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SENATOR JUDITH B. ROBSON
CO-CHAIR
PO Box 7882
MADISON, WI 53707-7882
(608) 266-2253



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR
PO Box 8952
MADISON, WI 53708-8952
(608) 264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

Motion Form

Last Modified May 2000

Date 9/20/00 Location 201 Southeast
Moved by Black, Seconded by Schultz

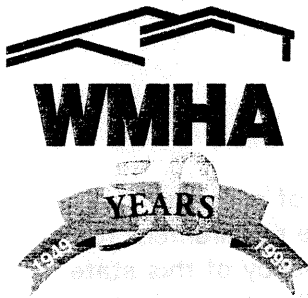
THAT, pursuant to § 227. 26(2)(b), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules

see attached

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator SHIBLISKI			✓
4. Senator WELCH	✓		
5. Senator SCHULTZ	✓		
6. Representative GROTHMAN		✓	
7. Representative GUNDERSON	✓		
8. Representative SERATTI	✓		
9. Representative KREUSER	✓		
10. Representative BLACK	✓		
Totals			

Motion Carried Motion Failed

Wisconsin Manufactured Housing Association



Ross Kinzler, Executive Director

202 State Street, Suite 200

Madison, WI 53703-2215

E-mail: info@wmha.org

608-255-3131

608-255-5595 Fax



May 4, 1999

TO: Senator Rod Moen

FROM: Ross Kinzler, Executive Director

RE: PSC 186, water and sewer service in mobile home parks

The WMHA is in receipt of a letter from PSC Chair Bie regarding our recommendations for changes to PSC 186 as submitted to the Legislature. We believe the rule continues to have several deficiencies which we wanted to bring to your attention. The PSC staff appears to have rejected a WMHA recommendation that a mobile home park operator be permitted to adopt the retail rates of the local public water utility for billing of their residents. The PSC believes such a method could result in over-recovery of costs. We reject that assertion and their logic.

1. The mobile home park operators adopted the retail rates in response to ATCP 125 which required that rates be "competitive" with other local rates for the same or similar services.
2. While the MHP operator may be paying the local utility a lesser total amount, the amount the MHP operator pays is only a portion of their costs. Other costs such as debt service on the equipment, meter reading, billing and collections are not reflected.
3. To assume that the MHP operator has the same or better economies of scale than a public water utility is absurd. Of the 1,158 licensed MHP's in the state, over 40% have less than 20 sites. They are not a utility and do not have the same resources to comply.
4. The PSC is going to face a number of applications to consider whether adopting the local retail rates are "reasonable" under PSC 186, the WMHA merely asked that the Commission specifically approve or disapprove such a method to save everyone confusion.
5. Residents of mobile home parks do not expect to purchase water at a discount or at a premium. Using the local retail rates is easily explained. The residents are getting the same deal as if they were directly connected to the local water utility. No better and No worse.

Sen. Moen
p. 2

The PSC staff also appears to have rejected a suggestion that the return of security deposits be 21 days rather than 14 days so that the rule would mirror the requirement for general security deposits found in ATCP 134. The WMHA believes the policy of this state is to provide consideration to small businesses. (See 227.114, stats.) Creating a dual provision for return of security deposits creates an undue bookkeeping burden for these small businesses.

The PSC also appears to have rejected our assertion that the Commission cannot add to the rule a provision giving the Commission the power to review complaints which exceeds its statutory authority. The Legislature clearly limited complaints and investigations to those made by 25 MHP occupants or 25% of the MHP occupants, whichever is less. Other statutes give the DNR and Commerce regulatory authority over the adequacy of supply, quality of water and distribution design and maintenance. The WMHA objects to a regulatory reach by the PSC.

Section 196.26(1) defines a "complaint" as that related to a "rate, toll, charge or schedule, joint rate or schedule, regulation, measurement, act or practice related to the provision of heat, light, water, power or telecommunications, or to the provision of water and sewer service by a mobile home park operator or mobile home park contractor...." The statutes at 196.26(1m) clearly limits complaints, not only in MHP's but for all utility customers, to those made by 25% of the occupants or 25 occupants, whichever is less.

