposit or guarantee from an applicant or customer, the utility shall give the applicant or customer at least 20 days, from the date the utility sends the written information under par. (b), to do one of the following:

- a. Provide the deposit or guarantee.
- b. Enter into a deposit installment payment agreement for the deposit amount.

2. The utility may disconnect the water service of a customer or refuse service to an applicant that fails to comply with subd. 1. within the required time period, subject to the rules pertaining to disconnection and refusal of service as provided in s. PSC 185.405, except that if the meter also serves a dwelling on the premises then the water service shall be considered residential service under PSC 185.40 and 185.41.

(7) AMOUNT OF DEPOSIT. (a) The deposit amount a utility may request for a new nonresidential account may not exceed the equivalent of the highest reasonable estimated gross bills for any 32 months selected by the utility.

Comment [145]: 3 MONTHS CONSISTENT WITH QUARTERLY BILLING. CURRENTLY REFERS TO HIGHEST ESTIMATED GROSS BILL FOR ANY CONSECUTIVE BILLING PERIOD SELECTED BY THE UTILITY.

Note: To determine reasonableness a utility could consider the ~~prior bills of the prior customer~~ at that location, ~~but must take into account things like type of business and conservation efforts.~~

(b) Except as provided in par. (c), the deposit for an existing nonresidential account may not exceed the equivalent of the highest actual gross bills for any ~~32~~ consecutive months, as selected by the utility, within the preceding 12 months.

Comment [146]: SEE COMMENT ABOVE

~~Note: For example, if a utility bills quarterly, then to calculate a 2 month deposit the utility would divide the highest estimated or actual bill by 3 and multiply by 2. If the deposit amount is the 4 highest months the utility would use the entire highest quarter bill in the preceding 12 months plus 1/3 of the second high consecutive bill in the past 12 months.~~

(c) If a utility cannot disconnect during the cold weather period under s. PSC 185.41, the deposit for an existing nonresidential account may not exceed the equivalent of the highest actual gross bills for any 4 consecutive months, as selected by the utility, within the preceding 12 months, if all of the following are true:

Comment [147]: CONSISTENT WITH ELECTRIC UTILITIES

1. A meter for an existing nonresidential account also serves a dwelling on the premises.
2. The customer had an arrears that was both incurred and 80 days or more past due during the cold weather period.

(d) The amount of a customer's deposit or guarantee may be reviewed annually and adjusted under sub. (10). The utility may not continue to require a deposit or guarantee unless a deposit is permitted under sub (4) or (10).

(8) REASONABLENESS OF DEPOSIT. For the purpose of determining the reasonableness of a deposit, the utility shall consider at least the following factors:

(a) The amount in arrears.

(b) Customer's or applicant's recent payment history, ~~including factors such as the following:~~

- ~~1. Number of late payments.~~
- ~~2. Number of missed payments.~~
- ~~3. Number of defaulted or satisfied payment arrangements.~~
- ~~4. Number of payments made during the cold weather period.~~

(c) Length of time that the account has been in arrears.

(d) Reasons why the account has been in arrears.

(e) Other relevant factors, such as revenue and reasonable expenses.

(9) INTEREST. (a) Interest shall ~~be paid accrue~~ on a deposit from the date a deposit, ~~or portion of a deposit,~~ is paid ~~in full~~ to the date it is applied to an account balance or is ~~refunded~~.

Comment [148]: TOO COMPLEX TO CALCULATE BASED ON INSTALLMENTS.

(b) The interest rate to be paid shall be subject to change annually. The commission shall determine the rate of interest to be paid on deposits held during the following year and notify the utilities of that rate by December 15 of each year. The rate shall be equal to the weekly average yield of one-year United States treasury securities

adjusted for constant maturity for the week ending on or after December 1 made available by the federal reserve board, rounded to the nearest tenth of one percent.

(c) A utility shall calculate the interest earned on each deposit when the deposit is applied to an account balance or is refunded, and at the end of each year. The interest rate in a year shall apply to the amount deposited and to all interest previously accrued.

(10) REVIEW. (a) A utility shall periodically review a deposit or guarantee ~~at the end of each 12-month period during which a deposit or guarantee that~~ is held by a utility. A utility may not continue to require a deposit or guarantee for a nonresidential account unless it is permitted under this section.

Comment [149]: ALLOW PERIODIC REVIEW

(b) If the review under par. (a) shows that a deposit or guarantee is still permitted under this section, the utility may choose to recalculate the deposit or guarantee amount by determining whether the amount of the deposit or guarantee still meets the deposit calculation requirements in sub. (7). ~~A utility choosing to do such a recalculation shall do one for all deposits and guarantees.~~ A customer may, no more often than once a year, request that a recalculation be done.

(c) When a recalculation is done, a utility shall refund ~~using a credit to the customer's bill,~~ any deposit amount held which is 10% or more and at least \$50 over the recalculated deposit amount. The refund may be by check or a credit to the customer's bill. If the guarantee amount is 10% or more and at least \$50 over the recalculated deposit amount, the utility shall notify the guarantor and customer so that a new guarantee may be issued.

(d) When a recalculation is done, a utility may require an additional deposit or guarantee amount if the recalculated deposit amount is 10% or more and at least \$50 more than the deposit or guarantee the utility is holding for that customer. If a customer fails to pay or enter into an installment payment agreement for the additional deposit, or to obtain a new guarantee, within 20 days of the date on which the utility sends a written request for payment, then the utility may pursue disconnection subject to the rules pertaining to disconnection of water service, as provided in s. PSC 185.405.

(11) DEDUCTING ARREARS.

(a) Except as provided in par. (c), a deposit may be used by the utility only to satisfy arrears occurring after the deposit was requested~~made~~.

(b) If the utility deducts arrears from a customer deposit, it may require the customer to bring the deposit up to its currently required amount. If a customer fails to do so within 20 days of the date on which the utility sends a written request to bring the deposit up to its new required amount, then the utility may pursue disconnection subject to the rules pertaining to disconnection of water service, as provided in s. PSC 185.405, except that if service is being provided to a dwelling that is part of a nonresidential account, then the service shall be considered service to a dwelling under PSC 185.40 and 185.41.

(c) When a deposit is to be refunded to the a customer, the utility may first deduct any arrears owed by the customer, whether the arrears arose prior to or after the date of the deposit, if no payment arrangement exists for the arrears or if a payment arrangement exists but is not being honored by the customer.

(12) DEPOSIT REFUND OR GUARANTEE RELEASE. (a) A utility shall refund a deposit, with prorated~~accrued~~ interest, or end the requirement for a guarantee and provide written notice of this to the customer and the guarantor, if the customer has demonstrated 2 consecutive years of prompt full payment of amounts due, measured from the first bill payment after a deposit is requested regardless of whether a deposit has been paid in full at the time of that payment.

(b) Paragraph (a) does not apply if the utility could reassess a deposit or guarantee immediately after issuing the refund under par. (a) or ending the existing guarantee requirement.

(c) Upon customer-requested termination of service, the utility shall release the guarantee or credit the deposit, with ~~prorated accrued~~ interest, to the customer's final bill and return any balance within 30 days of issuing the final bill, as provided in sub. (11) (c).

(13) METHOD OF REFUND. Except as provided in subs. (10) (c) and (11) (c), any deposit or portion of a deposit refunded to a nonresidential customer shall be refunded directly to the customer unless both the customer and the utility agree to a credit on the regular billing.

PSC 185.32 METER READINGS AND BILLING PERIODS. (1) Except under unusual circumstances such as inclement weather or a labor dispute, a utility shall attempt to read all meters used to determine charges to customers at least ~~quarterly~~. This subsection does not apply to seasonal meters.

Comment [I50]: ADDRESSES DIFFICULTY IN GETTING ACCESS TO METERS

(2) A utility shall make an effort to read meters on corresponding days of each billing period cycle. The meter reading date may not be advanced or postponed more than 10 days without changing the billing period and prorating the billing for the period.

~~(3) When a meter must be read manually and the customer cannot be available during normal business hours, a utility shall make reasonable effort to read the meter after normal business hours.~~

Comment [I51]: NO OVERTIME

~~(4) If a meter reading is scheduled to be done under sub. (1), but exceptional circumstances such as inclement weather or a labor dispute prevent the reading, then that reading shall be done as soon as possible.~~

Comment [I52]: DUPLICATES (1)

~~Note: See s. PSC 185.34 about adjusting billing and sub. (8) about prorating bills.~~

(5) The utility is obligated upon request, to obtain a final read from both the meter and the automated meter reading device when there is a change of customers unless such final readings have been done within the last 2 years.

Comment [I53]: CURRENT RULE REQUIRES THIS "UPON REQUEST"

(6) If an automated meter reading system does not provide a meter reading or indicates unexpected zero consumption, the utility ~~may either shall again~~ attempt to obtain a second meter reading from that system within the next 30 days or promptly investigate with the intent to evaluate and resolve the situation within 60 days. If the automated meter reading system does not provide a meter reading or indicates zero consumption in response to ~~that~~ second attempt, the utility shall promptly investigate with the intent to evaluate and resolve the situation within 60 days following the second failure to provide a meter reading or indication of zero consumption.

Comment [I54]: SOME UTILITIES MOVE STRAIGHT TO INVESTIGATION.

Note: An example of expected zero consumption would be when the utility's records show that the customer is a seasonal customer that does not use water during this season.

(8) The utility may leave a meter reading form when it cannot gain access to a meter, obtain a meter reading, or upon customer request. A utility ~~may~~ shall consider a meter reading supplied by a customer to be an actual meter reading. If the utility does not leave a form on the premises, or if the customer does not return the form in time for it to be processed in the billing cycle, an estimated bill may be rendered. When an estimated bill is rendered utility is unable to read a meter, that fact will be plainly indicated on the bill.

~~(9) A utility may render only 3 consecutive estimated bills unless the commission, by order under s. PSC 185.10 (2) (b), allows it to issue more. If a utility has issued estimated bills, minimum bills, bills issued on customer readings, or some combination thereof, the utility shall, nonetheless, perform an actual meter reading at least every 6 months. Except in unusual cases, a meter reading by the customer or the utility shall be obtained after no more than 3 consecutive estimated or minimum bills have been rendered.~~

Comment [I55]: RETAIN EXISTING PSC 185.33(13)(b)

Note: See s. PSC 185.40 (4) (a) 7. and 185.405 (4) (a) 7. about disconnection being allowed when the utility is not allowed access to its equipment ~~for reads every 6 months~~.

PSC 185.33 BILLING.

(1) BILLING CYCLE. (a) When bills issued. 1. A utility shall issue a ~~monthly~~ bill for water service monthly, bimonthly or quarterly, ~~except that a utility may, with commission approval, issue a bill more or less frequently.~~

Comment [156]: REVISION CONSISTENT WITH SEC. 66.0809(1) WHICH EXPRESSLY ALLOWS BILLING MONTHLY, BIMONTHLY, OR QUARTERLY

2. A utility shall issue a bill for water service within ~~50~~29 days of the reading of the meter unless otherwise authorized by the ~~commission~~.

Comment [157]: STAY AT 50 DAYS AS PROVIDED IN EXISTING RULE.

(b) Bill due dates. 1. A utility shall establish a due date that is at least 20 days from the date a utility sends a bill. An account may be deemed delinquent and a notice of disconnection issued after the 20-day period has elapsed. ~~In the event of a discrepancy between the date on the bill and the postmark, the 20-day period shall be calculated from whichever is later.~~

Comment [158]: MANY BILLS DON'T HAVE POSTMARK

~~2. If a utility's billing system is capable of doing so, a utility shall make a reasonable effort to accommodate an applicant or customer's request for a due date other than the one that would otherwise be assigned.~~

(2) INFORMATION ON CUSTOMER BILLS. (a) On all customer bills a utility shall include all of the following information for each meter on each customer's bill:

1. The customer name, unless the bill is a premises-based bill, billing address, and service address, if different from the billing ~~address~~.

Comment [159]: ADDRESSES CUSTOMER NAME ISSUE

2. Account number.

~~3. Meter identification information or number.~~

Comment [160]: NOT TYPICALLY INCLUDED ON BILLS

4. That usage is estimated, if applicable.

5. The present and most recent prior meter readings, regardless of whether actual or estimated.

~~6. Meter reading dates. The number of days in the billing period.~~

~~7. The water used during the current billing period. The class of service.~~

~~8. For budget payment customers, the charge for the usage to that point in the budget plan and the amount paid to that point in the budget plan.~~

Comment [161]: MOVED UP FROM DOWN BELOW. MOST UTILITIES DON'T HAVE BUDGET PLANS. OK FOR THOSE THAT DO.

~~9. Clear itemization of the amount of the bill for the present billing period, any unpaid balance from the previous billing period, and any late payment charges.~~

Comment [162]: MOVED UP FROM DOWN BELOW.

~~10. Due date.~~

Comment [163]: MOVED UP FROM DOWN BELOW.

~~(b) A utility shall include the following information on each customer's bill unless the information is provided as a bill insert, in a separate mailing, or on the utility's website:~~

~~18. The rate schedule under which the bill is calculated and any other billing factor used to calculate the bill, set out itemized~~ in a manner that allows the customer to check the calculation of the bill, including items such as the following:

Comment [164]: CURRENT RULE (PSC 185.33(1)(F) SAYS THAT "IN LIEU OF INCLUDING THE RATE SCHEDULE ON THE BILL THE UTILITY MAY, WHENEVER A RATE CHANGE BECOMES EFFECTIVE AND AT LEAST ONCE A YEAR, SUPPLY EACH CUSTOMER WITH THE SCHEDULE OF RATES AT WHICH THE BILLS ARE COMPUTED AND ANY OTHER RATES THAT MIGHT BE APPLICABLE."

a. Customer charge.

b. Volume charge.

~~c. Cost charge.~~

d. ~~Clear itemization of o~~Other utility charges and credits.

- e. Public fire protection charge.
- f. Amount subject to tax, tax rate, and tax billed.

~~9. Due date.~~

Comment [165]: MOVED ABOVE

~~240. A clear explanation of codes, abbreviations and terminology used on customer bills.~~

~~3. A statement that the utility will, upon customer request, provide the information and explanation necessary for the customer to evaluate water consumption and conservation.~~

Comment [166]: MOVED FROM BELOW

~~4. If a utility calculates its volume charges in units of cubic feet, customer usage in both cubic feet and gallons or the equation to convert cubic feet to gallons.~~

Comment [167]: MOVED FROM BELOW

~~11. Clear itemization of the amount of the bill for the present billing period, any unpaid balance from the previous billing period, and any late payment charges.~~

Comment [168]: MOVED ABOVE

~~(bm) A utility shall include the following information, as applicable, on each customer's bill unless the information is otherwise provided as a bill insert or in a separate mailing:~~

~~1.12. Clear itemization of payment arrangement information, including all of the following:~~

- ~~a. On the first bill after making the payment arrangement, the original total amount of the payment arrangement.~~
- ~~b. On all bills during the payment arrangement, the current payment arrangement amount due.~~

Comment [169]: USUALLY HANDLED WITH A LETTER NOT ON BILL. PAYMENT AGREEMENT INFO OFTEN KEPT ON A DIFFERENT SYSTEM THAN BILLING INFO

~~13. For budget payment customers, the charge for the usage to that point in the budget plan and the amount paid to that point in the budget plan.~~

Comment [170]: MOST UTILITIES DON'T HAVE BUDGET PLANS. OK FOR THOSE THAT DO. MOVED ABOVE.

~~244. Separate itemization of credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates.~~

Comment [171]: TYPICALLY HANDLED WITH A LETTER NOT ON BILL

~~345. Separate itemization and detailed explanation of adjustments to past bills rendered because of meter inaccuracies, errors in billing, or misapplication of rates.~~

Comment [172]: TYPICALLY HANDLED WITH A LETTER NOT ON BILL

~~16. The number of gallons consumed by this customer at this address during the current billing period and during the same billing period the previous year.~~

Comment [173]: INFO ON USAGE MOVED ABOVE. USAGE FOR PRIOR YEAR PROVIDED UPON CUSTOMER REQUEST. SEE (5) BELOW

~~17. A statement that the utility will, upon customer request, provide the information and explanation necessary for the customer to evaluate water consumption and conservation.~~

Comment [174]: MOVED UP

~~(b) Presentation of usage charges. A utility that calculates its volume charges in units of cubic feet shall include customer usage in both cubic feet and gallons on the customer bill.~~

Comment [175]: MOVED UP

(c) Transferred balances. If a utility transfers a customer's balance from a different address onto a bill, a utility shall include in a separate mailing, a bill insert or on the first bill on which the transfer appears, the utility shall include a message notice that a transferred amount is or will be included in the bill, and that the amount transferred and a detailed breakdown of the transferred amount can be obtained from the utility. Upon request, a utility shall provide such a breakdown. The breakdown shall include all of the following:

Comment [176]: TYPICALLY HANDLED IN A LETTER. NOT ON BILLS.

1. The address where all portions of the transferred amount originated.
2. The time period during which any part of a transferred balance at the address in subd. 1., was accrued.
3. The amount accrued at the address in subd. 1., during the time period in subd. 2.

4. Order in which partial payments have been applied to transferred arrears.

Note: PSC s. 185.40 (4) (a) 1. b. states that water service cannot be disconnected for a delinquent balance if the utility cannot document the charges with billing data including the service address, date of service, usage and other relevant information

(d) Rate change. If a rate change as a result of commission action is reflected on a bill, the utility shall provide a clear explanation of the rate change and how the bill was calculated, either on the bill, as a bill insert, ~~or~~ in a separate mailing, or on the utility's website.

(3) OTHER ITEMS ON CUSTOMERS' BILLS. (a) A utility may include ~~only~~ the following additional charges, costs, fees or credits on a customer's bill:

1. Charges to the customer resulting from other services, materials, or work provided by the utility as a result of commission-approved water use efficiency and renewable resource programs and activities.

2. ~~With the consent of both the customer and the utility,~~ water- or sewer-related merchandise and service repair work charges.

3. ~~Nonutility charges such as~~ charges for municipal services, fees or licenses, contracted sewer billing services, or penalties levied under municipal ordinances.

4. The costs, charges, fees, or credits incurred by and awarded to the utility by a court of law for pursuing bill collection through other agencies, such as small claims courts.

5. Other costs, charges, fees, or credits as allowed by the utility's tariff ~~approved by the commission.~~

Comment [177]: ALLOWS INCLUSION OF NSF CHARGES

(b) The charges, costs, fees and credits in par. (a) shall be listed individually on the bill unless information on the charges, costs, fees and credits is included in a bill insert or separate mailing. A customer shall be permitted to include payment for such items in its payment for water service.

(5) CUSTOMER-REQUESTED WATER CONSUMPTION AND CONSERVATION INFORMATION. (a) Upon receiving a customer request under sub. (2) ~~(b) 3. a) 17,~~ the utility shall make available ~~provide~~ all of the following to the customer:

1. Consumption information for this customer, by billing periods, for at least the last 12 months.

2. Information and any explanation needed by the customer to make consumption comparisons and evaluate conservation efforts.

(b) The customer shall be entitled to one such statement every 12 months for free and additional statements during that time at a charge not to exceed \$5.

(6) RATES. Each bill for water service shall be computed at the proper filed rates.

~~(6m) NOTICE OF RATE CHANGE. If a rate change is reflected on a customer's bill, the utility shall provide a clear explanation of the rate change and how the bill was calculated, either on the bill, as a bill insert, or in a separate mailing.~~

Comment [178]: DUPLICATES LANGUAGE IN (2)(D) ABOVE.

(7) LATE PAYMENT CHARGES. (a) The commission may authorize the utility to assess late payment charges to a customer's bill that is not paid in full by the due date.

(b) A utility's late payment charge shall comply with all of the following requirements:

1. ~~Unless otherwise provided in the utility's tariff, t~~The amount of the charge shall be no more than one percent per month and shall be filed and approved by the commission before it can be applied.

Comment [179]: ALLOW LATE PAYMENT CHANGE IN EXISTING TARIFFS TO STAY IN PLACE UNTIL REVISED IN NEW TARIFF.

2. The late payment charge shall be applied to the total unpaid balance for water service, including unpaid late payment charges.

Note: But see PSC 185.35 (6) (a) about late payment charges on balances covered by deferred payment agreements.

3. Except as provided in subd. 8., the late payment charge shall be applied no sooner than the day after the due date.

4. Except as provided elsewhere in this chapter, a late payment charge shall be applied to all customers that do not pay their bill in full by the due date. The utility shall not waive any properly applied late payment charge.

Comment [180]: KEEPS IN EXISTING LANGUAGE. PSC 185.33(9)(F) THAT SAYS "THE UTILITY SHALL NOT WAIVE ANY PROPERLY APPLIED LATE PAYMENT CHARGE."

5. If a customer disputes a bill, or portion of a bill, for water service and does not pay the disputed bill in full by the due date, the late payment charge shall be applied only to that portion of the disputed bill later found to be correct and payable to the utility.

6. No additional late payment charge may be applied to a delinquent account for water service after the date on which the delinquent account was written off by the utility as uncollectable.

7. If a utility initiates a late payment charge, the new charge shall apply only to water service provided after the effective date of the initiation.

8. If a utility is authorized to assess late payment charges, then it may include charges on bills issued for water service that was previously unbilled because of meter diversion or tampering with the proper metering of the account. The late payment charge shall be applied from the estimated date that the diversion or tampering began.

(8) PRORATED BILLS. If the meter reading date is advanced or postponed under s. PSC 185.32 (2), the bill shall be prorated on a daily basis unless other provision is made in the utility's tariffs.

(9) ESTIMATED BILLS. (a) 1. A utility may issue an estimated bill only under one of the following circumstances:

a. The customer has not provided a reading.

b. The meter index is not functioning properly.

c. The automated meter reading system is not functioning properly and there is insufficient time to correct the problem and re-read the meter before a bill must be issued. ~~For purposes of this subsection, a bill must be issued within 30 days of the usual meter reading date.~~

~~Note: This 30 day period includes the 10 days that a utility may advance a meter reading date under 185.32(2) without changing the billing period, and the 20 days after the meter reading date within which a utility must issue a bill.~~

d. The utility has ~~made reasonable~~ attempts to obtain a meter reading, the customer has been uncooperative, and the utility has given the customer the opportunity to read the meter, ~~and the utility has made a reasonable effort to read the meter at times other than normal business hours.~~

~~Note: But see the PSC 185.32 (9) requirement that the utility itself read the meter at least every 6 months.~~

e. In unusual situations that prevent a utility from obtaining a meter reading, such as inclement weather or labor disputes.

2. A utility shall base an estimated bill on applicable data including historical actual usage at that address ~~and applicable weather information.~~

3. A utility may not issue more than 3 consecutive estimated bills except under one of the following circumstances:

a. Unusual situations that prevent a utility from obtaining a meter reading, such as inclement weather or labor disputes.

b. The utility has ~~made reasonable attempts~~ to obtain a meter reading, the customer has been uncooperative, ~~and the utility has given the customer the opportunity to read the meter, and the utility has made a reasonable effort to read the meter at times other than normal business hours.~~

~~Note: But see the PSC 185.32 (9) requirement that the utility itself read the meter at least every 6 months.~~

(b) If the utility issues an estimated bill under par. (a), the utility shall include information with the bill ~~or in a separate letter explaining how the~~ indicating that an estimate was used for the bill ~~determined and how to contact the utility to avoid future estimated bills.~~

(c) When an actual meter reading indicates that a previous estimated bill was significantly high or low, or that the meter has malfunctioned, the utility shall disregard that bill and recalculate the bill based on available information, distributing usage appropriately throughout the period.

Note: See s. 185.34 about adjustments to bills.

(10) BUDGET PAYMENT PLANS. (a) Each utility may offer a budget payment plan to all prospective and existing residential customers and to all commercial accounts for which the primary purpose is to provide for residential living applicants and existing customers, subject to the following minimum requirements:

Comment [181]: CONSISTENT WITH PSC 113 ELECTRIC RULES

1. An applicant or existing customer may enter into a budget payment plan at any time of the year.

2. A utility shall calculate a budget amount on the basis of the estimated consumption at that address and estimated applicable rates through the end of the budget year.

3. If a utility's budget year is a fixed year and an applicant or existing customer requests a budget payment plan after the start of the fixed budget year, the utility shall determine the initial monthly budget amount on the basis of the number of months remaining in the current fixed budget year.

(b) If a utility offers a budget payment plan, it shall file a budget payment plan tariff with the commission.

(c) If a utility offers a budget payment plan, it shall review budget amounts at least every 6 months and, if necessary, change them in order to reflect current circumstances. The utility shall inform an applicant for a budget plan of this requirement. Adjustments to the budget amount shall be made with the objective that the customer's underbilled or overbilled balance at the end of the budget year shall be less than one billing period's budget amount.

(d) The utility shall notify a customer on a budget payment plan of adjustments to the budget amount by means of a separate letter, a bill insert, or a message printed on the bill itself, or both. The customer shall be informed of the adjustment no later than the same time the bill containing the adjustment is issued.

(e) If a utility offers a budget payment plan, it shall allow a residential customer who has arrearages to establish a budget payment plan if the customer is eligible to and does enters into a deferred payment agreement for the arrears, according to the provisions of s. PSC 185.35.

(f) Budget payment plans shall be subject to the late payment charge provisions under sub. (7).

(g) If a customer does not make a payment under a budget payment plan, the utility may remove the customer from the budget payment plan. If the utility chooses to do so, it shall notify the customer before or with the next billing that if proper payment of the overdue budget amount is not received by the due date of that bill, utility may remove the customer from the budget plan. The notice shall also indicate the overdue budget amount.

(h) At the end of a budget year, if an underbilled or overbilled balance exists on the account, the balance shall be handled as follows:

1. If underbilled, a utility shall, at the customer's option, do one of the following:

a. Accept payment of the balance in full.

b. Incorporate the balance into the budget amount for the next budget year.

c. Remove the customer from budget billing and establish a deferred payment agreement, if eligible and allowed under s. PSC 185.35, for the balance.

2. If overbilled, a utility shall, at the customer's option, do any of the following:

a. Promptly refund the credit balance directly to the customer if the amount is greater than \$50.

b. Apply the credit balance against the customer's account, credited to sequential bills until the credit balance has been exhausted.

c. If the utility's billing system is capable of doing so, apply the credit balance against the customer's account, credited in monthly installments to the customer's account over the course of the next budget year.

(11) BILLING WHERE REQUIRED APPLICATION NOT FILEDNON-CUSTOMERS. If the utility does not bill a customer other than "occupant" at a premises and the a person or entity who uses utility service at that premises does not apply for water service although it is required to do so by the utility's tariffs, ~~then~~ the utility may bill the person or entity an estimated or actual amount at a later date for this service. The utility must have reasonable grounds to establish responsibility for the billing. Failure to pay charges resulting from this billing may result in disconnection of service under s. PSC ~~185~~4.40 or ~~185~~4.405. The utility shall inform the person or entity of the right to dispute the billing through the dispute procedures set forth in s. PSC ~~185~~4.54.

(12) RENTAL DWELLING. (a) Where water service for a rental dwelling is in the tenant's name, and the tenant vacates the rental dwelling, the utility shall transfer the billing responsibility as described in s. 196.643, Stats. The utility may issue the notice required under that section as soon as it is notified of the tenant's intent to vacate the property, and shall issue the notice no later than 60 days from the date on which it receives notice of the tenant's intent to vacate.

(b) A utility may have a written agreement with the owner of a rental dwelling about how to handle service transfers when a tenant vacates a dwelling.

(c) Notwithstanding par. (b), a customer who vacates his or her rental dwelling without notifying the utility is responsible for usage charges until the earlier of the following:

1. The date on which the notice required under 196.643 (1), Stats., is issued.
2. The date on which the next tenant first receives water service.
3. The date on which the landlord or property manager contacts the utility with billing instructions.

Note: See sub. (11) about when a new tenant doesn't apply for water service.

(d) Notwithstanding par. (b), a customer who vacates his or her rental dwelling and notifies the utility in advance is responsible for usage charges until the later of the following:

1. The customer-identified date on which to end water service.
2. The date on which the customer vacates the dwelling unit.

(13) INTEREST. (a) A utility shall pay interest on customer overpayments not refunded to the customer within 45 business days of receipt if the overpayment is made due to:

1. A meter registering fast as ~~provided in defined in~~ s. PSC ~~185.34(1)34.76~~.
2. Use of an incorrect meter constant or multiplier.
3. Incorrect service or rate classification, provided the information furnished by the customer to the utility was not deficient.
4. Billing based on a switched meter condition where the customer was billed on the incorrect meter.
5. Misapplication of rates.
6. Automated meter reading system readings that are not in agreement with meter index readings.
7. Other billing errors.

(b) A utility is not required to pay interest to customers for overpayments made for any of the following reasons:

1. For financing of service extensions or equipment.
2. Due to budget payment plans.
3. As a result of estimated bills issued in compliance with sub. (9) (a) 1., ~~if the utility meets the requirements under sub. (9) (a) 3. b. and did an actual reading of the meter index within the last 6 months.~~
4. Due to receipt of lump sum payment made from an outside source such as the LIHEAP or similar programs.
5. With a customer's full knowledge that an overpayment is being made.

(c) The rate of interest to be paid shall be calculated in the same manner as provided for in s. PSC ~~185.31034.30~~ (9) (b) or ~~185.31534.305~~ (9) (b). Interest shall be paid from the date when the customer overpayment is received until the date when the overpayment is ~~either refunded or credited to the customer's account~~. For a refund based on payments made in more than one year, interest shall be calculated on the net amount overpaid in each year.

(d) Nothing in these rules shall prevent the commission or its staff from requiring the payment of interest on amounts returned to customers in those instances where the commission or its staff finds that such payment is necessary for a fair and equitable resolution of an individual complaint.

(14) REFUNDS. (a) A utility shall promptly return overpayments and pay related interest, except that a utility need not pay interest on or return overpayments made before the earlier of the following:

1. 6 years ago.

2. The first billing record that the utility has for that customer at a premises, provided that the first billing record is not more than 6 years old.

(b) If a recalculated bill indicates that more than \$10 is due an existing customer, or more than \$15 is due a person no longer a customer of the utility, the utility shall refund to the customer, or attempt to refund to the past customer under par. (d), the full amount of the difference between the amount paid and the recalculated amount.

(c) The refund to an existing customer may, at the discretion of the utility, be by check in cash or be a credit to the customer's current bill. If the refund is done as a credit and the amount of the credit is greater than the current bill, the amount in excess of the current bill shall, at the discretion of the customer, be refunded by check in cash or as a credit on future bills.

(d) If a refund is due a person no longer a customer of the utility, the utility shall mail a notice to the person's last known address, and shall, upon request made within 6 months, refund the amount due.

Note: While not required to do so, a utility may issue a refund if a request is made more than 6 months after the notice is mailed.

(e) A utility shall issue a refund under par. (c), or a notice under par. (d), within 90 days after the date on which one of the following occurs:

1. A billing error is discovered.

2. A test demonstrates a meter runs fast as provided in s. PSC 185.34(1)'s inaccuracy.

Note: See sub. (13) about interest on refund payments.

(f) Adjustments to past bills shall be identified, shown separately, and explained in detail. A utility may provide this information on a bill, as a bill insert, or as a separate mailing.

(15) NOTICE OF DELAYED CUSTOMER BILLING. If a utility discovers that a customer's bill is abnormally high or low and chooses to delay billing by more than 10 days in order to conduct an investigation, the utility shall notify the customer and explain the situation. The notice shall be given by the regular billing date in writing, in person or by telephone. The notice shall be issued to a responsible member of a residential customer's household or a responsible adult worker at a nonresidential customer's office or place of business. If a telephone contact effort is answered by an answering machine or similar technology, the effort shall only be considered reasonable if a message is left.

(16) PARTIAL PAYMENTS. (a) Unless doing so would result in an immediate disconnection that would not occur using a different application, a utility shall apply any partial payments for water service it receives to a customer's account in the following order:

1. If the customer has a deferred payment agreement:

- a. Current installment of deferred payment agreement.
- b. Deposits.
- c. Current utility service or budget plan.
- d. Utility service arrears not covered by a deferred payment agreement.
- e. Miscellaneous utility charges including items in sub. (3) (a) 3.
- f. Charges resulting from other services, materials or work provided by the utility as a result of commission-approved conservation and alternative energy programs.

~~g. Nonutility services.~~

2. If the customer does not have a deferred payment agreement:

- a. Utility service arrears.
- b. Deposits.
- c. Current utility service or budget plan.
- d. Miscellaneous utility charges including items in sub. (3) (a) 3.
- e. Charges resulting from other services, materials or work provided by the utility as a result of commission-approved conservation and alternative energy programs.

~~f. Nonutility services.~~

~~(b) Where a billing on which a partial payment is made also includes charges for other types of utility services, such as sewer, stormwater, or refuse, but the customer has not indicated how to divide the partial payment among the different types of service, then the utility shall apply divide the partial payment received in a manner that avoids immediate disconnection and minimizes late payment fees to the customer on a prorata basis.~~

~~(c) Upon customer request, partial payments may be allocated differently than required under par. (a) or (b), or both, provided that such allocation does not result in disconnection of water service that would not occur if the allocation method under par. (a) or (b), or both, is used.~~

Comment [182]: COVERED BY (B) AS MODIFIED.

PSC 185.34 ADJUSTMENT OF BILLS.

(1) REQUIREMENTS TO RECALCULATE AND IDENTIFY. (a) A utility shall recalculate bills for water service under any ~~either~~ of the following circumstances:

- 1. Whenever it finds a positive displacement meter after testing has an average percent registration of more than 102.
- 2. Whenever it finds a compound or current type meter after testing has an average percent registration of more than 103 that a meter does not meet the accuracy requirements under s. PSC 185.76.

Comment [183]: RETAIN CURRENT REQUIREMENTS ON WHEN A BILL MUST BE RECALCULATED

Comment [184]: RETAIN CURRENT REQUIREMENTS ON WHEN A BILL MUST BE RECALCULATED

~~3. Except as provided in par. (b), w~~ whenever it finds there has been unbilled usage by a customer.

Note: See section 196.635, Stats., which limits back billing to 24 months except where there has been fraud or where the customer prevents access to a meter or interferes with measuring equipment. ~~Credits are applied for the full period of the inaccuracy.~~

~~(b) A utility may recalculate bills for water service whenever it finds a meter in service after testing has an average percent registration of less than 97.~~

Comment [185]: RETAIN CURRENT REQUIREMENTS ON WHEN A BILL MUST BE RECALCULATED. BACKBILL NOT ALWAYS REQUIRED.

~~(c)~~ A utility shall itemize and explain adjustments to past bills in detail. A utility may provide this information on a bill, as a bill insert, or as a separate mailing.

(2) BILL RECALCULATION PERIOD. (a) ~~If a utility is required to recalculate a bill and~~ the period of inaccuracy under sub. (1) can be determined, the utility shall recalculate the bill for the entire period of inaccuracy subject to the limitations in pars. (c) and (d) ~~and shall assume an inaccuracy equal to the measured percentage over or under 100%.~~

(b) If the period of inaccuracy under sub. (1) cannot be determined within reason and unless it is otherwise clear from the circumstances, the utility shall subject to the limitations in pars. (c) and (d), recalculate the bill assuming that the full amount of the inaccuracy existed for the last half of the period since the later of the following:

1. The date on which the last meter test was performed.
2. The date on which the meter was installed at the present premises.

~~(c) Except as provided in par. (d), the period of inaccuracy shall not extend back more than 6 years.~~

Comment [186]: 6 YEAR LIMITATIONS PERIOD. ALSO CONSISTENT WITH SEC. 185.33(14)(a)

~~(d) If the utility is calculating a back bill, the period of inaccuracy is limited by section 196.635, Stats., to 24 months, unless service has been obtained by fraud or deception, or where the customer prevents access to a meter or interferes with measuring equipment.~~

(3) HOW TO CALCULATE A BACK BILL OR CREDIT. (a) To calculate the amount of a back bill or credit required after a bill recalculation, a utility shall follow each of the following steps:

1. Calculate the time period involved under sub. (2).
2. Allocate the overbilled or unbilled usage for each billing period during the time determined under sub par. 1(a) considering factors such as historical usage, household size and business type.
3. Recalculate the customer's bills for the time period determined under sub par. 1(a) by adding the prorated overbilled usage to or subtracting the unbilled usage from the already billed usage for the applicable billing periods.
4. Back bill or credit the sum of the recomputed bills minus what the customer has already paid for the applicable previous billing periods.

(b) Late payment charges on overbilled usage shall be prorated and adjusted. Except as provided in s. PSC 185.33 (7) (b) 8., late payment charges on underbilled usage may not be applied until the day after the due date for the previously underbilled amount.

~~(c) Except for back bills due to fraud or deception, a utility shall offer a back bill installment payment agreement that runs for as long as the time period over which the debt accrued.~~

(4) LEAK CREDIT. Notwithstanding sub. (3), a utility may offer a credit to a customer when usage-a-leak unknown to the customer is found in an appliance or the plumbing. If a utility offers such credits, it shall have a written policy ~~in~~

its tariff on when it will do so. The policy shall include the calculation method to be used, but the calculation may not result in a rate lower than utility's cost for treatment chemicals plus the cost of electricity for supplying the water.

(5) REFUNDS. A utility shall promptly return overpayments, and pay related interest as required under PSC 185.33.

(6) CREDIT FOR WATER TO PREVENT FREEZING. A utility shall adjust a customer's bill for the excess water consumption that occurs when a customer permits a stream of water to flow, at the request of the utility, to prevent freezing of a water supply system.

(7) RECORDS. (a) A utility shall keep a record of all of the following information for the time period specified in s. PSC 185.104:

1. The number of billing adjustments made.
2. The amount of each adjustment.
3. The reason for each adjustment.

(b) The information in par. (a) shall be filed with the commission upon request.

PSC 185.35 DEFERRED PAYMENT AGREEMENT.

(1) For purposes of this section, "customer" includes an applicant as defined in s. PSC 185.11 (1)(b).

(1m) (a) ~~Except as provided in ss. PSC 185.35 (2) (c) 2., a~~ utility ~~may~~ shall offer reasonable deferred payment agreements to all of the following:

1. Existing residential customers with outstanding balances.
2. Residential water service applicants with outstanding balances.

(b) The utility may offer deferred payment agreements to other customers.

(c) ~~Except as provided in s. PSC 185.35 (2) (c) 2., a~~ utility ~~may~~ shall offer reasonable deferred payment agreements at ~~any~~ all of the following times:

1. Prior to disconnection.

~~2. If a customer accrues arrears again after bringing his or her balance due down to \$0.~~

~~3. Every 12 months if a utility does not disconnect customers for nonpayment, even if the reason for the new deferred payment agreement is the customer's failure to abide by an earlier deferred payment agreement.~~

4. In lieu of a deposit or guarantee from an applicant for new residential service who has a delinquent account balance that accrued within the last 6 years with the same Wisconsin utility with which the current application is being filed.

(2)(a) A utility shall state in every deferred payment agreement that water service will not be disconnected or refused if the customer does all of the following:

1. Pays a reasonable amount of the outstanding bill as a down payment.

Comment [187]: PSC 185.35(2)(c)2 DOES NOT EXIST

Comment [188]: PER WIS. STAT. 66.0809(9). A MUNICIPAL UTILITY IS NOT REQUIRED TO OFFER A CUSTOMER WHO IS A TENANT AT A RENTAL DWELLING UNIT A DEFERRED PAYMENT AGREEMENT.

2. Agrees to pay the remaining outstanding balance in reasonable installments.

3. Agrees to pay future bills or budget amounts by the due date.

(b) If an applicant is entering into a deferred payment agreement under s. PSC 185.35 (1m2) (c) ~~4 in lieu of a deposit~~, a utility may require that it receive the down payment under the deferred payment agreement before it provides water service.

(3) For purposes of determining reasonableness in sub. (2), the utility ~~may shall~~ consider ~~all of~~ the following factors:

(a) The amount in arrears.

(b) Customer's or applicant's recent payment history, ~~including factors such as the following:~~
~~1. Number of late payments.~~
~~2. Number of missed payments.~~
~~3. Number of defaulted or satisfied deferred payment agreements.~~
~~4. Number of payments made during the cold weather period.~~

(c) Length of time that the account has been in arrears.

(d) Reasons why the account has been in arrears.

(e) Other relevant factors, such as household size, income and reasonable expenses.

(4)(a) If a deferred payment agreement cannot be reached by the end of the second business day after the customer's initial contact about making a deferred payment agreement because the customer's offer is unacceptable to the utility, the utility shall inform the customer verbally or in writing of all of the following ~~verbally~~ and, upon customer request, the utility shall provide the response in writing within 3 business days of the date on which the customer's offer is rejected:

1. An explanation of why the customer's offer was unacceptable.

2. The right to appeal to the commission.

3. The commission's toll-free telephone number and website.

(b) 1. If a deferred payment agreement is reached, the utility shall provide all of the following verbally or in writing, ~~and shall offer to provide them in writing:~~

a. An explanation of the terms of the agreement.

b. An explanation of the consequences of not fulfilling the agreement.

2. If a customer ~~requests~~accepts the utility's ~~offer~~ to provide the information in subs. 1. a. and b. in writing, the utility shall provide that information within 3 business days of the date on which the agreement is finalized. A written deferred payment agreement satisfies this requirement.

(5) The commission may require a utility to use written deferred payment agreements if it has evidence that the terms of the agreements are not being effectively communicated to customers.

Comment [189]: RETAIN LANGUAGE FROM EXISTING RULE

(6)(a) ~~Neither a special payment arrangement nor a~~ An outstanding balance covered by a deferred payment agreement shall not be subject to a late payment charge if the customer meets the payment schedule required by the agreement.

Comment [190]: SPECIAL PAYMENT ARRANGEMENTS SHOULD NOT BE HANDLED IN THIS SECTION

(b) An outstanding balance covered by deferred payment agreement may not be included on the list furnished to the treasurer under s. 66.0809, Stats., if the customer meets the payment schedule required by the agreement.

(7)(a) 1. A utility may disconnect water service under the disconnection of service rules in s. s. PSC 185.40 if both of the following are true:

a. The customer defaults on a deferred payment agreement.

b. There has not been a significant change in the customer's circumstances-ability to pay since the deferred payment agreement was negotiated.

Comment [191]: CURRENT RULE REFERS TO ABILITY TO PAY

2. The utility may but is not required to negotiate another deferred payment agreement prior to disconnection. If it chooses to negotiate another agreement it may shall consider anyall of the factors in sub. (3) when negotiating.

(b) 1. It is may be reasonable for the down payment on a new deferred payment agreement to be larger and for the number of months over which the balance must be paid to be fewer than they were under a deferred payment agreement that the customer has not fulfilled if either of the following are true:

a. The utility chooses to enter into another deferred payment agreement in lieu of disconnection under par. (a) and there has not been a significant change in the customer's circumstances-ability to pay since the unfulfilled deferred payment agreement was negotiated,

b. The customer is negotiating a new deferred payment agreement to be reconnected after disconnection or termination of water service and there has not been a significant change in the customer's circumstances-ability to pay since the unfulfilled deferred payment agreement was negotiated.

~~2. Whether the larger down payment or number of months to pay is reasonable shall be determined using the factors under sub. (3).~~

(8) Any partial payments made by a customer under the terms of a deferred payment agreement, and not as part of a payment for another type of utility service, shall first be considered as payment toward the deferred payment agreement as set forth in s. PSC 185.33 (16).

PSC 185.40 SERVICE DISCONNECTIONS AND REFUSALS, RESIDENTIAL AND MULTI-FAMILY ACCOUNTS.

~~(1) DEFINITIONS. For purposes of this section, "residential" includes residential and multi-family accounts, and nonresidential accounts that include service to a residential dwelling.~~

~~(2) APPLICABILITY. This section applies to residential and multi-family accounts, and nonresidential accounts that include water service to a residential dwelling.~~

Comment [192]: DO NOT INCLUDE NONRESIDENTIAL ACCOUNTS THAT INCLUDE SERVICE TO A RESIDENTIAL DWELLING IN THIS SECTION. TOO CONFUSING. ADD COLD WEATHER DISCONNECTION PROVISIONS APPLICABLE TO RESIDENTIAL DWELLING COVERED BY A NONRESIDENTIAL ACCOUNT INTO THE NONRESIDENTIAL SECTION.

(3) GENERAL. (a) A residential customer shall have, in all instances, at least 20 days from the date a utility sends the bill to provide payment. An account may be deemed delinquent and a notice of disconnection issued after the 20-day period has elapsed. ~~In the event of a discrepancy between the date on the bill and the postmark, the 20-day period shall be calculated from whichever is later.~~

Comment [193]: NOT ALL UTILITIES HAVE POSTMARKS

Note: See PSC 2.05 (2) about how to determine what days are included in the 20-day period.

~~(b) Nonresidential accounts that include water service to residential or multi-family dwellings shall be subject to the cold weather disconnection rules under ss. PSC 185.41 and 185.42.~~

Comment [194]: NOT NECESSARY BECAUSE INCLUDED AT (4)(D)

(4) REASONS FOR DISCONNECTION OR REFUSAL OF SERVICE - WITH NOTICE. (a) A utility may disconnect or refuse residential service, with notice under sub. (5) ~~or (8)~~, only for one of the following reasons:

Comment [195]: (8) IS DISCONNECTION WITHOUT NOTICE

1. Failure to pay a delinquent account balance, except that water service may not be disconnected or refused if either of the following apply:
 - a. The charges were initially billed more than 6 years ago, no bill including those charges or other utility collection activity for the charges has occurred in 6 years or more, and the lack of collection activity has been the result of something other than the existence of a judgment that was entered 6 or more years ago and is still in effect.
 - b. The utility cannot document the charges with billing data including the service address, date of service, usage and other relevant information.
2. Failure to comply with the terms of a deferred payment agreement, as provided in s. PSC 185.35, or a similar payment agreement.
3. Failure to comply with a deposit, guarantee, or deposit installment payment agreement, as specified in s. PSC 185.31.

4. Failure to pay for water service received by a previous named account holder ~~customer~~ at the premises to be served, if the previous customer ~~named account holder~~ is still an occupant of the premises as demonstrated by ~~in both of the following ways:~~

~~a. The current customer ~~named account holder~~'s inability to produce one document showing that the previous customer ~~named account holder~~ has left, such as a letter from the landlord, a current bill or identification for the previous customer ~~named account holder~~ showing a new address, or a revised lease with the previous customer ~~named account holder~~ removed.~~

~~Note: See PSC 185.30 (2) (c) 2. for examples of acceptable forms of identification.~~

~~b. The utility's inability to confirm that the previous customer has left by the utility taking actions such as contacting the landlord, looking to see if the previous customer has requested water service elsewhere or searching for a new address.~~

5. Failure to pay the utility an outstanding account balance owed by the named account holder that meets all of the following:
 - a. It is from a previous address.
 - b. It is not included in a deferred payment agreement or special payment arrangement.
 - c. It is not in dispute but remains outstanding.
6. Violation of the utility's rules pertaining to one of the following:
 - a. The use of water service in a manner which interferes with the service of others.
 - b. The installation of non-standard equipment.
 - c. The operation of non-standard equipment.
7. Failure to provide authorized utility personnel access to the utility's equipment.

8. Failure to allow authorized utility personnel to inspect plumbing in order to locate or ~~and~~ correct cross connections or failure to correct identified cross connections under SPS 382.41 or a plan developed under NR 811.09.

Comment [196]: MANY UTILITIES REQUIRE CUSTOMER TO CORRECT CROSS CONNECTIONS

9. Failure to comply with Wisconsin statute or rule, commission order, or a utility's tariff including provisions about curtailment under a water supply shortage.

Note: See PSC 185.63 and 185.69 about water adequacy and water supply shortages.

10. Failure to pay costs or fees incurred by and awarded to the utility by a court of law, for pursuit of collection of bills.

11. Failure to pay extraordinary collection charges as allowed and specified in the utility's tariffs filed with the commission.

12. Failure of an applicant for utility service to provide the information set out in s. PSC 185.30 (2) (c) 1.a., c., e., and f., and (dg).

13. Failure of an applicant for utility service to provide adequate verification of identity and residency, as provided in sub. 185.30 (3).

14. The customer named account holder has an outstanding balance and claims that it was accrued in the customer's name as a result of identity theft, but fails to provide the information in s. 196.23, Stats.

Note: 196.23 states that such a customer must do the following:

a. Furnish the public utility with an affidavit indicating that to the best of the individual's knowledge his or her personal identifying information was used by another individual, without the authorization or consent of the affiant, to obtain the utility service.

b. Furnish the public utility with a copy of a law enforcement agency report, based on the individual's report to the law enforcement agency of the use by another individual of his or her personal identifying information without authorization or consent to obtain utility service.

15. In a nonemergency situation, failure ~~A property owner fails~~ to repair a leaking or, broken, ~~or frozen~~ customer-owned portion of the lateral within a reasonable time after the utility has served notice on the property owner, the customer, and the occupant if different than the customer. The utility shall include all of the following in the notice:

- a. That the water will be shut off and will not be turned on again until the repairs have been completed.
- b. That the utility may issue a bill to the property owner for the estimated amount of lost water.

Comment [197]: EMERGENCY VS. NONEMERGENCY SITUATIONS. EMERGENCY SITUATION SHUTS OFF RIGHT AWAY.

(b) A utility that does not immediately disconnect water service upon discovery of a theft of water under sub. (7) may disconnect water service, with a written 24-hour notice, for nonpayment of a bill covering theft of water.

(c) Notwithstanding par. (a), a utility may not disconnect water service if all of the following are true:

1. The customer named account holder or former customer named account holder whose action is prompting disconnection is no longer an occupant of the premises served.

2. The current occupant's application for water service was submitted at least 5 business days before the disconnection date and time.

3. The application under subd. 2. is pending.

(d) Notwithstanding par. (a), a utility may not disconnect water service to an occupied residential dwelling during the period November 1 to April 15 if water service is a necessary part of a dwelling's heating system unless the reason for the disconnection is set forth in s. PSC 185.40(4)(a)6. This section does not apply to disconnections for remodeling or repairs, or customer-requested terminations of service

(e) Notwithstanding par. (a), a utility may not disconnect or refuse water service when a heat advisory, heat warning, or heat emergency issued by the National Weather Service is in effect unless the reason for the disconnection is set forth in s. PSC 185.40(4)(a)6. A utility shall make reasonable attempts to reconnect water service to an occupied dwelling that has been disconnected under sub. (a) when the customer or an affected occupant states that there is a potential threat to health or life that results from the combination of the heat and loss of water service. The utility may require that the customer or an affected occupant produce a Wisconsin licensed medical personnel's statement or notice from a public health, social services, or law enforcement official which identifies the medical emergency for the affected 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.

Comment [198]: MOVED UP FROM BELOW.

Comment [199]: IS IT NECESSARY THAT IT BE A WISCONSIN LICENSED PRACTITIONER?

(5) DISCONNECTION NOTICE. (a) ~~Prior to A utility may not~~ disconnecting residential water service for reasons enumerated in sub. (4), ~~a utility shall send unless~~ a printed disconnection notice ~~is sent~~ to the customer by first class mail at least 10 calendar days prior to the day of the proposed disconnection. The notice shall contain the information in par. (d).

Comment [1100]: 10 CALENDAR DAYS SAME AS EXISTING RULES

~~(b) If disconnection is not accomplished before the first bill after the disconnection notice in par. (a) is issued, that bill shall contain a message that a disconnection notice was sent earlier and that the issuance of the new bill does not change the disconnection date on that notice or the amount that must be paid to avoid disconnection.~~

Comment [1101]: PROBLEM FOR MONTHLY BILLERS. ALSO MANY UTILITIES CANNOT INCLUDE THIS TYPE OF NOTICE ON BILLS.

(c) ~~1-~~The utility shall leave a subsequent notice on the premises not less than 24 hours nor more than 48 hours prior to disconnection if the utility has not disconnected water service ~~within by the earlier of the following:~~
~~a-~~ 20 days from the date on which the initial notice under par. (a) is issued.
~~b. The issuance date of a notice under par (a) for a subsequent delinquency.~~

Comment [1102]: UNCLEAR WHAT B. WAS INTENDED TO DO.

~~2-~~The subsequent notice ~~under sub. (1)~~ shall contain the information in par. (e).

~~(cm)3-~~ Notwithstanding subd. 1., if a customer makes a payment in response to the initial notice under par. (a) ~~or the bill message under par. (b),~~ but the payment was not honored by a financial institution ~~for a reason such as non-sufficient available credit or funds,~~ then:

- a. If ~~the utility receives notice that the payment was not honored within the disconnection period under subd. (c) 1. and~~ disconnection can still be accomplished within 20 days from the date on which the disconnection notice under par. (a) is issued ~~the disconnection period under subd. (c) 1.,~~ then the utility shall provide notice to the customer that the payment was not honored using the process in sub. (6) (a).
- b. If ~~the utility receives notice within the disconnection period under subd. (c) 1. that a payment was not honored and~~ disconnection ~~cannot be~~ ~~is not~~ accomplished within 20 days from the date on which the disconnection notice under par. (a) is issued ~~the disconnection period under subd. (c) 1.,~~ then a subsequent printed and dated notice, including information about what steps must be taken for reconnection, shall be left on the premises not less than 24 or more than 48 hours prior to disconnection. Disconnection under this subdivision paragraph must occur within 10 days following the utility's receipt of notice that a payment was not honored.

(d) The utility's notice of disconnection for the reasons listed in sub. (4) shall ~~be in a format approved by the commission, and shall~~ contain all of the following information, ~~as applicable:~~

1. The date on which the notice is being sent to the customer.
2. The name ~~of the customer, unless the utility issues premises-based bills,~~ and ~~the~~ address of the customer and the service address, if different.
3. A statement of the reasons for the proposed disconnection of service.

4. ~~If a utility is disconnecting water service because of nonpayment, a~~ statement that disconnection will occur if the account is not paid ~~and, if~~ no arrangement is made to pay the account under a deferred payment agreement ~~or, if~~ other suitable payment arrangements ~~by a specified date.~~

~~4a. If a utility is disconnecting water service because of non-standard equipment, a statement that disconnection will occur, are not made, or~~ if equipment changes are not made, by a specified date.

5. If a utility is disconnecting water service because of default on a deferred payment agreement, a statement of what customer action constitutes default.

6. ~~If a utility is disconnecting water service because of nonpayment or a default on a deferred payment agreement,~~ a statement that the customer should communicate immediately with the utility's designated office upon receipt of the notice, listing a telephone number, if one of the following is true:

a. The customer disputes the notice of delinquent account.

b. Unless the reason for disconnection is default on a deferred payment agreement, the customer wishes to and is eligible to negotiate a deferred payment agreement as an alternative to disconnection.

~~6a. A statement that the customer should communicate immediately with the utility's designated office upon receipt of the notice, listing a telephone number, if disconnection e. There~~ is a threat to the health and safety of an occupant because of physical, developmental or mental disabilities, the use of life support equipment or the frailties associated with being very young or very old.

7. A statement that utility service will be continued for up to 21 days during a medical or protective services emergency if the occupant submits a statement or notice pursuant to sub. (12).

8. A statement that the customer may appeal to the commission staff in the event that the grounds for the proposed disconnection or the amount of any bill remains in dispute after the customer has pursued available remedies with the utility.

9. The commission's address, telephone number and web site.

Note: See PSC 185.30 (4) about providing notice of refusal of service.

(e) If the billing address is different from the service address, a utility shall post notice at each individual dwelling unit at the service address not less than 5 days before disconnection. If access is not possible, the utility shall post this notice, at a minimum, at all entrances to the building and in the lobby. Such notice shall state, at a minimum, all of the following:

1. The date of the notice.

2. The proposed date of disconnection.

3. Except in cases of joint metering and if feasible, that the occupants may apply to the utility to accept responsibility for future bills and avoid disconnection of service. Denial or acceptance of the application for service is subject to those conditions set out in this chapter.

4. That if disconnection of water service will aggravate an existing medical or protective services emergency, the customer or occupant should contact the utility immediately.

(6) CONTACT BEFORE DISCONNECTION. (a) Except in situations under sub. (7), a utility shall make a reasonable effort to have a personal or telephone contact with a residential customer prior to disconnection. If a telephone contact effort is answered by an answering machine or similar technology, the utility shall attempt to leave a

message. ~~If a utility is unable to contact or leave a message for the customer during regular business hours, it shall make another effort during nonbusiness hours.~~

(b) If contact is made with the customer, the utility shall review the reasons for the pending disconnection of water service, and explain what actions must be taken to avoid disconnection, ~~and attempt to ascertain if a medical or protective services issue exists at the premises.~~

(c) If a message is left for the customer, the utility shall advise the customer to contact the utility immediately regarding a time sensitive issue about their service, ~~particularly if any medical or protective services issues exist on the premises.~~

(d) The utility shall keep a record of the contacts and contact attempts under this subsection.

(7) REASONS FOR DISCONNECTION - WITH NO NOTICE. (a) Notwithstanding any other provision in this section, a utility may disconnect residential water service, without advance notice and regardless of the time of year, where there is reasonable evidence that any of the following are true:

1. An unsafe or potentially unsafe condition exists.
2. Water service is being obtained by unsafe or potentially unsafe devices or methods.
3. Water service is being obtained in a manner that interferes or could interfere with the proper metering of the utility service.
4. Water service has been connected or reconnected without the utility's authorization.
5. Diversion of water service around the meter.
6. If a water shortage situation exists under s. PSC 185.69 and a utility's curtailment plan so allows.

(b) Except as provided in sub. (12), a utility may refuse to reconnect water service disconnected under pars. (a) 3. to 5. until any charges that were unbilled as a result of circumstances under par. (a) are paid in full.

(8) NOTIFICATION TO CUSTOMER AFTER DISCONNECTION WITH NO NOTICE. Immediately upon disconnection under sub. (7), a utility shall leave a printed notice on the premises explaining the reason for the disconnection and, if applicable, a description of the unsafe or potentially unsafe condition, device, or method. The notice shall also contain information about what steps must be taken for water service reconnection.

(9) PROHIBITIONS AGAINST SERVICE DISCONNECTION OR REFUSAL. (a) A utility may disconnect or refuse residential water service only for the reasons listed in subs. (4) and (7). A utility may not disconnect or refuse water service for any other reason, including all of the following:

1. Delinquency in payment for service by a previous customer named account holder at the premises to be served if that previous customer named account holder is no longer an occupant of the premises, ~~as demonstrated in both of the following ways:~~
 - a. ~~The current customer's inability to produce one document showing that the previous customer has left, such as a letter from the landlord, a current bill or ID for the previous customer showing a new address, or a revised lease with the previous customer removed.~~
 - b. ~~The utility's inability to confirm that the previous customer has left by the utility taking actions such as contacting the landlord, looking to see if the previous customer has requested service elsewhere or searching for a new address.~~

2. Failure to pay for merchandise or charges for non-utility service billed by the utility, except where authorized by law.

3. Failure to pay for a different type ~~or class~~ of utility service, ~~except as provided in sub. (15).~~

4. Failure to pay the account of another customer as ~~guarantor.~~

Comment [I103]: DISCONNECTION SHOULD BE ALLOWED FOR THIS

5. Failure to pay charges arising from any underbilling that occurred more than one year prior to the current billing and that was due to a misapplication of rates or faulty metering, except that water service may be disconnected if ~~all the following are true:~~

Comment [I104]: DISCONNECTION SHOULD BE ALLOWED FOR THIS

a. A deferred payment agreement including the underbilled amount is entered into under s. PSC 185.35.

b. The customer fails to make the required payments.

c. The balance owed on the deferred payment agreement at the time of the failure to pay is greater than the underbilled amount.

6. Except as provided in sub. (4) (a) 7., failure to pay a bill issued as an estimate because of the utility's failure to read the meter at the intervals required under s. PSC 185.32 unless all of the following are ~~true:~~

Comment [I105]: DISCONNECTION SHOULD BE ALLOWED FOR THIS

a. A deferred payment agreement including the estimated bill is entered under into under s. PSC 185.35.

b. The customer fails to make the required payments.

c. The balance owed on the deferred payment agreement at the time of the failure to pay is greater than the estimated amount.

7. To knowingly assist a landlord in the intentional removal or eviction of a tenant from rental property.

8. Failure to pay during the cold weather period for water service provided to an occupied residential dwelling if ~~the service is a necessary part of a dwelling's heating system.~~

Comment [I106]: ADDRESSED IN (4)(D) INSTEAD

9. The ~~customer named account holder~~ has an outstanding balance, but claims that it was accrued in the customer's name as a result of identity theft, and provides the information in s. 196.23, Stats., and the utility is reviewing that information.

Comment [I107]: IS WATER SERVICE NECESSARY FOR HOT WATER HEAT THAT HAS A CLOSED SYSTEM

Note: A summary of 196.23 may be found under sub. (15) (a).

10. When a heat advisory, heat warning, or heat emergency issued by the National Weather Service is in ~~effect.~~

Comment [I108]: MOVE UP TO (4)(E)

~~(b) A utility shall make reasonable attempts to reconnect water service to an occupied dwelling that has been disconnected under sub. (a) 10. 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 water service. The utility may require that an occupant produce a Wisconsin licensed medical personnel'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.~~

(10) CONSIDERATION BEFORE DISCONNECTION. If a utility is ~~provided-notified~~ ~~ee~~ that there are extenuating circumstances involving an occupant of the premises being served, such as physical, developmental or mental disabilities, or the frailties associated with being very young or very old, the utility shall take these circumstances into consideration and ensure compliance with sub. (12) prior to disconnecting service.

(11) DISCONNECTION DISPUTES. When a residential customer, either directly or through the commission, disputes a disconnection notice, the dispute procedures under s. PSC 185.54 shall apply.

(12) MEDICAL AND PROTECTIVE SERVICES EMERGENCY. Notwithstanding any other provision of this section, other than for reasons of safety or danger, a utility may not disconnect or refuse water service to a residential dwelling if

disconnecting or refusing service will aggravate an existing medical or protective services emergency for an occupant and the customer or affected occupant complies with the all of following:

(a) A utility shall postpone the disconnection of water service, or connect the service if disconnected, for up to 21 days to enable the customer to arrange for payment or a deferred payment agreement if applicable, or to resolve other issues, if the customer or affected occupant produces a Wisconsin licensed medical personnel's statement or notice from a public health, social services, or law enforcement official which identifies the medical or protective services emergency and specifies the period of time during which the lack of water service will aggravate the medical or protective services emergency. During this 21-day continuation of water service period, the utility and the customer shall work together to develop resources and make reasonable payment arrangements in order to continue the service on a permanent basis. The utility may extend the postponement, by renewal of the statement or notice, if there is evidence of reasonable communication between the utility and customer in attempting to make arrangements for payment or a deferred payment agreement if applicable, or to resolve other issues.

Comment [1109]: IS IT NECESSARY THAT IT BE A WISCONSIN LICENSED PROVIDER?

(b) The utility may not disconnect service until the 21-day water service continuation period under par. (a) has expired. The customer shall be responsible for the cost of residential service received during the service continuation period.

(c) Any customer who is in the 21-day water service continuation period under par. (a) shall be admitted into available, appropriate and special payment plan programs the utility may offer for which the customer is eligible.

(d) If there is a dispute concerning an existing medical or protective services emergency, and the customer or occupant has submitted the statement or notice under par. (a), the dispute procedures under s. PSC 185.54 apply.

(13) DISCONNECTION PROHIBITED ON CERTAIN DAYS. A utility may not disconnect residential water service on a day, or during the 24 hours immediately preceding a day, when the utility's business offices are closed, except that service may be disconnected on such a day if the utility does all of the following:

(a) Provides personnel who are readily available to the customer 24 hours per day to evaluate, negotiate or otherwise consider the customer's objections to the disconnection, as provided under s. PSC 185.54.

(b) Has qualified service personnel readily available to restore water service within 24 hours after resolution of the contact under par. (a).

(14) TIMELY RECONNECTION. ~~A utility shall reconnect water service promptly w~~hen the cause for the disconnection has been eliminated. ~~t-~~The utility ~~shall make an effort to restore water service as soon as possible but, in any event,~~ shall restore service no later than the end of the second business day ~~following elimination of the cause for the disconnection~~, unless it cannot gain access to the necessary utility facilities.

(15) RENTAL PROPERTY - TRANSFER OF RESPONSIBILITY. (a) When an owner or property manager for a rental dwelling unit incurs account arrears for the dwelling unit, the utility ~~may~~ ~~shall attempt to~~ transfer the arrears to the owner or property manager's home or office account and pursue available collection efforts there, including disconnection, before disconnecting the dwelling unit. If collection efforts on the owner or property manager's home or office account are unsuccessful, the utility may disconnect the dwelling unit for which the arrears were incurred, provided that the utility complies with this chapter ~~and s.~~

(b) Prior to making the transfer under par. (a), the utility shall send written notice of the planned transfer of the account arrears to the owner and property manager.

(c) An owner or property manager whose account is subject to disconnection action under par. (a) may avoid disconnection of water service by making payment, entering into a deferred payment agreement under s. PSC 185.35, if eligible, or making other payment arrangements if they are available with his or her utility. Any disconnection shall be in compliance with this chapter ~~and s. PSC 185.41.~~

PSC 185.405 SERVICE DISCONNECTIONS AND REFUSALS, NONRESIDENTIAL ACCOUNTS

~~(1) DEFINITIONS. For purposes of this section, “nonresidential” does not include nonresidential accounts that include service to a residential dwelling.~~

~~(2) APPLICABILITY. This section does not apply to a nonresidential account that includes water service to a residential dwelling. The provisions that apply to residential accounts, including ss. PSC 185.40 and 185.41, apply to such nonresidential accounts.~~

(3) GENERAL. A nonresidential customer shall have, in all instances, at least 20 days from the date a utility sends the bill to provide payment. An account may be deemed delinquent and a notice of disconnection issued after the 20-day period has elapsed. ~~In the event of a discrepancy between the date on the bill and the postmark, the 20-day period shall be calculated from whichever is later.~~

Note: See PSC 2.05 (2) about how to determine what days are included in the 20-day period.

(4) REASONS FOR DISCONNECTION OR REFUSAL OF SERVICE – WITH NOTICE. (a) A utility may disconnect or refuse nonresidential service, with notice under sub. (5) ~~or (8)~~, only for one of the following reasons:

1. Failure to pay a delinquent account balance, except that water service may not be disconnected or refused if either of the following apply:
 - a. The charges were initially billed more than 6 years ago, no bill including those charges or other utility collection activity for the charges has occurred in 6 years or more, and the lack of collection activity has been the result of something other than the existence of a judgment that was entered 6 or more years ago and is still in effect.
 - b. The utility cannot document the charges with billing data including the service address, date of service, usage and other relevant information.
2. Failure to comply with the terms of a payment agreement.
3. Failure to comply with a deposit, guarantee, or deposit installment payment agreement, as specified in s. PSC 185.315.
4. Failure to pay for water service received by a previous customer named account holder at the premises to be served if ~~the utility can demonstrate that~~ the previous customer named account holder is still an occupant of the premises. as demonstrated by ~~in both of the following ways:~~
 - ~~a. The current customer named account holder's inability to produce one document showing that the previous customer named account holder has left, such as a letter from the landlord, a current bill or identification for the previous customer named account holder showing a new address, or a revised lease with the previous customer named account holder removed.~~
 - ~~b. The utility's inability to confirm that the previous customer has left by the utility taking actions such as contacting the landlord, looking to see if the previous customer has requested water service elsewhere or searching for a new address.~~
5. Failure to pay the utility an outstanding account balance owed by the named account holder that meets all of the following:
 - a. It is from a previous address.
 - b. It is not included in a payment agreement.
 - c. It is not in dispute but remains outstanding.
6. Violation of the utility's rules pertaining to one of the following:
 - a. The use of water service in a manner which interferes with the service of others.

Comment [I110]: INSERT COLD WEATHER PROVISIONS IN THIS SECTION. OTHER PROVISIONS MOSTLY THE SAME. TOO CONFUSING TO APPLY DIFFERENT SECTION TO NONRESIDENTIAL ACCOUNT THAT INCLUDES A RESIDENTIAL DWELLING.

Comment [I111]: MANY UTILITY BILLS DO NOT HAVE POSTMARKS

- b. The installation of non-standard equipment.
- c. The operation of non-standard equipment.

7. Failure to provide authorized utility personnel access to the utility's equipment.

8. Failure to allow authorized utility personnel to inspect plumbing in order to locate ~~or~~ correct cross connections ~~or failure to correct identified cross connections under s. SPS 382.41 or a plan developed under s. NR 811.09.~~

9. Failure to comply with Wisconsin statute or rule, commission order, or a utility's tariff including provisions about curtailment under a water supply shortage.

Note: See PSC 185.63 and 185.69 about water adequacy and water supply shortages.

10. Failure to pay costs or fees incurred by and awarded to the utility by a court of law for pursuit of collection of bills.

11. Failure to pay extraordinary collection charges as allowed and specified in the utility's tariffs filed with the commission.

12. Failure of an applicant for utility service to provide the information set out in s. PSC 185.305 (2) (c) 1. to 7., and (f).

13. Failure of an applicant for utility service to provide adequate verification of identity, as provided in s. PSC 185.305 (3).

14. ~~In a nonemergency situation, failure A property owner fails to~~ repair a leaking ~~or~~ broken, ~~or frozen~~ customer-owned portion of the lateral within a reasonable time after the utility has served notice on the property owner, the customer, and the occupant if different than the customer. The utility shall include all of the following in the notice:

- a. That the water will be shut off and will not be turned on again until the repairs have been completed.
- b. That the utility may issue a bill to the property owner for the estimated amount of lost water.

(b) A utility ~~that does not immediately disconnect water service upon discovery of a theft of water under sub. (7)~~ may disconnect water service, with a written 24-hour notice, for nonpayment of a bill covering theft of water.

(c) Notwithstanding par. (a), a utility may not disconnect water service if all of the following are true:

1. The ~~customer named account holder~~ or former ~~customer named account holder~~ whose action is prompting disconnection is no longer an occupant of the premises served.

2. The current occupant's application for water service was submitted at least 5 business days before the disconnection date and time.

3. The application under subd. 2. is pending.

~~(d) Notwithstanding par. (a), a utility may not disconnect water service to a nonresidential account that includes water service to an occupied dwelling during the period November 1 to April 15 if water service is a necessary part of the dwelling's heating system unless the reason for the disconnection is set forth in s. PSC 185.405(4)(a)6. This section does not apply to disconnections for remodeling or repairs, or customer-requested terminations of service.~~

~~(e) Notwithstanding par. (a), a utility may not disconnect or refuse service when a heat advisory, heat warning, or heat emergency issued by the National Weather Service is in effect unless the reason for the disconnection is set~~

Comment [1112]: PUTS COLD WEATHER LANGUAGE HERE, INSTEAD OF COVERING IN RESIDENTIAL SECTION.

Comment [1113]: ADDS HEAT ADVISORIES LANGUAGE HERE

forth in s. PSC 185.405(4)(a)6. A utility shall make reasonable attempts to reconnect service to an occupied premises that has been disconnected under sub. (a) when a customer or affected occupant states that there is a potential threat to health or life that results from the combination of the heat and loss of water service. The utility may require that the customer or affected occupant produce a Wisconsin licensed medical personnel's statement or notice from a public health, social services, or law enforcement official which identifies the medical emergency for the affected occupant. Upon expiration of the heat advisory, heat warning, or heat emergency, the utility may disconnect water service to a property that was reconnected during this period without further notice if an appropriate payment arrangement has not been established.

Comment [I114]: IS IT NECESSARY TO HAVE A WISCONSIN LICENSED PRACTITIONER?

(5) DISCONNECTION NOTICE. (a) ~~Prior to disconnecting~~A utility may not disconnect nonresidential service for reasons enumerated in sub. (4), ~~a utility shall send unless~~ a printed disconnection notice ~~is sent~~ to the customer by first class mail at least 10 calendar days prior to the day of the proposed disconnection. The notice shall contain the information in par. (d).

~~(b) If disconnection is not accomplished before the first bill after the disconnection notice in par. (a) is issued, that bill shall contain a message that a disconnection notice was sent earlier and that the issuance of the new bill does not change the disconnection date on that notice or the amount that must be paid to avoid disconnection.~~

Comment [I115]: PROBLEM FOR MONTHLY BILLERS

(c) ~~1-~~The utility shall leave a subsequent notice on the premises not less than 24 hours nor more than 48 hours prior to disconnection if the utility has not disconnected service ~~by the earlier of the following:~~
~~a- within~~ 20 days from the date on which the initial notice under par. (a) is issued.
~~b. The issuance date of a notice under par. (a) for a subsequent delinquency.~~
~~2-~~The subsequent notice ~~under sub. (1)~~ shall contain the information in par. (e).

~~(cm) 3-~~Notwithstanding ~~subd. 1-~~, if a customer makes a payment in response to the initial notice under sub. (a) ~~or the bill message under sub. (b),~~ but the payment was not honored by a financial institution ~~for a reason such as non-sufficient available credit or funds,~~ then:

a. If ~~the utility receives notice that the payment was not honored within the disconnection period under subd. (c) 1-~~ and disconnection can still be accomplished within 20 days from the date on which the disconnection notice period under par. (a) is issued~~subd. (c) 1-~~, then the utility shall provide notice to the customer that the payment was not honored using the process in sub. (6) (a).

b. If ~~the utility receives notice within the disconnection period under subd. (c) 1-~~ that a payment was not honored ~~and disconnection cannot be is not~~ accomplished within 20 days from the date on which the disconnection notice under par. (a) is issued~~the disconnection period under subd. (c) 1-~~, then a subsequent printed and dated notice, including information about what steps must be taken for reconnection, shall be left on the premises not less than 24 or more than 48 hours prior to disconnection. Disconnection under this subdivision must occur within 10 days following the utility's receipt of notice that a payment was not honored.

(d) The utility's notice of disconnection for the reasons listed in sub. (4) ~~shall be in a format approved by the commission, and~~ shall contain all of the following information, as applicable:

1. The date on which the notice is being sent to the customer.
2. The name of the customer, unless the utility issues premise-based bills, and the address of the customer and the service address, if different.
3. A statement of the reasons for the proposed disconnection of water service.
4. If a utility is disconnecting service because of nonpayment, a statement that disconnection will occur if the account is not paid and, if no payment arrangement is s ~~are~~ made, ~~or if equipment changes are not made,~~ by a specified date.

4a. If a utility is disconnecting water service because of non-standard equipment, a statement that disconnection will occur if equipment changes are not made by a specified date.

5. If a utility is disconnecting water service because of default on a payment arrangement, a statement of what customer action constitutes default.

6. If a utility is disconnecting service because of nonpayment or a default on a payment agreement, A statement that the customer should communicate immediately with the utility's designated office upon receipt of the notice, listing a telephone number, if one of the following is true:

~~a. The customer disputes the notice of delinquent account.~~

~~b. The customer wishes to discuss whether any alternatives to disconnection exist.~~

6a. A statement that the customer should communicate immediately with the utility's designated office upon receipt of the notice, listing a telephone number, if disconnection~~e. There~~ is a threat to the health and safety of an occupant because of physical, developmental or mental disabilities, the use of life support equipment or the frailties associated with being very young or very old.

7. A statement that utility service will be continued for up to 21 days during a medical or protective services emergency if the occupant submits a statement or notice pursuant to sub. (12).

8. A statement that the customer may appeal to the commission staff in the event that the grounds for the proposed disconnection or the amount of any bill remains in dispute after the customer has pursued available remedies with the utility.

9. The commission's address, telephone number and web site.

Note: See PSC 185.305 (4) about providing notice of refusal of service.

(e) A utility shall post notice at each individual business at the service address not less than 5 days before disconnection. If access is not possible, the utility shall post this notice, at a minimum, at all entrances to the building and in the lobby. Such notice shall state, at a minimum, all of the following:

1. The date of the notice.

2. The proposed date of disconnection.

3. Except in cases of joint metering and if feasible, that the occupants may apply to the utility to accept responsibility for future bills and avoid disconnection of water service. Denial or acceptance of the application for service is subject to those conditions set out in this chapter.

4. That if disconnection of water service will aggravate an existing medical or protective services emergency, the customer or occupant should contact the utility immediately.

(6) CONTACT BEFORE DISCONNECTION. (a) Except in situations under sub. (7), a utility shall make a reasonable effort to have a personal or telephone contact with a nonresidential customer prior to disconnection. If a telephone contact effort is answered by an answering machine or similar technology, the utility shall attempt to leave a message. ~~If a utility is unable to contact or leave a message for the customer during regular business hours, it shall make another effort during nonbusiness hours.~~

(b) If contact is made with the customer, the utility shall review the reasons for the pending disconnection of service and explain what actions must be taken to avoid disconnection, ~~and attempt to ascertain if a medical or protective services issue exists at the premises.~~

Comment [1116]: THIS MANDATES POSTING. IN THE RESIDENTIAL SECTION, POSTING IS ONLY REQUIRED IF THE BILLING ADDRESS IS DIFFERENT FROM THE SERVICE ADDRESS.

(c) If a message is left for the customer, the utility shall advise the customer to contact the utility immediately regarding a time sensitive issue about ~~their~~his or her water service, ~~particularly if any medical or protective services issues exist on the premises.~~

(d) The utility shall keep a record of the contacts and contact attempts under this subsection.

(7) REASONS FOR DISCONNECTION – WITH NO NOTICE. (a) Notwithstanding any other provision in this section, a utility may disconnect nonresidential water service, without advance notice and regardless of the time of year, where there is reasonable evidence that any of the following are true:

1. An unsafe or potentially unsafe condition exists.
2. Water service is being obtained by unsafe or potentially unsafe devices or methods.
3. Water service is being obtained in a manner that interferes or could interfere with the proper metering of the utility service.
4. Water service has been connected or reconnected without the utility's authorization.
5. Diversion of water service around the meter.
6. If a water shortage situation exists under s. PSC 185.69 and a utility's curtailment plan so allows.

(b) Except as provided in sub. (12), a utility may refuse to reconnect water service disconnected under par. (a) 3. ~~to 5 or 6.~~ until any charges that were unbilled as a result of circumstances under par. (a) are paid in full.

(8) NOTIFICATION TO CUSTOMER AFTER DISCONNECTION WITH NO NOTICE. Immediately upon disconnection under sub. (7), a utility shall leave a printed notice on the premises explaining the reason for the disconnection and, if applicable, a description of the unsafe or potentially unsafe condition, device, or method. The notice shall also contain information about what steps must be taken for reconnection.

(9) PROHIBITIONS AGAINST SERVICE DISCONNECTION OR REFUSAL. (a) A utility may disconnect or refuse nonresidential water service only for the reasons listed in subs. (4) and (7). A utility may not disconnect or refuse service for any other reason, including all of the following:

1. Delinquency in payment for water service by a previous customer named account holder at the premises to be served if that previous customer named account holder is no longer an occupant of the premises ~~as demonstrated in both of the following ways:~~
 - a. ~~The current customer's inability to produce one document showing that the previous customer has left, such as a letter from the landlord, a current bill or ID for the previous customer showing a new address, or a revised lease with the previous customer removed.~~
 - b. ~~The utility's inability to confirm that the previous customer has left by the utility taking actions such as contacting the landlord, looking to see if the previous customer has requested water service elsewhere or searching for a new address.~~
2. Failure to pay for merchandise or charges for non-utility service billed by the utility, except where authorized by law.
3. Failure to pay for a different type ~~or class~~ of utility service, ~~except as provided in sub. (15).~~
4. ~~Failure to pay the account of another customer as guarantor.~~

~~5. Failure to pay charges arising from any underbilling that occurred more than one year prior to the current billing and that was due to a misapplication of rates or faulty metering.~~

~~6. Except as provided in subs. (4) (a) 7., failure to pay a bill issued as an estimate because of the utility's failure to read the meter at the intervals required under s. PSC 185.32.~~

7. To knowingly assist a landlord in the intentional removal or eviction of a tenant from rental property.

~~8. When a heat advisory, heat warning, or heat emergency issued by the National Weather Service is in effect,~~

Comment [1117]: MOVED TO (4)(E).

~~(b) A utility shall make reasonable attempts to reconnect service to an occupied premises that has been disconnected under sub. (a) 8. 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 water service. The utility may require that an occupant produce a Wisconsin licensed medical personnel'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 water service to a property that was reconnected during this period without further notice if an appropriate payment arrangement has not been established.~~

(10) CONSIDERATION BEFORE DISCONNECTION. If a utility is notified that there are extenuating circumstances involving an occupant of the premises being served, such as physical, developmental or mental disabilities, or the frailties associated with being very young or very old, the utility shall take these circumstances into consideration and ensure compliance with sub. (12) prior to disconnecting water service.

(11) DISCONNECTION DISPUTES. When a nonresidential customer, either directly or through the commission, disputes a disconnection notice, the dispute procedures under s. PSC 185.54 shall apply.

(12) MEDICAL AND PROTECTIVE SERVICES EMERGENCY. Notwithstanding any other provision of this section, other than for reasons of safety or danger, a utility may not disconnect or refuse water service to a nonresidential premises if disconnecting or refusing reconnection of service will aggravate an existing medical or protective services emergency for an occupant, and the customer or affected occupant complies with par. (a).

(a) A utility shall postpone the disconnection of water service, or connect the service if disconnected, for up to 21 days to enable the customer to arrange for payment or a payment arrangement, if applicable, or to resolve other issues, if the customer or affected occupant produces a Wisconsin licensed medical personnel's statement or notice from a public health, social services, or law enforcement official which identifies the medical or protective services emergency and specifies the period of time during which the lack of water service will aggravate the medical or protective services emergency. During this 21-day continuation of water service period, the utility and the customer shall work together to develop resources and make reasonable payment arrangements in order to continue the water service on a permanent basis. The utility may extend the postponement, by renewal of the statement or notice, if there is evidence of reasonable communication between the utility and customer in attempting to make arrangements for payment or a payment arrangement, if applicable, or to resolve other issues.

(b) The utility may not disconnect water service until the 21-day water service continuation period under par. (a) has expired. The customer shall be responsible for the cost of service received during the service continuation period.

(c) Any customer who is in the 21-day water service continuation period under par. (a) shall be admitted into available, appropriate and special payment plan programs the utility may offer for which the customer is eligible.

(d) If there is a dispute concerning an existing medical or protective services emergency, and the customer or occupant has submitted the statement or notice under par. (a), the dispute procedures under s. PSC 185.54 apply.

(13) DISCONNECTION PROHIBITED ON CERTAIN DAYS. A utility may not disconnect nonresidential water service on a day, or during the 24 hours immediately preceding a day, when the utility's business offices are closed, except that service may be disconnected on such a day if the utility does all of the following:

(a) Provides personnel who are readily available to the customer 24 hours per day to evaluate, negotiate or otherwise consider the customer's objections to the disconnection, as provided under s. PSC 185.54.

(b) Has qualified service personnel readily available to restore water service within 24 hours after the resolution of the contact under par. (a).

(14) TIMELY RECONNECTION. ~~When the cause for the disconnection has been eliminated, A utility shall reconnect water service promptly when the cause for the disconnection has been eliminated. The utility shall make an effort to restore water service as soon as possible but, in any event,~~ shall restore service no later than the end of the second business day ~~following elimination of the cause for the disconnection,~~ unless it cannot gain access to the necessary utility facilities.

(15) RENTAL PROPERTY - TRANSFER OF ARREARS. (a) When an owner or property manager for a nonresidential rental unit incurs account arrears for the rental unit, the utility ~~may shall attempt to~~ transfer the arrears to the owner or property manager's home or office account and pursue available collection efforts there, including disconnection, before disconnecting the rental unit. If collection efforts on the owner or property manager's home or office account are unsuccessful, the utility may disconnect the rental unit for which the arrears were incurred, provided that the utility complies with this chapter ~~and s. PSC 185.41.~~ If collection efforts after disconnecting the rental unit for which the arrears were incurred are unsuccessful, the utility may transfer the arrears to other accounts in the owner or property manager's name regardless of type or class of service.

(b) Prior to making the transfer under par. (a), the utility shall send written notice of the planned transfer of the account arrears to the owner and property manager.

(c) An owner or property manager whose account is subject to disconnection action under par. (a) may avoid disconnection of water service by making payment or making payment arrangements if they are available with his or her utility. Any disconnection shall be in compliance with this chapter ~~and s. PSC 185.41.~~

~~PSC 185.41 COLD WEATHER DISCONNECTIONS~~

~~(1) DECLARATION OF POLICY. (a) The commission recognizes that there are many citizens of the state who, because of income, physical, developmental or mental disabilities, or the frailties associated with being very young or very old, need protection from cold weather disconnections. This section is intended to provide that protection as enumerated below.~~

~~(b) It is the further intent of the commission that the issues to be considered under this rule, including income, disability, and age, serve as guidelines when considering disconnection of customers during the cold weather period when those customers are not included under sub. (2) (a).~~

~~(c) For customers subject to disconnection under this section, any disconnection shall be a last resort, after all other legal means of recourse have been attempted and proven unsuccessful.~~

~~(2) APPLICABILITY. (a) This section applies to the disconnection of water service at a residence when all of the following are true:~~

~~1. The disconnection is because of nonpayment.~~

~~2. The disconnection occurs during the cold weather period.~~

Comment [1118]: NOT NECESSARY.
COVERED BY PSC 185.40(4)(d).

~~3. The water service is a necessary part of a dwelling's heating system.~~

~~(b) This section does not apply to customer requested terminations of service, disconnections of water service as set forth in s. PSC 185.40 (4) (a) 6., or (7) (a) 1. to 5., or disconnections for remodeling or repairs.~~

~~Note: See s. PSC 185.42 about customer requested terminations of service both during and outside the cold weather period.~~

~~(3) DISCONNECTION PLAN APPROVAL. (a) If a utility intends to disconnect water service to residences under this section, it shall each year, prior to performing any disconnections under this section, submit for approval by commission order a plan that includes:~~

~~1. A procedure describing how the utility intends to identify the residences that are both subject to disconnection and assumed to be occupied.~~

~~2. A description of how the utility will verify the household's income and situation in order to ensure that the conditions in sub. (4) have been met.~~

~~3. The name, title, and contact number of one or more executive employees who will be responsible for final approval of the disconnection of utility service under this section. The designated executive employee shall be one of the following:~~

~~a. For an investor owned utility, an employee with at least the position of vice president.~~

~~b. For a municipal utility, either the general manager or chairperson of the governing board.~~

~~4. Copies of its written internal procedures for implementing this section and any materials used in training its employees to carry out these rules.~~

~~5. A description of how it will meet the requirements under subs. (5), (6), (7), (8) and (11).~~

~~6. A description of all of the legal means of recourse the utility will attempt before pursuing disconnection under this section.~~

~~(b) If the commission does not approve the plan under par. (a) by order within 60 days of submission, the plan shall be considered disapproved.~~

~~(c) A utility may, in the plan under par. (a), designate a management level employee to be responsible in case of the extended illness or vacation related absence of the person listed in sub.~~

~~(a) 3.~~

~~(d) The utility shall review the procedures under sub. (a) 4. annually and update the filed procedures when appropriate. If the commission does not approve the updated procedures by order within 60 days of submission, the procedures shall be considered disapproved.~~

~~(4) CONDITIONS FOR DISCONNECTION. A utility's plan under sub. (3) may only provide for disconnection under this section if all of the following are true:~~

~~(a) The household's gross income over the last 3 completed months is above 250% of the federal income poverty guidelines used by the LIHEAP at the time of the potential disconnection.~~

~~(b) The customer has not been determined to be eligible for LIHEAP support during the previous 12 months.~~

~~(c) Health and safety would not be endangered because of physical, developmental or mental disabilities, or the frailties associated with being very young or very old, if water service were disconnected.~~

~~(5) VERIFICATION. (a) The utility bears the burden of proof for determining that a household may be disconnected under sub. (4).~~

~~(b) The employee designated under sub. (3) (a) 3. shall certify on a form approved by the commission that all appropriate code provisions have been met prior to authorizing disconnection under this section.~~

~~(6) NOTICE. (a) Notice under s. PSC 185.40 shall be provided before a household is disconnected under this section.~~

~~(b) Prior to, and again at the time of disconnection of water service, a utility representative shall meet personally with a responsible, adult member of the household to identify any circumstances which deserve special attention, such as medical problems or disabilities.~~

~~(c) The utility shall maintain a record of all contacts with the household from the time that the notice of pending disconnection under sub. (a) is first given.~~

~~(7) CUSTOMER AND OCCUPANT SERVICE INFORMATION. Prior to disconnection under this section, a utility shall inform the household of the availability of deferred payment agreements, budget billing, shelter assistance, agencies or programs that may provide financial assistance and that such a list is available from the utility or, if applicable, by telephoning 211, and in the case of a non customer occupant where there is not joint metering, the option of accepting responsibility for future bills.~~

~~(8) FOLLOW UP VISIT. (a) By the end of the business day following the day of disconnection, a utility shall make an in-person visit to the residence to check on the household's well-being and to ensure there is no danger to human health and or life. The utility shall again inform the household of the availability of deferred payment agreements, budget billing, shelter assistance, agencies or programs that may provide financial assistance and that such a list is available from the utility or, if applicable, by telephoning 211, and in the case of a non customer occupant where there is not joint metering, the option of accepting responsibility for future bills. If the utility or its representative observes a danger to human health or life due to the disconnection, the utility shall immediately restore water service.~~

~~(b) The utility may arrange for the visit required under par. (a) to be made by a representative of a city health department, local health and social service agency, local law enforcement agency, or similar authority, but ultimate responsibility for the visit shall remain with the utility.~~

~~(c) The utility shall keep a written record of the visit required under par. (a).~~

~~(9) TELEPHONE AVAILABILITY. A utility shall provide its emergency after hours telephone number to all households scheduled for service disconnection.~~

~~(10) NO DISCONNECTION ON CERTAIN DAYS. A utility may not disconnect water service to a residence on a Friday, Saturday, Sunday, holiday, day before a holiday, or on a day when utility personnel are not readily available to the occupant 24 hours per day to negotiate and perform restoration of service.~~

~~(11) THIRD PARTY CONTACTS. If a customer has previously requested that a specific third party be notified before disconnection, the utility shall contact that third party prior to disconnecting water service.~~

~~(12) REPORTS. A utility shall report to a commission designated contact person each disconnection of water service to a residence during the cold weather period. The report shall include information regarding how the utility verified the household's income and situation in order to ensure that the conditions in sub. (4) have been met. The report shall be filed by electronic transmission or telephone, and shall be filed by 3:30 p.m. on the same day that disconnection takes place.~~

PSC 185.42 CUSTOMER-REQUESTED TERMINATION OF SERVICE.