Finally, Chapter 227, stats, requires a review of all permanent rules affecting housing by the Department of Administration. (See 227.115). We are unaware that such a review has been completed. If it has been completed, we are not in receipt of a copy. We would urge you to ask DOA to perform this review in determining the effect of the rule on the housing costs affecting low and moderate income households.

The WMHA is prepared to assist your office in any review or discussions related to PSC 186.

C Rep. Hoven
Rep. Grothman
Sen. Robson



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536

Telephone: (608) 266-1304

Fax: (608) 266-3830

Email: leg.council@legis.state.wi.us

DATE: March 29, 1999

TO: INTERESTED LEGISLATORS

FROM: David L. Lovell, Senior Analyst

SUBJECT: Public Service Commission Rules Regarding Water and Sewer Service
Provided by Mobile Home Park Operators

The Public Service Commission (PSC) has proposed a rule regarding water and sewer service provided by mobile home park operators. The rule is Clearinghouse Rule 98-156, which proposed to create ch. PSC 186, Wis. Adm. Code. The PSC submitted the rule to the Legislature for final review on March 11, 1999. It was referred to the Senate Committee on Health, Utilities, Veterans and Military Affairs and the Assembly Committee on Utilities. These committees' initial review periods will expire on April 15 and 17, 1999, respectively.

On March 24, 1999, the Manufactured Home Owners Association (Association) distributed a press release by e-mail to all legislators. The press release, entitled *State of Wisconsin Approves Overcharging Elderly for Water and Sewer*, was very critical of the proposed rule. A copy of the press release is attached. On the same day, the PSC staff released a response to the press release, also distributed by e-mail, which responded to the allegations of the press release and provided an explanation of the rule. A copy of the PSC response is also attached.

This memorandum describes the rule, the press release and the PSC response. In addition, it presents an option for the Legislature in responding to the rule.

I. BACKGROUND

The PSC developed proposed ch. PSC 186 in response to the enactment of 1997 Wisconsin Act 229. Prior to that act, the provision of water and sewer service by mobile home park operators was regulated by the Department of Agriculture, Trade and Consumer Protection (DATCP) under s. 100.20, Stats., the principal statute requiring fair trade practices. The DATCP had promulgated rules regulating mobile home parks [ch. ATCP 125, Wis. Adm. Code] and residential rental practices [ch. ATCP 134, Wis. Adm. Code]. Specific rule provisions regulated charges by mobile home park operators for utility services provided through the operators'

facilities. Charges for utility services, or the method of computing such charges, were required to be set forth in the rental agreement. Charges that were not included in the rent were required to be based on the amount of utility service used by the tenant and to be periodically invoiced in writing, indicating both the charge and the amount of utility service used. Charges were required to be competitive with charges for the same or equivalent services provided by public utilities or other local sources. A mobile home park operator was prohibited from imposing a charge on tenants for service provided directly to the tenants by a public utility or other local source. [s. ATCP 125.04 (3), Wis. Adm. Code.] In addition, a mobile home park operator was prohibited from requiring a tenant to make permanent improvements to the mobile home park or its facilities and from assessing a separate charge to a tenant for such improvements. [s. ATCP 125.09 (3), Wis. Adm. Code.]

Prior to the enactment of Act 229, the PSC regulated the provision of water and sewer service provided by public utilities. Mobile home park operators are not public utilities, since any utility service they provide is provided to their tenants only and not to the general public. As a result, they were not regulated by the PSC.

Act 229 transferred regulatory oversight of the provision of water and sewer service by mobile home park operators to mobile home park residents from the DATCP to the PSC. It directed the PSC to promulgate rules regarding such service and expanded the PSC's consumer complaint and summary investigation statutes to include complaints and investigations regarding such service. To prevent double regulation, it prohibited the DATCP from enacting or enforcing regulations regarding such service. The act did not alter the DATCP's regulation of the trade practices of mobile home park operators on matters other than water and sewer service, nor did it alter the PSC's regulation of public utilities; also, the act did not affect any utility services other than water and sewer.

Under Act 229, the PSC's regulation of water and sewer service provided by mobile home park operators relates to the reasonableness and fairness of the service and of charges for the service. This includes the amount of charges for service as well as the manner in which the charges are calculated and applied. It also includes the adequacy of service and the manner in which it is provided. The act does *not* require the PSC to approve rates in advance of their application, through a formal rate-making process, as the PSC does for other utility services.