(1) DURING THE COLD WEATHER PERIOD. (a) If water service is a necessary part of a location's heating system and a customer requests that service to that unoccupied location be terminated during the cold weather period, a utility may rely on verification by the customer owner or the customer owner's agent that the location is unoccupied, ~~provided that the utility visits the location at the time of disconnection and verifies that the location is unoccupied. The utility shall keep a written record of its determination that the location is unoccupied.~~

(b) If the utility determines at the time of disconnection that the location appears to be occupied, the utility shall leave a printed and dated notice on the premises not less than 24 hours nor more than 48 hours prior to disconnection. The notice shall state, at a minimum, all of the following:

1. The date of the notice.
2. The proposed date of disconnection.
3. That if disconnection should not occur on the proposed date, the customer or occupant should contact the utility immediately.

(2) OUTSIDE THE COLD WEATHER PERIOD. ~~(a) Except as provided in par. (b), if a customer requests that water service be disconnected outside the cold weather period, a utility may rely on the customer's statement that the location is unoccupied and that disconnection will not endanger human health or safety, and may terminate service without further verification. If the utility determines at the time of disconnection that the location appears to be occupied, the utility shall leave a printed and dated notice on the premises as provided under sub. (1)(b).~~

~~(b) If the service address is different from the billing address, then before disconnection a utility shall make a reasonable effort to have a personal or telephone contact with the service address occupant prior to disconnection. If a telephone contact effort is answered by an answering machine or similar technology, the utility shall attempt to leave a message. If a utility is unable to contact or leave a message for the occupant during regular business hours, it shall make another effort during nonbusiness hours.~~

-Note: See s. PSC 185.40 (9) (a) 7., that prohibits a utility from disconnecting service to knowingly assist a landlord in evicting a tenant.

PSC 185.50 INFORMATION AVAILABLE TO CUSTOMERS.

(1) (a) A utility shall have copies of its current tariffs applicable to a locality on file at its office. A utility shall make copies of its current tariffs available to the public by making a copy available in at least one of the following locations:

1. Utility locations where payments are received.
2. On the utility's website.
3. In a form and place that is otherwise readily accessible to the public, such as libraries.

(b) A utility shall provide a printed copy of its current tariffs upon request.

(2) A utility shall make a new tariff available to the public at least 2 calendar~~10~~ days before it takes effect unless the commission prescribes a shorter time period.

(3) (a) A utility shall provide, in the respective telephone directories of the telecommunications providers that provides basic local exchange service ~~incumbent local exchange carrier~~ for every city, village or town~~municipality~~ in

which ~~the utility#~~ serves, a telephone listing by which the utility can be contacted at all times about any utility service emergency or deficiency which may exist.

Comment [1119]: REVISED TO ELIMINATE NEED FOR DEFINITIONS

(b) If the utility has an automated menu system answering its emergency telephone number or its general information telephone number, or both, the number to press in case of emergency shall be the first item offered on the menu other than language choice.

(4) (a) A utility shall provide all information pertaining to billing ~~and~~ credit, ~~emergencies and safety~~ in English and in other languages commonly understood by a significant number of the non- English speaking population in the utility's service territory. A utility is not required to provide billing and credit information in a language commonly understood by less than 10% of the population in the utility's service territory. This requirement does not apply to tariffs.

(b) A utility shall have the information under par. (a) available in printed form and may also have it available in electronic or telephonic form, or both.

(c) A utility shall have the information under par. (a) available for distribution upon customer request in every business office of the utility that is accessible to the public, and every utility office in the service territory where customer payments are received.

~~(d) If a utility has a website, it shall include the information under par. (a) on the website.~~

(5) (a) Upon request, a utility shall provide an applicant or customer written, ~~plain language~~ information ~~to all new residential customers~~ that includes, at a minimum, all of the following:

1. Rules on deposits.
2. Payment options including budget billing if available, and deferred payment agreements.
3. Dispute procedures.
4. Water service disconnection and reconnection procedures.
5. A procedure to follow in order to advise the utility of any special circumstances, such as the presence of infants or elderly persons or the use of human life-sustaining equipment, and to advise the utility to contact a specific third-party agency or individual prior to any disconnection action being taken.
6. The availability of information on water conservation practices.
- ~~7. The advisability of setting water heater thermostats no higher than the temperature specified in s. 196.373 (2), Stats.~~
- ~~Note: As of July 2015, the specified temperature is 125o Fahrenheit.~~
8. The availability of a clear and concise record of the customer's actual water consumption for the premises for each billing period during the prior 12 months ~~or the actual number of months that the customer has lived at that location if less than 12 months.~~
- ~~9. The availability of charitable organizations which may provide financial assistance or counseling, and that a list of such organizations may be available by telephoning 211.~~
10. The availability of a list of utility authorized offices where payments are received in the service territory, ~~and an explanation of how to use them.~~

(b) ~~As an alternative to providing an applicant or customer with the information in par. (a), if a utility may has a website, it shall~~ include the information in par. (a) on ~~its that~~ website and direct the applicant or customer to the website.

~~(c) A utility shall inform its existing residential customers annually that the information in par. (a) is available upon request.~~

(d) Upon request, a utility shall provide an applicant or customer with ~~shall include with the information under pars. (a) to (c),~~ an explanation of how a non-English speaking customer can obtain the information under pars. (a) and (b) in ~~any other another~~ language commonly understood by a significant number of the non-English speaking

population in the utility's service territory. ~~That explanation shall be in the other language.~~ A utility is not required to provide information in a language commonly understood by less than 10% of the population in the utility's service territory.

(6) (a) Upon request, a utility shall provide to ~~applicants, current or prospective~~ customers, tenants or property owners, residential water consumption information about a particular residential location. Occupancy of the property is not a prerequisite to receiving such information.

(b) This information shall provide consumption information by billing periods for at least the last year, and either the average consumption for the prior 12 month period or figures reflecting the highest and lowest consumption amounts for the previous 12 months.

(c) Provision of this information is neither a breach of customer confidentiality nor a guarantee or contract by the utility as to future consumption levels for the premises in question.

(d) A utility may provide the information under par. (b) verbally. A requestor is entitled to receive one free printed consumption statement about a property every 12 months. A utility shall provide additional printed statements about the same property to the same requestor within that 12 months at a charge not to exceed \$5.

(e) Upon request, a utility shall provide to a residential or multi-family residential customer, information and instructions needed by the customer to make consumption comparisons to similar residential or multi-family residential customers in the same class and to evaluate water conservation efforts.

PSC 185.51 EMPLOYEES AND AGENTS AUTHORIZED TO ENTER A PREMISES. A utility shall keep a record of all employees and agents authorized under s. 196.171, Stats., to enter a premises where service is provided. A utility shall ensure that each employee and agent authorized to enter a premises has identification showing that he or she is so authorized by the utility.

PSC 185.52 UNCONSCIONABLE, OPPRESSIVE AND DECEPTIVE PRACTICES PROHIBITED.

(1) A utility may not engage in unconscionable, oppressive or deceptive practices.

(2) "Unconscionable, oppressive or deceptive practices" include the following:

(a) Using or threatening to use force or violence to cause physical harm to the person, relatives, or property of an applicant or customer.

(b) Threatening legal action or referral for criminal prosecution without merit or authority.

(c) Initiating or threatening to initiate communications with the applicant's or customer's employer except as permitted by law.

~~(d) Engaging in any conduct that can reasonably be expected to harass an applicant or customer.~~

(e) Threatening an applicant or customer with actions prohibited under the law.

(f) Claiming or attempting to claim to enforce a right, when the utility knew or should have known that the right does not exist.

(g) Using obscene, threatening, or abusive language in communicating with an applicant, a customer, or a person related to an applicant or customer.

Comment [I120]: TOO VAGUE. A CUSTOMER COULD CONSIDER DISCONNECTION HARASSMENT.

~~(h) Unfairly taking advantage of the lack of knowledge, ability, experience or capacity of an applicant or customer, when the utility knew or should have known that the applicant or customer lacked such.~~

Comment [1121]: TOO VAGUE.

(i) Engaging in conduct that would have the natural effect of reasonably causing or aid in causing applicants or customers to misunderstand the true nature of the transaction or their rights and duties thereunder.

(j) Requiring applicants or customers to waive legal rights.

(3) This section does not preempt and is in addition to applicable provisions of ch. 100, Stats., and related administrative rules.

PSC ~~185.53134.53~~ CUSTOMER COMPLAINTS.

(1) A utility shall investigate and keep a record of complaints it receives about safety, service, rates, and ~~or~~ the operation of its system. The record shall show all of the following:

(a) The name and address of the complainant.

(b) The date and nature of the complaint.

(c) The disposition of the complaint.

(d) The date of disposition.

(2) A summary of this record shall be provided to the commission upon request.

PSC 185.54 DISPUTE PROCEDURES.

(1) (a) Whenever a customer or applicant disputes a utility's request for a deposit or guarantee, or advises a utility that any part of any bill is in dispute, or that any matter related to the disconnection or refusal of water service is in dispute, or that any matter related to the customer or applicant's regulated service is in dispute, the utility shall:

1. Investigate the dispute promptly and completely.

2. Advise the customer or applicant of the results of the investigation.

3. Attempt to resolve the dispute.

4. When applicable, provide the opportunity for a residential customer or applicant to enter into a deferred payment agreement under s. PSC 185.35 in order to resolve the dispute.

(b) If a utility designates an agent to handle disputes and inquiries and if the agent refuses or fails to adequately address the disputes and inquiries, upon complaint or other indicator of refusal or failure, the dispute resolution responsibility required under this section reverts to the utility.

(c) If utility payments are ~~received by the utility~~ made electronically or through third parties and these third parties are authorized utility payment processors ~~for~~ with the utility, the dispute and inquiry resolution responsibility remains, ultimately, with the utility.

(2)(a) After the customer or applicant has pursued the available remedies with the utility, the customer or applicant may request that the commission staff informally review the disputed issue.

Note: See s. PSC 2.08.

(b) A customer's or applicant's request for informal review may be made in any reasonable manner such as by written notice or telephone request directed to the commission. By telephone or written request, the commission staff may request that the utility to investigate the dispute.

(3)(a) A utility shall designate one or more employees for responding to commission-referred complaints. These employees shall be readily available and have an appropriate and sufficient authority level to investigate concerns raised by the commission and its staff. Utilities shall promptly inform the commission of any changes in these designations.

(b) A utility shall respond to the commission staff's request for an investigation by contacting or attempting to contact the complainant within 2 business days for most circumstances, or 4 hours in an emergency situation. The utility shall provide a response to the commission within 10 business days of the commission's request for investigation. Staff may extend this response time period if the utility requests more time to complete its investigation.

(4)(a) Based on its review, commission staff shall make an informal, binding determination concerning the dispute and communicate that determination to both the customer or applicant and the utility either verbally or in writing. Either party to the dispute may request and receive the commission staff determination, and the basis for it, in writing.

(b) Commission staff shall inform any party disputing an informal determination of the right to pursue a formal review. Staff shall inform the party that a request for formal review shall meet the requirements in sub. (5).

(c) There shall be at least 7 calendar days between the date the commission staff provides verbal or written notice of its determination after informal review and any subsequent disconnection due to the disputed matter.

(5)(a) After informal review, any party to the dispute may make a written request for a formal review by the commission. Requests for formal review shall be in writing and shall describe the nature of the dispute and the basis for the review request.

(b) If a customer or applicant requests a formal review within 7 calendar days of the issuance of an informal determination, the utility may not disconnect water service until a determination on the request has been issued. Requests for formal review that do not involve disconnection shall be made within 20 days of the issuance of an informal determination. If the informal determination is issued verbally and written confirmation of the informal determination is requested within 2 days of issuance of the verbal determination, the 7 or 20 day period begins from the date on which the written confirmation is sent. If the written confirmation is requested after that 2-day period, the 7 or 20 day period begins from the date on which the informal determination is issued.

(c) Within 35 days from the time that the request for formal review is made, commission staff shall provide the commission with a memorandum based on the information it has received from the utility and the customer. A copy of the commission staff memorandum shall be provided to the parties at least 15 days prior to consideration by the commission. Either party to the complaint may file a response to the commission staff's memorandum. This response shall be filed with the commission at least 2 business days prior to the date on which the issue is scheduled for consideration by the commission. The commission shall base its determination on the request for formal review and commission staff's informal complaint file, including its memorandum.

Comment [I122]: 35 DAYS IS CONSISTENT WITH CURRENT RULE PSC 185.39(3)(b).

(d) The commission shall review the dispute and informal determination, and either order that a hearing be held on the disputed matter or choose not to hold a hearing.

~~(6)~~ (a) If the commission decides to conduct a hearing under sub. (5), the commission may condition the terms of its granting a hearing. Failure to meet these conditions before the hearing shall constitute waiver of the dispute by the customer, applicant or utility.

Comment [I123]: WHAT DOES THIS MEAN? WHAT TYPE OF CONDITIONS MIGHT THE COMMISSION IMPOSE? CONDITIONS SUCH AS . . .

(b) The hearing shall be held not less than 10 days following a notice.

(7) Either party to the complaint may request that the commission reconsider its determination under this section. Such requests shall be in writing, shall comply with s. 227.49, Stats., and shall be filed with the commission within 20 days of the date on which the determination is issued.

(8)(a) Except as provided in par. (b), a utility may not disconnect or refuse water service because of any disputed matter while the disputed matter is being resolved in accordance with the provisions of this section. The utility shall inform the customer that pursuing a disputed matter does not result in any of the following:

1. Relieving the customer from the obligation of paying charges which are not in dispute.
2. Preventing disconnection of water service for nonpayment of undisputed charges.
3. Preventing the application of the late payment charge to amounts in dispute and later determined to be correct.

(b) Upon consideration of the facts and circumstances involved, commission staff may waive the no disconnect requirement in par. (a).

PSC 185.60 GENERAL REQUIREMENTS.

(1) GOOD ENGINEERING PRACTICES. A utility shall design and construct its water ~~supply system plant~~ according to recognized and generally accepted good engineering practices.

(2) COMPLYING WITH REQUIREMENTS. A utility shall comply with the requirements for the design, construction, operation, and maintenance of its water supply systems ~~and plumbing~~ established in this chapter and by the appropriate federal, state, and local regulatory authorities.

PSC 185.61 DISTRIBUTION SYSTEMS.

(1) MAINS. (a) Ownership of mains. A utility shall own, maintain, repair and replace its distribution system.

(b) Location of mains. A utility shall locate any main that it owns either in a public right-of-way, or in a readily accessible easement. To the extent possible, a utility shall ensure that an easement is free of ~~permanent structures encumbrances such as pavement, landscaping, and mobile home pads.~~

(c) Installation of mains. A utility shall ~~take adequate measures to protect the water supply system from freezing. A utility shall install all water mains at such depth or provide whatever protection is necessary to prevent freezing. At a minimum, a utility shall~~ install mains according to the standards established by the department of natural resources.

Note: See NR 811.73 –NR 811.77 for specific requirements.

Comment [I124]: COVERED BY DNR REGULATIONS. DO NOT DUPLICATE.

~~(d) System reliability. Where practical, each utility shall design and construct its distribution system to maximize water service reliability.~~

Comment [I125]: DELETE. COVERED BY DNR REGULATIONS.

~~(e) Segmentation of system. A utility shall provide valves at reasonable intervals and appropriate locations so that service interruptions because of repairs to, or maintenance, repair or replacement of the mains are minimized.~~

Comment [I126]: DELETE. COVERED BY DNR REGULATIONS.

~~(f) Dead end mains. To the extent practicable, the utility shall design its water supply system to avoid dead end mains. Where dead ends are necessary, the utility shall install hydrants or other flushing devices to permit flushing. Dead end mains shall be flushed according to a schedule established using the standards of the department of natural resources.~~

Comment [I127]: DELETE. COVERED BY DNR REGULATIONS.

Note: See NR 810.13 (2) (d) and NR 811.70 (8).

~~Note: See PSC 185.67 about flushing mains.~~

(g) Repairs to mains. A utility may temporarily shut off the water supply in its mains to make repairs, alterations, or additions to the plant or system.

1. The utility shall make a reasonable attempt to notify any customers, property owners, or occupants who are directly affected by a scheduled water service interruption at least 24 hours prior to shutting off the water supply. This notice may be provided verbally or in writing.

2. A utility may not provide a credit to a customer for such a temporary interruption of the water supply due to repairs, replacements, alteration, or additions under this section.

(2) LATERALS.

(a) Ownership, repair and replacement. 1. Unless otherwise ~~approved by the commission in writing and included in a provided by a utility's~~ tariff, a utility shall own the portion of the lateral from the main up to and including the curb stop box. The utility shall be responsible for the maintenance, repair, and replacement of the utility-owned portion of a lateral.

2. Except ~~as provided in s. PSC 185.68 or~~ if the damage was caused by a utility, the utility is not required to maintain, repair, or replace the customer-owned portion of a lateral.

~~(b) Control valves. Each lateral connected to a utility's main shall have the appropriate control valves, as defined by SPS 382.40(4) (b).~~

Comment [1128]: COVERED BY DNR OR SPS CODES.

(c) Single connections. 1. Except as provided in ~~subd. 3. PSC 185.70(4) or (5),~~ one lateral shall be installed to each customer such that the utility can shut off water service to that customer without affecting the service of any other customer.

~~2. A customer owned portion of the lateral shall be directly connected to utility owned facilities. Except as provided elsewhere in this section, no customer may be connected to another customer's customer owned portion of the lateral.~~

Comment [1129]: THIS DOES NOT ADD ANYTHING TO 1. ABOVE.

~~Note: This provision does not prohibit meters downstream from the utility's meter so long as they are not used by the utility for billing.~~

4. A utility may allow a customer's water supply piping from more than one building to be installed to a central point so that the property can be master-metered if all of ~~the buildings are located on the same parcel, the following are true:~~

~~a. All of the buildings are located on the same parcel.~~

~~b. All of the buildings on the parcel are used in the same business.~~

~~c. All of the buildings are served by a single lateral.~~

~~(d) Lateral sizing. A utility shall ensure that a customer's installed lateral has the same size connection to the meter as to the main.~~

Comment [1130]: HANDLED BY PLUMBING CODE NOT UTILITY.

(e) Protection. ~~A utility shall take adequate measures to protect the water supply system from freezing. A utility shall install and take measures to protect~~ all utility-owned portions of a lateral ~~from at such depth and provide whatever protection is necessary to prevent freezing under normal conditions.~~

~~(f) A utility may not lay a lateral through any trench having cinders, rubbish, rock or gravel fill, or any other material which may cause injury to or disintegration of the lateral, unless adequate means of protection are provided by sand filling or other insulation.~~

Comment [1131]: DELETE. CONSTRUCTION ISSUE FOR DNR.

~~(g) Installation through a curb or retaining wall. A utility shall adequately safeguard laterals passing through curb or retaining walls by providing a channel space or pipe casing not less than twice the diameter of the lateral. The utility shall fill and lightly caulk the space between the lateral and the channel or pipe casing with an oakum, mastic cement, or other resilient material to ensure that the lateral is impervious to moisture.~~

Comment [1132]: DELETE. CONSTRUCTION ISSUE FOR DNR.

~~(h) Backfilling a trench. In backfilling a pipe trench, a utility shall protect the lateral against injury by carefully hand tamping the ground filling around the pipe. The utility shall ensure that there is at least 6 inches of ground filling over the pipe, and that the ground filling is free from hard lumps, rocks, stones, or other injurious material.~~

Comment [1133]: DELETE. CONSTRUCTION ISSUE FOR DNR.

(i) Curb stop boxes

1. ~~Unless provided by a utility's tariff, t~~he curb stop box is the property of the water utility. The water utility is responsible for its repair and maintenance. This includes maintaining, through adjustment, the curb stop box at an appropriate grade level where no direct action by the property owner or occupant has contributed to an elevation problem.

2. A utility shall have a policy in its tariff that neither a customer nor a property owner may cover over a curb stop box.

3. The property owner is responsible for protecting the curb stop box from situations that could obstruct access to it or unduly expose it to harm. If the location of a curb stop box has been modified or obscured by a customer or property owner, then all of the following are true:

a. The utility is not responsible for failing to locate the curb stop box and shutting off the water in case of a leak on the owner's premises.

b. The utility may require the property owner to locate the curb stop box.

c. The utility may locate the curb stop box and bill the property owner for the cost of doing so.

~~(3) METERING CONFIGURATION IN A PRIVATE WATER SYSTEMS.~~ (a) Master metering. ~~Unless otherwise authorized by the commission upon the utility's request, w~~Water distribution facilities within a private water system shall be master metered and the system's owner shall be the utility's billable customer.

~~(b) Individual metering. 1-~~A water utility may only provide retail service directly to individual dwellings within a private water system ~~if the requirements of s. PSC 185.70(4) are met, if the distribution facilities within the private water system are owned by the utility on easements.~~

Comment [1134]: IT IS NOT A PRIVATE WATER SYSTEM IF THE DISTRIBUTION FACILITIES ARE OWNED BY THE UTILITY

~~(c) Transfer of ownership of a private water system. 2-~~A utility may accept ownership of ~~a private water system such facilities~~ only if the facilities meet the utility's construction standards and the requirements of this section and s. PSC 185.60 ~~and the facilities are located on easements.~~

185.62 QUALITY OF WATER. ~~(1) WATER QUALITY-~~A utility shall provide water of such quality that it complies with state and federal requirements for drinking water.

~~(2) WATER PURITY. A utility shall design and operate its water system so that, except during temporary events such as the flushing of mains, the water supplied to customers is reasonably free from objectionable taste, color, odor, and sand or other sediment.~~

Comment [1135]: REDUNDANT TO (1)

PSC 185.63 ADEQUACY OF WATER SUPPLY, EMERGENCY OPERATIONS, AND INTERRUPTIONS OF SERVICE.

(1) ADEQUACY OF WATER SUPPLY. A public utility shall exercise reasonable diligence to furnish a continuous and adequate supply of water to its customers.

(2) EMERGENCY OPERATION.

(a) A utility shall make reasonable provisions to meet an emergency resulting from the failure of power supply or from fire, storm, or similar events. A utility shall inform its employees of procedures to be followed in an emergency to prevent or mitigate the interruption or impairment of water service.

(3) INTERRUPTIONS OF SERVICE.

(a) A utility shall make all reasonable efforts to prevent interruptions of water service, ~~including maintaining its water distribution system valves.~~ If an interruption occurs, the utility shall make reasonable efforts to re-establish service with the shortest possible delay, consistent with safety to its employees, customers, and the general public.

Comment [1136]: OVERLAP WITH DNR

(b) If an emergency interruption significantly affects fire-protection service, a utility shall immediately notify the fire chief or other responsible local official.

(c) A utility shall make reasonable efforts to schedule planned interruptions at times that minimize customer inconvenience. A public utility shall make reasonable efforts to notify customers of the time and anticipated duration of a planned interruption.

~~(d) A utility shall notify the commission of a water service interruption under s. PSC 185.101.~~

Comment [1137]: UTILITIES ARE NOT DOING THIS NOW

PSC 185.64 PRESSURE STANDARDS.

~~(1) Under conditions of normal heavy system demand, a utility shall maintain the pressure at the meter outlet or nearest faucet on the same floor at not less than 20 p.s.i.g. with the water flowing. For a typical residential customer, normal conditions of use shall mean a flow rate of not less than 12 gallons per minute. This standard assumes that the customer's portion of the service lateral is of normal, adequate design, and in good condition. The utility shall maintain the distribution main pressure at the valve that is closest to the main at not less than 35 p.s.i.g. with the water flowing. The utility shall establish minimum specifications for a lateral to ensure that excessive pressure drop does not occur in the lateral because of its length or for other cause.~~

Comment [1138]: DELETE AS THIS IS COVERED BY DNR REQUIREMENTS. NEED DEFINITION OF NORMAL HEAVY DEMAND IF THIS REMAINS. DNR N810.10

~~(2) A utility shall ensure that the pressure at the meter does not exceed 100 p.s.i.g. A utility shall ensure that the pressure at a meter does not exceed 125 p.s.i.g. for systems built after December 31, 1996 and, to the extent practicable, major additions to existing systems that existed before that date.~~

Comment [1139]: REFERENCE NR 810 FOR MAXIMUM AND MINIMUM PRESSURES

(3) A utility shall have at least one permanently installed pressure gauge on its system and shall have access to indicating and recording pressure gauges to check pressure levels.

~~(4) A utility shall perform enough pressure tests as to ensure that the pressure limitations of subs. (1) and (2) are being met.~~

Comment [1140]: DELETE SINCE (1) & (2) HAVE BEEN DELETED. ENFORCED BY DNR.

PSC 185.65 STATION METERS.

(1) In order to accurately measure the water pumped into its distribution system, a utility shall provide each pumping station with a station meter that is placed so as to ensure accurate measurement, including the meter manufacturer's recommended length of straight pipe before and after the meter to ensure proper fluid flow characteristics for the meter to accurately measure the volume of water pumped into its distribution system.

Note: See s. PSC 185.102 about pumpage records.

(2) A utility shall maintain station meters to ensure reasonable accuracy. ~~A utility and shall~~ check the accuracy of station meters at least once every 2 years except that magnetic flow meters may be checked at least once every 5 years.

(3) A utility shall select an appropriately sized station meter so that the actual flow rates are entirely within the normal flow range for the particular meter, as defined by the manufacturer. Where practical, a utility shall install a station meter in the inlet rather than outlet line of pressure tank storage reservoirs.

PSC 185.66 WATER AUDITS AND WATER LOSS CONTROL.

(1) DEFINITIONS.

(a) "Apparent loss" means the volume of water attributable to customer and station meter inaccuracies, billing and data transfer errors, unauthorized consumption, and theft.

(b) "Authorized consumption" means the volume of water used by metered and unmetered customers and the volume of water used for other purposes that is implicitly or explicitly authorized by the utility, including water used for flushing water mains and sewers, fire protection and training, street cleaning, public fountains, freeze prevention, and other municipal purposes regardless of whether the use is metered.

(c) "Economic level of leakage" means the level at which the cost of leakage abatement activities exceeds the marginal cost to produce ~~value of~~ the water saved.

Comment [1141]: MEASURED BASED ON MARGINAL PRODUCTION COST

(cm) "Non-revenue water" means the volume of water equal to the difference between the volume of water entering the distribution system and the volume of water that is sold.

(d) "Real loss" means the volume of water attributable to leaks and losses in the pressurized distribution system up to the customer meter, including water lost due to main breaks, service breaks, and tank and reservoir overflows.

(e) "Revenue water" means the volume of authorized consumption that is billed and produces revenue, including billed metered consumption and billed unmetered consumption.

(g) "Water loss" means the difference between the volume of water entering the distribution system and authorized consumption.

Note: Water loss equals the sum of real and apparent losses that are caused by unauthorized consumption, meter inaccuracies, systematic data handling errors, leaks in transmission and distribution mains, leaks in water service connections up to the customer meter, and leaks and overflows at a utility's storage tanks, as described in the American Water Works Association M36 manual – Water Audits and Water Loss Control Programs.

(2) UTILITY PRACTICES. A utility shall do all of the following:

(a) Meter all water uses and sales, where practicable.

(b) Maintain and verify the accuracy of customer meters.

(c) Maintain and verify the accuracy of station meters.

(d) Identify and repair leaks in its distribution system to the extent that it is reasonable for the public utility to do so.

(e) Control water usage from hydrants.

(f) Maintain a continuing record of water supplied to the distribution system and authorized consumption.

(g) Conduct an annual water audit under sub. (3).

(3) WATER AUDITS.

(a) A utility shall conduct an annual water audit on a calendar year basis ~~using the most current version of the American Water Works Association's Free Water Audit Software. The utility shall~~ and submit the results of the audit to the commission no later than April 1 of the subsequent year.

(b) The components of a water audit are shown in Table 1.

Comment [1142]: GO BACK TO ORIGINAL LANGUAGE. FOR (a). THIS IS FLEXIBLE ENOUGH TO USE EITHER AUDIT IN PSC ANNUAL REPORT, OR AWWA AUDIT. DO NOT MANDATE AWWA AUDIT TOOL FOR ALL UTILITIES BY RULE.

Table 1. Water Audit Components

Volume from Own Sources (corrected for known errors)	System Input Volume	Water Exported (corrected for known errors)	Billed Water Exported			Revenue Water
		Water Supplied	Authorized Consumption	Billed Authorized Consumption	Billed Metered Consumption	Revenue Water
Water Losses	Unbilled Authorized Consumption				Billed Unmetered Consumption	
		Real Losses	Apparent Losses	Unbilled metered Consumption	Non-Revenue Water	
Real Losses	Apparent Losses			Unbilled unmetered Consumption		Non-Revenue Water
		Real Losses	Apparent Losses	Systematic Data Handling Errors	Non-Revenue Water	
Real Losses	Apparent Losses			Customer Metering Inaccuracies		Non-Revenue Water
		Real Losses	Apparent Losses	Unauthorized Consumption	Non-Revenue Water	
Real Losses	Apparent Losses			Leakage on Transmission and Distribution Mains		Non-Revenue Water
		Real Losses	Apparent Losses	Leakage and Overflows at Utility's Storage Tanks	Non-Revenue Water	
Real Losses	Apparent Losses			Leakage on Service Connections up to the point of Customer Metering		Non-Revenue Water
		Water Imported (corrected for known errors)				

(4) WATER LOSS CONTROL.

(a) Each utility, except those that can demonstrate to the commission that they have reached an economic level of leakage, shall establish both individual goals and a water loss control plan ~~for reducing water loss. A utility shall file its plan and a brief summary of its goals with the commission at the same time it files its water loss audit report under sub. (3) (a), or at a later date set by the commission.~~

Comment [1143]: ELIMINATE REQUIREMENT TO FILE PLAN WITH COMMISSION.

(b) Individual goals. A utility shall establish individualized ~~measures of water use efficiency and goals to control water loss and improve water use efficiency. Any of the following may be used to measure the utility's progress towards its individual goals. The utility's measures may include any of the following:~~

Comment [1144]: FOCUS ON WATER LOSS. ELIMINATE REFERENCE TO EFFICIENCY HERE

1. The infrastructure leakage index from the water audit.
2. The data validity score from the water audit.
3. Operational real losses as shown in the water audit.
4. Operational apparent losses as shown in the water audit.
5. Economic level of leakage.

(d) Water loss control plan. A utility shall develop ~~and implement~~ a water loss control plan ~~to investigate, assess, and implement efforts to lessen water loss. The plan utility shall file its plan in a form and manner prescribed by the commission and may shall consider include~~ measures such as ~~any of the following:~~

1. Leakage management, including distribution system water leakage detection and repairs or replacements.
2. Finished water meter flow verification.
3. Customer water meter testing and calibration.
4. Billing system business process evaluation.
5. Resource allocation, including planned preventative maintenance.

~~(e) The commission may require a utility to take corrective action if, for 3 consecutive years, a utility does not show demonstrable progress in reducing its non-revenue water. A utility may show demonstrable progress through one or more of the following measures:~~

Comment [1145]: ESTABLISHES AN EVER LOWER STANDARD FOR WATER LOSS. PSC CAN ADDRESS UTILITY'S PROGRESS UNDER (f).

- ~~1. Improvement in the infrastructure leakage index and data validity score in the water audit.~~
- ~~2. Improvement in the operational real losses as shown in the water audit.~~
- ~~3. Improvement in the operational apparent losses as shown in the water audit.~~
- ~~4. Evidence that an economic level of leakage has been achieved.~~

(f) The commission may consider a utility's progress in addressing water loss during rate-making and construction authorization cases.

PSC 185.67 FLUSHING MAINS.

(1) A utility shall flush dead-end mains, or other low flow portions of distribution systems as needed to minimize objectionable water conditions due to lack of circulation. A utility shall place hydrants or other flushing devices to allow for flushing of the entire system.

(2) When practical, a utility shall give public notice of proposed flushing by using television, radio, newspaper announcement, or other appropriate means.

(3) A utility shall keep a record of all main flushing, showing the date, place, and estimated volume of water used. A utility shall use this record to ~~determine the necessary frequency of flushing and to~~ estimate unmetered use.

185.68 COLD WEATHER CONDITIONS AND FREEZING.

(1) ~~DEFINITIONS, RESPONSIBILITY FOR WATER SUPPLY SYSTEM. For purposes of this section:~~

(a) ~~“Utility’s side of the service lateral” means, unless otherwise provided in the utility’s tariffs, those facilities owned by the utility from the main to the curb stop box. “Portion of a water supply system for which the utility is responsible” means all of the following:~~

~~1. The main and all facilities preceeding the main.~~

~~2. The facilities between the main and the curb stop.~~

~~3. The curb stop box and valve, including the connection to that portion of the water supply system for which the property owner or customer is responsible.~~

(b) ~~“Customer’s side of the service lateral” means those facilities owned by the property owner of the premises provided with service from the curb stop box to the point of use. “Portion of a water supply system for which the property owner or customer is responsible means that portion that is between the customer’s side of the connection to the curb stop box and the point of use.~~

(2) ~~FROZEN LATERALS.~~

~~(a) A utility shall be responsible for determining how to respond to a frozen lateral in a manner that is consistent with the utility’s obligation to provide water service.~~

~~(b) If a utility thaws or arranges for the thawing of a frozen lateral a utility may select the method used to thaw the frozen lateral.~~

~~(c) If a utility thaws or arranges for the thawing of a frozen lateral, the cost of the thawing shall be borne by the utility except that the utility may charge the cost of the thawing to the customer if either:~~

~~1. The utility determines under par. (3) that the freezing is on the customer’s side of the service lateral, or~~

~~2. The utility has issued a run water notice that meets the requirements of pars. (5) or (6) to the customer and the freezing occurred after the run water notice was issued.~~

~~(d) A utility may provide or agree to provide a customer affected by a frozen lateral with service through an alternative water supply connection. A connection to a neighboring property is a type of alternative water supply connection.~~

~~(e) A utility may determine that it will not thaw frozen service laterals because of safety or risk issues provided the utility makes water service available in another manner.~~

(2) ~~THAWING FROZEN PORTIONS OF A WATER SUPPLY SYSTEM. (a) General rule. 1. A utility shall be responsible for the cost of thawing that portion of a water supply system for which it is responsible.~~

~~2. Except as provided in par. (b), a property owner or customer shall be responsible for the cost of thawing that portion of a water supply system for which it is responsible.~~

~~(b) Exceptions. 1. A utility shall thaw that portion of a water supply system for which the property owner or customer is responsible, at no cost to the property owner or customer, if the property owner, customer, and occupant have not each received the notice under sub. (5) (b) or (6).~~

2. The utility shall thaw that portion of a water supply system for which the property owner or customer is responsible, at no cost to the property owner or customer, if the freezing is a direct result of the utility disconnecting the customer for a reason other than a dangerous condition and the disconnection occurs during a time when conditions are such that freezing could reasonably be expected to occur.

(c) Alternative method of providing water. If a utility is unable to thaw a frozen portion of a water supply system for which it is responsible to thaw, then it shall supply the occupant with water using an alternative method such as connecting the occupant with another customer's service.

(3) ~~THE SOURCE OF THE FREEZING.~~

~~-(a) If a utility anticipates charging the cost of thawing to a customer, the A~~ utility shall employ reasonable methods for determining whether the in which of the following portions of a water supply system freezing began in the customer's side of the service lateral or the utility's side of the service lateral.

~~1. The portion for which the utility is responsible.~~

2. The portion for which the property owner or customer is responsible.

(b) A utility shall treat freezing as having begun in the utility's side of the service lateral ~~portion of the water supply system for which the utility is responsible if all of the following are true:~~

~~1. The source of freezing in a water supply system cannot be determined.~~

~~2. The portion of the water supply system for which the property owner or customer is responsible is frozen and there is no record of that portion of the water supply system freezing in the past.~~

(c) A utility shall document its findings about where freezing began.

~~(4) UTILITY'S FUTURE RESPONSIBILITY. (a) The utility is responsible for preventing future freezes if it determines under sub. (3) that freezing began in a portion of a water supply system for which the utility is responsible.~~

~~(b) If the utility is responsible for preventing future freezes, it shall do all of the following:~~

~~1. Initiate an immediate temporary corrective action that will prevent that portion of a water supply system from freezing again, such as giving the occupant a notice under sub. (6), which requests that the occupant run water.~~

~~2. Within a reasonable time frame, provide a lasting solution which may include adding ground cover or insulation to protect that portion of a water supply system from freezing under normal winter conditions.~~

~~Note: See s. 185.24 (6) which is the requirement to adjust a customer's bill for water that is run at the utility's request to prevent freezing.~~

~~Note: See the s. 185.61 (2) (c) requirement to protect utility owned portions of the laterals from freezing.~~

(45) PROPERTY OWNER OR CUSTOMER NOTIFICATION OF FREEZING ON CUSTOMER'S SIDE OF SERVICE LATERAL'S FUTURE RESPONSIBILITY.

~~-(a) The property owner or customer is responsible for preventing future freezes if the utility determines under sub. (3) that the frozen service is freezing began in the customer's side of the service lateral, a portion of a water~~

supply system for which the property owner or customer is responsible, the utility may charge the customer for the cost of thawing the frozen lateral.

(b) If the property owner or customer is responsible for preventing future freezes, if the utility determines that the frozen service is in the customer's side of the service lateral, the utility shall inform the property owner, customer and occupant, in writing, of all of the following:

1. That the frozen service is freezing began in the customer's side of the service lateral.

2. Whether the utility is charging the customer for the cost of thawing the frozen lateral, a portion of the water supply system for which the property owner or customer is responsible and that the property owner or customer is responsible for preventing future freezes.

~~3.~~ That the customer is responsible for preventing future freezes and the occupant may should initiate some immediate temporary corrective action to prevent future freezes that portion of a water supply system from freezing again, such as running the water at the customer's expense.

4. That if the customer's side of the service lateral freezes again the customer is responsible for the cost of thawing or alternative water.

~~5.~~ That the customer should consider undertaking a if no lasting solution is provided to prevent future freezing, such as adding ground cover or insulation, then the property owner or customer will be responsible for thawing its portion of the water supply system in the future.

6. A statement that the customer may contact the commission staff in the event that the customer disputes this finding and has pursued available remedies with the utility.

7. The commission's address, telephone number and web site.

(c) A utility shall provide the notice under sub. (b) at the following times:

1. ~~After the time~~ the utility determines that the frozen service is freezing began in the customer's side of the service lateral portion of a water supply system for which the property owner or customer is responsible.

2. Between October 1 and ~~November 30~~ October 15 of each succeeding year.

3. When a new named account holder ~~customer~~ applies for water service at that location between the time the notice was given under subd. 1. or 2. and April 1 of the following year.

~~(5)~~ RUN WATER NOTICE - INDIVIDUAL.

(a) In order to prevent the utility's side of the service lateral from freezing and to provide uninterrupted service, a utility may issue a run water notice to a customer.

~~(b)~~ A utility shall include all of the following in a notice under this subsection:

1. An explanation of why water should be run.

2. The date on which the occupant should begin running water.

3. The volume of water to be run, such as at the rate of 1 gallon per X minutes or Y fluid ounces per X minutes.

4. An explanation of how the volume in subd. 3. can be easily determined.
5. An explanation of how the occupant will know that the occupant can stop running water.
6. A statement that unless it has been told otherwise by the utility, the customer will receive a credit for the water that it runs at the utility's request and a description of the method that will be used to calculate the credit for the customer.

Note: See s. 185.34 (6) which is the requirement to adjust a customer's bill for water that is run at the utility's request to prevent freezing.

7. A statement that if the occupant does not run water after receiving the notice, the customer may, ~~under certain circumstances,~~ be responsible for the cost of thawing the lateral to the premises if it freezes~~customer's frozen portion of a water supply system.~~

(~~c~~b) Although it may use additional methods, a utility shall deliver a notice under this subsection in at least 1 of the following ways:

1. First-class mail to the mailing address and the service address, if different.
2. Hand delivery to an adult member of the household at the service address.
3. Unless the premises is likely to be empty because the customer is seasonal, leaving a notice at the service address.

(~~d~~e) A utility shall keep, for the time period specified in s. PSC 185.104 a record of its method of delivery for each notice issued under this subsection.

~~(d) A utility that issues a notice under this subsection shall notify the commission within 7 days of issuing it if a notice is sent to the lesser of the following:~~

- ~~1. 500 of the utility's customers.~~
- ~~2. 20% of the utility's customers if that number is greater than 50.~~

(~~6~~7) RUN WATER NOTICE – EMERGENCY NOTICE.

(a) When weather conditions result in a risk of freezing the service laterals in the water supply systems of of a significant number of multiple~~customers,~~ the utility may issue an emergency notice to customers informing them that they should run water to prevent freezing. The utility shall issue the notice in a manner most likely to reach its customers, including television, radio, and its web site.

(b) A utility shall include all of the following in the notice under par. (a):

1. An explanation of why water should be run.
2. The volume of water to be run, such as at the rate of 1 gallon per X minutes or Y fluid ounces per X minutes.
3. An explanation of how the volume in subd. 2. can be easily determined.
4. A statement that unless the customer has been told something different by the utility, the customer will receive a credit for the water that it runs.

Comment [1146]: IS THIS REQUIRED TO BE CUSTOMER SPECIFIC? NOTE ON CUSTOMER ACCOUNT?

Note: See s. 185.34 (6) which is the requirement to adjust a customer's bill for water that is run at the utility's request to prevent freezing.

(c) A utility shall issue an individual printed notice under sub. (76) to each affected customer as soon as practicable after issuing an emergency notice under this subsection.

~~(d) A utility that issues a notice under this subsection shall notify the commission within 7 days of issuing the notice.~~

Note: Issuing an emergency notice cannot take the place of issuing an individual notice under sub. (5) when an individual notice is required.

PSC 185.69 WATER SUPPLY SHORTAGE.

(1) DECLARATION. A utility may declare a water supply shortage if it cannot adequately meet customer demand due to drought, insufficient source capacity, or excessive demand.

(2) PLAN. A utility may adopt a water supply shortage curtailment plan and file the plan with the commission under s. PSC 185.23.

(3) APPLICABILITY. Unless a utility has adopted a water supply shortage curtailment plan under sub. (2), the provisions of this section apply.

(4) TEMPORARY CURTAILMENT. Except as provided in sub. (6), a utility may temporarily curtail water service to some or all of its customers during a water supply shortage, if the curtailment is necessary to protect utility facilities, to prevent a dangerous condition, or to alleviate a condition that presents an imminent threat to public health, welfare, or safety.

(5) UTILITY RESPONSIBILITIES. If a utility determines that it is necessary to curtail water service under this section, the utility shall do all of the following:

(a) Make reasonable efforts to notify customers affected by the water supply shortage.

(b) Request that all customers enact voluntary water conservation measures to reduce water consumption, including limiting irrigation and other non-essential uses.

(c) Implement any curtailment in an equitable manner that allows the utility to maintain reasonably adequate water service to the greatest number of customers, consistent with public health, welfare or safety.

(d) Promptly restore water service.

(6) APPROVAL TO CURTAIL ESSENTIAL USE CUSTOMERS. A utility may not curtail water service to a customer under this section without the commission's prior approval if the customer provides essential public health, welfare, or safety functions that require consistent water service or if any of the conditions described in ss. PSC 185.40(9)(a)8 and 10, (10), or (12), or 185.405(9)(a)8, (10), and (12) apply.

(7) REPORT. A utility shall report to the commission within 7 days of declaring a water supply shortage. The utility shall include in the report the reasons for any curtailment, the number of customers affected, the duration of the curtailment, and any other information requested by the commission.

PSC 185.70 CUSTOMER METERING REQUIREMENT.

(1) GENERAL. (a) A utility shall own and maintain the meters and ~~automated~~ meter reading devices that it uses for billing of utility service, unless otherwise authorized by the commission.

(b) A utility may use any type of meter as long as it meets the accuracy requirements specified in s. PSC 185.76 ~~before being placed into service.~~

(c) A utility shall ensure that the meter it uses for measuring the quantity of water delivered to a customer meets all of the following conditions:

1. Is in good working condition.
2. Is adequate in size and design for the type of service measured.
3. Is accurate to the standard specified in s. PSC 185.76 ~~before being placed into service.~~

(2) METER INSTALLATION. (a) A utility shall install ~~or arrange for the installation of~~ the meters that it uses to bill for utility service.

(b) ~~Except as provided in s. PSC 185.68, a~~ A utility is not responsible for the facilities after the curb stop box, except the meter. ~~When an owner has requested an additional meter, the owner is responsible for the related installation and maintenance of piping, whether inside or outside a building.~~

(c) A utility shall establish written standards for customers regarding meter-related plumbing and connections. The standards shall include all of the following:

1. The requirement that a property owner provide a suitable location and proper piping and connections for the meter at the owner's expense.
2. The requirement that the meter setting and associated piping comply with the water utility's standards.
3. The requirement to consult with the water utility about the type and size of the meter.

(3) METER REPAIRS. (a) A utility shall repair its meters and may not charge a property owner or customer for the cost of repairs caused by ordinary wear and tear.

(b) A utility may charge a property owner or customer for the cost of repairs to a meter resulting from the carelessness of the property owner or customer, or from his or her negligence in properly securing and protecting the meter. It is rebuttably presumed that damage that results from allowing a meter to become frozen or to be damaged from the presence of hot water or steam in the meter is due to the property owner or customer's carelessness or negligence.

(4) ~~METERING IN PRIVATE WATER SYSTEM.~~ (a) ~~Master metering.~~ ~~ASTER METERING.~~ Unless ~~otherwise authorized by the commission upon the utility's request, if~~ a utility ~~does not own~~ the water distribution facilities within a mobile home park, condominium association, trust, or other such entity, the utility shall master meter the private system and the park owner, condominium association, trust, or other such body, shall be the utility's billable customer.

Comment [1147]: CURRENT PSC 185.61(3)(a)

~~(5) INDIVIDUAL METERING. A utility may only provide retail water service directly to individual dwellings within a mobile home park, condominium association, trust, or other such entity, if the distribution facilities within the mobile home park, condominium association, trust, or other such entity, are owned by the utility on easements. The utility may accept such facilities for ownership at a utility's discretion and only if the facilities meet the utility's construction standards and the requirements of ss. PSC 185.60, 185.61 and other applicable state rules.~~

Comment [1148]: IF THE UTILITY OWNED THE DISTRIBUTION FACILITIES IT WOULDN'T BE A PRIVATE SYSTEM.

(b) Individual metering. With the commission's authorization, a water utility may at its discretion meter and bill utility service provided to individual premises within a private water system if the following requirements are met:

1. The utility has entered into an agreement with the owner of the private water system.

2. The owner of the private water system provides the necessary plumbing, meter settings, and access to enable individual metered service to each premises and individual disconnection of each premises without affecting service to other premises.

3. The water utility retains the right to master meter the private water system and bill the owner of the private water system for all water not billed to individual premises.

4. The water utility retains the right to collect delinquencies as if the owner of the private water system is the billable customer.

(5) INDIVIDUAL METERING IN MULTI-UNIT BUILDINGS. A utility may at its discretion provide individual metered service to each unit in a multi-unit building if the owner of the multi-unit building provides the necessary plumbing, meter settings, and access to enable individual metered service to each unit and individual disconnection of each unit without affecting service to other units. A utility may include in its service rules what is required for an owner to provide the necessary plumbing, meters settings, and access to individual units.

PSC 185.71 METER TESTING EQUIPMENT AND FACILITIES.

(1) Each utility furnishing metered water service shall own or provide, through contract or otherwise, adequate equipment and facilities to provide for testing all of its water meters. A utility shall ~~take steps to ensure be responsible for~~ the accuracy of equipment used as a standard to test meters.

~~(2) A utility shall ensure that a meter testing facility, to the extent practical, simulates the actual water service conditions of inlet pressure and outlet pressure. The utility shall ensure that the testing facility has the necessary fittings, including a quick-acting valve for controlling the starting and stopping of the test, and a device for regulating the flow of water through the meter being tested.~~

(3) The utility shall ensure that the overall accuracy of the meter testing equipment and test procedures are sufficient to enable the testing of meters within the requirements of this chapter. In any event, the inherent overall accuracy of the equipment shall permit tests with an overall error of not to exceed 0.5 % at the normal test flows established by the meter's manufacturer and 1.0 % at the stated minimum test flow.

Comment [1149]: REDUNDANT. NOT CLEAR HOW PRESSURE RELATES TO METER TESTING.

PSC 185.72 CALIBRATION OF METER TESTING EQUIPMENT.

(1) A utility may use a calibrated tank to test meters only if the tank is accompanied by a dated certificate of accuracy from an approved laboratory or agency.

(2) A utility may use a reference meter to test meters only if the reference meter has been tested and calibrated during the preceding 6 months. A record shall be kept of the 2 latest tests of any reference meter.

PSC 185.73 WHEN TO TEST CUSTOMER METERS.

(1) A utility shall test the following meters before placing them in service:

(a) Rebuilt meters.

(b) Except as provided in s. PSC 185.805, new meters that are received from the supplier without a certificate of accuracy.

(2) A utility shall test all meters at the following times:

- (a) ~~As required Periodically~~ under s. PSC 185.81, unless the utility is using an alternative sample-testing plan under s. PSC 185.815.
- (b) Upon customer request or complaint as provided in s. PSC 185.82.
- (c) Upon commission request.
- (d) When damaged or otherwise suspected of being inaccurate.
- (e) If a meter is removed while a usage dispute is pending.

PSC 185.74 COMPARISON OF METER INDEX READINGS AND AUTOMATIC METER READING SYSTEM READINGS.

(1) This section only applies to AMR systems utilizing dual reading remote registrations.

~~(24) A utility shall compare the meter index and AMR system readings each time the meter is tested or exchanged, every 10 years, or when performing a final read under s. PSC 185.32 (5), whichever time period is shorter.~~

~~(32) The utility is not required to take any action if the meter index reading and the AMR system reading are the same.~~

~~(43) If the meter index reading and the AMR system reading are not substantially the same, then the utility shall test the meter. If the meter tests as accurate and billing has been based on AMR readings, the utility shall adjust the billing under s. PSC 185.34. If the meter does not test as accurate, the utility shall adjust the billing under s. PSC 185.82(3).~~

PSC 185.75 HOW TO TEST CUSTOMER METERS.

- (1) A utility shall test a customer meter by comparing the meter's accuracy with that of a standard of known accuracy, such as a reference meter or a calibrated tank.
- (2) A utility shall test a meter "as found," and, unless the meter must be retained under s. PSC 185.82 (3), "as left."
- (3) When testing a customer meter, a utility shall use the instructions and specifications in s PSC 185.76 Tables 1 to 3.
- (4) If a utility learns that a meter is not meeting the accuracy or other requirements of ss. PSC 185.70 (1) or 185.76, the utility shall replace, repair, or rebuild the meter to meet those requirements before further use.

~~(5) Under certain conditions, a dangerous voltage may appear across a meter setting when a water line is electrically opened as by removal of the meter. When a meter is removed, a utility employee or contracted worker shall connect an appropriate electrical jumper across the meter setting or proposed opening in the piping to maintain electrical continuity. If the water supply piping is used as a ground for the building's electrical service, the electrical jumper may not be removed. The electrical jumper shall remain in place until a meter is again set or the piping closed. If a meter is to be removed and not reinstalled, the utility shall inform the customer that the customer must arrange for the installation of a permanent electrical jumper before the meter is removed. The jumper may not be removed until a meter is again set or the piping closed.~~

Comment [I150]: "AWWA USES LANGUAGE TO DESCRIBE THE OLD TECHNOLOGY AS "DUAL READING REMOTE REGISTRATION" MEANING TWO REGISTERS – A METER INDEX (INSIDE) AND REMOTE INDEX (OUTSIDE). NEW TECHNOLOGY IS DEFINED AS "DIRECT READING" REMOTE REGISTERS AND "ENCODER" TYPE REGISTERS – THESE ARE SINGLE INDEX REGISTERS. PSC 185.74 WOULD APPLY ONLY TO "DUAL READING REMOTE REGISTRATION" SYSTEMS.

PSC 185.76 ACCURACY REQUIREMENTS FOR NEW, REBUILT, OR REPAIRED METERS.

Comment [I151]: PROPERTY OWNER'S RESPONSIBILITY TO ENSURE THAT ELECTRICAL SERVICE IS PROPERLY GROUNDED AND THAT METALLIC SERVICE IS REPLACED WITH A NON-CONDUCTIVE PLASTIC WATER SERVICE.

Comment [I152]: REVIEW REST OF PROPOSED RULE FOR REFERENCES BACK TO PSC 185.76. CURRENT RULE REFERS TO AVERAGE FLOWS.

(1) APPLICABILITY. Metering accuracy requirements apply to the complete installation, including devices such as automated meter reading devices.

(2) POSITIVE DISPLACEMENT METERS. A utility shall ~~ensure~~test the accuracy of a new, rebuilt, or repaired positive displacement meter using the specifications found for the minimum, intermediate and maximum rates in Table 1. The meter shall test within the accuracy limit specified. If the meter does not test within the accuracy limit, unless the meter must be retained under s. 185.82(3), the utility shall remove the meter, and may either retire it or repair and retest it.

Table 1
Summary of Test Conditions and Accuracy Requirements for
New, Rebuilt, and Repaired Cold Water Positive Displacement
Meters (AWWA C700*)

Size in.	Minimum Rate**				Intermediate Rate				Maximum Rate			
	Rate of Flow gpm	Test Quantity		Accuracy Limits Percent	Rate of flow gpm	Test Quantity		Accuracy Limits Percent	Rate of flow gpm	Test Quantity		Accuracy Limit Percent
		Gal.	Cu. Ft.	Gal.		Cu Ft	Gal.	Cu Ft				
5/8	¼	10	1	<u>95-101</u>	2	10	1	<u>98.5-101.5</u>	15	100	10	98-102 <u>98.5-101.5</u>
3/4	1/2	10	1	<u>95-101</u>	3	10	1	<u>98.5-101.5</u>	25	100	10	98-102 <u>98.5-101.5</u>
1	3/4	10	1	<u>95-101</u>	4	10	1	<u>98.5-101.5</u>	40	100	10	98-102 <u>98.5-101.5</u>
1 1/2	1 1/2	100	10	<u>95-101</u>	8	100	10	<u>98.5-101.5</u>	50	100	10	98-102 <u>98.5-101.5</u>
2	2	100	10	<u>95-101</u>	15	100	10	<u>98.5-101.5</u>	100	100	10	98-102 <u>98.5-101.5</u>
3	4	100	10		20	100	10		150	500	50	98-102
4	7	100	10		40	100	10		200	500	50	98-102
6	12	100	10		60	100	10		500	1000	100	98-102

* ~~Except for the accuracy limits column.~~

**At this flow rate the test quantity may be reduced to that equivalent to one-half revolution of the test dial. For the typical 5/8- inch meter the minimum test quantity would, therefore, be 5 gal. or 1/2 cu. ft.

(3) COMPOUND METERS. (a) A utility shall ~~ensure~~test the accuracy of a new, rebuilt, or repaired compound meter using the process in this subsection and the specifications found in Table 2. If the meter does not test within the accuracy limit, unless the meter must be retained under s. PSC 185.82 (3), the utility shall ~~remove the meter, and may~~ either retire it or repair and retest it.

~~(b) A utility shall determine whether or not the bypass unit operates at its minimum flow rate and at the maximum flow rate.~~

Comment [I153]: REDUNDANT TO (C)

(c) A utility shall test a compound meter at all of the following points:

1. Below the minimum of the changeover rate.
2. The maximum flow rate or as close to that rate as practicable.
3. Approximately 50% of the maximum flow rate but above the changeover range for that type of meter.

Table 2

Summary of Test Conditions and Accuracy Requirements for
New, Rebuilt, and Repaired Compound Meters
 (AWWA C702*)

Comment [I154]: SAME AS AWWA

Changeover rate

Maximum rate

Size	Minimum Rate (New and Rebuilt)				Changeover rate Changeover Point (All Meters)				Maximum rate (All Meters)				
	Rate of flow	Test quantity		Accuracy Limits	Rate of flow	Test quantity		Accuracy Limits	Rate of flow	Test quantity		Accuracy limits	
In.	gpm	Gal	Cu Ft	Percent	gpm	Gal	Cu Ft	Percent	gpm	Gal	Cu Ft	Percent Class I	Percent Class II
2	**	100	10	95-101				90-103	160	100 400	10 50	98-102 97-103	98.5-101.5
3	**	100	10	95-101				90-103	320	500 1000	50 100	98-102 97-103	98.5-101.5
4	**	100	10	95-101				90-103	500	500 1500	50 200	98-102 97-103	98.5-101.5
6	**	100	10	95-101				90-103	1000	1000 3000	100 400	98-102 97-103	98.5-101.5
8	**	200	20	95-101				90-103	1600	2000 4000	200 500	98-102 97-103	98.5-101.5
10	**	1000	100	95-101				90-103	23000	2000 4000	200 500	98-102 97-103	98.5-101.5

* Except for the accuracy limits column.

** Varies by meter. Use manufacturer's recommendation.

(4) TURBINE METERS. (a) A utility shall ~~ensure test~~ the accuracy of a new, rebuilt, or repaired turbine meter using the process in this subsection and the specifications found in Table 3. The meter shall test within the accuracy limit specified. If the meter does not test within the accuracy limit, unless the meter must be retained under s. PSC 185.82 (3), the utility shall ~~remove the meter, and may~~ either retire it or repair and retest it.

(b) A utility shall test a turbine meter at each of the following flow rates:

1. The minimum flow rate.
2. The maximum flow rate or as close to that rate as practicable.
3. At a point midway between the maximum and minimum flow rates.

Table 3

Summary of Test Conditions and Accuracy Requirements for
New, Rebuilt, and Repaired Cold Water Turbine Meters
 (AWWA C701*)

Comment [I155]: SAME AS AWWA

Minimum rate (New and Rebuilt)	Maximum rate (All Meters)
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Size	Rate of flow	Test quantity		Accuracy limits	Rate of flow	Test quantity		Accuracy limits
	gpm	gal	Cu Ft	Percent	gpm	gal	Cu Ft	Percent
2	16	100	120	<u>98.5-101.5</u>	120	300	30	98-102
	<u>4</u>				<u>160</u>	<u>50</u>	<u>98.5-101.5</u>	
3	24	100	250	<u>98.5-101.5</u>	250	500	50	98-102
	<u>8</u>				<u>350</u>	<u>100</u>	<u>98.5-101.5</u>	
4	40	100	400	<u>98.5-101.5</u>	400	1000	100	98-102
	<u>15</u>				<u>630</u>	<u>200</u>	<u>98.5-101.5</u>	
6	80	1000	100	<u>98.5-101.5</u>	1000	2000	200	98-102
	<u>30</u>				<u>1400</u>	<u>400</u>	<u>98.5-101.5</u>	
8	140	1000	100	<u>98.5-101.5</u>	1500	3000	300	98-102
	<u>50</u>				<u>2400</u>	<u>700</u>	<u>98.5-101.5</u>	
10	225	1000	100	<u>98.5-101.5</u>	2200	5000	500	98-102
	<u>75</u>				<u>3800</u>	<u>10,000</u>	<u>1300</u>	<u>98.5-101.5</u>
12	400	1000	100	<u>98.5-101.5</u>	3200	7000	700	98-102
	<u>120</u>				<u>5000</u>	<u>15,000</u>	<u>2000</u>	<u>98.5-101.5</u>

* Except for the accuracy limits column.

PSC 185.80 TESTING OF METERS BEFORE USE.

(1) The utility shall test all of the following meters before placing them in use:

- (a) Rebuilt meters.
- (b) New meters that are received from the supplier without a certificate of accuracy.

(2) Notwithstanding sub. (1), a utility may use a sample-testing plan under s. PSC 185.805 as an alternative to testing all meters under sub. (1) (b).

PSC 185.805 ALTERNATE SAMPLE-TESTING PLAN FOR "BEFORE-USE" TESTING OF 5/8-, 3/4-, AND 1-INCH METERS.

(1) A utility shall divide new meters that are received from the supplier without a certificate of accuracy into lots of 36 or less. Each lot shall consist of meters of the same make, type, and size.

(2) The utility shall select and test a randomly-selected sample of 4 meters from each lot.

(3) If any of the tested meters in a given lot fail to meet the accuracy requirements of s. PSC 185.76 for new meters, the utility shall do one of the following:

- (a) Reject the entire lot.
- (b) Test all meters in the lot, rejecting or correcting those found to be inaccurate.

(4) The utility shall maintain, for the time period specified in s. PSC 185.104, records showing the identification numbers of all meters in each lot and the test results for the meters tested.

PSC 185.81 PERIODIC TESTING OF IN-USE METERS.

Comment [1156]: WE DON'T KNOW OF UTILITIES ACCEPTING NEW METERS WITHOUT TEST CERTIFICATES. IS THIS NECESSARY?

(1) A utility shall test in-use meters as frequently as is necessary to ensure that they continue to meet the accuracy requirements in s. PSC 185.76. Unless otherwise authorized by the commission, each utility shall observe a test schedule that requires a test at least as often as shown in Table 185.81 (1).

Table 185.81 (1)

Periodic Meter Testing Table	
Meter Size	Frequency of Meter Test
⁵ / ₈ , ³ / ₄ and 1-inch meters	10 years
1 ½ and 2-inch meters	6 years
3 and 4-inch meters	2 years
6-inch and larger meters	Once a year

(2) A utility shall test in-use meters more frequently where local water conditions are such that a meter does not retain the required accuracy for the periods indicated in Table 185.8176 (1). The commission may also specifically require more frequent testing.

(3) A utility may, with specific commission approval, extend the test interval for in-use meters that measure 4- inches or less if local water conditions permit and the utility provides the data under sub. (67) to the commission showing that those meters remain accurate for the extended period.

(4) In lieu of testing every in-use 5/8-, 3/4-, and 1-inch water meter as required under sub. (1), a utility may use a sample-testing plan under s. PSC 185.815.

(5) ~~Unless otherwise specified by its water loss control plan, When a utility shows demonstrable progress in reducing its non-revenue water under PSC 185.66 (4) (e),~~ a utility may, in lieu of testing every in-use meter as required under sub. (1), adopt a meter replacement program that results in each 5/8, 3/4, and 1-inch meter being replaced with a new meter within 20 years of the original date of installation.

Comment [1157]: IT IS CRITICAL THAT THIS OPTION REMAIN

(6) When requesting commission approval to test less frequently under sub. (3), a utility shall provide the commission meter test data that demonstrate that a significant number of meters remain accurate for the extended period. This data shall include the year in which a meter was purchased, the number of meters purchased during that year and, as to the meters purchased in each year, all of the following:

- (a) The test results for all of the meters.
- (b) The number of years each meter was accurate without repairs.
- (c) The number of meters that were retired during the extended period and the age at retirement.
- (d) The number of meters that needed to be repaired during the extended period before being placed back into service.

PSC 185.815 ALTERNATIVE SAMPLE-TESTING PLAN FOR IN-USE 5/8-, 3/4-, AND 1-INCH METERS.

(1) In lieu of periodically testing every in-use water meter as required under s. PSC 185.81 (1), a utility may use the sample-testing plan under this section to test 5/8-, 3/4-, and 1-inch water meters.

(2) A utility shall divide meters that have been in service for at least 120 months into homogeneous lots by manufacturer, capacity and year manufactured or refurbished. The number of meters in any lot may not exceed 10,000 or be less than 2.

Comment [I158]: THIS DEFINITION FOR HOMOGENEOUS LOTS WILL LIMIT THE USEFULNESS OF THIS SECTION ESPECIALLY FOR SMALL UTILITIES

(3) (a) From each lot assembled under sub. (2), the utility shall ~~select~~draw a sample of the size specified in Table 1. ~~The sample shall be drawn through use of a computer generated random sampling that ensures that each meter in the lot has an equal chance of being selected.~~

Comment [I159]: TEST METERS FROM LOCATIONS THAT CAN BE EASILY ACCESSED

(b) Meters that cannot produce a valid test because of physical damage may not be used in the sample.

~~(c) If a cumulative 2% of the meters in a lot are found to not be registering, the entire lot shall be considered not acceptable for continued use. Until that 2% point is reached, any nonregistering meter in a sample may be removed for analysis purposes, and be replaced with other randomly selected meters from the lot.~~

Comment [I160]: IF METERS ARE NOT REGISTERING THAT IS A BILLING ISSUE, NOT A METER TESTING ISSUE.

(4) The utility shall test each meter in the sample using the testing accuracy requirements of PSC 185.76.

(5) A utility shall calculate an average accuracy for each meter, using the test results found under PSC 185.76 Table 1. For positive displacement meters the low flow test point is not considered for developing the average.

Comment [I161]: SAME AS CURRENT REQUIREMENT

(6) A meter shall be considered a nonconforming unit if its average accuracy is less than 97.98% or greater than 102%.

Comment [I162]: KEEP CURRENT LIMITS

(7) (a) If the number of nonconforming units found in the first sample is less than or equal to the first acceptance number in Table 1, the lot is acceptable for continued use.

(b) If the number of nonconforming units found in the first sample is greater than or equal to the first rejection number in Table 1, the lot is not acceptable for continued use.

(c) If the number of nonconforming units found in the first sample is greater than the appropriate first acceptance number in Table 1 and less than the appropriate first rejection number in Table 1, then a second sample of the size specified in Table 1 shall be assembled under sub. (3) and tested under sub. (4).

(d) The number of nonconforming units found in the first sample and the number of nonconforming units found in the second sample shall be added together.

(e) If the cumulative number of nonconforming units is equal to or less than the appropriate second acceptance number shown in Table 1, the lot shall be considered acceptable for continued use.

(f) If the cumulative number of nonconforming units is equal to or greater than the appropriate second rejection number shown in Table 1, the lot shall be considered not acceptable for continued use.

Lot size	1st sample size	1st sample acceptance number	1st sample rejection number	2nd sample size	2nd sample acceptance number	2nd sample rejection number
2-8	2	0	2	2	1	2
9-15	2	0	2	2	1	2
16-25	3	0	2	3	1	2
26-50	5	0	2	5	1	2
51-90	8	0	2	8	1	2
91 - 150	13	0	2	13	1	2

Comment [I163]: THE TEST LIMITS APPEAR TO BE MUCH TIGHTER THAN WHAT IS REQUIRED UNDER CURRENT RULES. MAKES IT LESS LIKELY THAT UTILITIES WILL USE THIS. MOST UTILITIES INDICATED INTENT TO USE 20 YEAR REPLACEMENT INSTEAD OF THIS.

151 – 280	20	0	3	20	3	4
281 – 500	32	1	4	32	4	5
501 – 1200	50	2	5	50	6	7
1201 – 3200	80	3	7	80	8	9
3201 – 10,000	125	5	9	125	12	13

Based on ANSI/ASQ Z1.4-2008, Table 1, General Inspection Level II, Table III-A, Double Sampling Plan, Acceptance Quality Limit (AQL) of 2.5%.

(8)(a) If a lot is considered not acceptable for continued use, the utility shall test all of the meters in the lot during the 4 subsequent years, testing no less than 25% of the failed lot in each of the first 3 years and the remainder in the 4th calendar year.

(b) Those meters that are tested under par. (a) and are accurate may be returned into service. Those meters that are tested under par. (a) and are inaccurate shall be retired or fixed and returned into service.

(9) If a utility is using a statistical sample testing plan for in-use meters a report of statistical sample testing results shall be filed with the commission by April 1 of each year. The report shall reflect the previous year's testing activity. The report shall include, at a minimum, all of the following information:

- (a) A meter lot identified for reference purposes.
- (b) A description of each meter lot, including information such as year placed in use and manufacturer.
- (c) The number of meters in each lot.
- (d) The sample size.
- (e) The s. PSC 185.815 and its Table 1 acceptance and rejection thresholds.
- (f) The number of nonconforming units found in each sample.
- (g) The mean meter accuracy of each sample.
- (h) The average meter accuracy for each sample.
- (i) The number of meters that did not register and the number of meters that were exchanged in the field without testing, that are associated with the entire lot, not just the sample.

PSC 185.82 REQUEST TESTS AND METER RETESTS.

(1) REQUEST TESTS. (a) When to test. Upon a customer's request, or commission staff request, a water utility shall test the accuracy of a meter serving a customer, provided the customer does not request such a test on the same meter more frequently than one of the following:

1. Once in 24 months, for a meter that is 4" or smaller.
2. Once in 12 months, for a meter that is larger than 4".

(b) How to test. The test shall be performed in accordance with this subchapter.

(c) Where to test. The test shall be performed, at the utility's discretion, at one of the following:

1. The utility's testing shop.
2. A customer's premises.
3. A third party testing facility that is acceptable under subch. VII.

(d) Testing in customer's presence. Upon request, a utility may perform the test under par. (a) in the presence of the customer during normal business hours. During such a test the utility shall provide the customer with a step-by-step explanation of the test as it is performed.

(e) Fee for test. There shall be no fee for a customer-requested test, except that a utility may charge a fee equal to its cost to perform the test if it performs a second or subsequent request test for the same customer on the same meter within the time period specified in subd. (a) 1., and has notified the customer about the fee in advance. The fee shall be refunded to the customer by the utility if the meter is found to be inaccurate as determined under s. PSC 185.76.

(2) REFEREE TESTS. (a) When to test. Upon a customer's request and if required by the commission, a utility shall test a meter in the presence of a qualified commission representative, ~~provided the customer does not request such a referee test on the same meter more frequently than once in 12 months.~~

(b) Fee for test.- A utility may charge a fee equal to its cost to perform the test if the utility has previously performed a request test for the same customer on the same meter within the time period specified in subd. (a) 1., and has notified the customer about the fee in advance. The fee shall be refunded to the customer by the utility if the meter is found to be inaccurate as determined under s. PSC 185.76.

~~(b) Testing in customer's presence. Upon request, a utility may perform the test under par. (a) in the presence of the customer during normal business hours. During such a test the utility shall provide the customer with a step-by-step explanation of the test as it is performed.~~

(3) METER RETENTION. (a) Definitions. For purposes of this subsection, "as found" means retained, filled with water and capped without any other adjustments being made since the last test was performed.

(b) After a customer requested test. When a utility performs a customer requested test on a customer's meter under sub. (1) or when the commission requests that a meter be tested, the utility shall keep the tested meter, in "as found" condition, at a designated location on the utility's premises for at least one full billing period plus four weeks after the test result report is issued so that the meter is available should another meter test be requested. If the meter tests as accurate, the utility may choose to keep the tested meter installed at the customer's premises for the designated time period rather than storing it at the utility's premises.

(c) After a referee test. When a utility perform a referee test on a customer's meter under sub. (2), the utility shall keep the tested meter, in "as found" condition, at a designated location on the utility's premises for at least 10 business days after the test result report is issued so that the meter is available should further testing or review be needed. If the meter tests as accurate, the utility may choose to keep the tested meter installed at the customer's premises for the designated time period rather than storing it at the utility's premises.

(d) When a complaint or dispute occurs. When a utility receives a complaint under s. PSC 185.53 or is notified about a dispute under 185.54 involving a meter-related issue, the utility shall keep the meter, in "as tested" condition, at a designated location on the utility's premises for at least one full billing period plus four weeks after the complaint or dispute and any appeal of that dispute is resolved so that the meter is available should testing be requested. If the meter was tested during the complaint or dispute process, and it tested as accurate, the utility

may choose to keep the tested meter installed at the customer's premises for the designated time period rather than storing it at the utility's premises.

~~(c) Fee for retest. There shall be no fee for a retest under par. (a) 1., except that a utility may charge a fee equal to its cost to perform the test if the utility performs a second or subsequent retest for the same customer on the same meter within the time period specified in sub. (1) (a) 1., for the meter size involved, and has notified the customer about the fee in advance.~~

Comment [I164]: DUPLICATES LANGUAGE ALREADY INCLUDED ABOVE

~~(c) Refund of fee. The fee under par. (b) shall be refunded to the customer by his or her utility if the meter is found to be inaccurate as determined under s. PSC 185.76.~~

Comment [I165]: DUPLICATES LANGUAGE ALREADY INCLUDED ABOVE

(4) TEST RESULT REPORTS AND NOTICES. (a) Provide report to customer. A utility shall provide the customer a written copy of the meter test record~~detailed written report~~ giving the results of each test under sub. (1) (a) or (2) (a) ~~to the customer~~. The utility shall provide written notice to the customer on~~indicate on the report~~ how long the customer has to dispute the test results.

(b) Deadline to dispute customer requested test results. A utility shall give a customer at least 30 days after ~~a~~ written notification of the results of report for~~a~~ a customer requested test under sub. (1) (a) is issued to dispute test results.

(c) Deadline to dispute meter retests. A utility shall give a customer at least 10 business days after ~~a~~ written notification of the results of report for~~a~~ a retest under sub. (2) (a) is issued to dispute test results.

PSC 185.90 DEFINITIONS. In this subchapter:

(1) "Net cost effectiveness" means the extent to which a water conservation program or measure is cost effective, after being adjusted for all of the following:

(a) The amount of water savings that would have been achieved in the absence of the water conservation program or measure.

(b) The amount of water savings directly attributable to the influence of the water conservation program or measure but that is not specifically included in the program or measure.

PSC 185.91 CUSTOMER EDUCATION REQUIREMENTS. ~~At least annually, a utility shall provide information to each customer that may assist the customer in~~ A utility shall provide information on its web site on reducing outdoor water use, repairing water leaks, and implementing other water conservation measures. Alternatively, this information may be provided to customer's by mail~~generally provided on the utility's web site.~~

PSC 185.92 VOLUNTARY WATER CONSERVATION REBATE OR INCENTIVE PROGRAMS.

(1) DEFINITION. In this section, "voluntary program" means a water conservation program a public utility voluntarily proposes to administer or fund that provides rebates or other direct financial incentives to customers for water-efficient products or services.

(2) REQUEST TO ADMINISTER OR FUND A VOLUNTARY PROGRAM. A utility may not administer or fund a voluntary program without commission approval. A utility may file a request with the commission for authorization to administer or fund one or more voluntary programs within its service area. A utility requesting a voluntary program shall provide all of the following information:

- (a) A description of the proposed program, including the target market, eligible measures, delivery strategy, marketing and communications strategy, incentive strategy, and potential market effects.
- (b) The proposed annual program budget, including administrative costs, and source of funding.
- (c) Annual and multi-year performance targets that are consistent with commission goals and policies.
- (d) A portfolio and program level net cost effectiveness analysis.
- (e) A description of the utility's proposed tracking and reporting system.
- (f) A description of the utility's proposed evaluation, measurement, and verification plan.
- (g) A description of how the utility will coordinate its voluntary program with any statewide water conservation program, including any requirements contained in ch. NR 852.
- (h) Any other information the commission requests.

(3) APPROVAL OF VOLUNTARY PROGRAM.

(a) The commission shall consider each of the following when deciding whether to approve a voluntary program:

1. Whether the program is in the public interest.
2. The likelihood the utility will achieve its program goals.
3. The inclusion of appropriate water conservation measures.
4. The adequacy of the proposed budget.
5. The net cost effectiveness of the program.
6. The adequacy of the utility's evaluation, measurement, and verification plan.
7. The level of coordination with any statewide water conservation program, including any requirements contained in ch. NR 852.

(b) Unless the voluntary program is included in a general rate proceeding, the commission shall issue its decision to approve, deny, or modify a proposed voluntary program in writing within 60 working days after receiving the proposal. If the commission denies or modifies a proposed voluntary program it shall explain its reasons for the denial or modification. If the commission denies a voluntary program, the utility may revise and resubmit a request for approval of a voluntary program at any time.

(4) MODIFYING OR DISCONTINUING A VOLUNTARY PROGRAM. utility may request that the commission authorize the modification or discontinuation of a voluntary program at any time. A utility may not modify or discontinue a voluntary program without commission approval.

(5) RETURN OF FUNDS. The commission may require a ~~public~~ utility to return any unspent funds collected for a voluntary program approved under this section to its ratepayers.

(6) ANNUAL REPORTS. A utility receiving commission approval for a voluntary program under this section shall submit an annual report to the commission no later than April 1 following the covered year. The report shall include all of the following:

- (a) A summary of program activities in the previous calendar year.
- (b) An itemized accounting of administrative and program costs.
- (c) The program balance or deficit at the end of the year.
- (d) Estimated water savings attributable to the program, by customer class.
- (e) The number of customers receiving rebates or other incentives.
- (f) Estimated non-water benefits, including energy savings.
- (g) Other performance metrics identified by the utility.
- (h) Any other information requested by the commission.

(7) AUDITS AND VERIFICATION. The commission may conduct an audit, or contract with an independent third-party evaluator to conduct an audit, to verify the performance of a utility's voluntary program. The utility shall pay for the costs of the evaluation, as determined by the commission.

PSC 185.100 LOCATION OF RECORDS. A utility shall keep all records required or necessary for the administration of this chapter within this state unless otherwise authorized by the commission. These records shall be available for examination by the commission. A utility may fulfill this section by being able to access electronic copies of ~~the~~ original records ~~that are not electronic~~ as long as the original records can be produced upon request.

Note: See s. 196.06 (6), Stats.

Comment [1166]: WHAT IF THE ORIGINAL RECORDS ARE ELECTRONIC? THIS IS MORE COMMON NOW.

PSC 185.101 RECORDS AND REPORTS OF UNPLANNED INTERRUPTION OF SERVICE INTERRUPTIONS. (1) A utility shall keep a record of all interruptions to water service affecting ~~25% or more of the an~~ entire distribution system ~~or an entire pressure zone of any urban area or an important division of a community.~~ The record shall show all of the following:

Comment [1167]: MAKE CONSISTENT WITH NR 810.12

- (a) The date and time of interruption.
- (b) The cause of the interruption.
- (c) The estimated number of customers affected.
- (d) The date and time that water service is restored.

~~(2) A utility shall report to the commission by telephone each unplanned interruption of water service that affects more than 100 customers. The report shall be made as soon as possible, but in no case more than 24 hours following the discovery of the interruption.~~

PSC 185.102 PUMPAGE RECORDS. A utility shall keep a record of the volume of water pumped into the distribution system each day as measured by a station meter. The utility shall summarize daily pumpage by months and keep the daily records and monthly summaries on file for the time period specified in s. PSC 185.104.

PSC 185.103 CONSTRUCTION RECORDS.

(1) Every utility shall prepare and maintain a record of its utility plant. The records shall be in the form of a map or descriptive table and shall include a description of the unit of property, the year of its construction, and its location.

(2) Class AB utilities shall institute a perpetual inventory of their assets known as continuing property records. A continuing property record system shall contain all of the following criteria and detail:

(a) The system shall be arranged by plant accounts as prescribed by the Uniform System of Accounts.

(b) All property units shall be described in sufficient detail to permit their identification and shall have location information to allow verification of their physical existence.

(c) All property units shall be identified with construction costs to establish their original cost for capitalization and retirement accounting.

(d) The age and service life of property units shall be calculable for depreciation studies. The original cost, description, and age of the property unit at retirement shall be converted into mortality records and permanently retained.

(e) Source documents supporting the original cost and quantities of property units shall be preserved for the period specified in s. PSC 185.104. This provision meets commission requirements but may not satisfy other record-keeping needs.

(f) Maps may be part of the continuing property records if they contain the description of the unit, its location, and the year of its construction. For maps to become the Continuing Property Record, the units shall be referenced to their original cost.

(3) A utility may apply for a waiver from any portion of subs. (1) and (2). The application shall state the paragraph for which a waiver is requested. Also, the utility shall provide the reasons it cannot or should not have to comply with the paragraph and the impacts such a waiver would have on the utility's ability to maintain usable continuing property records, if any.

PSC 185.104 PRESERVATION OF RECORDS. (1) A utility shall preserve the following records in a readable format and keep them available for inspection by the commission for the period indicated. The list is not to be taken as comprehending a complete list of all types of utility records.

Description of Record	Period to be Retained
(a) Maps showing the location and physical characteristics of the utility plant	Until maps are superseded or 6 years after plant is retired, provided mortality data are retained
(b) Engineering and original cost records in connection with construction projects	Until records are superseded or 6 years after plant is retired, provided mortality data are retained. An exception is allowed when a utility maintains approved continuing property records; then, engineering and original cost records need only be preserved for a period of 6 years after construction is completed.
(c) Operating records	
1. Station pumping records	15 years or 3 years after the source is abandoned, whichever is shorter
2. Records of water supplied to the distribution system and records of authorized consumption	15 years
3. Main flushing records	6 years
4. Interruption records	6 years

5. Meter test records	Until the information in the meter test record is entered in the meter history record
6. Meter history record	Life of meter plus 6 years
7. Annual meter accuracy summary	6 years
8. Pressure records	6 years
(d) Customer records:	
1. Complaint records	3 years after complaint is resolved
2. Customer deposit	6 years after refund
3. Meter reading records used for billing	6 years
4. Billing record	6 years
5. Method of delivery of run water – individual notices	3 years
(e) Filed rates and rules	Permanently

Note: See also Investigation to Consider Proposed Changes to Records Retention Requirements for Electric, Gas and Water Utilities, adopted by the commission in docket 5-US-114 December 12, 2006 for a more comprehensive listing of retention periods of specific record.

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ATTACHMENT C

Subchapter I — General**PSC 185.11 Authorization for and application of rules.**

(1) Chapter PSC 185 is part of the Wisconsin administrative code and constitutes a general order of the ~~public service~~ commission, the issuance of which is authorized by ss. 227.11 (2), 196.02, 196.06, 196.12, 196.15, 196.16, 196.19, and 196.37, Stats.

~~(2) Chapter PSC 185 is designed to effectuate and implement ss. 196.02, 196.03, 196.06, 196.12, 196.15, 196.16, and 196.17, Stats.~~

(3) The requirements of ch. PSC 185 shall be observed by all water public utilities, both privately and publicly owned, engaged in the pumping, purchasing, transmission, or distribution of water except that an exemption may be given by the ~~public service~~ commission.

(4) 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 adopting~~ requirements as to individual utilities or services which ~~shall may~~ be lesser, greater, other, or different than those provided in this chapter.

(5) The manner of enforcing this chapter is prescribed in s. 196.66, Stats., and such other means as provided in statutory sections administered by the ~~public service~~ commission.

(6) In case of emergency, where public interest requires immediate action without waiting for compliance with the specific terms of this chapter, immediate corrective action shall be taken by the utility, which action, however, shall be subject to review by the ~~public service~~ commission.

~~(7) Nothing in this chapter shall prevent the imposition of sanctions, fines, forfeitures, penalties or damages under more than one section of this chapter or ch. 196, Stats., or other statutes, for the same incidence or occurrence.~~

Commented [A1]: Does this subsection's reference to a "general order" accurately reflect authority under Act 21?

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.12 Definitions. The following terms as used in this chapter mean:

(1) "Ability to pay" means a customer's financial capacity to meet the customer's utility service obligation.

~~(2) "Actual meter read" means a reading obtained by the utility or other party upon physical inspection of the meter or remote outside meter (ROM);~~

(32) "Automatic meter reading" (AMR) system means a system which provides digitally encoded information from an encoded meter register. The encoded information is transferred to the utility by means of remote receptacles, telephone lines, cable TV lines, power lines, or cellular or radio transmission.

(3e) "Class AB utility" means a public utility that has more than 4,000 service connections.

~~(3m) "Class C utility" means a public utility that has not fewer than 1,000 nor more than 4,000 service connections.~~

~~(3s) "Class D utility" means a public utility that has less than 1,000 service connections.~~

~~(3u) "Commercial customer" means a business, not for profit organization, or other institution that provides goods or services and that takes service for non-residential purposes.~~

Note: Churches, private schools, private colleges and universities, co-ops, and associations are non-governmental entities and are considered commercial customers.

(4) "Commission" means public service commission of Wisconsin.

(5) "Complaint" means a statement or question by any person, whether a utility customer or not, concerning a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action committed or created by a utility, or failure of a utility to meet a utility obligation.

(6) "Customer" means any person, owner, occupant, firm, partnership, corporation, municipality, cooperative organization, governmental agency, political entity, etc., provided with ~~water~~ service by any ~~water public~~ utility and is the party billed for payment of bills issued for use of utility service at a given premises. This definition is intended to create billing and payment responsibilities, but does not limit the need to afford occupants other protection under this chapter (e.g., evictions, emergency).

(7) "Customer-requested termination" is cessation of service at the request of the customer.

(8) "Deferred payment agreement" means an arrangement between a utility and a customer for payment of a delinquent amount ~~or deposit in installments; that meets the requirements of s. PSC 185.38.~~

(9) "Denied or refused service" means service that a utility has refused to provide to a present or future customer, occupant, or premises.

(10) "Disconnection" means an event or action taken by the utility to terminate or discontinue the provision of service, but does not include a customer-requested termination of service.

~~(10e) "Industrial customer" means a customer who is engaged in the manufacture or production of goods.~~

~~(10g) "Dwelling" means a place at which a home or regular abode is maintained, and requires both a personal presence and an intent to remain for a period of time.~~

~~(10m10r) "Irrigation" means the use of water to sustain crops, lawns, or landscapes, including water used on athletic fields, parks, and golf courses.~~

~~(10s) "Irrigation customer" means a customer who has water service provided primarily for irrigation and other outdoor uses.~~

(11) "Meter" means an instrument installed to measure the volume and/or rate of flow of water delivered through it.

~~(11m) "Multi-family residential customer" means a customer taking service for a building that is intended primarily for residential purposes, has three or more dwelling units, and is served by a single water meter.~~

~~Note: For accounting purposes, sales to multi-family residential customers are recorded as commercial sales under to the Commission's Uniform System of Accounts for Municipal Water Utilities (January 2008).~~

(12) "New residential customer," for purpose of deposit, means a customer who has not received utility service in his or her name during the previous 6 months from the utility from which service is requested.

(12m) "Non-residential customer" means any ~~commercial, industrial, or public authority~~ customer ~~that is not a residential customer.~~

(13) "Occupant" means the resident or residents of a premises to which utility service is provided.

(14) "Percent registration" means the ratio of the meter registration divided by the actual volume or rate of flow, stated in percent. Stated more simply for domestic (volumetric) meters, this is the percent of the water delivered through a meter which the meter actually registers.

Commented [A2]: Confirm this is not a customer class.

~~(15) "Private hydrant" means any hydrant whose lead is connected to a private water main, private lateral, or public main where the hydrant lead is owned by the customer;~~

~~(16) "Prompt full payment" means payment of the amount due prior to the time when a utility could issue a notice of disconnection for nonpayment of an amount not in dispute, including the current utility service charges plus any deferred payment agreement installment or deposit installment amounts due.;~~

~~(17) "Protective service-services emergency" means a threat to the health or safety of a resident because of the infirmities of aging, mental retardation, other developmental or mental disabilities, or like infirmities incurred at any age, or the frailties associated with being very young.;~~

~~(17m) "Public authority customer" means a customer that is a department, agency, or entity of the local, state, or federal government, including a public school, college, or university.~~

~~(18) "Public hydrant" means any hydrant and lead owned by the utility and connected to a utility-owned main, whether that main is in the public right-of-way or owned by the utility on an easement through private property;~~

~~Note: The hydrant and related fixtures would be recorded on the books of the utility.~~

~~(19) "Public utility" means an entity or individual included in s. 196.01 (5), Stats., which provides water for the public and an entity authorized by s. 66.0819, Stats., which provides water and sewer service for the public.;~~

~~(20) "Remote outside meter" or "ROM" means an analog device attached to a building structure which displays the reading of the base meter through electronic pulses sent from the base meter. Remote outside meters are considered part of the utility's metering configuration.~~

~~(20g) "Residential customer" means a customer taking service for residential or domestic purposes but does not include a multi-family residential customer and includes customers at properties such as duplexes and residential apartment buildings.~~

~~(20f) "Station meter" means a meter used to measure the volume or flow of water within a utility's distribution system and not used to measure customer use. Station meter includes any meter used to measure water pumped from groundwater wells, surface water intakes, storage facilities, treatment facilities, or booster pumps.~~

~~(21) "Voucher agreement" means a payment agreement guaranteed by a third party who has access to or control over the benefits and finances of a public assistance recipient.~~

~~(22) "Water conservation" means practices, techniques, and technologies that reduce the demand for water, reduce water loss nonrevenue water or waste, or improve water use efficiency.~~

~~(23) "Written" or "in writing" means legibly printed on paper or, with the intended recipient's permission, legibly printed in an electronic form that the recipient can electronically store and retrieve for future reference.~~

~~Note: Examples of some public assistance are:~~

- ~~(a) Aid to families with dependent children (AFDC) restrictive payment arrangements;~~
- ~~(b) Social security representative payee;~~
- ~~(c) General relief voucher payment systems;~~
- ~~(d) Legal guardian.~~

Commented [A3]: Entities listed in 196.01(5)(B) 1, 4, and 5 are not public utilities under the statute.