II. PROPOSED RULE, PRESS RELEASE AND PSC STAFF RESPONSE

Proposed ch. PSC 186 is a comprehensive rule regulating the provision of water and sewer service by mobile home park operators, as required by Act 229. The portion of the rule complained of in the attached press release is s. PSC 186.31, which provides as follows:

PSC 186.31 Reasonableness of water and sewer rates. A mobile home park operator or mobile home park contractor may establish general service charges for water and sewer service in one of the following ways:

(1) If a mobile home park operator or mobile home park contractor purchases water and sewer service and resells the service to the occupants of the mobile home park, the water and sewer charge to a mobile home park occupant may not exceed 1.5 times the charges incurred for purchasing the service that is rendered to that occupant.

(2) If a mobile home park operator or mobile home park contractor owns the water supply facilities or the sewerage treatment facilities which serve the mobile home park, the water charge to a mobile home park occupant may not exceed 1.5 times the average amount charged for a similar level of water utility service furnished by Wisconsin Class D water public utilities. The charge for sewer service may not exceed 2.5 times the charge for water service.

Note: Information relative to the rates of Wisconsin Class D water public utilities is available from the commission.

(3) A mobile home park operator or mobile home park contractor may establish water and sewer rates in excess of those set forth in sub. (1) or sub. (2) if the mobile home park operator or mobile home park contractor can provide written documentation to the commission which demonstrates that higher charges are necessary to meet the reasonable costs associated with all or part of the requirements for the construction, reconstruction, improvement, extension, operation, maintenance, repair, or depreciation of the water and sewer system and for the payment of all or part of the principal and interest of any indebtedness associated with providing water and sewer service at a reasonable cost.

The press release describes the provisions of s. PSC 186.31 and characterizes them as overcharging and fleecing the elderly in land-lease communities. In addition, it states that, while subs. (1) and (2) set ceilings on rates, sub. (3) removes all ceilings on rates if the mobile home park operator asserts that he or she cannot recover all costs under sub. (1) or (2).

The PSC staff responds that the association misunderstands what the proposed rule would accomplish. It asserts that the rules are designed to provide more protection to mobile home park residents than were provided under prior law. It explains the effect of each of the provisions of s. PSC 186.31.

With regard to s. PSC 186.31 (1), the PSC staff response explains that water utilities use a declining block rate structure, which results in a mobile home park purchasing water at a rate that is lower than that at which an individual residence would purchase water. In essence, a mobile home park purchases water at a bulk rate. Thus, the 1.5 multiplier is applied to a lower rate than individual households would be charged by the utility. The PSC staff asserts that

applying the 1.5 multiplier to these "bulk" rates will produce a water rate at or below the water rates that mobile home park residents are currently paying.

With regard to s. PSC 186.31 (2), the PSC staff response explains, that for mobile home park operators who provide water service from their own well, the rule requires that the rates be competitive with the rates charged by average small water utilities. This is the same standard that applied under prior law. The response does not indicate how the 1.5 multiplier affects this provision. It also explains that sewer service rates are capped at 2.5 times the water rate because, in most municipalities that offer both water and sewer service, the rates for sewer service are two or more times the rates for water service.

With regard to s. PSC 186.31 (3), the PSC staff response explains that allowing rates in excess of the caps under subs. (1) and (2) does not remove all ceilings on rates. Rates still must be reasonable, as determined by the PSC, and may only recover costs reasonably incurred by the mobile home park operator; this, the PSC staff states, is the ceiling on rates under this subsection. The rates are subject to review by the PSC, upon complaint by mobile home park residents, and the PSC may order reasonable rates if it finds the rates to be unreasonable.

III. COMMENTS

Perhaps the greatest weakness of s. PSC 186.31 is that its effect is not apparent on the surface. In order to understand the rule, the reader not only must be able to understand the technical language of administrative rules, but must also have knowledge of the cost of providing water and sewer service and the rates charged for such service by various entities under various circumstances. The effect of sub. (1) is dependent on the declining block rate structure used by water utilities, referred to in the PSC staff response; the effect of sub. (2) on water rates is dependent on rates charged by Class D water utilities; the effect of sub. (2) on sewer rates is dependent on a comparison of water and sewer rates; the effect of sub. (3) is dependent on the effects of subs. (1) and (2). Lacking this information, it might appear that the PSC proposes to consider "reasonable" any water rate that is not more than 1.5 times what a utility charges and any sewer rate that is not more than 2.5 times a utility water rate, which does not seem highly protective of rate payers. As explained by the PSC staff, however, the actual effect is quite different.