Commented [A4]: Creates confusion with Residential Customer Class. Multi-family not part of Residential Customer Class.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; correction in (19) made under s. 13.93 (2m) (b) 7., Stats., Register October 2001 No. 550; CR 11-039: cr. (3e), (3m), (3s), (4m), (10e), (10m), (10s), (11m), (12m), (17m), (20g), (20r), (22) Register July 2012 No. 679, eff. 8-1-12; (4m) renum. to (3s) under s. 13.92 (4) (b) 1., Stats., Register July 2012 No. 679.

PSC 185.13 General requirement. Every utility shall furnish reasonably adequate service and facilities at the rates filed with the commission and subject to this chapter and the rules of the utility that are on file with the commission.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.14 Whistleblower protection. (1) No utility may interfere with, restrain, or coerce any employee or other person in the exercise of the right to disclose information to the commission or other governmental body regarding any aspect of the utility, provided that the employee or other person reasonably believes that such information is true.
(2) No utility may dismiss, discipline, demote, transfer, reprimand, harass, reduce the pay of, discriminate against, or otherwise retaliate against any employee or other person because that person engaged in any of the activities described in sub. (1).

Commented [A5]: New. Electric rules refer to “the safety and reliability” of the utility – not “any aspect of the utility”
Nothing similar found in gas rules.

PSC 185.15 Free or discriminatory service prohibited. ~~No~~ A utility shall not provide ~~water~~ service free or at a rate different than provided for in its rates. (See ss. 196.22 and 196.60, Stats.) This section applies to, but is not limited to, ~~water~~ service for all nonutility municipal purposes such as street and sewer flushing, and service to nonutility public buildings.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.16 Protection of water utility facilities.

- (1) A ~~water~~ public utility upon receipt of written notice as required by s. 66.0831, Stats., from the property owner or from a contractor of work which may affect its facilities used for serving the public:
- (a) Shall investigate and decide what action, if any, may reasonably be taken to protect or alter utility facilities in order to protect service to the public and to avoid unnecessary damage, such as identifying in a suitable manner the location of any underground utility facilities which may be affected by the work.
 - (b) Shall take such action as is reasonably and legally necessary to protect, remove, alter, or reconstruct its facilities, and shall perform this work with reasonable dispatch taking into account the conditions to be met, provided that nothing in this section shall be deemed to affect any right which the utility may have to require advance payment or adequate assurance of payment of the reasonable cost to the utility by the property owner or contractor.
 - (c) May, in order to protect its interests, require that the property owner or contractor perform certain work upon or removal of that part of the ~~service piping from the property facilities~~ upon which the excavating, building, or wrecking operations are being performed.
- (2) This section is not intended to affect the responsibility of the contractor or property owner, or the liability or legal rights of any party.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; correction in (1) (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register October 2001 No. 550.

~~**PSC 185.17 Interference with public service structures.**~~

Commented [A6]: Why proposed for deletion? Exists in electric utility rules.

~~(1) No utility having any work upon, over, along, or under any public street or highway or upon, over, along, or under any private property shall interfere with, destroy, or disturb the structures of any other public service corporation or railroad encountered in the performance of such work so as to interrupt, impair, or affect the public service for which such structures may be used, without first reaching an agreement concerning the location and the nature of the proposed work.~~

~~(2) A utility shall exercise care when working in close proximity to existing facilities. When the facilities are underground and are to be exposed or possibly may be exposed, hand digging shall be employed. In these cases, such support as may be reasonably necessary for protection of the facilities shall be provided in and near the construction area. When backfilling an excavation, such procedures and materials shall be employed to provide reliable support for existing underground facilities in and near the construction area.~~

~~(3) A utility shall, in the absence of working arrangements, give at least a 3 day written notice (not counting Saturdays, Sundays, and legal holidays) to all utilities or railroads and to those who may have facilities in and near the construction area which may be affected by the proposed work. The utility proposing to work shall obtain from the affected party the location of the existing facilities determined to be affected or to be in and near the construction area. Contacting a one-call system, such as the diggers' hot-line system established under s. 182.0175 (1m), Stats., shall constitute compliance with this subsection.~~

~~(4) A utility upon receiving a notice of proposed construction shall furnish in 3 days detailed information relative to location and type of facilities that are present in the proposed construction area. Where practical in those cases where the facilities are underground, they shall be marked physically in the field relative to location.~~

~~(5) Nothing in this section shall prevent a utility from proceeding as quickly as possible with any emergency construction work which might interfere with existing facilities. However, all reasonable precautions shall be taken to avoid or minimize damage or interference to the other facilities and notification shall be given as soon as possible to the utilities which have facilities in the construction area.~~

~~History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; correction in (3) made under s. 13.93 (2m) (b) 7., Stats., Register April 2007 No. 616.~~

PSC 185.18 Location of records. A utility shall keep ~~All~~ records required or necessary for the administration of this chapter ~~shall be kept~~ within this state unless otherwise authorized by the commission. These records shall be available for examination by the commission or its authorized representative at all reasonable hours. (See s. 196.06 (6), Stats.) A utility may fulfill the requirements of this section by being able to access electronic copies of the original records, if the original records can be produced upon request.

Commented [A7]: Is it necessary for utility to keep copies of original paper records?

~~History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.~~

PSC 185.19 Retention of records.

(1) A utility shall preserve the following records in a readable format and keep them available for inspection by the commission for the period indicated. The list is not to be taken as comprehending all types of utility records. - See PDF for table 

Description of Record	Period to be Retained
(a) Maps showing the location and physical	Until maps are superseded or 6 years after plant is

characteristics of the utility plant	retired, provided mortality data are retained
(b) Engineering and original cost records in connection with construction projects	Until records are superseded or 6 years after plant is retired, provided mortality data are retained. An exception is allowed when a utility maintains approved continuing property records; then, engineering and original cost records need only be preserved for a period of 6 years after construction is completed.
(c) Operating records	
1. Station pumpage records	15 years or 3 years after the source is abandoned, whichever is shorter
2. Interruption records	6 years
3. Meter test records	Until the information in the meter test record is entered in the meter history record and the meter is tested again
4. Meter history record	Life of meter plus 6 years
5. Annual meter accuracy summary	6 years
6. Pressure records	6 years
(d) Customer records:	
1. Complaint records	3 years after the complaint is resolved
2. Customer deposit	6 years after refund
3. Meter reading records used for billing	6 years
4. Billing record	6 years
(e) Filed rates and rules	Permanently

Note: See also "Investigation to Consider Proposed Changes to Records Retention Requirements for Electric, Gas and Water Utilities" adopted by the commission in docket 5-US-114, December 12, 2006, for a more comprehensive listing of retention periods of specific records.

(2) A utility may apply for a waiver from any portion of pars. (a) through (e) of this section. Such application shall include a list of the paragraphs to which the waiver would apply. Also, include the reasons the utility believes it cannot or shall not have to comply with pars. (a) through (e) and the impacts such a waiver would have on the utility's ability to maintain usable continuing property records, if any.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; CR 13-033; am. (1) Register July 2015 No. 715, eff. 8-1-15.

Subchapter II — Rate Schedules and Rules

PSC 185.21 Schedules to be filed with the commission.

(1) ~~INCLUDED IN S~~SCHEDULES TO BE FILED. Each utility shall file with the commission its schedule of rates and rules, as required by s. 196.19, Stats. The schedules of rates and rules shall be ~~filed with the commission by the utility and shall be~~ classified, designated, arranged, and submitted so as to conform to the requirements of the current tariff or rate schedules and ~~the~~ special instructions which have been and

may from time to time be issued by the commission. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation, and shall include, together with such other information as may be deemed pertinent, all of the following:

(a) All rates for service, including water sold for resale to another utility, with indication for each rate of the class of customers to which it applies. There shall also be shown any limitations on the service furnished under such rate, the prices per unit of service, and the number of units per billing period to which the prices apply, the period of billing, the minimum bill, method of measuring demands (where applicable) and consumptions, and any special terms and conditions applicable. The charge for late payment, if any, and the period during which the bill may be paid without late payment charge shall be specified.

Commented [A8]: Why separate reference to water sold for resale?

(b) At commission discretion a copy of each contract or the standard contract form with a summary of the provisions of each signed contract may be required if service to other utilities or municipalities for resale is furnished at a standard filed rate.

(bm) The rates and rules applicable to a reduced rate for water wasted due to a leak unknown to the customer that is found in an appliance or the plumbing, if the utility offers a reduced rate.

Commented [A9]: Utility should be able to have a leak credit policy, but a PSC filing should not be required

(c) Extension rules for extending service to new customers indicating what portion of the extension or cost shall be furnished by the utility, and if the rule is based on cost, the items of cost included.

(cm) Rules governing extraordinary investment by the utility to extend service to new customers or significantly increase the quantity or quality of service provided to an existing customer.

Commented [A10]: New. What is the purpose of this section? Should "rules" be required?

(d) Designation of such portion of the service facilities as the utility furnishes, owns, and maintains.

(dm) Designation of such portion of the service facilities as the customer furnishes, owns, and maintains.

Commented [A11]: Why is this necessary, if (d) already requires rules to designate portion of facilities the utility furnishes? Several utilities determine ownership of the service line at points other than the curb stop. Is this intended to change the local determination of ownership?

(e) Rules with which prospective customers shall comply as a condition of receiving service and the terms of any contracts required.

(f) Except as provided in 66.0809(9), Rules rules governing the establishing of credit by customers for payment of service bills, deferred payment agreements and budget billing.

Commented [A12]: The cross-reference to s. 66.0809(9) is unclear. Utilities that already have approved tariffs related to tenants & deferred payment agreements are unclear on how this would apply to those tariffs.

(g) Rules governing the procedures followed in disconnecting and reconnecting service.

(h) Notice required from customer for having service disconnected.

(i) Rules governing temporary, emergency, auxiliary, and standby service.

(j) Rules governing any limitations on the type of equipment which may or may not be connected.

(k) A list of the municipalities and unincorporated communities in which service is rendered and the rates under which service shall be provided. The list of service areas and the rates shall be filed in such form as to facilitate ready determination of the rates available in each municipality and in such unincorporated communities.

Commented [A13]: The list should only apply to areas provided with retail service. Also, list of unincorporated communities is too general. Concerned about arguments that this list could be used as evidence on an obligation to serve.

(l) Any other rates, charges, rules, terms or conditions of service.

Commented [A14]: Unclear what this sentence means.

(2) RATES FOR WATER SERVICE.

Commented [A15]: Very broad.

(a) A public utility shall adopt general service water rates that reflect the cost of service for each class of customer and include a volume charge based on actual customer consumption.

(b) A public utility may not adopt a rate under par. (a) if the commission finds that the rate is discriminatory or otherwise not in the public interest.

(c) The commission may approve rates that promote efficient water use.

~~(d) A utility may adopt rates that treat multi-family residential customers as a separate customer class.~~

Commented [A16]: Why is this deleted?

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; CR 11-039: renum. (intro.) to (1) (intro.), cr. (1) (title), (2) Register July 2012 No. 679, eff. 8-1-12.

PSC 185.22 Information available to customers.

(1) 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 and on its public website, if it has one. A utility shall give reasonable notice to customers as to where the information is available to them.

(2) Each ~~water~~ utility, for every municipality and unincorporated area in which it serves, shall provide in the respective telephone directories a telephone listing by which the utility shall be notified during a 24-hour day of any utility service deficiency or emergency which may exist. Each utility shall also provide the telephone listing by which the utility shall be notified during a 24-hour day of any utility service deficiency or emergency which may exist on its public website, if it has one.

Commented [A17]: What does addition of "unincorporated area" add? How applicable to telephone directories?

(3) Where a second language is common in a particular area served by the utility and so identified by the commission, all rules pertaining to billing and credit shall be available upon customer request for distribution in English and that second language in every business office of the utility in that area accessible to the public and where customer payments are received.

(4) Each utility shall ~~have available and~~ provide ~~upon request~~ written notice to its existing residential customers annually, and a written notice to all new residential customers, at a minimum, of the rules on deposits, payment options including deferred payment agreements and budget billing, disconnection, and dispute procedures and the contact information for the commission. Such notice shall contain a reply procedure to allow customers an opportunity to advise the utility of any special circumstances, such as the presence of infants or elderly persons or the use of human life-sustaining equipment, and to advise the utility to contact a specific third-party agency or individual prior to any disconnection action being taken.

Commented [A18]: Do not support requiring annual written notice. Support providing information to existing residential customers on request. Could also be on website if utility has one. Strong opposition from utilities. Per Beloit, this type of written notice could cost Beloit roughly \$15,000/yr

(5)

(a) A utility shall provide customer usage and billing history on request to current or prospective customers, tenants, or property owners. This information shall include either the average consumption for the prior 12-month period or figures reflecting the highest and lowest consumption amounts for the previous 12 months. Provision of this information is neither a breach of customer confidentiality nor a guarantee or contract by the utility as to future consumption levels for the premises in question.

(b) Upon a residential customer request, the ~~public~~ utility shall provide consumption information by billing periods for at least the last year and information and instructions needed by the customer to make consumption comparisons to similar residential customers in the same class and to evaluate water conservation efforts.

(6) At least annually, a utility shall provide information to each customer that may assist the customer in reducing outdoor water use, repairing water leaks, and implementing other water conservation measures. Alternatively, this information may be provided on the utility's public web site.

Commented [A19]: Do not support requiring annual written notice.

Note: The information in subs. (1)–(5) is contained in the commission's residential customer bill of rights.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; CR 01-033: am. (1), Register October 2001 No. 550, eff. 11-1-01; CR 11-039: renum. (5) to (5) (a), (5) (b) renum. from 185.33 (2) Register July 2012 No. 679, eff. 8-1-12.

Subchapter III — Service and Billing

PSC 185.30 Application for residential **and multifamily** service.

~~(1) For purposes of this section, "written" or "in writing" means legibly printed on paper or, with the intended recipient's permission, legibly printed in an electronic form that the recipient can electronically store and retrieve for future reference.~~

(2)

~~(a) If a utility requires an application, a residential or multifamily user of water service shall apply for service.~~

(b) A utility may require a verbal or written application for residential service. The utility shall establish a written policy for when a written application is required. A utility may accept an application for service from a person other than the user or potential user of service.

(c)

1. Except as provided in par. (d) and sub. (3), a utility may only require that an applicant provide the following information in an application:

a. Legal name and birthdate of the user of service and the person responsible for bill payment, if different than the user.

b. If the user of service has telephone service, the telephone number of the user of service. If the person responsible for bill payment is different than the user and the person responsible for bill payment has telephone service, the utility may also require the telephone number of the person responsible for bill payment. Lack of telephone service is not grounds for service refusal.

c. Address where service is to be provided.

d. Mailing address if different from service address.

e. Date requested for service to begin.

f. The most recent previous address of the person responsible for bill payment.

g. Initial identification data under subd. 2.

2. A utility shall accept any of the following items as adequate initial identification data, although it may accept other forms of identification:

a. Driver's license number.

b. State identification card number.

c. Passport number.

d. Social security number or the last 4 digits of the social security number.

3. If a utility requests the initial identification data under subd. 2., it shall inform the applicant of all acceptable forms of initial identification data and allow the applicant to choose which the applicant wishes to provide.

(d) If a utility determines that an applicant's response under par. (c) 1. a. to f. indicates that additional information is necessary to further evaluate the applicant's credit history or identity, the utility may require the applicant's addresses for the past 6 years as part of its application for service. Each utility shall establish a written policy for requesting the application information under this paragraph.

Commented [A20]: Keep (a) in, or revise (b) to provide that a utility that requires an application for residential service may allow the application to be provided verbally or in writing.

Note: Also see s. PSC 185.36, which allows a request for a deposit if an applicant has an outstanding account balance that accrued within the last 6 years.

(e) A utility may request information other than that listed in pars. (c) and (d), but before requesting it the utility shall inform the applicant that providing that information is optional.

(f) A utility may refuse or disconnect service for failure to provide any information specified in par. (c) 1. a., c., e., and f. or par. (d).

Note: See sub. (3) (a) about what can be required if an applicant refuses to provide the initial identification data under s. PSC 185.30 (2) (c) 1. g.

(3) IDENTITY AND RESIDENCY VERIFICATION.

(a) A utility may require verification of the initial identification data or the residency, or both, of the person responsible for bill payment under any of the following circumstances:

1. The application is for service at a premises where a bill remains unpaid for service provided within the previous 24 months.

2. The person responsible for bill payment has an outstanding bill with the utility but claims that the bill was accrued in the person's name as a result of identity theft.

3. The applicant fails to provide the initial identification data under sub. (2) (c) 1. g. or the utility finds, with reasonable certainty, that the initial identification information is inaccurate.

(b) A utility shall establish a written policy for when it will require verification of identity or residency under par. (a).

(c) A utility shall accept any of the following items as adequate verification of identity, although it may accept other forms of verification:

1. Any one of the following items:

a. Valid driver's license or other photo identification issued by a state, U.S., or tribal governmental entity.

b. Valid U.S. military or military dependent identification card.

c. Valid passport.

2. Any two of the following items:

a. Social security card.

b. Certified copy of a marriage certificate.

c. Certified copy of a judgment of divorce or legal separation.

d. Military discharge papers, including federal form DD-214.

e. Valid student identification card with the applicant's photo.

f. Current employee photo identification card that includes information, such as the employer's telephone number or address, which can be used for verification purposes.

g. Letter of identification from a social service agency or employer that includes information, such as the agency or employer's telephone number or address, which can be used for verification purposes.

(d)

1. A utility shall accept any one of the following items as adequate verification of an applicant's residency, although it may accept other forms of verification:

- a. Current utility bill.
- b. Current financial institution statement.
- c. Rental agreement.
- d. Documents indicating home purchase.
- e. Current paycheck or pay stub showing the applicant's name and address, and the employer's name.

f. Verification of address provided by a social service or government agency.

2. A utility may require an applicant to provide information that may be used for verification purposes, such as a telephone number or address, if the applicant submits one of the items in subd. 1. b., c., e., or f. to the utility.

(e) If a request for verification of identity or residency is based on par. (a) 2., the utility may require that the applicant provide the information in s. 196.23 (1), Stats.

(f) If a utility requests information under this subsection, it shall inform the applicant of all items that are acceptable for verification of identity or residency, and allow the applicant to choose which items the applicant wishes to provide.

(g) If an applicant refuses to provide the information under pars. (c) or (d) or a utility finds, with reasonable certainty, that the verification is falsified, the utility may request an additional item, refuse service or disconnect service. An applicant refused service or disconnected because of this paragraph shall be informed in writing of the opportunity to dispute the matter to the commission, and shall be provided with the address, telephone number and web site of the commission.

(4) PROCESSING APPLICATIONS AND PROVIDING NOTICE.

(a) Except under exceptional circumstances, a utility shall approve or deny an application for service no later than 10 calendar days after receipt of the information required under this section. An unexpectedly high volume of requests for service shall not constitute exceptional circumstances.

(b) A utility shall notify the applicant in writing within 5 days of its denial. A utility may notify an applicant verbally before written notification is sent. An application shall be considered denied when a service refusal has been finalized and no immediate conditions that could change that refusal remain. The notification shall include all of the following:

1. An explanation of why service is being refused.
2. The applicant's right to ask commission staff to review the refusal.
3. The commission's address, telephone number and web site.

Note: For example, if a utility has told a customer that it would supply service if the customer makes a payment, enters a deferred payment agreement or provides additional identity or residency information under sub. (3), the refusal is still conditional and has not been finalized.

(c) If a third party applies for service, a utility shall send written notification of the application to the most recent previous address of the person responsible for payment and the address for which service has been requested.

(d) If an applicant indicates that a third party is responsible for payment, a utility shall send written notification of the approval or denial of an application to both the third party and the applicant within 5 days of the application's approval or denial, although a utility may notify the third party and applicant

before written confirmation is sent. If service is refused, the written notification shall include the information in par. (b) 1. to 3.

History: CR 13-048: cr. Register July 2014 No. 703, eff. 8-1-14.

PSC 185.305 Application for nonresidential service.

~~(1) For purposes of this section, "written" or "in writing" means legibly printed on paper or, with the intended recipient's permission, legibly printed in an electronic form that the recipient can electronically store and retrieve for future reference.~~

(2)

~~(a) If a utility requires an application, a user of water service shall apply for service in a form specified by the utility.~~

(b) A utility may require a verbal or written application for nonresidential service. The utility shall establish a written policy for when a written application is required. A utility may accept an application for service from a person other than the user or potential user of service

(c) The utility may only require that an applicant provide the following information in an application:

1. Legal name of the user of service and the person responsible for bill payment, if different than the user.

2. Telephone number of the user of service and the person responsible for bill payment, if different than the user.

3. Address where service is to be provided.

4. Mailing address if different from service address.

5. Date requested for service to begin.

6. The most recent previous address of the person responsible for bill payment.

7. Credit information under par. (e).

8. Initial identification data under par. (f).

(d) A utility may request information other than that listed in par. (c), but before requesting it the utility shall inform the applicant that providing that information is optional.

(e) A utility may request reasonable credit information from a nonresidential applicant as part of its application for service. A utility shall establish a written policy about when it will request credit information and what credit information it will request.

(f) A utility shall accept any of the following items as adequate initial identification data, although it may accept other forms of identification:

1. Federal employer identification number or proof that it has been applied for but not yet granted.

2. Wisconsin department of financial institutions identification number.

3. Wisconsin seller's permit identification number.

(g) A utility may refuse or disconnect service for failure to provide any information specified in pars. (c) 1. to 7. or (f).

Commented [A21]: Keep (a) in, or revise (b) to provide that a utility that requires an application for residential service may allow the application to be provided verbally or in writing.

Note: See sub. (3) (a) about what can be required if an applicant refuses to provide the initial identification data under par. (c) 8.

(3) IDENTITY VERIFICATION.

(a) A utility may require verification of the initial identification data of an applicant for nonresidential service under any of the following circumstances:

1. An applicant refuses to provide the information under sub. (2) (c), (e), or (f).
2. The utility finds, with reasonable certainty, that the information provided under sub. (2) (c), (e) or (f) is falsified.

(b) A utility shall establish a written policy for when it will require verification of identity under this subsection.

(c) A utility shall accept any of the following items as adequate verification of identity, although it may accept other forms of verification:

1. State or federal income tax returns.
2. Internal Revenue Service letter assigning federal employer identification number.
3. Wisconsin seller's permit or department of revenue letter assigning a Wisconsin seller's permit identification number.
4. Business articles of incorporation, partnership agreement, limited liability company articles of organization, or similar organizational documents.

(d) A utility may refuse or disconnect service if it does not obtain adequate verification of identity.

(4) PROCESSING APPLICATIONS AND PROVIDING NOTICE.

(a) Except under exceptional circumstances, a utility shall approve or deny an application for service no later than 10 calendar days after receipt of the information required under this section. An expected high volume of requests for service shall not constitute exceptional circumstances.

(b) A utility shall notify the applicant in writing within 5 days of the denial of application. A utility may notify an applicant verbally before written notification is sent. An application shall be considered denied when a service refusal has been finalized and no immediate conditions that could change that refusal remain. The notification shall include all of the following:

1. An explanation of why service is being refused.
2. The applicant's right to ask commission staff to review the refusal.
3. The commission's address, telephone number and web site.

Note: For example, if a utility has told a customer that it would supply service if the customer makes a payment, enters a deferred payment agreement or provides additional identity information under sub. (3), the refusal is still conditional and has not been finalized.

(c) If a third party applies for service, a utility shall send written notification of the application to the potential user's mailing address and the address for which service has been requested.

(d) If an applicant indicates that a third party is responsible for payment, a utility shall send written notification of the approval or denial of an application to both the third party and the applicant within 5 days of the application's approval or denial, although a utility may notify the third party and applicant before written confirmation is sent. If service is refused, the written notification shall include the information in par. (b) 1. to 3.

History: CR 13-048: cr. Register July 2014 No. 703, eff. 8-1-14.

PSC 185.31 Metered service.

(1) ~~Except where~~Unless otherwise authorized by the commission, ~~all water sold by~~ a utility shall ~~be~~ sell all water on the basis of meter measurement, except that the volume of water used for fire protection, street, main or sewer flushing, construction, or similar purposes where metering is not practicable may be estimated. (See s. PSC 185.15.)

Commented [A22]: How is water for fire protection paid for?

(2) Wherever practicable, consumption of water within the utility itself, or by administrative units associated with it or with the municipality shall be metered.

(3) Unless otherwise authorized by the commission, a utility shall own, supply and install the meter being used to measure the water it sells.

Commented [A23]: Some utilities may require a large customer to supply and install the meter and dedicate it to the utility.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.32 Meter readings and billing periods.

(1) Readings of all meters used for determining charges to customers shall be taken by the utility monthly, bimonthly, quarterly, or for such other period or in such other manner as may be authorized by law.

(2) An effort shall be made to read meters on corresponding days of each meter-reading period. The meter-reading date may be advanced or postponed not more than 10 days without approval from the commission and adjustment of the billing period.

Commented [A24]: Commission approval should not be needed if utility changes billing periods

(3) Bills for service shall be rendered within ~~50-30~~ days from the reading of the meter except as may be otherwise specifically authorized by the commission.

Commented [A25]: Stay at 50 days as provided in existing rule

(4) The utility may permit the customer to supply the meter readings. Meter readings supplied by the customer or third party, acceptable to the utility, shall be considered the actual readings are not required to be marked as an estimated bill.

(5) The utility ~~is obligated~~shall, upon request, ~~to~~ obtain a final read from both the base and ROM meters when there is a change of customers.

(5m) The utility shall, upon request, obtain and compare the reading from the base meter and the automatic meter reading system.

Commented [A26]: Further discussion may be warranted

(6) The utility shall make reasonable efforts to read the meters of customers who cannot be available during normal business hours and when there is a change of customer. The utility may make a final read through ~~AMR technology~~an automatic meter reading system, if available.

(7) If the automatic meter reading system does not provide a meter reading or indicates zero consumption, the utility shall promptly investigate with the intent to evaluate and resolve the situation within 30 days.

Commented [A27]: Is 30 days a reasonable time for resolving the situation?

(8) If a utility is unable to obtain a meter reading, the utility may issue an estimated bill. A utility shall not issue more than 3 consecutive estimated bills or bills based on readings supplied under sub. (4), unless specifically authorized by the commission.

Formatted: Highlight

Commented [A28]: Moved from 185.33(13)(b) and revised. Prohibits a utility from issuing more than 3 consecutive bills based on customer readings.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.33 Billing.

(1) For each bill provided by the utility, the customer's receipt shall show for each meter the following information: A utility shall include all of the following information for each meter on each bill issued to a customer:

Commented [A29]: Requires too much information on a bill. Would prevent use of postcard bills

(a) The billing address, and service address, if different from the billing address;

(am) The customer's name. If the utility does not have the customer's name, the utility may address the bill to the occupant.

(b) The customer's account number and class of service.

(c) The present and last preceding meter readings.

(d) The present and last preceding meter reading dates.

(dm) The number of days in the billing period.

(e) The number of units consumed.

(f) The rate schedule under which the bill is calculated including the itemized calculations of the rate schedule component including, but not limited to, such items as customer charge, volume blocks, demand charges, minimum bills, and all other billing factors necessary for the customer to check the calculation of the bill. In lieu of including the rate schedule on the bill the utility may, whenever a rate change becomes effective and at least once a year, supply each customer with the schedule of rates at which the bills are computed and any other rates that might be applicable.

(fm) Clear itemization of any transferred balances.

(g) Clear itemization of the amount of the bill for the present billing period and any unpaid balance from previous billing periods including any late payment charges.

(h) Clear itemization of other utility charges and credits.

(i) The bill due date.

(j) Clear explanation of any codes, abbreviations or terminology used on the bill.

(k) Clear itemization of any payment arrangements, including the remaining amount owing.

(1m) A public utility that calculates its volume charges in units of cubic feet shall include customer usage in both cubic feet and gallons on the customer bill or provide a formula for converting usage in cubic feet to gallons on the customer bill. In lieu of providing the information on the customer bill, a public utility may provide the information in a document provided to each customer under sub. (1) (f).

(3) Estimated bills shall be distinctly marked as such.

(4) Any partial payments received ~~should~~ shall be applied to the customer's account in the following order:

(a) Current utility service.

(b) Current deferred payment agreement installment.

(bm) Deposit installment.

(c) Utility service arrears.

(cm) Remaining deposit balance.

(d) Miscellaneous utility charges.

(e) Nonutility charges (e.g., charges for municipal fees or licenses, contracted sewer billing services, or penalties levied under municipal ordinances).

(5) Where the billings also include charges for other utility services, including electric, gas or sewer service billed on a volumetric basis, payment for current service or arrears ~~should~~ shall be applied on a prorate basis, unless otherwise requested by the customer.

Commented [A30]: Definition of class of service. Make clear non-residential is not a customer class.

Commented [A31]: This information is typically sent in a separate letter.

Commented [A32]: Not realistic for many utilities. Include "in lieu of" language similar to 185.33(1)(f).

Commented [A33]: This information is typically included in a separate letter. It would be unrealistic to include all this information on bills

Commented [A34]: Bill face change difficult for many utilities. Keep last sentence.

Commented [A35]: Some utilities have deposit paid first.

Commented [A36]: Some utilities do not prorate between electric & water. Also concerned about customer request allowing a different method. Some utilities stated that they could not accommodate a customer request to change payment priority because it would require a redesign of the software

(6) Upon customer request, or at the discretion of the utility, partial payments may be allocated differently than set forth above provided that such allocation does not result in a disconnection of service or the imposition of a late payment penalty which would not have occurred under the allocation methodology set forth above.

(7) Costs or fees incurred by and awarded to the utility by a court of law, for pursuing bill collection through other agencies, such as small claims courts, or extraordinary collection charges as allowed and specified in the utility's ~~tariffs~~ schedule of rates and rules filed with the commission, may be included on the utility service bill. Such ~~tariffs~~ schedule of rates and rules shall be established on the basis of rate case proceedings or generic proceedings to establish the reasonableness of such charges.

(8) The commission may authorize the utility to make late payment charges to any portion of customer's utility service bill that is not paid in full based on the order of payment application as provided in sub. (4), within 20 days following issuance of the bill. The late payment charge may be either a one-time charge as provided in sub. (9) or a monthly charge as provided in sub. (10). The utility shall receive approval from the commission of the method it desires to use and shall not change methods without commission approval.

(9) If the utility is authorized to make a one-time late payment charge, such charge shall comply with the following requirements:

(a) The bill shall clearly indicate the amount of the late payment charge and the date after which the late payment charge shall be applied~~;~~.

(b) Except as provided in par. (h), late payment charges shall be applied no sooner than 20 days after the date of issuance of the bill~~;~~.

(c) The amount of the late payment charge shall be 3% of the unpaid bill, except a minimum charge of \$0.50 shall apply. ~~The utility need not calculate a late payment charge on unpaid amounts of less than \$20.00, if allowed by utility tariff;~~

(d) Late payment charges shall be applied to all customer classes and rate classifications~~;~~.

(e) Unless otherwise authorized by the commission the utility shall not waive any properly applied late payment charges~~;~~.

(f) A late payment charge shall be applied only once to any given amount outstanding~~;~~.

(g) If a customer disputes a bill for utility service and does not pay the disputed bill in full within 20 days following issuance of the bill, the late payment charge shall be applied only to that portion of the disputed bill later found to be correct and payable to the utility~~;~~.

(h) Bills issued for utility service previously unbilled because of meter diversion or tampering with the proper metering of the account ~~may~~ shall include a late payment charge when issued. ~~The late payment charge shall be applied from the estimated date that the diversion or tampering began.~~

(10) If the utility is authorized to make monthly late payment charges, such charges shall comply with the following requirements:

(a) The amount of the charge shall be no more than one 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. The amount of the charge shall be filed with and approved by the commission before it may be applied~~;~~.

(b) The late payment charge shall be applied to the total unpaid balance for utility service including unpaid late payment charges.

(c) Except as provided in par. (h), the late payment charge shall be applied no sooner than 20 days after the date of issuance of the bill.

(d) The late payment charge shall be applied to all customer classes and rate classifications.

(e) If a customer disputes a bill for utility service and does not pay the disputed bill in full within 20 days following issuance of the bill, the late payment charge shall be applied only to that portion of the disputed bill later found to be correct and payable to the utility.

(f) The utility shall not waive any properly applied late payment charge.

(g) No additional late payment charge may be applied to a delinquent account for utility service after the date on which the delinquent account was written off by the utility as uncollectible.

(h) Bills issued for utility service that was previously unbilled because of meter diversion or tampering with the proper metering of the account may shall include a late payment charge when issued. The late payment charge may shall be applied from the estimated date that the diversion or tampering began.

(11) If a utility changes the type of late payment charge, or initiates a late payment charge, the new charge shall apply only to utility service provided after the effective date of the change or initiation.

(12) A delinquent amount including late payment charges covered by a deferred payment agreement shall not be subject to additional late payment charges if the customer meets the payment schedule including the current bill as required by the agreement. However, if a customer defaults on a deferred payment agreement, the amount remaining shall be subject to any applicable monthly late payment charge.

(13)

~~(a) If the billing period is longer or shorter than allowed by s. PSC 185.32, the bill shall be prorated on a daily basis unless other provision is made in the utility's filed rules.~~

~~(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. Except in unusual cases, a meter reading by the customer or the utility shall be obtained after no more than 3 consecutive estimated or minimum bills have been rendered.~~

~~(c) When an actual meter reading indicates that a previous estimated bill was abnormally high or low, the utility shall calculate the bill for the entire period as if use of service was normally distributed throughout the period. The previous estimated charge shall be deducted from the recomputed total. If there is evidence to indicate that actual use was not uniform throughout the period, the billing shall be adjusted according to available information.~~

(14)

(a) Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be shown separately and identified.

Commented [A37]: What is the rationale for deleting this language?

(b) Adjustments to past bills rendered because of meter inaccuracies, errors in billing, or misapplication of rates shall be ~~separated shown separately~~ from the current regular billing and the charges explained in detail.

(15) Each bill for service shall be computed at the proper filed rate.

~~(15m) If the meter reading date is advanced or postponed under s. PSC 185.32 (2), the bill shall be prorated on a daily basis unless otherwise authorized by the commission.~~

(16) A utility may offer a budget payment plan to residential customers. Any such plan shall conform to the guidelines set forth in pars. (a) through (g).

(a) A budget payment plan ~~tariff~~ shall be on file with the commission and included in the utility's schedule of rates and rules, applicable only to charges for utility services under commission jurisdiction.

Commented [A38]: Plan should only be filed if utility offers a budget payment plan

(b) A budget payment plan may be established at any time of the year. The budget amount shall be calculated on the basis of the estimated consumption and estimated applicable rates. If the budget period is a fixed year, then prospective new and existing customers requesting a budget payment plan after the start of the fixed year shall have their initial monthly budget amount determined on the basis of the number of months remaining in the current budget year.

(c) An applicant for a budget plan shall be informed at the time of application that budget amounts shall be reviewed and changed every 12 months, if necessary, in order to reflect current circumstances. Adjustments to the budget amount shall be made with the objective that the customer's underbilled or overbilled balance at the end of the budget year shall be less than one month's budget amount.

(d) ~~The utility shall notify~~ customers on the budget payment plan ~~shall be notified~~ of adjustments by means of a bill insert, a message printed on the bill itself, or both. ~~The customer shall be adequately informed of the adjustment at the same time the bill containing the adjustment is rendered.~~

Commented [A39]: A separate letter should be another allowable alternative

(e) Customers who have arrearages shall be allowed to establish a budget payment plan by signing a deferred payment agreement for the arrears, ~~according to the provisions of~~ if applicable under s. PSC 185.38.

(f) Budget payment plans shall be subject to ~~the late payment charges provisions. In addition, if a budget payment is not paid, the customer shall be notified with the next billing that if proper payment is not received subsequent to this notification, the next regular billing may effectuate the removal of the customer from the budget plan and reflect the appropriate amount due.~~

~~(fm) If a customer does not make a payment under a budget payment plan, the utility shall notify the customer with the next billing that if payment of the overdue budget amount is not received by the due date of that bill, the utility may remove the customer from the budget plan.~~

(g) At the end of a budget year, if an underbilled or overbilled balance exists in the account, the balance shall be handled as follows:

1. A customer ~~may pay the~~ debit balance ~~shall be paid in full or, at the customer's option if unpaid, on a deferred basis~~ the utility shall incorporate the balance into the budget amount for the next 12 months;

2. A customer's ~~may request that a~~ credit balance ~~be refunded shall be applied or, at the customer's option if no request is made, the utility shall incorporate the balance into the budget amount for the next 12 months~~ against the customer's account credited in installments to the customer's account over the course of the next budget year, or refunded to the customer.

(17) ~~A utility shall bill An~~ occupant, or other responsible party who uses utility service but does not apply for it, ~~may be billed or a customer continuing to use the service after the date termination is requested, an estimated or actual amount at a later date~~ for service used prior to the time of application. The utility shall have reasonable grounds to establish responsibility for the backbilling. Failure to pay charges resulting from this backbilling may result in disconnection of service. The utility shall inform the occupant of the right to dispute the billing through the dispute procedures set forth in s. PSC 185.39.

Commented [A40]: This section doesn't make sense. What is it trying to accomplish?

(19)

(a) ~~A utility shall refund customer overpayments. If a recalculated bill indicates that more than \$5.00 is due an existing customer or \$10.00 is due a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. The refund to an existing customer may be in cash or as credit on a bill. If a refund is due a person no longer a customer of the utility, a written notice shall be mailed to the last known address and the utility shall, upon request, refund the amount due.~~

Commented [A41]: The first 2 sentences conflict. First sentence appears to require refund regardless of amount. A 6 year limitation should apply.

~~(am)~~A utility shall pay interest on customer overpayments not refunded to the customer within 60 days of ~~the determination receipt~~ by the utility ~~or commission that refund is due~~, if the net amount refunded exceeds \$20.00 per refund and the overpayment was made to the utility due to any of the following:

Commented [A42]: Should discuss change of trigger date for interest calculation

1. ~~Meters registering fast as defined in Metering inaccuracies requiring an adjustment of bills under s. PSC 185.35~~;

Commented [A43]: Need more clarity of metering inaccuracies and use of Table

2. Billing based on a switched-meter condition where the customer was billed on the incorrect meter;

3. Misapplication of rates, provided the information furnished by the customer to the utility was not deficient;

4. Other billing errors.

(b) A utility is not required to pay interest to customers for overpayments made for:

1. Financing of service extensions or other equipment;

2. Budget payment plans;

3. Estimated bills;

4. Customer overpayments or advances.

(c) The rate of interest to be paid shall be calculated in the same manner as provided for in s. PSC 185.36 (9) (b). Interest shall be paid from the date a refund is determined to be due until the date the overpayment is refunded. Interest shall be compounded annually and calculated on the net amount overpaid in each calendar year.

(d) Nothing in this chapter shall prevent the commission or its staff from requiring the payment of interest on amounts returned to customers in those instances where the commission or its staff finds that such payment is necessary for a fair and equitable resolution of an individual complaint.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; CR 01-033: am. (10) (a) and (13) (b), renum. (18) (c) to be (18) (d), cr. (18) (e), Register October 2001 No. 550, eff. 11-1-01; correction in (19) (c) made under s. 13.93 (2m) (b) 7., Stats., Register October 2001 No. 550; CR 11-039: cr. (1m), renum. (2) to 185.22 (5) (b) Register July 2012 No. 679, eff. 8-1-12; CR 13-048: r. (18) Register July 2014 No. 703, eff. 8-1-14.

~~PSC 185.34 — Adjustment of bills (ROM).~~

~~(1) STOPPED ROM. A stopped ROM is defined as one that has recorded zero consumption during the last meter reading period. The consumption that was measured by the base meter and not recorded by the remote register shall be backbilled by the utility as current consumption. The usage backbilled as current consumption shall not exceed the customer's average usage per billing period based on the latest 12 months usage. Any amount greater than this usage shall be backbilled pursuant to sub. (2).~~

~~(2) STOPPED AND UNDER REGISTERING ROM. Unrecorded ROM consumption (base meter reading less ROM reading) resulting from sub. (1) or an under registering ROM shall be prorated from the date of the last base meter reading. Pursuant to s. 196.635, Stats., the utility may shall backbill for prorated amounts associated with the last 24 months.~~

~~(3) OVER REGISTERING ROM. A ROM over registration (OM reading less base meter reading) shall be prorated from the date of the last base meter reading. The utility shall refund prorated amounts associated with the period since the meter was installed or last tested, not to exceed the last 6 years for the full period of the inaccuracy.~~

Commented [A44]: Keep 6 year limit

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.35 Adjustment of bills for metering or billing inaccuracies.

Commented [A45]: Incorporates language from PSC 185.34

(1) A utility shall recalculate bills for service for the full period of inaccuracy in any of the following circumstances:

Commented [A46]: Do not always mandate recalculation.

(1a) Whenever a positive displacement meter is found upon test to have an average percent registration of more than 102 and whenever a compound or current type meter is found upon test to have an average percent registration of more than 103, meter does not meet the accuracy requirements under s. PSC 185.65, a. The utility shall prorate the underbilled consumption or overbilled consumption from the date of the last base meter reading, unless consumption information demonstrates the inaccuracy started at a different date. recalculation of bills for service shall be made for the period of inaccuracy assuming an inaccuracy equal to the average percent error in excess of 100. No recalculation shall be required unless the meter in service is found not to register or is found to have an average percent registration of less than 98 or more than 102.

Commented [A47]: Is proposal to apply new meter standards to meters in service.

(b) The meter index and reading from the automatic metering reading system or ROM are different. If the base meter meets the accuracy requirements under s. PSC 185.65, the utility shall prorate the underbilled consumption or overbilled consumption from the date of the last base meter reading, unless consumption information demonstrates the inaccurate automatic meter reading system or ROM readings started at a different date. If the base meter does not meet the accuracy requirements under s. PSC 185.65 par. (a) shall apply.

Commented [A48]: Narrowing band for accuracy.

(c) The billing was based on a switched-meter condition where the amount the customer was billed was based on the incorrect meter.

(d) Misapplication of the rates.

(e) Any other erroneous billing.

Commented [A49]: Clarify dates for bill adjustment

(2) For the purposes of this subsection, the average percent registration shall be the average percent registration for those normal of the intermediate and maximum test points which are within the normal test flow limits of the meter required to be tested under s. PSC 185.65, except that the test point within the "change-over" range for compound meters shall be ignored. (For positive displacement meters the light flow test point would not be considered.)

~~(3) If the period of inaccuracy cannot be determined, it shall be assumed that the full amount of inaccuracy existed during the last half of the period since the meter was installed or last tested.~~

Commented [A50]: Keep.

~~(4) Where a meter in service is found not to register or is found to have an average percent registration of less than 97, the utility may bill the customer for the amount the test indicates has been undercharged for the period of inaccuracy, which period shall not exceed the last 24 months the meter was in service unless otherwise authorized by the commission after investigation. No backbill shall be sanctioned if the customer has questioned the meter's accuracy and the utility has failed within a reasonable time to check it.~~

Commented [A51]: Keep.

~~(5) If the recalculated bills indicate that more than \$5.00 is due an existing customer or \$10.00 is due a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. The refund to an existing customer may be in cash or as credit on a bill. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last known address and the utility shall, upon request made within 6 months, refund the amount due.~~

Commented [A52]: Moved to different section

(6) Subject to the utility's written rules schedule of rates and rules setting forth the method of determining a reduced rate, if a leak unknown to the customer is found in an appliance or the plumbing, the utility is encouraged to estimate the water wasted and bill for it at a reduced rate not less than the utility's cost. No such adjustment shall be made for water supplied after the customer has been notified and has had an opportunity to correct the condition.

~~(7) Where, because of some deficiency in the utility's portion of the facilities and at the request of the utility, a customer permits a stream of water to flow to prevent freezing of the service or main, the utility shall adjust the bill for the excess consumption which results.~~

Commented [A53]: Why is this deleted?

(8) A utility shall keep a record ~~shall be kept~~ of the number of refunds and charges made because of inaccurate meters, misapplication of rates, and erroneous billing. A summary of the record for the previous calendar year shall ~~upon request,~~ be submitted to the commission on or before April 1 of each year.

Commented [A54]: Is intent to require information in Annual Report? Don't create another submission requirement.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.36 Deposits for residential service.

(1) NEW RESIDENTIAL SERVICE.

(a) A utility ~~shall not may~~ require a deposit or other guarantee within 30 days of the application as a condition of new residential service unless if all of the following are true:

Commented [A55]: How does Sec. 66.0809(10) apply which allows for rules that distinguish between customers?

1. a customer~~The applicant~~ has an outstanding account balance with any Wisconsin gas, electric, water, or sewer the utility which accrued within the last 6 years and for which there that remains outstanding and not in dispute.

Commented [A56]: Return to language of current rule which extends to outstanding account balance with any Wisconsin gas, electric, water or sewer utility.

2. There is no agreement or arrangement for payment being honored by the customer and which at

Commented [A57]: Allow deposit for tenants which had a delinquency that went to the tax roll

3. At the time of the request for new service balance remains outstanding and not in dispute. (See s. PSC 185.39.)

Commented [A58]: Should refer to no "existing agreement"

(b) A utility shall not require a deposit under this section ~~shall not be required~~ if the customer provides the utility with information showing that the customer's gross quarterly income is at or below 200% of federal income poverty guidelines.

(c) A utility shall inform the customer of the customer's right to provide a deposit or guarantee and, if applicable, to enter into a deferred payment agreement for payment of the outstanding balance~~deposit amount and of the customer's right to appeal any deposit request or amount required under this section to the commission.~~

(d) A utility may require the customer pay the first installment on the deposit amount under sub. (4) or provide a guarantee, and enter into a deferred payment agreement for payment of the outstanding balance prior to providing service.

(2) EXISTING RESIDENTIAL SERVICE. (a) A utility may require a deposit as a condition of residential service within 30 days of any of the following circumstances:

1. The utility has disconnected the customer's service for violation of the utility's filed rules or for nonpayment of a delinquent service account not currently in dispute.

2. Subsequent credit information indicates that the initial application for service was falsified or incomplete to the extent that a deposit would be required under this section.

3. A new residential customer accrues charges for service that become 60 days or more past due within the first 8 months of service.

~~(b) When A utility shall inform the customer the utility requests a deposit of an existing residential customer, the customer shall be informed of the customer's right to provide a cash deposit, or a guarantee, or and, if applicable, to establish enter into a deferred payment agreement for payment of the outstanding balance. The utility shall give the customer shall be given at least 30 days to provide the deposit, pay the first installment on the deposit amount under sub. (4) or provide a guarantee, or enter into a deferred payment agreement for the deposit amount.~~

(c) A utility shall not require a deposit under this section ~~shall not be required~~ if the customer provides the utility with information showing that the customer's gross quarterly income is at or below 200% of the federal income poverty guidelines. ~~The utility may require a deposit if any of the following circumstances apply:~~

~~(a) The utility has disconnected the customer's service within the last 12-month period for violation of the utility's filed rules or for nonpayment of a delinquent service account not currently in dispute;~~

~~(b) Subsequent credit information indicates that the initial application for service was falsified or incomplete to the extent that a deposit would be required under this section.~~

(3) GUARANTEE TERMS AND CONDITIONS.

(a) A utility ~~may accept~~ shall allow a customer to provide, in lieu of a cash deposit for new or existing residential service, a contract signed by a guarantor satisfactory to the utility where payment of a specified sum not exceeding the cash deposit requirement is guaranteed, or where the guarantor accepts responsibility for payment of all future bills. If the guarantor accepts responsibility for payment of future bills, the utility shall notify the customer in writing of the agreement and of the customer's right to refuse such an agreement. The term of the contract shall be for no longer than one year, but it shall automatically terminate after the residential customer has closed the account with the utility, or on the guarantor's request upon a 30-day written notice to the utility.

(b) Upon termination of a guarantee contract, or whenever the utility deems the guarantee insufficient as to amount of surety, a cash deposit or a new or additional guarantee may be required upon a ~~20~~30-day written notice to the customer. The utility may disconnect the service of any customer who fails to

Commented [A59]: Deposits should not be limited to just the first 8 months of service. Utilities should continue to have the ability to ask for a deposit.

Commented [A60]: Contrary to electric & gas rules

comply with these requirements ~~may be disconnected upon an 8 day providing~~ written notice consistent with s. PSC 185.37(11).

Commented [A61]: Reference to 185.37(11) means a minimum 10 day notice instead of an 8 day notice

(c) The utility shall mail the guarantor copies of all disconnect notices sent to the customer whose account has been guaranteed, unless the guarantor waives such notice in writing.

~~(4) DEFERRED INSTALLMENT PAYMENTS. In lieu of cash deposit or guarantee, an applicant for new residential service who has an outstanding account balance accrued within the last 6 years with the same utility shall have the right to receive service from that utility under a deferred payment agreement, as defined in s. PSC 185.38 for the outstanding account. A utility requiring a deposit under this section shall allow a customer to pay the deposit in not less than three equal monthly installments. A customer who defaults on this deferred payment agreement fails to pay an installment payment may be required by the utility to furnish a deposit for the remaining balance pay the remainder of the deposit immediately. If the customer fails to pay an installment payment or the remainder of the deposit if required by the utility, the utility may disconnect the service of the customer upon providing written notice consistent with s. PSC 185.37(11).~~

Commented [A62]: Allows for a minimum of 3 installments

(5) WRITTEN EXPLANATION. A utility requiring a deposit under this section shall provide a customer with written explanation of why a deposit or guarantee is being required ~~for a residential account~~. The explanation shall include notice of the customer's right to appeal any deposit request or amount required under this section to the commission.

(6) REASONABLENESS OF DEPOSIT. When requesting a deposit from a residential customer, the utility shall consider the customer's ability to pay in determining the reasonableness of its request, including the following factors:

(a) Size of the delinquent account;

(b) Customer's payment history;

(c) Time that the debt has been outstanding;

(d) Reasons why the debt has been outstanding;

(e) Any other relevant factors concerning the circumstances of the customer, such as household size, income, and reasonable expenses.

(7) AMOUNT OF DEPOSIT. The maximum deposit for a new or existing residential account shall not exceed the highest estimated or actual gross bills for any 3 consecutive months within the preceding 12 months ~~billing period (not to exceed 4 months) selected by the utility.~~

~~(8) REFUSAL OR DISCONNECTION OF SERVICE. Residential service may be refused or disconnected for failure to pay a deposit request under the procedures in s. PSC 185.37.~~

Commented [A63]: Covered by 185.37

(9) INTEREST.

(a) Deposits for residential accounts shall bear interest compounding annually payable from the date a deposit is made to the date it is applied to an account balance or is refunded.

Commented [A64]: Too complex to calculate based on installments. Start calculating interest once deposit is fully made (after last installment).

(b) The interest rate to be paid shall be subject to change annually on a calendar year basis. The commission shall determine the rate of interest to be paid on deposits held during the following calendar year and notify the utility of that rate by December 15 of each year. The rate shall be equal to the weekly average yield of one-year United States treasury securities adjusted for constant maturity for the week ending on or after December 1 made available by the federal reserve board, rounded to the nearest tenth of one percent.

(c) The rate of interest set by the commission shall be payable on all deposits. The utility shall calculate the interest earned on each deposit at the time of refund and at the end of each calendar year. The interest rate in a calendar year shall apply to the amount of the deposit and to all interest accrued during the previous year, for the fraction of the calendar year that the deposit was held by the utility.

(10) REFUND. The utility shall refund the deposit and interest ~~of~~ to a residential customer after 12 consecutive months of prompt full payment. If the customer has entered into a deferred payment agreement on any arrears, the utility shall not deduct the arrears from the refund unless the customer fails to make a payment required by the deferred payment agreement.

~~(11) REVIEW. The utility shall not continue to require a cash deposit for a residential account unless a deposit is permitted under the provisions of sub. (4) or (10).~~

(12) METHOD OF REFUND. Any deposit or portion refunded to a residential customer shall be refunded ~~by check~~ directly to the customer unless both the customer and the utility agree to a credit on the regular billing, ~~or unless sub. (13) or (14) applies.~~

(13) REFUND AT TERMINATION OF SERVICE. On termination of residential service, the utility shall credit the deposit, with accrued interest, to the customer's final bill and return the balance within 30 days of issuing the final bill. The utility may deduct any arrears owed by the customer, whether the arrears arose prior to or after the date of the deposit.

~~(14) ARREARAGES. An arrearage owed by a residential customer may be deducted from the customer's deposit under any of the following conditions:~~

~~(a) Except as provided in par. (c), a deposit may be used by the utility only to satisfy an arrearage occurring after the deposit was made;~~

~~(b) If the utility deducts an arrearage from a customer deposit, it may require the customer to bring the deposit up to its original amount. Failure of the customer to do so within 20 days of mailing a written request for payment is a ground for disconnection;~~

~~(c) When a deposit is refunded to the customer, the utility may first deduct any arrearage owed by the customer, whether the arrearage arose prior to or after the date of the deposit.~~

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.361 Deposits for nonresidential service.

(1) NEW NONRESIDENTIAL SERVICE. If the credit of an applicant for nonresidential service has not been established satisfactorily to the utility, the utility may require the applicant to post deposit or provide a guarantee. The utility shall notify the applicant within ~~40~~ 30 days of the request for service as to whether a deposit shall be required. The ~~40~~ 30-day period shall begin from the date the applicant provides all information requested under s. PSC 185.305 (2) to the utility. If no request for a deposit is made within this period, no deposit shall be required, except under the provisions of sub. (2). A utility may require the customer pay the first installment on the deposit amount under sub. (3m) or provide a guarantee prior to providing service. If a request for a deposit is made, the applicant shall be given at least 30 days to provide payment, or guarantee, or to establish a deferred payment agreement.

(2) EXISTING NONRESIDENTIAL SERVICE. (a) The utility may require an existing nonresidential customer to furnish a deposit if any of the following apply within 30 days of any of the following circumstances:

~~(a) 1. The customer has not made prompt full payment of all bills within the last 24 months;~~

~~(b)2.~~ The utility ~~has disconnected~~disconnects the customer's service ~~within the last 12-month period~~ for violation of the utility's filed rules or for nonpayment of a delinquent service account not currently in dispute~~;~~.

~~(e)3.~~ Subsequent credit information indicates that the initial application for service was falsified or incomplete to the extent that a deposit would be required under this section~~;~~.

~~(d)h.~~ ~~When-If~~ the utility requests a deposit of an existing customer, the customer shall have 30 days to provide the deposit, guarantee, or to establish a deferred payment agreement.

(3) CONSIDERATIONS FOR DEPOSIT. In determining whether an applicant for nonresidential service has satisfactorily established credit, the utility shall inform the applicant that it shall consider any or all of the following factors, provided by the applicant, before requiring a security deposit:

(a) Credit information from a credit reporting service~~;~~.

(b) Letter of credit from a financial institution or another utility~~;~~.

(c) Applicant's business characteristics, including type of business, estimated size of the utility bills, previous bill payment history, and applicant's business experience~~;~~.

(d) Assets of the business~~;~~.

(e) The financial condition of the business, as indicated in a financial statement.

(3m) INSTALLMENT PAYMENTS. A utility requiring a deposit under this section shall allow a customer to pay the deposit in not less than three equal monthly installments. A customer who fails to pay an installment payment may be required by the utility to pay the remainder of the deposit immediately. If the customer fails to pay an installment payment or the remainder of the deposit if required by the utility, the utility may disconnect the service of the customer upon providing written notice consistent with s. PSC 185.37(11).

Commented [A65]: New provision on installment payments

(4) GUARANTEE TERMS AND CONDITIONS.

(a) The ~~utility may accept~~customer may provide, in lieu of a cash deposit for new or existing nonresidential service, a contract signed by a guarantor satisfactory to the utility where payment of a specified sum not exceeding the cash deposit requirement is guaranteed. The term of such contract shall be for no longer than 2 years, but it shall automatically terminate after the customer has closed its account with the utility, or at the guarantor's request, on a 30-day written notice to the utility.

Commented [A66]: Gives the option to the customer. Different than what is in electric & gas rules.

(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~~30-day written notice to the customer. The ~~utility may disconnect~~ service of a customer who fails to comply with these requirements ~~may be disconnected on a 10-day after providing~~ written notice ~~subject to the establishment of a deferred payment agreement for the deposit consistent with s. PSC 185.37(11).~~

Commented [A67]: Extends from 20 days to 30 days

(c) The utility shall mail the guarantor copies of all disconnect notices sent to the customer whose account has been guaranteed, unless the guarantor waives such notice in writing.

Commented [A68]: Reference to PSC 185.37(11) means a minimum of 10 days before disconnection

(5) WRITTEN EXPLANATION.

(a) A utility requiring a deposit under this section shall provide a customer with written explanation of why a deposit or guarantee is being required ~~for nonresidential service~~. The explanation shall include

notice of the customer's right to appeal any deposit request or amount required under this section to the commission.

(b) The written explanation shall also inform the customer that if, after 12 months of utility service, the deposit amount is greater than necessary based on actual consumption, the customer may request refund of the difference between the 2 amounts.

~~(6) REFUSAL OR INTERRUPTION OF SERVICE. Nonresidential service may be refused or disconnected for failure to pay a deposit request, subject to the s. PSC 185.37 pertaining to disconnection and refusal of service.~~

(7) AMOUNT OF DEPOSIT. The maximum deposit for a new or existing account shall not exceed the highest estimated or actual gross bills for any 3 consecutive months within the preceding 12 months, billing period selected by the utility (not to exceed 4 months). ~~If the deposit amount is estimated and after~~ a 12-month period the deposit amount is shown to be greater than warranted based on actual consumption, the utility shall at the customer's request refund the difference between the 2 amounts plus interest.

Commented [A69]: Maximum deposit is 3 months

(8) INTEREST.

(a) Deposits for nonresidential service shall bear interest compounding annually payable from the date a deposit is made to the date it is applied to an account balance or refunded.

Commented [A70]: Too complex to calculate interest based on installments

(b) The interest rate to be paid shall be subject to change annually on a calendar basis. The commission shall determine the rate of interest to be paid on deposits held during the following calendar year and notify the utility of the rate by December 15 of each year. The rate shall be equal to the weekly average yield of one-year United States treasury securities adjusted for constant maturity for the week ending on or after December 1 made available by the federal reserve board, rounded to the nearest tenth of one percent.

(c) The rate of interest set by the commission shall be payable on all deposits. The utility shall calculate the interest earned on each deposit at the time of the refund and at the end of each calendar year. The interest rate in a calendar year shall apply to the amount of the deposit and to all interest accrued during the previous year, for the fraction of the calendar year that the deposit was held by the utility.

(9) ~~TIME OF REFUND.~~ The deposit of a customer shall be refunded after 24 consecutive months of prompt full payment. The utility may deduct any arrears owed by the customer, whether the arrears arose prior to or after the date of the deposit.

(10) METHOD OF REFUND. Any deposit or portion thereof refunded to a customer shall be refunded ~~by check~~ directly to the customer unless both the customer and the utility agree to a credit on the regular billing, ~~or unless sub. (11) or (12) applies.~~

(11) REFUND AT TERMINATION OF SERVICE. ~~Upon~~ On termination of nonresidential service, the utility shall credit the deposit, with accrued interest, ~~shall be credited~~ to the customer's final bill; and return the balance ~~shall be returned~~ within 30 days of issuing the final bill. The utility may deduct any arrears owed by the customer, whether the arrears arose prior to or after the date of the deposit.

~~(12) ARREARAGES. An arrearage owed by a customer may be deducted from the customer's deposit under the following conditions:~~

~~(a) Except as provided in par. (c), a deposit may be used by the utility only to satisfy an arrearage occurring after the deposit was made;~~

~~(b) If the utility deducts an arrearage from a customer deposit, it may require the customer to bring the deposit up to its original amount. Failure of the customer to do so within 20 days of mailing a written request for payment is a ground for disconnection;~~

~~(c) When a deposit is refunded to the customer, the utility may first deduct any arrearage owed by the customer, whether the arrearage arose prior to or after the date of the deposit.~~

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; CR 01-033: am. (4) (b), Register October 2001 No. 550, eff. 11-1-01; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register July 2014 No. 703.

PSC 185.37 Disconnection and refusal of service.

(1) NOTICE.

~~(a) In no circumstances shall the cumulative time before notice of disconnection be less than 20 days after the date of issuance of the bill. A customer shall have, in all instances, at least 20 days from the date a utility issues the bill to provide payment.~~ An account may be deemed delinquent for the purpose of disconnection after such period has elapsed.

(b) At least 10 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.

(c) When a customer, either directly or through the commission, disputes a disconnection notice, the utility shall investigate any disputed issue and shall attempt to resolve that issue. During this investigation, utility service shall not be disconnected over this matter.

(d) If a disputed issue cannot be resolved pursuant to s. PSC 185.39 (1), the utility shall inform the customer of the right to contact the commission.

(1m) JOINTLY-METERED PROPERTIES. Prior to disconnecting a jointly-metered property containing more than one rental dwelling unit and where service is in the property owner's 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.

(2) REASONS FOR DISCONNECTION. Utility service may be disconnected or refused for any of the following reasons:

(a) Failure to pay a delinquent account or failure to comply with the terms of a deferred payment agreement, ~~(see s. PSC 185.38); A payment by a customer that is not honored by a financial institution is considered a failure to pay.~~

(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~~ an application for service is submitted by ~~to~~ a new ~~account holder or customer applicant~~ and the previous ~~account holder or customer~~ continues to be an occupant of the dwelling unit to be served. ~~If service is disconnected or refused under this paragraph the utility shall inform the applicant of the right to contact the commission. The applicant shall bear the burden of demonstrating that the previous customer is no longer an occupant of the dwelling unit. A utility shall accept any of the following items as adequate to demonstrate that the previous customer is no longer an occupant of the dwelling unit, although it may accept other items:~~

1. A current driver's license, state identification card, or passport from the previous customer showing a new address.

Commented [A71]: This section has the "customer" problem? Stay with "account holder" language instead.

Commented [A72]: Would only mean something if driver's license was issued after customer supposedly moved on

2. A utility bill dated within the previous 3 months in the name of the previous customer showing a new address.

3. A lease in the name of the previous customer showing a new address.

4. A pay stub in the name of the previous customer showing a new address.

(b) Failure to pay for an outstanding account balance with the utility owing at a previous address and for which there is no agreement or arrangement for payment and it is not in dispute but remains outstanding~~+~~.

(c) Failure to ~~comply with pay a~~ deposit or ~~provide a guarantee arrangements~~ as specified in s. PSC 185.36 or 185.361~~+~~.

(d) Diversion of service around the meter~~+~~.

(e) Refusal or failure to permit authorized utility personnel to read the meter at least once every 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- or 9- month period begins with the date of the last meter reading~~+~~.

(f) Refusal or failure to permit authorized utility personnel access to the base meter~~+~~ or inspect plumbing in order to locate and correct cross connections.

(g) Violation of the utility's rules pertaining to the use of service in a manner which interferes with the service of others or to the operation of nonstandard equipment, if the customer has first been notified and provided with reasonable opportunity to remedy the situation~~+~~.

(gm) Failure to repair a leaking or broken portion of the service line for which the property owner or customer is responsible, if the customer has first been notified and provided with reasonable opportunity to make the repairs.

(h) Failure to comply with Wisconsin statutes, commission rules, or commission orders pertaining to utility service~~+~~.

(i) Failure to pay costs or fees incurred by and awarded to the utility by a court of law, for pursuit of collection of bills, or failure to pay extraordinary collection charges as allowed and specified in the utility's ~~tariffs~~ schedule of rates and rules filed with the commission~~+~~.

(j) Failure to comply with the utility's rules or if the customer uses a device that unreasonably interferes with communications or signal services used for reading meters~~+~~.

(k) Failure of an applicant for utility service to provide the information or documentation required by ss. PSC 185.30 or 185.305.

(3) EXCEPTIONS TO PROVIDING NOTICE. (a) A utility may disconnect utility service without prior notice where a dangerous condition exists for as long as the condition exists. A dangerous condition may include a vacant, unheated property at risk of the water piping freezing. Upon disconnection, the utility shall provide a written explanation of the dangerous condition.

(b) A utility may disconnect service without prior notice where it has reasonable evidence that utility service is being obtained by potentially unsafe devices or potentially unsafe methods or devices or methods that stop or interfere with the proper metering of the utility service.

(c) A utility may disconnect service without prior notice where service has been connected or reconnected without the utility's authorization.

Commented [A73]: There may need to be an immediate shutoff in emergency situations

~~(4) Service may be discontinued with a written 24-hour notice for nonpayment of a bill covering surreptitious use of water. (d) If service is disconnected without prior notice, at the time of the disconnection the utility shall leave a written notice on the premises explaining the reason for the disconnection and the actions that must be taken for reconnection.~~

~~(5)~~

~~(a) Any one of the items under subd. 1. or any 2 of the items under subd. 2. shall constitute adequate verification of identity and residency, although a utility may accept other forms of verification:~~

~~1. Photo identification card, driver's license, or U.S. military card;~~

~~2. Social security card, birth or baptismal certificate, or letter of identification from a social service agency or employer.~~

~~(b) An applicant denied or refused service because of this subsection shall be informed in writing of the opportunity to dispute the matter through the commission, and shall be provided with the address and telephone number of the commission.~~

~~(6) A public utility may disconnect residential utility service, without notice, where it has reasonable evidence that utility service is being obtained by potentially unsafe devices or potentially unsafe methods that stop or interfere with the proper metering of the utility service.~~

(7) OWNER OR MANAGER OF RENTAL DWELLING UNITS.

(a) Account arrears incurred by an owner or property manager for rental residential dwelling units may be transferred, without regard to class of service, to the home or office account of the owner or property manager.

(b) The utility shall send written notice of the planned transfer of the account arrears to the owner or property manager prior to making the transfer.

(c) If the transferred account arrears remain unpaid, the utility may disconnect the owner's or property manager's residence or office service, provided that the utility complies with the disconnection provisions of s. PSC 185.37.

(8) DISCONNECTION PROHIBITED. Utility service may not be disconnected or refused for any of the following reasons:

(a) Nonpayment of a delinquent account over 6 months old where collection efforts have not been made within that period of time unless the passage of additional time results from other provisions of this chapter or from good faith negotiations or arrangements made with the customer.;

(b) Failure to pay for merchandise or charges for nonutility service billed by the utility, except where authorized by law as in s. PSC 185.33 (1) (h).;

(c) Failure to pay for a different type or class of utility service, except as provided by sub. (7) (c).;

(d) Failure to pay the account of another customer as guarantor of that account.;

(e) Failure to pay charges arising from any underbilling occurring more than one year prior to the current billing.;

(f) Failure to pay an estimated bill other than a bill rendered pursuant to ~~an~~ the utility's approved ~~billing tariffs~~ schedule of rates and rules or the customer upon request refuses to permit the reading of the meter during normal business hours.;

(g) For the intentional removal or eviction of a tenant from rental property.;

Commented [A74]: What is the rationale for this?

Commented [A75]: Unclear

(h) The utility 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.

(8m) EXTENUATING CIRCUMSTANCES. 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 s. PSC 185.37 (10) prior to disconnecting service.

(98e) COLD WEATHER DISCONNECTION PROHIBITED. 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.

(10) MEDICAL AND PROTECTIVE SERVICES EMERGENCIES.

(a) Notwithstanding any other provision of this section, a utility may not disconnect service or refuse to reconnect service to a residential customer if disconnection shall aggravate an existing medical or protective services emergency of the occupant, a member of the customer's family or other permanent resident of the premises where service is rendered and if the customer conforms to the procedures described in par. (b).

(b) A utility shall postpone the disconnection of service, or reconnect the service if disconnected, for 21 days to enable the occupant to arrange for payment, if the occupant produces a licensed Wisconsin physician's statement or notice from a public health, social services, or law enforcement official which identifies the medical or protective services emergency and specifies the period of time during which disconnection shall aggravate the circumstances. The postponement may be extended by renewal of the statement or notice. During this 21 days of service, the utility and occupant shall work together to develop resources and make reasonable payment arrangements in order to continue the service on a permanent basis. Further postponements may be granted if there is evidence of reasonable communication between the utility and occupant in attempting to make arrangements for payment.

(c) During the period service is continued under the provisions of this subsection, the customer shall be responsible for the cost of residential utility service. However, no action to disconnect that service shall be undertaken until expiration of the period of continued service. Any customer who is in this continued service category shall be admitted into appropriate and special payment plan programs the utility may offer.

(d) If there is a dispute concerning an alleged existent medical emergency, either party shall have the right to an informal review by the commission staff. Pending a decision after informal review, residential utility service shall be continued, provided that the occupant has submitted a statement or notice as set forth in par. (b).

(11) DISCONNECTION NOTICE.

Commented [A76]: Is it necessary that it be a Wisconsin licensed provider?

(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 10 calendar days prior to the first date of the proposed disconnection except as provided in subs. (3), ~~(4), and (7)~~.

~~(ag)~~ 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, at each individual dwelling unit or to all entrances to the building and in the lobby. The notice shall contain all of the following: ↗~~

~~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.~~

~~(ar)~~ If disconnection is not accomplished on or before the 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 20-day time period.

(b) The utility shall make a reasonable effort to have a personal or telephone contact with the residential customer prior to disconnection. If a contact is made, the utility shall review the reasons for the pending disconnection of service, and explain what actions shall be taken to avoid disconnection.

(c) The utility shall keep a record of these contacts and contact attempts.

(d) When a residential customer, either directly or through the commission, disputes a disconnection notice under s. PSC 185.37, the utility shall investigate any disputed issue and shall attempt to resolve that issue. During this investigation, utility service shall not be disconnected over this matter.

(e) If a disputed issue cannot be resolved, the utility shall inform the customer of the right to appeal to the commission.

(f) Disconnection notice shall be given on a form approved by the commission, and shall contain the following information:

1. The name and address of the customer and the address of the service, if different;

2. A statement of the reason for the proposed disconnection of service and that disconnection shall occur if the account is not paid, or if arrangement is not made to pay the account under deferred payment agreement, or if other suitable arrangements are not made, or if equipment changes are not made. If disconnection of service is to be made for default on a deferred payment agreement, the notice shall include an explanation of the acts of the customer which are considered to constitute default;

3. A statement that the customer shall communicate immediately upon receipt of the notice with the utility's designated office, listing a telephone number, if the customer disputes the notice of delinquent account, if the customer wishes to negotiate a deferred payment agreement as an alternative to disconnection, if any resident is seriously ill, or if there are other extenuating circumstances, as the presence of infants or young children in the household, the presence of aged, or persons with disabilities in the household, the presence of residents who use life support systems or equipment or residents who have mental retardation or other developmental or mental disabilities;

4. A statement that residential utility service shall be continued for ~~up to~~ 21 days during serious illness if the account holder submits a statement or notice pursuant to sub. (10);

5. A statement that the customer may appeal to the commission staff in the event that the grounds for the proposed disconnection or the amount of any disagreement remains in dispute after the customer has pursued the available remedies with the utility.

(12) **BUSINESS OFFICES CLOSED.** Service shall not be disconnected on a day, or on a day immediately preceding a day, when the business offices of the utility are not available to the public for the purpose of transacting all business matters unless the utility provides personnel which are readily available to the customer 24 hours per day to evaluate, negotiate, or otherwise consider the customer's objection to the disconnection as provided under s. PSC 185.39, and proper service personnel are readily available to restore service 24 hours per day.

(13) **LIMITATION.** Notwithstanding any other provision of this chapter, utility service may not be refused because of a delinquent account if the customer or applicant provides, as a condition of future service a deposit or guarantee, as governed by s. PSC 185.36, or a voucher agreement. If the guarantor has agreed to be responsible for payment of all future bills, the customer shall be notified of the billing arrangement and of the ability to reject the proposed arrangement.

(14) **TIMELY RECONNECTION.** A utility shall promptly reconnect service when the cause for the disconnection has been eliminated. The utility shall make an effort to restore service as soon as possible but, in any event, shall restore service no later than the end of the second day following elimination of the cause for the disconnection, unless the utility cannot gain access to the necessary utility facilities.

Commented [A77]: Significant concerns about the terms "promptly" and "as soon as possible." Regular work hours. Overtime should not be required.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; CR 01-033: am. (1) (b), (2) (e) and (L), (8) (h), (9) and (11) (a), cr. (1m), (2) (am) and (8m), Register October 2001 No. 550, eff. 11-1-01; CR 13-048: am. (2) (k), r. (2) (L) Register July 2014 No. 703, eff. 8-1-14.

PSC 185.38 Deferred payment agreement.

(1) ~~Except as provided in s. 66.0809(9), Stats., A~~ utility ~~is required to~~ shall offer deferred payment agreements to residential ~~accounts customers~~ and is encouraged to offer such agreements to other customers.

Commented [A78]: If payment plans for non-residential customers must meet these same requirements, utilities may not offer plans to those customers.

(1m) A utility shall offer a deferred payment agreement at any of the following times:

(a) Prior to disconnection.

(b) If the customer is disconnected and requesting reconnection.

(c) Every 15 months if a utility has a policy or practice to not disconnect customers for nonpayment.

Commented [A79]: Need clearer language on application of § 66.0809(9).

Commented [A80]: This will allow continual cycle of disconnections and reconnections if a new deferred payment agreement is allowed every time.

(2) Every deferred payment agreement entered into due to the customer's inability to pay the outstanding bill in full shall provide that service shall not be discontinued if the customer does all of the following:

Commented [A81]: Do not agree with this provision. Bills should be allowed to go to the tax roll.

(a) Pays a reasonable amount of the outstanding bill not to exceed the lesser of \$600 or 50% of the amount outstanding.

Commented [A82]: Who decides what is reasonable? \$600 too low in some situations. How does this work with multi-service utilities? How does this work where a bill is transferred to the landlord's home account?

(b) Agrees to pay the remaining outstanding balance in not less than three equal monthly installments, and

(c) Agrees to pay the current bill by the due date.

Commented [A83]: Don't agree with a minimum of three installments in all cases.

(3) For purposes of determining reasonableness in sub. (2), the parties shall consider the customer's ability to pay, including all of the following factors:

(a) Size of the delinquent account.

(b) Customer's payment history including the number of late payments, number of missed payments, number of previous deferred payment agreements;

(c) Time that the debt has been outstanding;

(d) Reasons why the debt has been outstanding;

(e) Any other relevant factors ~~concerning the circumstances of the customer such as household size, income, and necessary expenses.~~

(3m) A utility may permit a customer to enter into a deferred payment agreement verbally or require a customer to enter into a written deferred payment agreement.

(4) A written deferred payment agreement offered by a utility shall state immediately preceding the space provided for the customer's signature and in bold face print at least 2 sizes larger than any other print used, that:

(a) You have the right to suggest a different payment agreement;

(b) If you believe the terms of this agreement are unreasonable, DO NOT SIGN IT;

(c) If you and the utility cannot agree on terms, you may ask the commission to review the disputed issues;

~~(d) If you sign this agreement, you agree that you owe the amount due under the agreement;~~

(e) Signing this agreement does not affect your responsibility to pay for your current service.

Allowing any bill for current service to become delinquent places you in default of this agreement.

(4m) A utility that does not require a written deferred payment agreement shall communicate to the customer all points listed in sub. (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 if it has evidence that the terms of the agreements are not being effectively communicated to customers.

(5) A delinquent amount, including late payment charges covered by a deferred payment agreement, shall not be subject to an additional late payment charge if the customer meets the payment schedule, including the current bill required by the agreement. A deferred payment agreement shall not include a finance charge.

~~(6) If an applicant for utility service or current customer has not fulfilled terms of a deferred payment agreement and there has not been a significant change in the customer's ability to pay since the agreement was negotiated, the utility shall have the right to disconnect pursuant to disconnection of service rules (s. PSC 185.37) and under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.~~

(7) Any payments made by a customer solely in compliance with a deferred payment agreement, and not as part of a payment for other utility services, shall first be considered as payment toward the deferred payment agreement with any remainder credited to the current bill. Payments made to satisfy a current bill for utility service, which may include a portion for a deferred payment agreement, shall be credited as set forth in s. PSC 185.33 (4).

(8) If a deferred payment agreement cannot be reached because the customer's offer is unacceptable to the utility, the utility shall inform the customer in writing why the customer's offer was not acceptable and notify the customer of the right to request the commission review the dispute.

Commented [A84]: Why is this deleted?

Commented [A85]: This needs to remain

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; CR 01-033; cr. (4m), Register October 2001 No. 550, eff. 11-1-01.

PSC 185.39 Dispute procedures.

(1) INITIAL PROCESS. Whenever ~~the a~~ customer or applicant disputes ~~the utility's request for a deposit or other guarantee, or advises the utility's designated office prior to the disconnection of service that all or any part of any billing as rendered is in dispute, or that any matter related to the disconnection or refusal of service is in dispute,~~ a utility's action or inaction under this chapter the utility shall do all of following:

Commented [A86]: Extends dispute procedure to other utility actions

(a) Investigate the dispute promptly and completely;

(b) Advise the customer of the results of the investigation;

(c) Attempt to resolve the dispute;

(d) Provide the ~~opportunity for residential customers, nonresidential customers at utility discretion, per s. PSC 185.38 (1) to enter into a deferred payment agreement when reasonable in order to resolve the dispute~~ contact information for the commission if the dispute is not resolved.

(2) COMMISSION STAFF DETERMINATION.

(a) After the customer or applicant has pursued the available remedies with the utility, the customer may request that the commission staff informally review the disputed issue ~~and recommend terms of settlement. Such a request shall be considered an informal complaint under s. PSC 2.08.~~

(b) A request for informal review may be made in any reasonable manner such as by written or telephone request directed to the commission. Either by telephone or written request, the commission staff may request that the utility ~~to~~ investigate the dispute.

(c) The utility shall designate employees for responding to commission ~~complaints requests~~ who are readily available and have an appropriate and sufficient authority level for investigating and resolving any concerns raised by the commission and its staff. Utilities shall provide the names of the designated employees to the commission and shall promptly inform the commission of any changes in these designations.

Commented [A87]: Addition of "any"?

(cg) A utility shall respond to ~~the public service a request by the~~ commission or its staff's request for an investigation 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 ~~10-7 business~~ calendar days. Staff may extend this time period if the utility requests more time to complete its investigation.

(cr) Based on information provided by the utility and the customer, ~~the~~ commission staff shall make ~~an informal a~~ determination ~~for settlement of on~~ 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 within 10 calendar days of the date the determination is communicated to both parties. The determination by commission staff shall be binding on the utility and the customer unless the commission grants a request for formal review under sub. (3). Commission staff shall inform any customer disputing ~~an informal a~~ determination of the right to pursue request a formal review.

(d) There shall be at least 7 calendar days between the date the commission staff telephones or mails written notice of ~~terms of settlement after informal review~~ the determination and any subsequent disconnection.

(3) REQUEST FOR COMMISSION REVIEW.

~~(a) After informal review, any party to the dispute may make a written request for a formal review by the commission within 20 calendar days of the date the determination is communicated to both parties. If the determination is provided by telephone and the basis is requested in writing under sub. (2)(cr) the 20-day period begins on the day the written determination is issued. To avoid disconnection, the utility may not disconnect service pending a request for formal review for the issue in dispute, if the customer shall request a formal review by the commission, in writing, within 7 calendar days of the issue issuance of the informal commission staff determination. All other requests for formal review shall be made within 30 calendar days of the date the commission staff telephones or provides written notice of terms of the settlement after informal review. If written confirmation is requested, the 30-day period begins from the date of that mailing. A request for formal review shall be considered a request to open a docket under s. PSC 2.07 and the process in ch. PSC 2 shall apply.~~

~~(b) Within 7 calendar days of receiving a request for formal review in a dispute involving a pending disconnection of service, the commission shall make a determination whether to grant the request for formal review. The commission shall base its determination on the request for formal review and commission staff's informal complaint file. Within 35 calendar days from the time that all other requests for formal review are made, commission staff shall provide the commission with a memorandum based on the information it has received from the utility and the customer. A copy of the commission staff memorandum shall be provided to the parties 15 calendar days prior to consideration by the commission. Either party to the complaint may file a response to the commission staff's memorandum. These comments shall be filed with the commission 2 working days prior to the date scheduled for consideration by the commission. The commission shall inform both parties of its decision.~~

~~(4) Either party to the complaint may request that the commission reconsider its formal determination under this section. Such requests shall comply with s. 227.49, Stats., and shall be received by the commission within 20 days of mailing of the commission's determination. A request for reconsideration shall include any additional information or arguments that the party believes were not considered in the original complaint. The commission may review and reaffirm its original decision, issue a new decision, or decide to hold hearing on the matter for the gathering of additional information.~~

~~(5)~~

~~(a) If the commission decides to conduct a formal hearing under sub. (4) on the dispute, the commission may condition the terms of its granting a formal hearing. Failure to meet these conditions before hearing shall constitute waiver of the dispute by the customer.~~

~~(b) The hearing shall conform to the procedures of ss. 196.26 to 196.34, Stats.~~

~~(c) Any such hearing shall be held not less than 10 days following a notice of hearing and a decision thereon shall be rendered following the conclusion of the hearing.~~

(6) Utility service shall not be disconnected or refused because of any disputed matter while the disputed matter is being pursued in accordance with the provisions of this section. The utility shall inform the customer that pursuing a disputed matter does not relieve the customer of the obligation of paying charges which are not in dispute, prevent disconnection of service for nonpayment of undisputed charges, or prevent the application of the late payment charge to amounts in dispute and later determined to be correct.

Commented [A88]: This change is a problem as it greatly extends the time for the Commission to act. This is especially a concern if it can delay termination of service even more. This is not consistent with the electric or gas rules.

PSC 185.40 Unconscionability.

- (1) If the commission finds that any conduct or aspect of a transaction directed against a customer by a utility is unconscionable, it may refuse to enforce any unconscionable aspect or conduct to avoid any unconscionable result.
- (2) Without limiting the scope of sub. (1), the commission may consider, among other things, the following as pertinent to the issue of unconscionability:
 - (a) That the practice unfairly takes advantage of the lack of knowledge, ability, experience or capacity of customers.
 - (b) That those engaging in the practice know of the inability of customers to receive benefits properly anticipated from the goods or services involved.
 - (c) That there exists a gross disparity between the price of goods or services and their value as measured by the price at which similar goods or services are readily obtainable by other customers, or by other tests of true value.
 - (d) That the practice may enable merchants to take advantage of the inability of customers to reasonably protect their interests by reason of physical or mental infirmities, illiteracy or inability to understand the language of the agreement, ignorance or lack of education or similar factors.
 - (e) That the terms of the transaction require customers to waive legal rights.
 - (f) That the terms of the transaction require customers to unreasonably jeopardize money or property beyond the money or property immediately at issue in the transaction.
 - (g) That the natural effect of the practice would reasonably cause or aid in causing customers to misunderstand the true nature of the transaction or their rights and duties thereunder.
 - (h) That the writing purporting to evidence the obligation of the customer in the transaction contains terms or provisions or authorizes practices prohibited by law.

PSC 185.405 Oppressive and deceptive practices prohibited. A utility shall not engage in any oppressive or deceptive practices. It shall not do any of the following:

- (1) Use or threaten force or violence to cause physical harm to the person, dependents, or property of the ratepayer.
- (2) Threaten criminal prosecution without merit or authority.
- (3) Initiate or threaten to initiate communications with the ratepayer's employer except as permitted by statute.
- (4) Engage in any conduct which can reasonably be expected to threaten or harass a ratepayer.
- (5) Claim or attempt to claim to enforce a right, with knowledge or reason to know that the right does not exist.
- (6) Use obscene, threatening, or abusive language in communicating with a ratepayer or a person related to a ratepayer.
- (7) Threaten to disconnect a customer if the utility has a policy or practice not to disconnect customers for nonpayment.

Commented [A89]: Language same as that found in electric rules, but why added?

Commented [A90]: Why is this needed? Doesn't the Commission already have jurisdiction over the reasonableness of utility rates, rules and practices. Is this intended to expand the Commission's jurisdiction?

Commented [A91]: Language same as in electric rules – except (7) is an addition. Why is this addition necessary? See prior comment.

Commented [A92]: This is too vague. A ratepayer could view disconnection as harassment

Commented [A93]: If a utility has a legal right to disconnect, informing a customer of that right cannot be viewed as being oppressive or deceptive.

Subchapter IV — Records

PSC 185.41 Employees authorized to enter a customer's premises. The utility shall keep a record of its employees authorized pursuant to s. 196.171, Stats., to enter a customer's premises.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.42 Customer complaints. Each utility shall investigate and keep a record of complaints from its customers in regard to safety, service, or rates, and the operation of its system. The record shall show complainant's name and address, the date the complaint is filed, the nature of the complaint, its resolution, and the date resolved.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.43 Construction records.

(1) Every utility shall prepare and maintain a record of its utility plant. The records shall include a description of the unit of property, the year of its construction, and its location. They shall be in the form of a map or descriptive table.

(2) Class AB utilities are required by the uniform system of accounts to institute a perpetual inventory of their assets known as continuing property records. A continuing property record system shall contain the following criteria and detail:

(a) The system shall be arranged by plant accounts as prescribed by the Uniform System of Accounts;

(b) All property units shall be described in sufficient detail to permit their identification and shall have location information to allow verification of their physical existence;

(c) All property units shall be identified with construction costs to establish their original cost for capitalization and retirement accounting;

(d) The age and service life of property units shall be calculable for depreciation studies. The original cost, description, and age of the property unit at retirement shall be converted into mortality records and permanently retained. (See s. PSC 185.19);

(e) Source documents supporting the original cost and quantities of property units shall be preserved for a period of 6 years after the plant is retired. (See s. PSC 185.19.) An exception is when a utility maintains approved continuing property records and permanent mortality records, then supporting documents need only be preserved for a period of 6 years after construction is completed. This provision meets commission requirements but may not satisfy other record-keeping needs;

(f) Maps may be part of the continuing property records if they contain the description of the unit, its location, and the year of its construction. For maps to become the Continuing Property Record, the units shall be referenced to their original cost.

(3) A utility may apply for a waiver from any portion of subs. (1) and (2). Such application shall state the paragraphs to which a waiver is requested. Also, the utility shall provide the reasons it cannot or shall not have to comply with subs. (1) through (2) (f) and the impacts such a waiver would have on the utility's ability to maintain usable continuing property records, if any.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.44 Records and reports of service interruptions.

(1) Each utility shall notify the commission as soon as possible of any unusual occurrence which has caused or is expected to cause an interruption of service for one hour or longer to ~~at least~~ 25% of the

Commented [A94]: Discussion of lower number. Workgroup questioned whether utilities were actually doing the notification.

customers or 500 (or more) customers, whichever number is the smaller. (This supplement does not preempt the requirements of ch. PSC 104.)

Note: See also s. PSC 185.88, Interruptions of service.

(2) Each utility shall maintain a record of each interruption (as defined in sub. (1)) showing the date and time it began, the duration, the cause, and the approximate number of customers affected.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.45 Pumpage records. A record shall be kept of the amount of water pumped into the distribution system each day from each station. The daily pumpage shall be summarized by months and such daily records and monthly summaries kept on file.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.46 Metering equipment records.

(1) METER TEST RECORDS.

(a) A utility shall create a record of a meter test whenever a meter is tested. If the meter is tested again, the utility need not retain the previous test record once the information in that record has been entered in the meter history record. The meter test record shall include all of the following:

1. Identification of the meter.
2. The service address at which the meter is installed.
3. The date of the test.
4. A statement of "as found" accuracies.
5. A statement of "as left" accuracies, when applicable.
6. The name of the person making the test.

7. The readings before and after the test.

(b) Meter test records and meter history records may be kept as separate records or one record.

(2) METER HISTORY RECORDS.

(a) Each utility shall keep a history record for each meter sufficient to fulfill the requirements of s. PSC 185.19, including all of the following:

1. The date the meter was placed into service.
2. The information in all of the meter's test records under sub. (1).
3. The date the meter was retired from service.

4. The cost of the meter.

(b) Meter test records and meter history records may be kept as separate records or one record.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; CR 13-033: r. and recr. (1), (2) Register July 2015 No. 715, eff. 8-1-15.

~~**PSC 185.47—Other records.** Other required records which are referred to elsewhere in this chapter include records of adjustment of customer bills (s. PSC 185.35 (8)), main flushing (s. PSC 185.86), valve and hydrant operations, pumpage and metered consumption (s. PSC 185.85 (2)), and service interruptions (s. PSC 185.88).~~

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

Commented [A95]: Will utilities have this information?

Subchapter V — Engineering

PSC 185.51 Requirement for good engineering practice. The design and construction of the utility's water plant shall conform to good standard engineering practice and shall conform to the requirements of this chapter and the requirements of appropriate federal, state, and local regulatory authorities.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.52 General construction requirements.

(1) MAINS.