In reviewing the proposed rule, the Legislature, through its standing committees, could seek modifications to the rule that would clarify the effect of s. PSC 186.31. For example, it could request that water rates be no greater than rates charged to residential customers, rather than relying on a calculation of 1.5 times the rate under a declining block rate structure having the same result. It could also request an explanation of the effect of the 1.5 multiplier in sub. (2).

The Legislature could also suggest an entirely different approach to the standards of reasonableness for water and sewer rates charged by mobile home park operators. The prior law standard was that "[c]harges for utility services provided through the operator's facilities, if not included in the rent, shall be competitive with retail prices charged for the same or equivalent services by public utilities or other local sources." [s. ATCP 125.04 (3) (d), Wis. Adm. Code.]

The Legislature could request that s. PSC 186.31 be replaced in its entirety with this previous standard. This option would have the advantage of making the intent of the standard clear. It would have at least two disadvantages, as well. The first disadvantage is that it would remove the language indicating to the regulated community what, in quantitative terms, the PSC will consider to be reasonable rates. The second disadvantage, following from the first, is that the PSC may be asked to review more rates under complaints with this clearer but less precise standard. It would appear that these are the results that the PSC was attempting to avoid in its design of the standards in s. PSC 186.31.

In conclusion, it appears that the rule could have been written in a manner that is clearer to the reader. However, unless specific information is provided contradicting the PSC staff response, there appears to be no reason to mistrust the PSC staff's explanations of the effects of the rule or their assertions regarding costs and rates for water and sewer service. Consequently, it would seem reasonable to accept the PSC staff's assertion that the rule would be more protective of mobile home park residents than prior law. Nonetheless, the Legislature could seek clarifications of the rule, to ensure this effect.

If you have any questions regarding Clearinghouse Rule 98-156, please contact me at the Legislative Council Staff offices.

DLL:jal;ksm

Attachments

Wisconsin Manufactured Home Owners Association
Press Release

- > STATE OF WIS APPROVES OVERCHARGING ELDERLY FOR WATER and SEWER
- > March 22, 1999
- >
- > The Public Service Commission and the State of Wisconsin have approved
- > overcharging the elderly in land-lease communities for water and sewer in
- > Wis. Admin. Code ch. PSC 186 (Wisconsin Act 229), scheduled to become law
- > on April 4, 1999.
- > The following is an unconscionable rape of the elderly:
- > 1) Water and sewer will be charged at 1.5 times the municipal rate;
- > 2) If a landlord owns the water supply and sewerage treatment
- > facilities, water will be charged at 1.5 times the municipal rate, and
- > sewer will be charged up to 2.5 times the cost for water.
- > 3) When a landowner alleges his/her costs aren't being met to cover all
- > or part of construction, reconstruction, improvement, extension,
- > operation, maintenance, repair, or depreciation of the water and sewer
- > system, and for payment of all or part of the principal and interest of
- > any indebtedness associated with providing water and sewer service at a
- > reasonable cost, said landowner may establish rates in excess of 1) and
- > 2). No ceiling whatever on what can be charged.
- >
- > Nothing gives Wisconsin a bigger black eye than when the State colludes
- > with the manufactured housing industry and wealthy landowners to fleece
- > the elderly, many of whom subsist on fixed incomes.
- > This is our plan: The week of March 29, 1999, our elderly residents will
- > descend en masse on the Capitol steps with placards and pickets. We will
- > bang on every single legislator's door, as well as the Governor's,
- > demanding that Wis. Code PSC 186 be scrapped in its entirety. Our pickets
- > and placards will not leave the Capitol until 186 is dead.
- > The Wis Mfg'd Home Owners Assn Inc
- > PO Box 254
- > Marshall WI 53559
- > Contact:
- > Attorney David R. Sparer
- > King Street Law Collective
- > 111 King St - Ste 24, Madison 53703
- > 608/257-0424
- >
- >
- > Kristen Zehner
- > 118 Blue Spruce Ln
- > Marshall WI 53559
- > 608/655-4573