(a) Ownership of mains. Unless otherwise provided by the commission, a utility shall own, maintain, repair and replace all mains in its distribution system.

Commented [A96]: WRWA. Utilities don't own mains on private property.

(am) Installed depth. Mains A utility shall be placed any main that it owns at such depth or otherwise protected as shall prevent freezing.

Commented [A97]: Add "in normal conditions" if this is to remain

(b) Dead ends. Where practical the utility shall design its distribution system to avoid dead end mains. Where dead ends are necessary, hydrants or other flushing devices shall be installed to permit flushing. (See s. PSC 185.86.)

(c) Networked systems. Where practical, each utility shall design and construct its the distribution system shall be laid out to maximize service reliability.

(d) Segmentation of system. A utility shall provide Valves valves shall be provided at reasonable intervals and at appropriate locations so that repairs to or maintenance of the mains shall minimize service interruptions.

(e) Location of mains. Utility-owned mains shall be located either in public right-of-way, or in a readily accessible easement. As much as possible, easements shall be free of encumbrances such as pavement, expensive landscaping, mobile home pads, permanent structures, etc.

Commented [A98]: Is it reasonable to include pavement since mains are often in the road?

(f) Main ownership conditions. A utility may choose whether or not it shall accept for ownership the mains within a mobile home park. Mains may only be accepted if they meet the utility's construction standards and the requirements of ss. PSC 185.51 and 185.52.

(g) Repairs to mains. A utility may temporarily shut off the water supply to make repairs, replacements, alterations, or additions to the distribution system.

Commented [A99]: Prior draft said "to the plant or system"

1. The utility shall make a reasonable attempt to notify any customers who are directly affected by a scheduled service interruption at least 24 hours prior to shutting off the water supply. This notice may be provided verbally or in writing.

2. A utility may not provide a credit to a customer for a temporary interruption of the water supply due to repairs, replacements, alteration, or additions under this section.

(2) SERVICE LATERALS LINES.

(a) Ownership, repair and replacement. Unless otherwise approved by the commission, a utility shall own the portion of the service line from the main up to and including the curb stop box. The utility shall be responsible for the maintenance, repair, and replacement of the utility-owned portion of a service line. Unless otherwise approved by the commission, the customer shall own the portion of the service line from the connection to the curb stop box to the meter. The customer shall be responsible for the maintenance, repair, and replacement of the customer-owned portion of a service line.

Commented [A100]: Is there an issue regarding ownership of the connection to the curbstop box?

(a) ~~Installed depth. Laterals shall be placed~~ A utility shall place the utility-owned portion of a service line at such depth or otherwise protected as will prevent freezing.

Commented [A101]: Add "under normal conditions" if this is to remain

(b) ~~Single connections. A customer's~~ The customer-owned portion of a lateral-service line shall be directly connected to utility-owned facilities, and there shall be no other customer connection downstream from the utility's shut-off valve. This does not apply to multi-occupancy premises, such as apartments, condominiums, and shopping centers if a single owner is responsible to maintain, repair or replace the customer-owned portion of the service line.

Commented [A102]: This should be discussed

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.53 Metering configuration.

(1) MASTER METERING. Unless a utility owns the water distribution facilities within a mobile home park, condominium association, trust, etc., the private system shall be master metered and the park owner, condominium association, trust, etc., shall be the utility's billable customer.

Commented [A103]: Allow for Commission approved exception. "Unless otherwise authorized by the commission upon the utility's request" . . .

(2) INDIVIDUAL METERING. A utility may only provide retail service directly to individual dwellings within a mobile home park, condominium association, trust, etc., if the distribution facilities within the mobile home park, condominium association, trust, etc., are owned by the utility on easements. Such facilities may only be accepted for ownership at a utility's discretion and only if the facilities meet the utility's construction standards and the requirements of ss. PSC 185.51 and 185.52.

Commented [A104]: Same comment as above

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

Subchapter VI — Customer Meters, Accuracy Requirements

PSC 185.61 Meters.

(1) GENERAL. A utility may use any type of meter as long as it meets the accuracy requirements specified in s. PSC 185.65. All meters used for measuring the quantity of water delivered to a customer shall be owned and installed by the utility and in good working condition. ~~They~~ A utility shall select meters that are adequate in size and design for the type of service measured and consistent with the temperature, pressure and flow ranges specified by the manufacturer, and shall be accurate to the standard specified in s. PSC 185.65. Cold water meters of the turbine type meters shall be used for metered service only where the actual flow rates fall entirely within the normal test flow limits of the meter specified by the manufacturer. Flow meters, including magnetic and ultrasonic meters, may be used for customer metering only with the specific approval of the commission.

Commented [A105]: Why necessary to be installed by utility?

(2) OWNERSHIP. Meters, ROMs and remote automatic meter reading devices and systems necessary for the billing of utility service shall be owned and maintained by the utility except where otherwise authorized by the commission.

(3) SALE OF METERS. A utility may sell meters if such meters are to be used solely for nonutility purposes, such as unregulated sewer service. This section does not prohibit the sale of meters between utilities.

Commented [A106]: WRWA. Add "or after meters are removed from service" at the end.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.65 Accuracy requirements for meters.

(1) ~~The test flow limits for positive displacement, compound, and turbine meters shall be as follows:~~ A utility shall test all meters for accuracy at the minimum, intermediate and maximum flow rates using the specified test quantity of water in accordance with table below. The accuracy limits apply to all

meters including new, repaired and rebuilt meters, except that repaired meters placed back into service shall have a minimum registration of 90% and a maximum registration of 102%.

Commented [A107]: The accuracy limits should apply to all meters being placed in service. The last claim related to repaired meters placed back into service may not make sense. What is the difference between repaired and rebuilt meters?

Note: See AWWA Standards C-700 (Positive Displacement Meters), C-702 (Compound Meters), and C-701 (Turbine Meters).

Note: * See s. PSC 185.61 (1).

Summary of Test Conditions and Accuracy Requirements for all Meters											
Meter Size (inches)	Minimum Test Rate				Intermediate Test Rate			Maximum Test Rate			Accuracy Limit (Intermediate and Maximum Test Flows) (%)
	Flow Rate (gpm)	Test Quantity		Accuracy Limit * (Min. Test Flow) (%)	Flow Rate (gpm)	Test Quantity		Flow Rate (gpm)	Test Quantity		
		Gallons	Ft ³			Gallons	Ft ³		Gallons	Ft ³	
5/8	1/4	10	1	95 - 101	2	10	1	15 - 20	100	10	98 - 102
3/4	1/2	10	1	95 - 101	3	10	1	25 - 30	100	10	98 - 102
1	3/4	10	1	95 - 101	4	10	1	40 - 50	100	10	98 - 102
1 1/2	1 1/2	100	10	95 - 101	8	100	10	80 - 100	100	10	98 - 102
2	2	100	10	95 - 101	15	100	10	120 - 160	100	10	98 - 102
3	6	100	10	98 - 102	35	100	10	320 - 350	1000	100	98 - 102
4	8	100	10	98 - 102	60	100	10	600 - 630	1500	200	98 - 102
6	15	1000	100	98 - 102	125	1000	100	1250 - 1400	4000	500	98 - 102
8	50	1000	100	98 - 102				1600 - 2400	7000	900	98 - 102
10	75	1000	100	98 - 102				2300 - 3800	10000	1300	98 - 102
12	120	1000	100	98 - 102				5000 - 5800	15000	2000	98 - 102
16	200	1000	100	98 - 102				10000 - 11500	30000	4000	98 - 102
20	300	1000	100	98 - 102				13500 - 15000	40000	5000	98 - 102

* Section PSC 185.73 (3) provides that at this flow rate the test quantity may be reduced to that equivalent to one-half revolution of the test dial. For the typical 5/8-inch meter the minimum test quantity would, therefore, be 5 gal. or 1/2 cu. ft.

(2) Positive displacement meters shall have a percent registration between 98.5 and 101.5 within the range of normal test flow limits before being placed in service. In addition, new meters shall have a percent registration at the minimum test flow between 90 [95] and 101.5. In all other cases, the percent registration shall be between 90 and 101.5 before being placed in service. These requirements, in addition to flow, are shown in the table below.

Note: It is the intent of the commission that new meters have an accuracy limits percent between 95 and 101.5. — See PDF for table

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(3) Compound meters shall have a percent registration between 97 and 103 throughout the range of normal test flow limits. At flows within the change-over flow range, the percent registration for compound meters shall not be less than 90%.

(4) Turbine meters shall have a percent registration between 97 and 103 throughout the range of normal test flow limits and a percent registration of at least 95% at the minimum test flow.

(5) For Metering accuracy requirements apply to the complete meter installation including the with remote reading ROM or automatic meter reading devices systems the above accuracy requirements apply to the metering accuracy of the complete installation.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

Subchapter VII — Meter Testing

PSC 185.71 Meter testing facilities and equipment.

(1) Each utility furnishing metered water service shall own or provide, through contract or otherwise, adequate equipment and facilities to provide for testing all of its water meters in compliance with this chapter.

(2) The meter testing facility shall, to the extent practical, simulate the actual service condition of inlet pressure and outlet pressure. It shall be provided with the necessary fittings, including a quick-acting valve for controlling the starting and stopping of the test, and a device for regulating the flow of water through the meter under test within the requirements of this chapter.

(3) The overall accuracy of the test equipment and test procedures shall be sufficient to enable the testing of service meters within the requirements of this chapter and regulations. In any event, the inherent overall accuracy of the equipment shall permit tests with an overall error of not to exceed 0.5 % at normal test flows and 1.0 % at the stated minimum test flow.

Commented [A108]: Workgroup previously recommended deleting (2). Comment was redundant, and not clear how pressure relates to meter testing.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.72 Calibration of meter testing equipment.

(1) Volumetric standards shall be accompanied by a dated certificate of accuracy from an approved laboratory or agency. For any weight standard used, the scales shall be tested periodically by an approved agency and a record maintained of the results of the test.

(2) ~~A reference~~Reference meters, including insertable electromagnetic meters, may be used for testing domestic or larger meters may be used only if the referenced meter has been tested and calibrated during the preceding 6 months. A record shall be kept of the 2 latest tests of any reference meter. ~~(See also s. PSC 185.73 (1).)~~

Commented [A109]: What about reference to insertable electromagnetic meters?

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.73 Testing of customer meters.

(1) The test of any customer meter shall consist of a comparison of its accuracy with that of a standard of known accuracy. Where the test standard consists of a previously calibrated reference or service meter, the test results for the customer meter shall be adjusted to compensate for the inaccuracies of the reference meter at the particular flow rates.

(2) A utility shall test a meter "as found," or before repair, and, unless the meter must be retained under s. PSC 185.77 (3), "as left," or after being rebuilt or repaired.

(3) ~~The Notwithstanding the test quantity specified in the table in s. PSC 185.65, the~~ volume of water through the meter at each test flow point shall be sufficient to produce at least one revolution of the test dial except at the "minimum test flow" point when said volume of water shall produce at least one-half revolution of the test dial.

(4) A meter not meeting the accuracy or other requirements of s. PSC 185.61 or 185.65 shall, unless the meter must be retained under s. PSC 185.77 (3), be repaired or rebuilt to meet those requirements before further use, or discarded.

Commented [A110]: What is the difference between rebuilt and repaired?

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; CR 13-033: am. (2), (4) Register July 2015 No. 715, eff. 8-1-15.

PSC 185.74 Test flows.

(1) TESTS. The minimum, intermediate and maximum test flow rates and "normal test flow limits" as used herein refer to those listed in s. PSC 185.65. The stated test flows apply for both As Found and As Left tests.

Commented [A111]: Questions about different test ranges.

(2) ~~POSITIVE DISPLACEMENT METERS OTHER THAN COMPOUND METERS. (See s. PSC 185.65 (2).)~~ For each test ~~of a meter other than a compound meter~~, the percent registration shall be determined at each of the following test flows:

- (a) ~~At least one test at the minimum test flow rate.~~
- (b) ~~Two test flows within the normal test flow limits, one to be approximately at the maximum registration and the other to be at a flow as high as practicable within the normal test flow limits. At least one test at the intermediate test flow rate, except were excluded on the table in s. PSC 185.65.~~
- (c) ~~At least one test within the maximum test flow rate.~~
- (d) ~~At least one test at or near the maximum registration specified by the meter manufacturer, if practicable.~~

(3) COMPOUND METERS. For each test ~~of a compound meter~~ it shall be determined whether or not the by-pass unit operates at the minimum test flow and, in addition, the percent registration shall be determined at each of the following test flows as determined from accuracy curves for the particular type and size of meter:

- (a) ~~The~~ ~~At least one test at the~~ flow rate for maximum registration of the by-pass unit ~~specified by the meter manufacturer.~~
- (b) ~~At least one test at a~~ flow rate near the point of minimum registration within the change-over range ~~specified by the meter manufacturer.~~
- (c) ~~At least 3 flows within the normal test flow limits of the current unit, one of which is to be at the flow for maximum registration, one at approximately 50 % of such flow but above the change over range, and one at as high a flow as practicable one test within the maximum test flow range.~~
- (d) ~~At least one test at the maximum registration specified by the meter manufacturer, if practicable.~~
- (e) ~~At least one test at approximately 50 % of the maximum registration, but above the change-over rate.~~

~~(4) TURBINE METERS. For each test the percent registration shall be determined at each of the following test flows:~~

- ~~(a) The minimum test flow;~~
- ~~(b) At least 3 flows within the normal test flow limits, one of which is to be at or near the lower limit, another as near as practicable to the upper limit, and one at an intermediate flow rate.~~

Commented [A112]: ?

Commented [A113]: Questions about different test ranges

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.75 Required tests of customer meters. Meters shall be tested by the utility at the following times:

- (1) Before use or sample tests in accordance with s. PSC 185.751 shall include:
 - (a) Rebuilt meters;
 - (b) New Meters which are not certified accurate by the vendor.
- (2) Periodically to ~~insure~~ ensure accuracy, (see s. PSC 185.76);
- (3) Upon customer request or complaint, (see s. PSC 185.77);
- (4) When damaged or otherwise suspected of being inaccurate;
- (5) If a meter is removed while a usage dispute is pending.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; CR 01-033; am. (5), Register October 2001 No. 550, eff. 11-1-01.

PSC 185.751 Alternate sample-testing plan for "before-use" test for 5/8-, 3/4-, and 1-inch meters.

- (1) All rebuilt meters must be tested before use.
- (2) Meters as received from the supplier without a certificate of accuracy shall be divided into lots of 36 or less. Each lot shall consist of meters of the same make, type, and size.
- (3) A random-selected sample of 4 meters from each lot shall be selected and tested.
- (4) If any of the tested meters in a given lot fail to meet the accuracy requirements of s. PSC 185.65 (2) for new meters, either the entire lot shall be rejected, or the utility shall test all meters in the lot, rejecting or correcting those found to be inaccurate.
- (5) Records shall be maintained showing the identification numbers of all meters in each lot and the test results for the meters tested per s. PSC 185.19.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.76 Periodic tests.

- (1) Customer meters ("in-use" meters) shall be tested as frequently as is necessary to maintain their accuracies within requirements set forth in s. PSC 185.65. Unless otherwise authorized by the commission, each utility shall observe a test schedule such that the intervals between tests do not exceed the following: [-See PDF for table.](#)

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METER TEST INTERVALS	
Meter Size (in.)	Test Interval (yr.)
5/8, 3/4, 1	10
1 1/2 and 2	4
3 and 4	2
6 and over	1

- (2) Where local water conditions are such that meters shall not retain the required accuracy for the periods indicated, appropriate shorter test intervals shall be observed and may be specifically required by the commission.
- (3) Where local water conditions permit and with specific commission approval, the test interval for 5/8-, 3/4-, and 1-inch meters may be extended. This contemplates that the utility shall demonstrate that the accuracy of its meters shall be retained for ~~this~~ such period.
- (4) ~~For~~ Where local water conditions permit and with specific commission approval, the test interval for 3- and 4-inch meters, the above test interval may be extended to 4 years, ~~where~~ This contemplates that the utility shall demonstrate that the accuracy of its meters shall be retained for this period.
- (5) In lieu of testing every meter as required under sub. (1), a utility may satisfy the requirements of this section by testing meters according to s. PSC 185.761.
- (6) ~~When system losses are less than the prescribed percentages under s. PSC 185.85 (4), a utility in~~ In lieu of testing every meter as required under sub. (1), a utility 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 if the utility has data to

demonstrate that the meters remain accurate for the 20-year period. The utility shall provide this data to the commission upon request.

Note: See s. PSC 185.85(4)(d).

(7) When requesting commission approval under sub. (3) or (4), a utility shall provide the commission meter test data demonstrating the meters remain accurate for the extended period. This data shall include the year in which a meter was purchased, the number of meters purchased during that year and, as to the meters purchased in each year, all of the following:

(a) The test results for all of the meters.

(b) The number of years each meter was accurate without repairs.

(c) The number of meters that were retired during the extended period and the age at retirement.

(d) The number of meters that needed to be repaired during the extended period before being placed back into service.

Commented [A114]: What type of data would have to be provided in order to use this option? Would approval need to be obtained to use this option?

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; CR 01-033: cr. (6), Register October 2001 No. 550, eff. 11-1-01.

PSC 185.761 Alternative sample-testing plan for in-use meters.

(1) As an alternative to testing 100% of meters that require testing under s. PSC 185.76, a utility may test a population sample equal to 25% of the total to be tested of each meter size. This test sample shall be a random selection of the total to be tested and each meter size test shall be conducted independently. If 10% or more of the test sample does not meet the accuracy requirements of s. PSC 185.35, the utility shall test all meters of that size in accordance with s. PSC 185.76.

(2) Meters testing inaccurately under sub. (1) shall be repaired prior to being returned to service. The test sample selected shall be rescheduled for testing under the intervals set forth in s. PSC 185.76 (1). The meters not selected shall be rescheduled for testing at an interval not exceeding one-half the test intervals set forth in s. PSC 185.76 (1).

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.77 Request and referee tests.

(1) REQUEST TESTS. Each utility shall promptly make an accuracy test without charge of any metering installation upon request of the customer if 24 months or more have elapsed since the last customer requested test of the meter in the same location. If less than 24 months have elapsed, an amount equal to one-half the estimated cost of the meter test shall be advanced to the utility by the customer. The amount shall be refunded if the test shows the meter to be over- or under-registering by more than 2%. A report giving the results of the test shall be made to the customer and a complete original test record shall be kept on file in the office of the utility. Upon request, the test shall be made in the presence of the customer during normal business hours.

(2) REFEREE TESTS. Any customer may request to have an official test of the meter observed by the commission.

(3) METER RETENTION.

(a) *Definitions.* For purposes of this subsection, "as found" means retained, filled with water and capped without any other adjustments being made since the last test was performed.

(b) *After a customer requested test.* When a utility performs a customer requested test on a customer's meter under sub. (1) or when the commission requests that a meter be tested, the utility shall keep the tested meter, in "as found" condition, at a designated location on the utility's premises for at least one full

billing period plus four weeks after the test result report is issued so that the meter is available should another meter test be requested. If the meter tests as accurate, the utility may choose to keep the tested meter installed at the customer's premises for the designated time period rather than storing it at the utility's premises.

(c) *After a referee test.* When a utility or third party retests a customer's meter under sub. (2), the utility shall keep the tested meter, in "as found" condition, at a designated location on the utility's premises for at least 10 business days after the test result report is issued so that the meter is available should further testing or review be needed. If the meter tests as accurate, the utility may choose to keep the tested meter installed at the customer's premises for the designated time period rather than storing it at the utility's premises.

(d) *When a complaint or dispute occurs.* When a utility receives a complaint under s. PSC 185.42 or is notified about a dispute under s. PSC 185.39 involving a meter-related issue, the utility shall keep the meter, in "as tested" condition, at a designated location on the utility's premises for at least one full billing period plus four weeks after the complaint or dispute and any appeal of that dispute is resolved so that the meter is available should testing be requested. If the meter was tested during the complaint or dispute process, and it tested as accurate, the utility may choose to keep the tested meter installed at the customer's premises for the designated time period rather than storing it at the utility's premises.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; CR 13-033: am. (title), renum. 185.77 to (1) and am., cr. (1) (title), renum. 185.78 to (2), cr. (3) Register July 2015 No. 715, eff. 8-1-15; correct numbering of (3) (c), (d) under s. 13.92 (4) (b) 1., Stats., Register July 2015 No. 715.

PSC 185.79 Remote outside meter (ROM) and automatic meter reading (AMR) system tests.

(1) The ROM and ~~AMR-automatic meter reading~~ systems shall be tested each time the associated meter is tested. If the total recorded consumption of the ROM ~~or automatic meter reading system~~ agrees with that of the base meter ~~or the AMR system read and the base meter read are the same~~, no further testing of the ROM or ~~AMR-automatic meter reading~~ systems is ~~needed~~required.

(2) The test of metering installations with remotes shall be sufficient to demonstrate that the accuracy of the meter-remote combination meets the requirements of s. PSC 185.65.

(3) As an alternative to subs. (1) and (2), a utility may receive approval and place on file with the commission a remote testing schedule which is specifically designed to meet the needs of the remote metering system used by the utility.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.795 Electrical safety. Jumpering meter settings. Under certain abnormal conditions, a dangerous voltage may appear across the meter setting when the water line is electrically opened as by removal of the meter. Before a water meter is removed (or the interior piping leading to the service otherwise opened), an appropriate electrical jumper shall be connected across the meter setting or proposed opening in the piping to maintain electrical continuity. If the water supply piping is used as a ground for the building's electrical service, the electrical jumper shall not be removed until a meter is again set or the piping closed. The utility shall inform the customer that the electrical jumper shall not be removed until a meter is again set or the piping closed.

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

Subchapter VIII — Operating Requirements

Commented [A115]: Prior draft had lots of changes that are no longer being proposed. Prior comment from Workgroup. Property owner's responsibility to ensure the electrical service is properly grounded and that metallic service is replaced with a non-conductive plastic water service.

~~PSC 185.81~~ Quality of water.

~~(1) Every water public utility shall provide water of such quality that it complies with state and federal requirements for drinking water.~~

~~(2) Each water utility system shall be designed and operated so that the water supplied to all customers is reasonably free from objectionable taste, color, odor, and sand or other sediment.~~

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.82 Pressure standards.

~~(1) Under conditions of normal heavy system demand the residual pressure at the meter outlet shall not be less than 20 p.s.i.g. For typical residential customers, normal conditions of use shall mean a flow rate of not less than 12 gallons per minute. This standard assumes that the customer's portion of the service lateral is of normal, adequate design, and in good condition. This standard shall ordinarily require that the distribution main pressure at the corporation stop connection be at least 35 p.s.i.g. The utility is to establish minimum specifications for the service lateral to assure that excessive pressure drop does not occur in the lateral because of its length or for other cause the distribution system pressure required under s. NR 810.10.~~

~~(2) The maximum pressure at the meter shall not exceed 125 p.s.i.g. The maximum pressure at the meter shall not exceed 100 p.s.i.g. for new systems and, to the extent practical, major additions to existing systems.~~

(3) Each utility shall have at least one permanently installed pressure gauge on its system and shall have access to indicating and recording pressure gauges to check pressure levels.

(4) Each utility shall make such pressure tests or surveys as to assure that the pressure limitations of subs. (1) and (2) are being met.

Commented [A116]: Good that most deleted. But is this necessary? DNR should cover this. If remain, check reference to residual pressure at the meter.

Commented [A117]: This should be enforced by DNR

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.83 Station meters.

~~(1) Each pumping station utility shall install be provided with station metering meters at all locations necessary to accurately measure the water pumped into the distribution system. (See s. PSC 185.45.) These A station meters shall ordinarily be installed in the inlet rather than outlet line of pressure tank storage reservoirs.~~

~~(2) Station meters shall be A utility shall design, place and maintained station meters to ensure reasonable accuracy and shall have check the accuracy checked at least once every 2 years.~~

~~(3) A utility shall select s station meters shall be selected so that the actual flow rates are entirely within the normal flow range for the particular meter, as defined by the manufacturer. These meters shall ordinarily be installed in the inlet rather than outlet line of pressure tank storage reservoirs.~~

Commented [A118]: Why must utility install?

Commented [A119]: Why reference to "design, place"? Isn't placement covered by (1)?

Commented [A120]: Prior draft included "except that magnetic flow meters may be checked at least once every 5 year"

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.85 Water audits and ~~water loss~~ nonrevenue water control.

(1) DEFINITIONS. In this section:

(a) "Apparent loss" means the volume of water attributable to customer and station meter inaccuracies, billing and data transfer errors, unauthorized consumption, and theft.

(b) "Authorized consumption" means the volume of water used by metered and unmetered customers and the volume of water used for other purposes that is implicitly or explicitly authorized by the utility, including water used for flushing water mains and sewers, fire protection and training, street cleaning,

public fountains, freeze prevention, and other municipal purposes regardless of whether the use is metered.

~~(bm) "Economic level of leakage" means the level at which the cost of leakage abatement activities exceeds the marginal cost of the water saved.~~

Commented [A121]: Should be measured based on marginal "production" cost

(c) "Non-revenue water" means the volume of water equal to the difference between the volume of water entering the distribution system and the volume of water that is sold.

(d) "Real loss" means the volume of water attributable to leaks and losses in the pressurized distribution system up to the customer meter, including water lost due to main breaks, service breaks, and tank and reservoir overflows.

~~(e) "Revenue water" means the volume of water entering the distribution system that is billed and for which the utility receives revenue portion of authorized consumption that is billed and produces revenue, including billed metered consumption and billed unmetered consumption.~~

~~(f) "Unaccounted for water" means the volume of water entering the distribution system for which a specific use or purpose cannot be determined.~~

~~(g) "Water loss" means the difference between the volume of water entering the distribution system and authorized consumption.~~

~~Note: Water loss equals the sum of real and apparent losses that are caused by unauthorized consumption, meter inaccuracies, accounting errors, data processing errors, leaks in transmission and distribution mains, leaks in service connections up to the customer meter, seepage, overflow, evaporation, theft, malfunctioning distribution system controls, and other unaccounted for water, as described in the American Water Works Association M36 manual—Water Audits and Water Loss Control Programs.~~

(2) UTILITY PRACTICES. A public utility shall do all of the following:

(a) Meter all water uses and sales, where practicable.

(b) Maintain and verify the accuracy of customer meters.

(c) Maintain and verify the accuracy of station meters.

(d) Identify and repair leaks in its distribution system to the extent that it is reasonable for the public utility to do so.

(e) Control water usage from hydrants.

(f) Maintain a continuing record of ~~system pumpage water supplied to the distribution system and metered authorized~~ consumption.

(g) Conduct an annual water audit under sub. (3).

(3) WATER AUDITS.

(a) A public utility shall conduct an annual water audit on a calendar year basis using the most current version of the American Water Works Association's Free Water Audit Software, or other software specified by the commission, and shall submit the results of the audit to the commission no later than April 1 of the subsequent year.

~~(b) A public utility water audit shall include the measured or estimated volume of all of the following:~~

~~1. Water purchased or pumped from all sources;~~

~~2. Water used in treatment or production processes;~~

~~3. Water entering the distribution system.~~

Commented [A122]: Do not mandate AWWA audit tool for all utilities by rule. Go back to original language which is flexible enough to use either audit in PSC annual report or AWWA audit. Audit should only be filed if it is part of the annual report.

- ~~4. Water sold, including both metered and unmetered sales.~~
- ~~5. Water not sold but used for utility-authorized purposes, including flushing mains, fire protection, freeze prevention, and other authorized system uses.~~
- ~~6. Water loss.~~
- ~~7. Unknown or unaccounted for water.~~

(c) The components of a water audit are shown in Table 1.

Table 1. Water Audit Components

System Input Volume (Finished Water + Purchased Water)	Authorized Consumption	Billed Authorized Consumption	Billed Metered Consumption (including water exported, wholesale sales) Billed Unmetered Consumption (Bulk water sales, utility uses)	Revenue Water
		Unbilled Authorized Consumption	Unbilled Metered Consumption	Water
			Unbilled Unmetered Consumption	
		Water Losses	Apparent Loss	Unauthorized Consumption (Theft, uncontrolled hydrants, etc.)
	Metering Inaccuracies (Customer, station meters)			
	Data Handling Errors			
	Real Losses			
	Leakage on Transmission and Distribution Mains Leakage and Overflows at Utility's Storage Tanks Leakage on Service Connections (Up to point of customer meter)			

(4) ~~WATER LOSS-NONREVENUE WATER~~ CONTROL.

~~(a) Each public utility shall calculate its annual percentage of non-revenue water and its percentage of water loss, based on the volume of water entering its distribution system. Based on the results of its water audit, each utility shall establish both a plan and individual goals for reducing its nonrevenue water. A utility shall file its plan and a brief summary of its goals with the commission at the same time it files its water audit under sub. (3) (a), or at a date set by the commission.~~

Commented [A123]: Should not be required if utility has reached an economic level of leakage. Also eliminate the requirement to file the plan with the Commission. This seems like overkill. Substantially increasing workload. Current rule only requires plan if non-revenue water exceeds a certain threshold.

~~(b) A public utility shall submit to the commission a water loss control plan if a water audit shows the public utility has any of the following:~~

- ~~1. A percentage of non-revenue water that exceeds 30 percent.~~
- ~~2. A percentage of water loss that exceeds 15 percent for a Class AB or Class C utility or 25 percent for a Class D utility.~~

~~(c) A water loss control plan under par. (b) utility shall file the plan required by par. (a) in a form and manner prescribed by the commission. The plan shall include shall consider measures such as the following of the following:~~

Commented [A124]: What does "in a form and manner prescribed by the commission" mean?

- ~~1. The reasons for the excessive non-revenue water or water loss. Leakage management, including distribution system water leakage detection and repairs or replacements.~~
- ~~2. Finished water meter flow verification. A description of the measures that the utility plans to undertake to reduce water loss to acceptable levels within a reasonable time period.~~
- ~~3. Customer water meter testing and calibration. An analysis of the costs of implementing a water loss control program, including a comparison of lost sales revenue and the costs that would be avoided by reducing leaks and losses.~~
- ~~4. Billing system business process evaluation.~~
- ~~5. Resource allocation, including planned preventative maintenance. Any additional information required by the commission.~~

~~(c) A utility shall file the individual goals required by par. (a) in a form and manner prescribed by the commission. The utility's goals shall consider measures such as the following:~~

Commented [A125]: Goals should not be required if an economic level of leakage has been met

- ~~1. The infrastructure leakage index from the water audit.~~
- ~~2. The data validity score from the water audit.~~
- ~~3. Operational real losses as shown in the water audit.~~
- ~~4. Operational apparent losses as shown in the water audit.~~
- ~~5. Economic level of leakage.~~
- ~~6. Other measures related to system efficiency.~~

Commented [A126]: New from last draft.

~~(d) The commission may require a public utility to conduct a leak detection survey of its distribution system if for three consecutive years the public utility's percentage of water loss exceeds 15 percent for a Class AB or Class C utility or 25 percent for a Class D utility.~~

~~(d) The commission may consider a utility's progress in reducing nonrevenue water during investigations and proceedings and require the utility to take any reasonable action.~~

Commented [A127]: This seems too broad.

~~Note: Reasonable action may include requiring periodic meter testing in accordance with s. PSC 185.76(1).~~

History: CR 11-039: r. and recr. Register July 2012 No. 679, eff. 8-1-12.

PSC 185.86 Flushing mains.

~~(1) Dead-end mains, or other low flow portions of distribution systems, shall be flushed as needed to eliminate or minimize complaints from consumers arising from an objectionable condition of water due to lack of circulation. Hydrants or other flushing devices shall be placed to allow for flushing of the entire system. A utility shall establish a schedule for flushing dead-end mains or mains in other areas to remove sediment or water of poor quality consistent with s. DNR 810.13.~~

~~(2) When practical, a utility shall give public notice of proposed flushing of mains shall be given by radio, newspaper announcement, or other appropriate means.~~

~~(3) A utility shall keep a record shall be kept of all flushing of mains, showing the date, place, and estimated volume of water used. This record shall be used by the utility to determine the necessary frequency of flushing and to estimate unmetered water use.~~

Commented [A128]: Recommend deletion of “to determine the necessary frequency of flushing”

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97.

PSC 185.88 — Frozen laterals.

~~(1) Thawing of a customer's lateral shall be at the utility's expense if:~~

~~(a) The freeze up is a direct result of a utility disconnect and the disconnection occurs during a time when conditions are such that freeze up could reasonably be expected to occur or;~~

~~(b) The customer's portion of lateral is electrically conductive and:~~

~~1. It is the first thaw for the customer at the location and;~~

~~2. The utility has not provided the customer with seasonal notice of the corrective actions to be taken for a known condition.~~

~~(2) Lateral thawing shall be at the customer's expense if:~~

~~(a) The customer's lateral is not electrically conductive and the freeze up is not a direct result of a utility disconnect as set forth in sub. (1) (a) or;~~

~~(b) The customer neglected to provide or maintain proper insulation or protection for the lateral according to standard accepted practice, or specific utility instructions on, for example, the required depth of burial needed to prevent freezing, or;~~

~~(c) The utility advises the customer of the corrective measures to be taken and the customer does not follow the utility's advice. (See s. PSC 185.35 (7) for bill adjustment where a utility requests a customer to let water flow to prevent freezing), or;~~

~~(d) If the utility disconnects for a dangerous condition.~~

History: Cr. Register, January, 1997, No. 493, eff. 2-1-97; CR 01-033: renum. from PSC 185.89 Register October 2001 No. 550, eff. 11-1-01; republished to reinsert inadvertently deleted (2) (c) Register March 2014 No. 699.

PSC 185.88 is repealed and recreated to read:

PSC 185.88 Cold weather conditions and freezing.

(1) DEFINITIONS. For purposes of this section:

(a) “Utility-owned portion” means, unless otherwise specified in the utility’s schedule of rates and rules, all of the following:

1. The main and all facilities preceding the main.

Commented [A129]: Comments on this section as a whole. Concerned that utility owned portion of service must freeze first before issuing run water notice. It is very difficult to manage this in a very cold winter.

2. The portion of the service line between the main and the curb stop.

3. The curb stop box and valve, including the connection to the customer-owned portion.

(b) “Customer-owned portion” means, unless otherwise specified in the utility’s schedule of rates and rules, that portion of the service line from the connection to the curb stop box to the meter.

(c) “Unable to thaw” means an inability to remove a blockage created by freezing but does not include a utility’s failure to have proper equipment, personnel or training to thaw a utility-owned portion or customer-owned portion.

(2) THAWING FROZEN PORTIONS OF A WATER SUPPLY SYSTEM. (a) General rule. A utility shall be responsible for the cost of thawing the utility-owned portion. Except as provided in par. (b), a property owner or customer shall be responsible for the cost of thawing the customer-owned portion.

(b) Exceptions. 1. A utility shall be responsible to thaw the customer-owned portion, at no cost to the property owner or customer, if the property owner and customer have not each received a notice under sub. (5) (b) or (6).

2. A utility shall be responsible to thaw the customer-owned portion, at no cost to the property owner or customer, if the freezing is a direct result of the utility disconnecting the customer for a reason other than a dangerous condition and the disconnection occurs during a time when conditions are such that freezing could reasonably be expected to occur. A dangerous condition may include a vacant, unheated property at risk of the water piping freezing.

(c) Alternative method of providing water. A utility shall supply a customer with water using an alternative method, such as connecting the customer to another customer’s service or filling containers at the utility’s offices, if practicable, if any of the following apply:

1. The utility is unable to thaw the utility-owned portion.

2. The utility is responsible for thawing the customer-owned portion and is unable to thaw the customer-owned portion.

3. The utility has thawed the utility-owned portion and that portion freezes a second or more time within 3 months because the customer failed to take the temporary corrective action recommended by the utility.

4. The utility has thawed the customer-owned portion and that portion freezes a second or more time within 3 months because the customer failed to take the temporary corrective action recommended by the utility.

(3) DETERMINING THE SOURCE OF THE FREEZING. (a) A utility shall employ reasonable methods for determining whether the source of the freezing was in the utility-owned portion or the customer-owned portion.

(b) If the utility is unable to determine the source of the freezing, the utility shall treat freezing as having begun in the utility-owned portion if there is no record of the customer-owned portion freezing in the past.

(c) A utility shall document its findings about where freezing began.

(4) UTILITY RESPONSIBILITY TO PREVENT FUTURE FREEZES. (a) A utility is responsible for preventing future freezes if it determines under sub. (3) that freezing began in the utility-owned portion.

(b) If a utility is responsible for preventing future freezes, it shall do all of the following:

Commented [A130]: Customer often owns the connection

Commented [A131]: Very high standard

Commented [A132]: Concerned that utility owned portion of service must freeze first before issuing run water notice. It is very difficult to manage this in a very cold winter.

Commented [A133]: Question utility responsibility for cost related to privately owned property. Utility shouldn’t have to figure out if there is a difference between property owner and customer

Commented [A134]: Who supplies containers? Who delivers containers? Responsibility for containers?

Commented [A135]: Appears to require at least one thaw and after that could provide water using an alternative method if customer fails to take corrective measures recommended by utility (running water)

Commented [A136]: Utility should not be required to investigate and document source of freezing if utility is willing to pay for thawing. Extra work at busy time.

Commented [A137]: “Preventing future freezes” is an unrealistic standard in Wisconsin

1. Initiate an immediate temporary corrective action that will prevent the utility-owned portion from freezing again, such as giving the customer and property a run water notice under sub. (b).

Commented [A138]: Can this only be done on an individual basis?

2. Within a reasonable period of time, provide a lasting solution which may include adding ground cover or insulation to protect the utility-owned portion from freezing.

Commented [A139]: What is reasonable? Should only apply to normal conditions

Note: See s. PSC 185.52 (2) (am) which requires a utility to place the utility-owned portion of a service line at such depth or otherwise protected as will prevent freezing.

(5) PROPERTY OWNER OR CUSTOMER RESPONSIBILITY TO PREVENT FUTURE FREEZES. (a) A utility is not responsible for preventing future freezes if the utility determines under sub. (3) that freezing began in the customer-owned portion.

Commented [A140]: How would this work if utility starts thawing at private end and determines freeze in customer portion? If utility supposed to charge customer? How to collect?

(b) If the utility is not responsible for preventing future freezes, the utility shall provide a notice to the property owner and customer in writing, containing of all of the following:

1. That freezing began in the customer-owned portion and the property owner or customer is responsible for preventing future freezes.

2. That the property owner or customer should initiate some immediate temporary corrective action to prevent the customer-owned portion from freezing again, such as running the water at the customer's expense.

3. That the property owner or customer should provide a lasting solution to prevent future freezing, such as adding ground cover or insulation.

4. That the property owner or customer will be responsible for thawing the customer-owned portion in the future.

5. A statement that the customer may contact the commission staff in the event that the customer disputes this finding and has pursued available remedies with the utility.

6. The commission's address, telephone number and web site.

(c) A utility shall provide the notice under sub. (b) at the following times:

1. At the time the utility determines that freezing began in the customer-owned portion.

2. Between October 1 and December 1 of each succeeding year.

3. When a new customer applies for service at that location between the time the notice was given under subd.1. or 2. and April 1 of the following year.

(6) RUN WATER NOTICE - INDIVIDUAL. (a) A utility shall include all of the following in a notice under this subsection:

1. An explanation of why water should be run.

2. The date on which the customer or property owner should begin running water.

3. The volume of water to be run, such as at the rate of 1 gallon per X minutes or Y fluid ounces per X minutes.

4. An explanation of how the volume in subd. 3. can be easily determined.

5. An explanation of how the customer or property owner will know when to stop running water.

6. That the customer will receive a credit for the water that it runs at the utility's request up to the volume requested and a description of the method that will be used to calculate the credit for the customer.

Commented [A141]: Does this only apply after one free thaw?

7. A statement that if the customer or property owner does not run water after receiving the notice, the customer will be responsible for the cost of thawing the customer-owned portion.

(b) A utility shall deliver a notice under this subsection in at least 1 of the following ways:

1. First-class mail to the mailing address and the service address, if different.

2. Hand delivery to an adult member of the household at the service address.

3. Unless the customer has notified the utility that the premises is likely to be empty because the customer is seasonal, leaving a notice at the service address.

(c) A utility shall keep a record of its method of delivery for each notice issued under this subsection.

(d) A utility that issues a notice under this subsection shall notify the commission within 7 days of issuing it if a notice is sent to the lesser of the following:

1. 500 customers.

2. 20% of the utility's customers.

(7) RUN WATER NOTICE – EMERGENCY NOTICE. (a) When weather conditions result in a risk of the customer-owned portion of a significant number of customer services freezing, the utility may issue an emergency notice to customers informing them that they should run water to prevent freezing. The utility shall issue the notice in a manner most likely to reach its customers, including television, radio, and its web site.

(b) A utility shall include all of the following in the notice under par. (a):

1. An explanation of why water should be run.

2. The volume of water to be run, such as at the rate of 1 gallon per X minutes or Y fluid ounces per X minutes.

3. An explanation of how the volume in subd. 2. can be easily determined.

4. A statement that unless the customer will receive a credit for the water that runs up to the volume requested by the utility.

(c) A utility shall issue an individual written notice under sub. (6) to each affected customer as soon as practicable after issuing an emergency notice under this subsection.

(d) A utility that issues a notice under this subsection shall notify the commission within 7 days of issuing the notice.

(8) CREDIT FOR WATER RUN TO PREVENT FREEZING. If a utility requests that a customer run water to prevent freezing in a portion of a water supply system for which the utility is responsible the utility shall adjust the bill for the excess consumption which results up to the volume of water the utility requested be run by the customer.

Commented [A142]: No notice if to more than 500 customers?

Commented [A143]: Is this only for freezing in customer owned portions?

Commented [A144]: Unclear

PSC 185.89 Adequacy of Water Supply, Emergency Operations and Interruptions of Service.

(1) ADEQUACY OF WATER SUPPLY. A public-utility shall exercise reasonable diligence to furnish a continuous and adequate supply of water to its customers.

(2) EMERGENCY OPERATION.

(a) A ~~public~~-utility shall make reasonable provisions to meet an emergency resulting from the failure of power supply or from fire, storm, or similar events. A ~~public~~-utility shall inform its employees of procedures to be followed in an emergency to prevent or mitigate the interruption or impairment of ~~water~~ service.

(3) INTERRUPTIONS OF SERVICE.

(a) A ~~public~~-utility shall make all reasonable efforts to prevent interruptions of service. If an interruption occurs, the ~~public~~-utility shall make reasonable efforts to re-establish service with the shortest possible delay, consistent with safety to its employees, customers, and the general public.

(b) If an emergency interruption significantly affects fire-protection service, a ~~public~~-utility shall immediately notify the fire chief or other responsible local official.

(c) A ~~public~~-utility shall make reasonable efforts to schedule planned interruptions at times that minimize customer inconvenience. A ~~public~~-utility shall make reasonable efforts to notify customers of the time and anticipated duration of a planned interruption.

(d) A ~~public~~-utility shall notify the ~~Commission~~-~~commission~~ of a service interruption under s. ~~PSC~~ 185.44 (1).

Commented [A145]: Delete notification requirement. Utilities are not doing this now.

History: CR 11-039: cr. Register July 2012 No. 679, eff. 8-1-12.

PSC 185.90 Water Supply Shortage.

(1) DECLARATION. A ~~public~~-utility may declare a water supply shortage if the ~~public~~-utility cannot adequately meet customer demand due to drought, insufficient source capacity, or excessive demand.

(2) PLAN. A ~~public~~-utility may adopt a water supply shortage curtailment plan and file the plan with the commission under s. ~~PSC~~ 185.21.

(3) APPLICABILITY. Unless a ~~public~~-utility has adopted a water supply shortage curtailment plan under sub. (2), the provisions of this section apply.

(4) TEMPORARY CURTAILMENT. Except as provided in sub. (6), a ~~public~~-utility may temporarily curtail ~~water~~ service to some or all of its customers during a water supply shortage, if the curtailment is necessary to protect ~~public~~-utility facilities, to prevent a dangerous condition, or to alleviate a condition that presents an imminent threat to public health, welfare, or safety.

(5) UTILITY RESPONSIBILITIES. If a ~~public~~-utility determines that it is necessary to curtail service under this section, the ~~public~~-utility shall do all of the following:

(a) Make reasonable efforts to notify customers affected by the water supply shortage.

(b) Request ~~that~~ all customers ~~to~~-enact voluntary water conservation measures to reduce water consumption, including limiting irrigation and other non-essential uses.

(c) Implement any curtailment in an equitable manner that allows the ~~public~~-utility to maintain reasonably adequate service to the greatest number of customers, consistent with public health, welfare or safety.

(d) Promptly restore service.