PSC Staff Response

PSC staff reply:

There appears to be a misunderstanding of the draft mobile home park (MHP) rule by the Wisconsin Manufactured Home Owners Association, Inc. (Association). The draft rule is in response to the statutory provisions of 1997 Wisconsin Act 229. Both s.196.498 Wis. Stats. and proposed PSC 186, Wis. Adm. Code are intended to afford more protection to residents of MHPs than was previously available under WI law. For the most part the draft rule that was recently forwarded to the legislature closely parallels the protections customers of public utilities in Wisconsin enjoy. The draft rule sets standards on metering, billing, rates and charges, deposits, payment arrangements, service installation, dispute resolution and more.

Under the proposed rules, MHP residents will be able to file complaints with the Public Service Commission concerning the water and sewer service they receive. The PSC will be able to apply the standards established in ch. PSC 186 to address these complaints.

The Association raises specific concerns with the rates that MHP owners will be allowed to charge. Here specifically there appears to be a misunderstanding as to what the proposed rules will accomplish. The Association's first concern is that where water and/or sewer service is purchased from a public utility, the MHP operator or contractor can charge up to "1.5 times the municipal rate." The actual wording of the proposed rule is "...the water and sewer charge to a MHP occupant may not exceed 1.5 times the charges incurred for purchasing the service...".

Currently, MHP operators are required to charge for water and sewer service at rates which are competitive with those of the local community. It is our understanding that many MHP operators have simply adopted the rates charged by the local utility. We believe the wording of the proposed rules will typically cap the rates charged to occupants at or below the charges incurred under current regulation. This result is due to the fact that the master-metered MHP is charged a lower per unit cost under the declining block rate structure used by Wisconsin water utilities than the unit cost charged to the average residential customer. The 1.5 multiplier is in recognition that the MHP operator has administrative costs in addition to the cost of purchasing the service.

The Association's second concern is over the caps established in the case of a MHP operator who has his or her own well or sewage treatment facilities. Here we require the charges for water to be competitive with those charged by an average Class D water utility in Wisconsin, not the local community's rates. The charges for sewer are capped at 2.5 times the charge for water. It is our experience that in Wisconsin sewer charges applied by municipal sewer operations are two or more times the charges incurred for water service.

The third concern is with the ability of MHP operators to charge rates in excess of the caps if they can demonstrate those charges are necessary to meet reasonable costs incurred in supplying water and/or sewer service. The Association believes there is "no ceiling whatever on what can be charged." We believe it is proper to allow a MHP operator to recover charges incurred in supplying water and/or sewer service if the costs exceed the generic cap. The ceiling is established by what costs are "reasonably" incurred in providing the service and will be reviewed on a case by case basis.

If you have any questions, please call Jeff Kitsembel at 266-5739.

DATE MAILED

MAR 1 1 1999

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**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Standards for Water and Sewer Service in Mobile Home Parks

1-AC-172

**ORDER OF THE PUBLIC SERVICE COMMISSION
ADOPTING EMERGENCY RULES**

AND

**PROPOSED ORDER OF THE PUBLIC SERVICE COMMISSION
CREATING RULES**

The Public Service Commission proposes to create Wis. Admin. Code ch. PSC 186:

Standards for Water and Sewer Service in Mobile Home Parks.

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

Pursuant to the legislature's instruction in Wis. Stat. § 196.498(2), as created by 1997 Wisconsin Act 229, on October 16, 1998, the Public Service Commission submitted to the Legislative Council for review administrative rules establishing standards for the provision of water and sewer service in mobile home parks. A hearing on the proposed rules was held January 7, 1999. The rules set forth standards in the following areas:

PSC 186.11. Statutory authority for and applicability of the rules.

PSC 186.12. Definitions. Defines a number of key terms contained in this chapter.

PSC 186.13. General requirement of reasonable service. Requires that mobile home park operators or contractors provide mobile home park occupants with "reasonably adequate" water and sewer service.

Docket 1-AC-172

PSC 186.14. Discriminatory service prohibited. Prohibits mobile home park operators or contractors from offering mobile home park occupants water and sewer service at a rate different from that offered to other occupants.

PSC 186.21. Records of service interruptions. Requires mobile home park operators or contractors to keep records of water and sewer service outages lasting more than one hour and affecting more than 25 percent of mobile home park occupants.