(6) APPROVAL TO CURTAIL ESSENTIAL USE CUSTOMERS. A ~~public~~-utility may not curtail service to a customer under this section without the commission's prior approval if the customer provides essential public health, welfare, or safety functions that require consistent ~~water~~ service or if any of the conditions described in s. ~~PSC~~ 185.37 (8) (h), (8m), (9), or (10) apply.

(7) REPORT. A public-utility shall report to the commission within 7 days of declaring a water supply shortage. The public-utility shall include in the report the reasons for any curtailment, the number of customers affected, the duration of the curtailment, and any other information requested by the commission.

History: CR 11-039: cr. Register July 2012 No. 679, eff. 8-1-12.

Subchapter IX – Water Conservation and Efficiency

PSC 185.95 Definitions. In this subchapter:

(1) "Net cost effectiveness" means the extent to which a water conservation program or measure is cost effective, after being adjusted for all of the following:

(a) The amount of water savings that would have been achieved in the absence of the water conservation program or measure.

(b) The amount of water savings directly attributable to the influence of the water conservation program or measure but that is not specifically included in the program or measure.

History: CR 11-039: cr. Register July 2012 No. 679, eff. 8-1-12; (1) (a), (b) renum. from (1) 1., 2. under s. 13.92 (4) (b) 1., Stats., Register July 2012 No. 679.

~~**PSC 185.96 Customer Education Requirements.** Upon a residential customer's request at least annually, a public-utility shall provide information to the residential customer that may assist the customer in reducing outdoor water use, repairing residential water leaks, and implementing other water conservation measures. This information may be provided on the public-utility's web site.~~

History: CR 11-039: cr. Register July 2012 No. 679, eff. 8-1-12.

PSC 185.97 Voluntary Water Conservation Rebate or Incentive Programs.

(1) DEFINITION. In this section, "voluntary program" means a water conservation program a public-utility voluntarily proposes to administer or fund that provides rebates or other direct financial incentives to customers for water-efficient products or services.

(2) REQUEST TO ADMINISTER OR FUND A VOLUNTARY PROGRAM. A public-utility may not administer or fund a voluntary program without commission approval. A public-utility may file a request with the commission for authorization to administer or fund one or more voluntary programs within its service area. A utility requesting a voluntary program shall provide all of the following information:

(a) A description of the proposed program, including the target market, eligible measures, delivery strategy, marketing and communications strategy, incentive strategy, and potential market effects.

(b) The proposed annual program budget, including administrative costs, and source of funding.

(c) Annual and multi-year performance targets that are consistent with commission goals and policies.

(d) A portfolio and program level net cost effectiveness analysis.

(e) A description of the public-utility's proposed tracking and reporting system.

(f) A description of the public-utility's proposed evaluation, measurement, and verification plan.

(g) A description of how the public-utility will coordinate its voluntary program with any statewide water conservation program, including any requirements contained in ch. NR 852.

(h) Any other information the commission requests.

(3) APPROVAL OF VOLUNTARY PROGRAM.

(a) The commission shall consider each of the following when deciding whether to approve a voluntary program:

1. Whether the program is in the public interest.
2. The likelihood the public-utility will achieve its program goals.
3. The inclusion of appropriate water conservation measures.
4. The adequacy of the proposed budget.
5. The net cost effectiveness of the program.
6. The adequacy of the public-utility's evaluation, measurement, and verification plan.
7. The level of coordination with any statewide water conservation program, including any requirements contained in ch. NR 852.

(b) Unless the voluntary program is included in a general rate proceeding, the commission shall issue its decision to approve, deny, or modify a proposed voluntary program in writing within ~~40-60~~ working days after receiving the proposal. If the commission denies or modifies a proposed voluntary program it shall explain its reasons for the denial or modification. If the commission denies a voluntary program, the public-utility may revise and resubmit a request for approval of a voluntary program at any time.

(4) MODIFYING OR DISCONTINUING A VOLUNTARY PROGRAM. A public-utility may request that the commission authorize the modification or discontinuation of a voluntary program at any time. A public utility may not modify or discontinue a voluntary program without commission approval.

(5) RETURN OF FUNDS. The commission may require a public-utility to return any unspent funds collected for a voluntary program approved under this section to its ratepayers.

(6) ANNUAL REPORTS. A public-utility receiving commission approval for a voluntary program under this section shall submit an annual report to the commission no later than April 1 following the covered year. The report shall include all of the following:

- (a) A summary of program activities in the previous calendar year.
- (b) An itemized accounting of administrative and program costs.
- (c) The program balance or deficit at the end of the year.
- (d) Estimated water savings attributable to the program, by customer class.
- (e) The number of customers receiving rebates or other incentives.
- (f) Estimated non-water benefits, including energy savings.
- (g) Other performance metrics identified by the public-utility.
- (h) Any other information requested by the commission.

(7) AUDITS AND VERIFICATION. The commission may conduct an audit, or contract with an independent third-party evaluator to conduct an audit, to verify the performance of a public-utility's voluntary program. The public-utility shall pay for the costs of the evaluation, as determined by the commission.

History: CR 11-039: cr. Register July 2012 No. 679, eff. 8-1-12; (7) renum. from (6) under s. 13.92 (4) (b) 1., Stats., Register July 2012 No. 679.



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July 29, 2014

Mr. Jeff Stone
Drinking Water & Consumer Affairs Administrator
Public Service Commission of Wisconsin
P.O. Box 7854
Madison, WI 53707-7854

RE: FRAMEWORK FOR MANAGING FROZEN SERVICE LATERALS IN THE FUTURE

Dear Jeff:

You previously mentioned that this summer PSC staff would be looking back to see what lessons could be learned from this harsh winter. You also mentioned that changes to PSC administrative rules may be considered.

The Municipal Environmental Group - Water Division has talked to its members about the challenges they faced with frozen water mains this year. We have also talked to members about how they would suggest that PSC administrative rules be changed to reflect the realities of dealing with frozen water mains.

Based upon what we heard, MEG - Water put together the attached *Framework for Managing Frozen Service Laterals in the Future*. This Framework sets forth how we think frozen water laterals should be handled. We are providing this to you in the hopes that it can help focus future conversations regarding how to revise administrative rules applicable to frozen water laterals.

MEG - Water has provided this proposal to the League of Wisconsin Municipalities and the Wisconsin Rural Water Association and they are both supportive of the proposal. We all would like the opportunity to jointly meet with you to discuss frozen water laterals and the thoughts contained in this proposal.

MUNICIPAL ENVIRONMENTAL GROUP
-- WATER DIVISION

A handwritten signature in black ink, appearing to read 'Lawrie J. Kobza', written over a horizontal line.

Lawrie J. Kobza
Legal Counsel

Enclosure

cc: MEG - Water Members (via e-mail)
Curt Witynski, League of Wisconsin Municipalities
Dave Lawrence, Wisconsin Rural Water Association

TO: Mr. Jeff Stone, DWCCA Administrator
Public Service Commission of Wisconsin

FROM: Lawrie Kobza, MEG-Water Legal Counsel

DATE: July 29, 2014

RE: Framework for Managing Frozen Service Laterals in the Future

The Municipal Environmental Group - Water Division (MEG - Water) is submitting to you this *Framework for Managing Frozen Service Laterals in the Future* in the hope that it can prompt further conversations regarding the revision of administrative rules applicable to frozen water laterals. The Framework proposed below is based on conversations with water utilities regarding their practices, and the challenges they face in dealing with frozen service laterals while providing high quality and affordable customer service to all customers. The Framework is intended to reflect conscientious, but realistic, utility practice which is fair to customers. MEG - Water would welcome the opportunity to discuss this Framework further with you.

FRAMEWORK FOR MANAGING FROZEN SERVICE LATERALS IN THE FUTURE

1. Each water utility is responsible for determining how to respond to frozen service laterals in a manner that is consistent with the utility's obligation to provide water service.
2. If a service lateral is frozen, a utility may meet its obligation to provide water service to a customer by providing or agreeing to provide the customer with service through an alternative water supply connection. A connection to a neighboring property is a type of alternative water supply connection.
3. It is not unreasonable for a utility to determine that it will not thaw frozen service laterals because of safety and/or risk issues. If a utility chooses to thaw or arrange for the thawing of frozen services a utility may select the method used to thaw frozen service laterals.
4. If a utility thaws or arranges for the thawing of a frozen service lateral, the cost of the thawing shall be borne by the utility unless (a) the utility has determined that only the customer side of the service lateral is frozen; or (b) the utility has provided the customer, occupant or owner with a run water directive to prevent freezing.
5. If a utility thaws or arranges for the thawing of a frozen service lateral, and the utility determines that only the customer side of the service lateral is frozen, the cost of the thawing shall be borne by the customer.

6. If a utility thaws or arranges for the thawing of a frozen service lateral, and the utility has provided the customer, occupant or owner with a run water directive to prevent freezing, the cost of the thawing shall be borne by the customer regardless of whether the utility-side or customer side of the service lateral is frozen.
7. A utility may provide a run water directive on an individual customer basis, an area-wide basis, or a community-wide basis.
8. A run water directive shall be in a form and manner reasonably calculated to reach the affected customers. The form and manner used by the utility shall be designed to fit the specific situation using such methods as:
 - (1) Hand delivery of the notice to persons or properties served by the public water system;
 - (2) Mail;
 - (3) Appropriate broadcast media, such as radio and television;
 - (4) Electronic notification service; and
 - (5) Posting of the notice in conspicuous locations throughout the area served by the public water system.The directive shall include specific instructions on how to run water (i.e., how much water to run) to prevent freezing of the service lateral.
9. If a run water directive is issued, the utility shall not charge the customers directed to run water for the cost of the water (over and above normal water use) run to comply with the directive, unless either (a) the utility has notified the customer of a customer side deficiency in the customer's service lateral which makes the customer's service lateral susceptible to freezing; or (b) the utility has thawed the customer's service lateral and determined that only the customer side of the service lateral was frozen.
10. If a customer runs their water without receiving a directive from the utility to do so the customer is responsible for the costs of the water run.



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Public Service Commission of Wisconsin
RECEIVED: 10/19/16, 1:26:38 PM

October 19, 2016

Mr. Jeff Stone
Public Service Commission of Wisconsin
Division of Water, Telecommunications and Consumer Affairs
610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

RE: PSC Docket No: 1-AC-233 and Frozen Water Laterals

Dear Jeff:

At the August 29th meeting between PSC staff and water utility representatives about proposed revisions to PSC 185, there was a lot of discussion about frozen water laterals. This is a topic of significant concern to water utilities and many of them expressed frustration with staff's proposed language. At the meeting, you indicated that if utility representatives had suggestions on staff's language they should provide those suggestions to you.

MEG - Water took your comment to heart and, even though we had provided you with suggestions over a year ago, we looked at the frozen lateral language now being proposed by PSC staff and considered how that language could be revised to be workable from the utilities' point of view. In the spirit of cooperation, MEG - Water is providing to you suggested revisions to PSC staff's proposed frozen lateral language that we believe will be workable for utilities while still accomplishing most of what we understand to be PSC staff's goals.

Water utilities throughout Wisconsin indicate that when they are faced with frozen laterals their first priority is to make sure that their customers continue to have water. They expect their customers to be a partner in this effort, and in their experience, almost all customers respond in that way. Many utilities indicated that the last cold winter made their relationship with their customers even stronger as they all rallied around the common goal of keeping the water running.

Our suggested revisions to the frozen lateral language which are attached to this letter reflect this view that utilities and their customers will work in partnership in the winter to keep mains thawed and the water running. We suggest that:

- Water utilities be responsible for the cost of thawing frozen service lines -- regardless of where the freeze began -- except in three limited situations.
 - Exception one applies when the customer-owned portion of the service line freezes due to the fault or negligence of the customer. This is intended to deal with situations like when a customer leaves a window open and the service line freezes.

- Exception two applies when a customer has a history of freezing, receives a seasonal notice from the utility of precautions that it needs to take to prevent freezing, and freezing still occurs in the customer-portion of the service line. This is similar to the exceptions currently in PSC 185.88(2)(b) and (c).
- Exception three applies when a utility provides a customer a run-water notice that meets PSC requirements for a run-water notice, the customer fails to follow that notice, and the lateral freezes. Utilities have no objection to PSC staff's proposal on run-water notices, provided notices need only be provided to customers.
- Water utilities see no value in PSC staff's proposal that would require utilities to determine and document the source of freezing for every frozen lateral. This is unnecessary work that takes away from the utility's primary responsibility of making sure that every customer continues to have water service. MEG - Water's suggestion deletes this requirement.
- Water utilities also object to PSC staff's apparent view that if a lateral freezes that demonstrates that there is a problem with the main and that "corrective action" should be taken to provide a "lasting solution" to prevent the main from freezing again. Utilities do not agree with this view and do not believe that it is reasonable to require mains to be installed so deep that freezing could never occur. MEG - Water's suggestion deletes this requirement.

MEG - Water, and its 61 water utility members, hope that these suggestions more clearly demonstrate water utilities' concerns with the proposed rule and provide ideas on how the proposal could be revised to address these concerns. We would welcome the opportunity to work with you on language that is workable from the perspective of both water utilities and Commission staff.

Thank you for your consideration.

MUNICIPAL ENVIRONMENTAL GROUP
-- WATER DIVISION



Lawrie J. Kobza
Legal Counsel

Attachment

cc: MEG - Water Members (via e-mail)

MEG-WATER'S PROPOSED REVISIONS TO PSC LANGUAGE

PSC 185.88 Cold weather conditions and freezing.

(1) DEFINITIONS. For purposes of this section:

(a) “Service line” means the pipe and related appurtenances that extend from the utility’s main to the meter.

(b) “Utility-owned portion of the service line” means, unless otherwise specified in the utility’s schedule of rates and rules, all of the following:

1. The main and all facilities preceding the main.

2. The portion of the service line between the main and the curb stop.

3. The curb stop box and valve, including the connection to the customer-owned portion of the service line.

(b) “Customer-owned portion of the service line” means, unless otherwise specified in the utility’s schedule of rates and rules, that portion of the service line from the connection to the curb stop box to the meter.

(c) “Unable to thaw” means an inability to remove a blockage created by freezing but does not include a utility’s failure to have proper equipment, personnel or training to thaw a utility-owned portion or customer-owned portion.

(2) THAWING FROZEN SERVICE LINEPORTIONS OF A WATER SUPPLY SYSTEM. (a) *General rule.* A utility shall be responsible for the cost of thawing frozen service lines except as provided in par. (b). ~~the utility-owned portion.~~ Except as provided in par. (b), a property owner or customer shall be responsible for the cost of thawing the customer-owned portion.

(b) *Exceptions.* A utility is not responsible for the cost of thawing a frozen service line if any of the following apply:

1. The customer-owned portion of the service line froze due to the fault or negligence of the customer.

2. The customer-owned portion of the service line froze after the customer and property owner received a notice from the utility in accordance with sub. (5) of the need to take precautions in order to prevent the customer-owned portion of the service line from freezing.

3. The utility notified the customer as provided in sub. (6) or (7) of the need to run water to prevent freezing and the customer failed to follow those instructions.

1. A utility shall be responsible to thaw the customer-owned portion, at no cost to the property owner or customer, if the property owner and customer have not each received a notice under sub. (5) (b) or (6).

(c)2. Frozen Service Line Caused by Disconnection. Notwithstanding par. (b), a utility shall be responsible for the cost of thawing a frozen service line to thaw the customer-owned portion, at no cost to the property owner or customer, if the freezing is a direct result of the utility disconnecting the customer for a reason other than a dangerous condition and the disconnection occurs during a time when conditions are such that freezing could reasonably be expected to occur. A dangerous condition may include a vacant, unheated property at risk of the water piping freezing.

(3e) ALTERNATIVE METHOD OF PROVIDING WATER. A utility may~~shall~~ supply a customer with water using an alternative method, such as connecting the customer to another customer’s service ~~or filling containers at the utility’s offices, if practicable,~~ until the frozen service line is thawed.~~if any of the following apply:~~

- ~~1. The utility is unable to thaw the utility owned portion.~~
- ~~2. The utility is responsible for thawing the customer owned portion and is unable to thaw the customer owned portion.~~
- ~~3. The utility has thawed the utility owned portion and that portion freezes a second or more time within 3 months because the customer failed to take the temporary corrective action recommended by the utility.~~
- ~~4. The utility has thawed the customer owned portion and that portion freezes a second or more time within 3 months because the customer failed to take the temporary corrective action recommended by the utility.~~

~~(3) DETERMINING THE SOURCE OF THE FREEZING. (a) A utility shall employ reasonable methods for determining whether the source of the freezing was in the utility owned portion or the customer owned portion. (b) If the utility is unable to determine the source of the freezing, the utility shall treat freezing as having begun in the utility owned portion if there is no record of the customer owned portion freezing in the past.~~

~~(c) A utility shall document its findings about where freezing began.~~

~~(4) UTILITY RESPONSIBILITY TO PREVENT FUTURE FREEZES. (a) A utility is responsible for preventing future freezes if it determines under sub. (3) that freezing began in the utility owned portion.~~

~~(b) If a utility is responsible for preventing future freezes, it shall do all of the following:~~

- ~~1. Initiate an immediate temporary corrective action that will prevent the utility owned portion from freezing again, such as giving the customer and property a run water notice under sub. (6).~~
- ~~2. Within a reasonable period of time, provide a lasting solution which may include adding ground cover or insulation to protect the utility owned portion from freezing.~~

~~Note: See s. PSC 185.52 (2) (am) which requires a utility to place the utility owned portion of a service line at such depth or otherwise protected as will prevent freezing.~~

~~(5) NOTICE OF PROPERTY OWNER OR CUSTOMER RESPONSIBILITY TO PREVENT FUTURE FREEZES. (a) A utility is not responsible for preventing future freezes if the utility determines under sub. (3) that freezing began in the customer owned portion, may provide the property owner and customer written notice of the need to take precautions to prevent the customer-owned portion of the service line from freezing if:~~

- ~~1. The customer-owned portion of the service line froze in the past; or~~
- ~~2. The customer-owned portion of the service line was not installed or maintained in accordance with utility specifications and requirements.~~

~~(b) If the utility is not responsible for preventing future freezes, the utility shall provide a written notice to the property owner and customer shall in writing, containing of all of the following:~~

- ~~1. That the customer-owned portion of the service line either has a history of freezing or is susceptible to freezing because of a failure to comply with utility specifications and requirements.~~
- ~~2. That the property owner or customer will be responsible for costs to thaw freezing that begins in the customer-owned portion of the service line and the property owner or customer is responsible for preventing future freezes.~~

~~3. That the property owner or customer may wish to should initiate some immediate temporary corrective action to prevent the customer-owned portion of the service line from freezing again, such as running the water at the customer's expense.~~

~~43.~~ That the property owner or customer should provide a lasting solution to prevent future freezing of the customer-owned portion of the service line, such as adding ground cover or insulation.

~~4.~~ That the property owner or customer will be responsible for thawing the customer-owned portion in the future.

5. A statement that the customer may contact the commission staff in the event that the customer disputes this finding and has pursued available remedies with the utility.

6. The commission's address, telephone number and web site.

(c) A utility shall provide the notice under sub. (b) at the following times:

1. At the time the utility first determines that freezing occurredbegan in the customer-owned portion of the service line.

2. Between October 1 and December 1 of each succeeding year.

3. When a new customer applies for service at that location between the time the notice was given under subd.1. or 2. and April 1 of the following year.

(6) RUN WATER NOTICE - INDIVIDUAL. (a) A utility shall include all of the following in a notice under this subsection:

1. An explanation of why water should be run.

2. The date on which the customer or property owner should begin running water.

3. The volume of water to be run, such as at the rate of 1 gallon per X minutes or Y fluid ounces per X minutes.

4. An explanation of how the volume in subd. 3. can be easily determined.

5. An explanation of how the customer or property owner will know when to stop running water.

6. That the customer will receive a credit for the water that it runs at the utility's request up to the volume requested and a description of the method that will be used to calculate the credit for the customer.

7. A statement that if the customer or property owner does not run water after receiving the notice, the customer will be responsible for the cost of thawing a frozen service linethe customer-owned portion.

(b) A utility shall deliver a notice under this subsection in at least 1 of the following ways:

1. First-class mail to the mailing address and the service address, if different.

2. Hand delivery to an adult member of the household at the service address.

3. Unless the customer has notified the utility that the premises is likely to be empty because the customer is seasonal, leaving a notice at the service address.

(c) A utility shall keep a record of its method of delivery for each notice issued under this subsection.

(d) A utility that issues a notice under this subsection shall notify the commission within 7 days of issuing it if a notice is sent to the lesser of the following:

1. 500 customers.

2. 20% of the utility's customers.

(7) RUN WATER NOTICE – EMERGENCY NOTICE. (a) When weather conditions result in a risk of the customer-owned portion of a significant number of service lines customer-services freezing, the utility may issue an emergency notice to customers informing them that they should run water to prevent

freezing. The utility shall issue the notice in a manner most likely to reach its customers, including television, radio, and its web site.

(b) A utility shall include all of the following in the notice under par. (a):

1. An explanation of why water should be run.
2. The volume of water to be run, such as at the rate of 1 gallon per X minutes or Y fluid ounces per X minutes.
3. An explanation of how the volume in subd. 2. can be easily determined.
4. A statement that ~~unless~~ the customer will receive a credit for the water that runs up to the volume requested by the utility.

(c) A utility shall issue an individual written notice under sub. (6) to each affected customer as soon as practicable after issuing an emergency notice under this subsection.

(d) A utility that issues a notice under this subsection shall notify the commission within 7 days of issuing the notice.

(8) CREDIT FOR WATER RUN TO PREVENT FREEZING. If a utility issues a run-water notice under sub. (6) or (7), ~~requests that a customer run water to prevent freezing in a portion of a water supply system for which the utility is responsible~~ the utility shall adjust the bill for the excess consumption which results up to the volume of water the utility requested be run by the customer.

CLEAN VERSION OF MEG-WATER'S PROPOSED REVISION

PSC 185.88 Cold weather conditions and freezing.

(1) DEFINITIONS. For purposes of this section:

(a) "Service line" means the pipe and related appurtenances that extend from the utility's main to the meter.

(b) "Customer-owned portion of the service line" means, unless otherwise specified in the utility's schedule of rates and rules, that portion of the service line from the connection to the curb stop box to the meter.

(2) THAWING FROZEN SERVICE LINES. (a) *General rule.* A utility shall be responsible for the cost of thawing frozen service lines except as provided in par. (b).

(b) *Exceptions.* A utility is not responsible for the cost of thawing a frozen service line if any of the following apply:

1 The customer-owned portion of the service line froze due to the fault or negligence of the customer.

2. The customer-owned portion of the service line froze after the customer and property owner received a notice from the utility in accordance with sub. (5) of the need to take precautions in order to prevent the customer-owned portion of the service line from freezing.

3. The utility notified the customer as provided in sub. (6) or (7) of the need to run water to prevent freezing and the customer failed to follow those instructions.

(c) *Frozen Service Line Caused by Disconnection.* Notwithstanding par. (b), a utility shall be responsible for the cost of thawing a frozen service line if the freezing is a direct result of the utility disconnecting the customer for a reason other than a dangerous condition and the disconnection occurs during a time when conditions are such that freezing could reasonably be expected to occur. A dangerous condition may include a vacant, unheated property at risk of the water piping freezing.

(3) ALTERNATIVE METHOD OF PROVIDING WATER. A utility may supply a customer with water using an alternative method, such as connecting the customer to another customer's service, until the frozen service line is thawed.

(5) NOTICE OF PROPERTY OWNER OR CUSTOMER RESPONSIBILITY TO PREVENT FUTURE FREEZES.

(a) A utility may provide the property owner and customer written notice of the need to take precautions to prevent the customer-owned portion of the service line from freezing if:

1. The customer-owned portion of the service line froze in the past; or

2. The customer-owned portion of the service line was not installed or maintained in accordance with utility specifications and requirements.

(b) A written notice to the property owner and customer shall contain all of the following:

1. That the customer-owned portion of the service line either has a history of freezing or is susceptible to freezing because of a failure to comply with utility specifications and requirements.

2. That the property owner or customer will be responsible for costs to thaw freezing that begins in the customer-owned portion of the service line.

3. That the property owner or customer may wish to initiate some immediate temporary corrective action to prevent the customer-owned portion of the service line from freezing, such as running the water at the customer's expense.

4. That the property owner or customer should provide a lasting solution to prevent future freezing of the customer-owned portion of the service line, such as adding ground cover or insulation.

5. A statement that the customer may contact the commission staff in the event that the customer disputes this finding and has pursued available remedies with the utility.

6. The commission's address, telephone number and web site.

(c) A utility shall provide the notice under sub. (b) at the following times:

1. At the time the utility first determines that freezing occurred in the customer-owned portion of the service line.

2. Between October 1 and December 1 of each succeeding year.

3. When a new customer applies for service at that location between the time the notice was given under subd. 1. or 2. and April 1 of the following year.

(6) RUN WATER NOTICE - INDIVIDUAL.

(a) A utility shall include all of the following in a notice under this subsection:

1. An explanation of why water should be run.

2. The date on which the customer should begin running water.

3. The volume of water to be run, such as at the rate of 1 gallon per X minutes or Y fluid ounces per X minutes.

4. An explanation of how the volume in subd. 3. can be easily determined.

5. An explanation of how the customer will know when to stop running water.

6. That the customer will receive a credit for the water that it runs at the utility's request up to the volume requested and a description of the method that will be used to calculate the credit for the customer.

7. A statement that if the customer does not run water after receiving the notice, the customer will be responsible for the cost of thawing a frozen service line.

(b) A utility shall deliver a notice under this subsection in at least 1 of the following ways:

1. First-class mail to the mailing address and the service address, if different.

2. Hand delivery to an adult member of the household at the service address.

3. Unless the customer has notified the utility that the premises is likely to be empty because the customer is seasonal, leaving a notice at the service address.

(c) A utility shall keep a record of its method of delivery for each notice issued under this subsection.

(d) A utility that issues a notice under this subsection shall notify the commission within 7 days of issuing it if a notice is sent to the lesser of the following:

1. 500 customers.

2. 20% of the utility's customers.

(7) RUN WATER NOTICE – EMERGENCY NOTICE.

(a) When weather conditions result in a risk of a significant number of service lines freezing, the utility may issue an emergency notice to customers informing them that they should run water to prevent freezing. The utility shall issue the notice in a manner most likely to reach its customers, including television, radio, and its web site.

|

(b) A utility shall include all of the following in the notice under par. (a):

1. An explanation of why water should be run.
2. The volume of water to be run, such as at the rate of 1 gallon per X minutes or Y fluid ounces per X minutes.
3. An explanation of how the volume in subd. 2. can be easily determined.
4. A statement that the customer will receive a credit for the water that runs up to the volume requested by the utility.

(c) A utility shall issue an individual written notice under sub. (6) to each affected customer as soon as practicable after issuing an emergency notice under this subsection.

(d) A utility that issues a notice under this subsection shall notify the commission within 7 days of issuing the notice.

(8) CREDIT FOR WATER RUN TO PREVENT FREEZING. If a utility issues a run-water notice under sub. (6) or (7), the utility shall adjust the bill for the excess consumption which results up to the volume of water the utility requested be run by the customer.



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Mr. Jeff Stone
 Public Service Commission of Wisconsin
 Division of Water, Telecommunications and Consumer Affairs
 610 North Whitney Way
 P.O. Box 7854
 Madison, WI 53707

Re: PSC Docket No. 1-AC-233; Frozen Water Laterals

Dear Jeff: On October 19th Lawrie Kobza, on behalf of MEG - Water, filed comments on proposed revisions to PSC 185 relating to frozen water laterals. Specifically, MEG – Water offered revisions to the frozen lateral language now being proposed by PSC staff. The League of Wisconsin Municipalities fully endorses MEG – Water’s comments and suggestions. As you know, water utilities throughout the state are generally owned by our members, the cities and villages of Wisconsin. Municipalities have considerable interest in making sure the PSC’s rules dealing with frozen water laterals are feasible from the utility’s standpoint.

MEG – Water suggests revising PSC 185 to make it clear that water utilities are responsible for the cost of thawing frozen service lines – regardless of where the freeze began - except under the following three situations:

1. When the customer-owned portion of the service line freezes due to the fault or negligence of the customer.
2. When a customer has a history of freezing, receives a seasonal notice from the utility informing him or her of precautions that must be taken to prevent freezing, and freezing still occurs in the customer-portion of the service line.
3. When a utility provides a customer a run-water notice that meets PSC requirements for a run-water notice, the customer fails to follow that notice, and the lateral freezes.

The League also shares MEG –Water’s concerns regarding PSC staff’s proposal to require utilities to determine and document the source of freezing for every frozen lateral. We agree that complying with this requirement would unnecessarily shift staff time and resources from the primary goal of ensuring that all customers are receiving water service.

The League also joins with MEG – Water in objecting to PSC staff’s view that if a lateral freezes it is evidence that there is a problem with the main and that “corrective action” must be taken to provide a “lasting solution” to prevent the main from freezing in the future. Municipalities reject this view and do not believe it is reasonable or practical to require that mains be installed deep enough to ensure that freezing never occurs. We join MEG - Water in urging that this requirement be deleted.

The League of Wisconsin Municipalities and its 595 members strongly support MEG Water's sensible and evenhanded suggestions for revising PSC staffs' proposed frozen water lateral language.

Thanks for considering our comments and concerns.

Best Regards,



Curt Witynski
Assistant Director
League of Wisconsin Municipalities

ATTACHMENT G

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 16

DANE COUNTY

VILLAGE OF MAZOMANIE, WISCONSIN
A Municipal Corporation

Petitioner,
Vs.

Case No.: 14CV2723

WISCONSIN PUBLIC SERVICE COMMISSION,

Respondent.

DECISION AND ORDER

This is a Petition for Judicial Review filed by the Village of Mazomanie (Village) seeking review of a written order by the Wisconsin Public Service Commission (PSC) dated September 10, 2014. The parties fully briefed this matter, and oral argument was heard on April 13, 2015. Based on the submissions of the parties and arguments of counsel, the Court makes the following Decision and Order.

FACTS

This case arises out of a complaint filed by Kristy L. Boehnen against the Village regarding a frozen lateral serving 413 West Hudson Street, Mazomanie, Wisconsin. There are numerous facts in the record surrounding the review process and the denial of a hearing, and the Court will supplement the facts in the analysis section as needed.

Ms. Boehnen's mother resides at the subject property. The winter of 2013-14 was particularly cold, and the Village was concerned about frozen water lines. The Village sent a letter to residents of the Village, including Ms. Boehnen's mother, and advised them that they needed to run water to prevent frozen water pipes. It is undisputed that Ms. Boehnen's mother was notified of the need to run water, and did not run water as directed by the Village. The lateral froze sometime between February 7 and February 14, 2014.

Ms. Boehnen contacted the Village on February 17, 2014, and was told that because water was not run so as to prevent freezing of the lateral, the Village was not responsible for thawing the lateral. The Village relied on PSC sec. 185.88(2)(c):

PSC 185.88 Frozen laterals.

- (1) Thawing of a customer's lateral shall be at the utility's expense if:
 - (a) The freeze-up is a direct result of a utility disconnect and the disconnection occurs during a time when conditions are such that freeze-up could reasonably be expected to occur or;
 - (b) The customer's portion of lateral is electrically conductive and:
 - 1. It is the first thaw for the customer at the location and;
 - 2. The utility has not provided the customer with seasonal notice of the corrective actions to be taken for a known condition.
- (2) **Lateral thawing shall be at the customer's expense if:**
 - (a) The customer's lateral is not electrically conductive and the freeze-up is not a direct result of a utility disconnect as set forth in sub. (1) (a) or;
 - (b) The customer neglected to provide or maintain proper insulation or protection for the lateral according to standard accepted practice, or specific utility instructions

on, for example, the required depth of burial needed to prevent freezing, or;

(c) The utility advises the customer of the corrective measures to be taken and the customer does not follow the utility's advice. (See s. [PSC 185.35 \(7\)](#) for bill adjustment where a utility requests a customer to let water flow to prevent freezing), or;

(d) If the utility disconnects for a dangerous condition.

Ms. Boehnen contacted Hometown Plumbing, LLC, and a plumber went to the property on February 18, 2014 to thaw the lateral. On the invoice he provided after doing the work, he stated that slush ice had formed “at the very end” of a 45 foot length of water jetter hose, and, “we assume that the source of water freezing is upstream, under Hudson Street and towards the municipal main pipe.” Ms. Boehnen paid a \$693.75 invoice to Hometown Plumbing, and sought reimbursement from the Village because of her contention that the lateral freeze occurred on the utility side of the lateral, not on the customer side.

There was initially an informal review process under PSC 185.39(2)(c). This provision states, in relevant part:

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.

After reviewing the information from both sides, the PSC staff determined that the Village was responsible for thawing the utility-owned portion of the lateral and could not hold the property owner responsible for the cost of thawing the lateral. The PSC determined that the Village must reimburse Ms. Boehnen \$693.75, because it determined that based on the language on the plumber's invoice, the freeze was on the utility side of the lateral.¹ Ms. Boehnen contacted the PSC after that determination and claimed that the Village was ignoring the PSC recommendation. The PSC contacted the Village on June 9, 2014 and told it that the informal review recommendation could not be ignored, and the Village must comply or request formal review. The Village filed a timely written request for formal review on June 19, 2014.

On August 14, 2014, during an open meeting of the PSC, the PSC determined that the Village's request for hearing was without merit. It refused to give the PSC a formal hearing on the issue, and issued its Final Order on September 10, 2014, which is the subject of this judicial review. Additional facts necessary to develop the analysis are set forth infra.

STANDARD OF REVIEW

There are two issues that require review, and the parties disagree on what standard to apply. The Order this Court is reviewing has two substantive parts: 1) the PSC ordered the Village to reimburse Ms. Boehnen for the \$639.75 in costs she incurred

¹ It is interesting to note that there was never any actual proof, even to a preponderance of the evidence that the lateral freeze was on the "utility side" versus the "customer side."

in thawing the frozen lateral; and 2) the PSC's determination that the Village's request for a formal review of the complaint was without merit.

The first issue is whether the PSC has the statutory authority under its enabling statutes. to order the Village to reimburse Ms. Boehnen for the plumber bill. The nature and scope of an agency's powers are issues of statutory interpretation. Wisconsin Citizens Concerned for Cranes & Doves v. Wisconsin Dep't of Natural Res., 2004 WI 40, ¶ 6, 270 Wis. 2d 318, 329, 677 N.W.2d 612, 617. In interpreting statutes, the Supreme Court has held:

When interpreting a statute, our goal is to discern the intent of the legislature, which we derive primarily by looking at the plain meaning of the statute. The language of a statute is read in the context in which it appears in relation to the entire statute so as to avoid an absurd result. Words and phrases are generally accorded their common everyday meaning, while technical terms or legal terms of art are given their accepted legal or technical definitions. Wis. Stat. § 990.01(1). Words that are defined in the statute are given the definition that the legislature has provided. "If this process of analysis yields a plain, clear statutory meaning, then there is no ambiguity, and the statute is applied according to this ascertainment of its meaning." Thus, if the statute is unambiguous, we do not consult extrinsic sources such as legislative history to ascertain its meaning; we simply apply its plain meaning.

Id. (citations omitted). The Court is not bound by an agency's decision about the scope of its own power. Id. at 332. The review of the power granted by the enabling statute is de novo.

The second issue for review, that the PSC determined that the Village is not entitled to a formal hearing is founded on the PSC's interpretation of PSC 185.88. The

Court must determine what weight to give to the agency's interpretation of PSC 185.88 which relates to responsibility for thawing the lateral. An agency may benefit from great weight deference if four factors are met:

(1) [the] agency was charged by the legislature with the duty of administering the statute; (2) [the] interpretation of the agency is one of long-standing; (3) [the] agency employed its expertise or specialized knowledge in forming the interpretation; and (4) [the] agency's interpretation will provide uniformity and consistency in the application of the statute.

Brauneis v. State, Labor & Indus. Review Comm'n, 236 Wis. 2d 27, 32, 612 N.W.2d 635, 640 (Wis. 2000). Great weight deference is not mandated here, because the interpretation of PSC 185.88 is not long-standing, and in fact the PSC reached an opposite conclusion in a complaint against a Reedburg utility regarding the same issue – responsibility for a frozen lateral (PSC characterizes this interpretation as a “mistake.”). From the record, the Court cannot discern that the interpretation of sec. 185.88 required any specialized or technical knowledge—in fact, the interpretation adopted by the PSC was that of its legal counsel. While the PSC asserts a long-standing interpretation of the rule, there is no evidence in the record to suggest that is the case. Great weight deference is not required.

The Court will apply a de novo review to the PSC's interpretation of 185.88, because after a review of the entire record, this is really a question of statutory interpretation – interpreting what the rule means using the rules of statutory interpretation. Presumably this is why this PSC relied on the interpretation of its legal counsel regarding the meaning of the rule, not the interpretation of its technical staff

members. In fact, the PSC’s Order from which the Village appeals contains a statutory interpretation analysis of PSC 185.88. This case is unique in its scope of review, and all issues will be decided under a de novo standard.

ANALYSIS AND DECISION

I. THE ENABLING STATUTES DO NOT GIVE THE PSC EXPRESS OR IMPLIED AUTHORITY TO ORDER THE VILLAGE TO REIMBURSE A CUSTOMER FOR EXPENSES RELATING TO THAWING A FROZEN LATERAL.

The PSC relies on sec. 196.02, 196.03(1), 196.26, Stats. and chapter PSC 185 for its authority to order the Village to reimburse Ms. Boehnen for her damages relating to thawing the lateral. In determining whether an administrative agency exceeded the scope of its authority, the Court must examine the enabling statute to ascertain whether the statute grants express or implied authorization for the rule. See Wis. Hosp. Ass'n v. Natural Res. Bd., 156 Wis. 2d 688, 705, 457 N.W.2d 879 (Ct. App. 1990). Because the legislature creates administrative agencies as part of the executive branch, these agencies have “only those powers which are expressly conferred or which are necessarily implied by the statutes under which it operates.” Kimberly–Clark Corp. v. PSC, 110 Wis.2d 455, 461–62, 329 N.W.2d 143 (1983). An agency's enabling statute is to be strictly construed, and the Court resolves any reasonable doubt pertaining to an agency's implied powers against the agency. Id. at 462.

Sec. 196.02, Stats. states:

(1) Jurisdiction. The commission has jurisdiction to supervise and regulate every public utility in this state and to do all things necessary and convenient to its jurisdiction.

This statute is broad, and contains no express authority for the PSC to order the Village to reimburse a resident for damages after the fact. The power to order a utility to reimburse a customer under these unique circumstances cannot be said to be a necessarily implied power of the PSC. This statute is to be strictly construed, and reasonable doubt regarding implicit authority must be resolved against the agency. This statute does not confer jurisdiction on the PSC to order the Village to reimburse Ms. Boehnen for her plumber expenses.

The next statute relied upon by the PSC, sec. 196.03(1), Stats. states:

(1) Subject to s. 196.63, a public utility shall furnish reasonably adequate service and facilities. The charge made by any public utility for any heat, light, water, telecommunications service or power produced, transmitted, delivered or furnished or for any service rendered or to be rendered in connection therewith shall be reasonable and just and every unjust or unreasonable charge for such service is prohibited and declared unlawful.

This statute clearly relates to rates and charges, and this not a rate or charge for services case. There is no express or implied authority to order payment of damages to Ms. Boehnen, who is not even a customer of the utility seeking reimbursement—the home where the frozen lateral was located was her mother’s home. No reasonable construction of this statute confers jurisdiction to the PSC.

Finally, the PSC relies on 196.26, Stats., and Chapter PSC 185 for jurisdiction. These statutes and administrative regulations relate primarily to the definition of a

complaint and process. In a review of all of the cases involving these statutes, none of them confer power on the PSC to order reimbursement for a complainant's damages for frozen laterals or general damages. The PSC's summary argument on these statutes for jurisdiction over this dispute between Ms. Boehnen and the Village is not persuasive, and the Court finds nothing that would confer jurisdiction on the PSC under these circumstances.

On a policy note, such a broad grant of authority would allow the PSC to become involved in all third-party actions involving utility companies. For example, assume a utility had a complaint for damages against a third-party, or a third-party had a claim for damages against a utility company. Under the PSC's interpretation, if a party made an informal complaint about the dispute, the PSC would have the power to adjudicate the dispute and circumvent the normal course of litigation. The PSC could order an informal dispute process binding and decide not to provide the parties a hearing on the issues. This could not have been the intention of the legislature when it granted regulatory powers to the PSC. The PSC has no jurisdiction to order the Village to reimburse Ms. Boehnen for her damages.

II. THE PLAIN MEANING OF 185.88 DOES NOT SEPARATE RESPONSIBILITY FOR EXPENSES BETWEEN “CUSTOMER OWNED” AND “UTILITY OWNED” PORTIONS OF THE LATERAL, SO THE ISSUE OF WHETHER THE VILLAGE WAS ENTITLED TO FORMAL REVIEW OF THE COMPLAINT IS MOOT.

The Court next reviews the PSC’s determination that the Village was not entitled to a hearing on the merits. A condition precedent would necessarily be that the PSC properly interpreted the meaning of PSC 185.88 in determining that the Village was not entitled to a hearing, and that Ms. Boehnen had presented enough evidence to justify her claim. As noted supra, the Court reviews the PSC’s interpretation of 185.88 de novo. The Court finds the PSC’s interpretation is contrary to the plain meaning of the rule, and formal review of the complaint is moot.

The rule at issue here is:

PSC 185.88 Frozen laterals.

- (1) Thawing of a customer's lateral shall be at the utility's expense if:
 - (a) The freeze-up is a direct result of a utility disconnect and the disconnection occurs during a time when conditions are such that freeze-up could reasonably be expected to occur or;
 - (b) The customer's portion of lateral is electrically conductive and:
 1. It is the first thaw for the customer at the location and;
 2. The utility has not provided the customer with seasonal notice of the corrective actions to be taken for a known condition.
- (2) Lateral thawing shall be at the customer's expense if:

- (a) The customer's lateral is not electrically conductive and the freeze-up is not a direct result of a utility disconnect as set forth in sub. [\(1\) \(a\)](#) or;
- (b) The customer neglected to provide or maintain proper insulation or protection for the lateral according to standard accepted practice, or specific utility instructions on, for example, the required depth of burial needed to prevent freezing, or;
- (c) The utility advises the customer of the corrective measures to be taken and the customer does not follow the utility's advice. (See s. [PSC 185.35 \(7\)](#) for bill adjustment where a utility requests a customer to let water flow to prevent freezing), or;
- (d) If the utility disconnects for a dangerous condition.

The PCS's interpretation in its Order inserts words that are not in the rule itself. For example, at page 5 of the Order, the PSC states that "185.88(1) provides that the thawing of the customer-owned portion of the lateral is at the expense of the utility if the customer-owned portion of the lateral is electrically conducive. . . ."

and it goes on to use the phrase "customer-owned portion of the lateral" throughout its Order. This is the foundation of the PSC's interpretation of the rule. However, a close reading of the rule only uses the phrase "customer's portion" in one section – 185.88(1)(b), and does not use it anywhere else in the rule. Only the phrase "customer's lateral" is used.

Statutory interpretation begins with the text of the statute. State v. Popenhagen, 2008 WI 55, ¶ 35, 309 Wis. 2d 601, 621, 749 N.W.2d 611, 620. Statutory language is interpreted in the context in which it is used and in light of the surrounding or closely related statutes. Id. Statutes are interpreted to give effect to each word, to avoid

surplusage, to fulfill the objectives of the statute, and to avoid absurd or unreasonable results. Id.

Had the intent of the rule been to delineate responsibility for thawing the lateral between the customer-owned portion and the utility-owned portion, those words could have been used throughout the rule. Furthermore, the rule clearly uses “customer-owned portion” when it intends to refer to the customer’s portion of the lateral. The PCS’s order attempts to circumvent the plain language of the rule, and insert what it believes must have been the intent. This is not an appropriate analysis.

In this case, it is clear that lateral thawing shall be at the customer’s expense if the utility advises the customer of corrective measures to be taken and the customer does not follow the utility advice. It is undisputed that the Village advised Ms. Boehnen’s mother to run water during the particularly cold weather, and it is undisputed that she did not do that. The clear language mandates that the thawing of the lateral—not just the customer owned portion—is the customer’s responsibility under that circumstance.

Because the PSC did not correctly interpret PSC 185.88, whether a hearing was granted to the Village or not is moot.

ORDER

Based on the foregoing, it is hereby ordered that the Final Order of the PSC dated September 10, 2014 is vacated.

Dated this 10th day of July, 2015.

BY THE COURT:

_____/s/_____
HONORABLE RHONDA L. LANFORD
CIRCUIT JUDGE, BRANCH 16

cc: Carl Sinderbrand, Attorney for Village of Mazomanie
Andrew Cardon, Attorney for Wisconsin Public Service Commission