PSC 186.22. Information available to customers. Requires mobile home park operators or contractors to provide mobile home park occupants with written notice – if requested – of the rules concerning deposits, payment options, disconnection, and dispute procedures.

PSC 186.31. Reasonableness of water and sewer rates. Requires mobile home park operators or contractors to provide water and sewer service at reasonable rates, defined as: (1) not more than 1.5 times the rate at which the water is purchased; (2) not more than 1.5 times the water rates charged by a Class D water utility, if the mobile home park operator or contractor owns the water supply facilities. The sewer service charge may not exceed 2.5 times the water charge. (3) These limits may be exceeded on a showing of necessity to meet financial requirements.

PSC 186.32. Billing Methodology. Bills may be calculated via the following methods: (1) metered, (2) flat, (3) residential equivalent units, or (4) any other reasonable method.

PSC 186.33. Billing. Sets forth the required contents of each water and sewer bill.

PSC 186.34 Deposits for water and sewer service. Sets forth the conditions under which a deposit for new or continued service may be requested and the amount of the deposit – not more than the highest estimated bills for a one-month period. A deposit must be refunded within 14 days after the termination of a lease.

Docket 1-AC-172

PSC 186.35. Disconnection and refusal of service. Sets forth the reasons and conditions under which water and sewer service can be disconnected or refused, including notification requirements, and the reasons and conditions under which water and sewer service may not be disconnected, such as during medical emergencies. The contents of a disconnection notice are specified, as well as procedures under which an occupant may dispute a disconnection notice.

PSC 186.36. Deferred payment agreement. Requires mobile home park operators or contractors to offer occupants deferred payment agreements to pay outstanding bills and sets forth the factors to be considered in setting a deferred payment agreement, including required terms and conditions.

PSC 186.37. Dispute procedures. Sets forth procedures to be followed to resolve disputes raised by mobile home park occupants regarding requests for a deposit, guarantee, service disconnection, billing, or any other matter in dispute. After a required investigation by the mobile home park operator or contractor, review by the public service commission staff and the commission itself is provided for.

PSC 186.38. Complaint procedures. Sets forth procedures to be followed to resolve more general complaints with respect to the adequacy of water and sewer service.

PSC 186.41. General construction requirements. Requires that water and sewer systems constructed by mobile home park operators or contractors comply with all federal, state, and local requirements.

PSC 186.51. Meters. Requires that all water meters in mobile home parks be in good working condition and meet PSC standards.

PSC 186.61. Meter testing facilities and equipment. Requires all mobile home park operators or contractors who provide metered water service to own meter testing equipment and facilities, or to provide these by contract.

Docket 1-AC-172

PSC 186.62. Testing of mobile home park occupant meters. Sets forth the manner in which a mobile home park water meter must be tested – by comparison of its accuracy with the accuracy of a known “standard” meter.

PSC 186.63. Test flows. Sets forth the required test flow for meter testing – the standard of § PSC 185.65.

PSC 186.64. Required tests of mobile home park occupant meters. Sets forth the times at which mobile home water meters must be tested: (1) before initial use, if not certified by the vendor; (2) on complaint or request; and (3) when damaged.

PSC 186.65. Dispute tests. Requires mobile home park owners or contractors to test meters on customer request.

PSC 186.66. Remote outside meter system test. Requires the testing of remote outside meters at the same time that inside meters are tested.

PSC 186.71. Quality of water. Requires mobile home park owners or contractors to provide occupants with drinking water which meets state and federal quality standards.

PSC 186.72. Adequacy of water supply. Requires mobile home park owners or contractors to furnish mobile home park occupants with a continuous and adequate supply of water.

PSC 186.73. Pressure standards. Requires the water supply system of any mobile home park to meet all federal, state, and local pressure standards.

PSC 186.74. Flushing mains. Requires the flushing of dead-end mains and other low-flow portions of water distribution systems in mobile home parks as needed to ensure water quality.

PSC 186.75. Interruptions of service. Requires mobile home park operators or contractors to make all reasonable efforts to prevent service outages and to provide park occupants with notice of planned outages.

Docket 1-AC-172

PSC 186.76. Maintenance of water and sewer laterals. Provides that the thawing of a mobile home park occupant's lateral shall be at the occupant's expense, unless the freeze-up results from an operator-initiated disconnect or a deficiency in the mobile home park distribution system.

Sets forth other requirements for the maintenance of water and sewer laterals.

TEXT OF PROPOSED RULES AND STATUTORY AUTHORITY

Pursuant to authority vested in the Public Service Commission by Wis. Stat. §§ 196.498(2) and 227.11(2), and interpreting those provisions, the Public Service Commission proposes to adopt as rules Wis. Admin. Code ch. PSC 186.

The text of the proposed ch. PSC 186 follows as Attachment A.

FISCAL ESTIMATE AND INITIAL REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse fiscal impact of these proposed rules on state or local units of government. In an effort to minimize the impact of the rules on small businesses, as defined in Wis. Stat. § 227.114(1)(a), the Commission has met with or received input from a number of mobile home park owners as well as the Wisconsin Manufactured Housing Association. Input was also received from the Small Business Ombudsman in the Department of Commerce, Ms. Cheryl Gain.

EFFECTIVE DATE

These rules are now being adopted as emergency rules effective May 1, 1999, as directed by section 22(2) of 1997 Wis. Act 229. The same section specifically exempted the commission from the finding of emergency required by Wis. Stat. § 227.24. The emergency rules will be published in the official state newspaper pursuant to Wis. Stat. § 227.24(1)(c).

Docket 1-AC-172

The rules are also being sent to the legislature pursuant to Wis. Stat. § 227.19. They will become effective as final rules on the first day of the month following publication in the Wisconsin Administrative Register, as provided in Wis. Stat. § 227.22.

Dated at Madison, Wisconsin, March 4, 1999

By the Commission:

Lynda L. Dorr
Lynda L. Dorr
Secretary to the Commission

LLD:JAK:bhh:tlk:g:\order\pending\1-ac-172.doc

REGULATORY FLEXIBILITY ANALYSIS
FINAL ESTIMATE AND INITIAL

EXPIRE DATE

Chapter PSC 186

STANDARDS FOR WATER AND SEWER SERVICE IN MOBILE HOME PARKS

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Subchapter I. General

PSC 186.11 Authorization for and application of rules. (1) This chapter is authorized by s. 196.498(2), Stats.

(2) This chapter is designed to effectuate and implement s. 196.498, Stats.

(3) The requirements of this chapter apply to mobile home park operators and all mobile home park contractors who supply water and sewer service, or both, to mobile home park occupants. Subchapter III is not applicable to mobile home park operators or mobile home park contractors who include the costs associated with water and sewer service in their rental fees.

(4) The commission may grant a variance from a nonstatutory requirement of this chapter to individual mobile home park contractors, mobile home park operators, water and sewer services which are different from those provided in this chapter and which fulfill the intent of this chapter.

(5) The manner of enforcing this chapter is prescribed in ss. 196.498(4), (5) and (6), Stats., and such other means as provided in statutory sections of ch. 196 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 mobile home park operator or mobile home park contractor. The action is subject to review by the public service commission.

PSC 186.12 Definitions. In this chapter:

(1) “Ability to pay” means a mobile home park occupant’s financial capacity to meet the mobile home park occupant’s water and sewer service obligation.

(2) “Actual meter read” means a reading obtained by the mobile home park operator or mobile home park contractor or other party upon physical inspection of the meter or remote outside meter.

(3) “Commission” means the public service commission of Wisconsin.

(4) “Complaint” has the meaning given in s. 196.26(1), Stats.

(5) “Deferred payment agreement” means an arrangement between a mobile home park operator or mobile home park contractor and a mobile home park occupant for payment of a delinquent amount or deposit owed for water and sewer service in installments.

(6) “Denied or refused service” means that a mobile home park operator or mobile home park contractor has refused to provide water and sewer service to a present or future mobile home park occupant or premises.

(7) “Disconnection” means an event or action taken by the mobile home park operator or mobile home park contractor to terminate or discontinue the provision of water and sewer service, but does not include a mobile home park occupant-requested termination of service.

(8) “Dispute” means a statement or question by a mobile home park occupant alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action committed or created by a mobile home park operator or mobile home park contractor, or alleging failure of a mobile home park operator or mobile home park contractor to meet its obligation to supply water and sewer service.

(9) “General service charges” means charges billed to the mobile home park occupant by the mobile home park operator or mobile home park contractor and intended to recover the cost of supplying water and sewer service.

Note: The expenses typically recovered by general service charges are operation and maintenance expenses, taxes, depreciation, or debt service. Expenses such as late payment charges, non-sufficient funds check charges, or reconnection charges are not typically recovered through general service charges but are separate, additional charges applied to the mobile home park occupant’s account.

(10) “Manufactured home” has the meaning given in s. 101.91(2), Stats.

(11) “Meter” means an instrument installed to measure the volume and/or rate of flow of water delivered through it.

(12) “Mobile home” has the meaning given in s. 101.91(1), Stats.

(13) “Mobile home park” has the meaning given in s. 196.01(3p), Stats.

(14) “Mobile home park contractor” has the meaning given in s. 196.01(3q), Stats.

(15) “Mobile home park occupant” has the meaning given in s. 196.01(3s), Stats.

(16) "Mobile home park occupant-requested termination" means cessation of service at the request of the mobile home park occupant.

(17) "Mobile home park operator" has the meaning given in s. 196.01(3t), Stats.

(18) "Percent registration" means the ratio of the meter registration divided by the actual volume or rate of flow, stated as a percentage. For domestic or volumetric meters, "percent registration" means the percentage of the water delivered through a meter which the meter actually registers.

(19) "Prompt payment" means payment prior to the time when a mobile home park operator or mobile home park contractor could issue a notice of disconnection for nonpayment of an amount not in dispute.

(20) "Protective services emergency" means a threat to the health or safety of an occupant 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.

(21) "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.

Note: Remote outside meters are considered part of the mobile home park operator or mobile home park contractor's metering configuration.

(22) "Small mobile home park" means a mobile home park containing fewer than six individual plots of land that are rented or offered for rent for the accommodation of a mobile home.

(23) "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.

Note: Examples of some public assistance are:

- (a) Wisconsin Works (W2) and Temporary Assistance to Needy Families (TANF) restrictive payment arrangements.
- (b) General relief voucher payment systems.

PSC 186.13 General requirement. A mobile home park contractor and a mobile home park operator that provides water and sewer service to the occupants of its mobile home park shall furnish reasonably adequate service and facilities as required by this chapter.

PSC 186.14 Discriminatory service prohibited. No mobile home park operator or mobile home park contractor may provide water and sewer service at a rate different from that provided to all other occupants of its mobile home park.

Subchapter II. Records and Available Information

PSC 186.21 Records of service interruptions. Each mobile home park operator or mobile home park contractor shall maintain a record of each interruption of service which results from a failure or disruption of the mobile home park water supply or sewer collection system lasting more than one hour or affecting more than 25 percent of the mobile home park occupants upon reporting of such an outage by a mobile home park occupant. The mobile home park operator's or mobile home park contractor's records shall show the date and time the service interruption began, the

duration, the cause, and the approximate number of mobile home park occupants affected. Records must be maintained for three years following the date of occurrence.

Note: See also s. PSC 186.75, Interruptions of service.

PSC 186.22 Information available to customers. Each mobile home park operator or mobile home park contractor shall have available and provide, to all new mobile home park occupants and to any mobile home park occupant making a request, written notice of the rules set forth in this chapter pertaining to deposits, payment options including deferred payment agreements, disconnection, and dispute procedures. The notice shall contain a reply procedure to allow mobile home park occupants an opportunity to advise the mobile home park operator or mobile home park contractor 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 mobile home park operator or mobile home park contractor to contact a specific third-party agency or individual prior to any disconnection action being taken.

Subchapter III. Rates, Service, and Billing

Note: Subchapter III is not applicable to mobile home park operators or mobile home park contractors who include the costs associated with water and sewer service in their rental fees.

PSC 186.31 Reasonableness of water and sewer rates. A mobile home park operator or mobile home park contractor may establish general service charges for water and sewer service in one of the following ways:

(1) If a mobile home park operator or mobile home park contractor purchases water and sewer service and resells the service to the occupants of the mobile home park, the water and sewer charge to a mobile home park occupant may not exceed 1.5 times the charges incurred for purchasing the service that is rendered to that occupant.

(2) If a mobile home park operator or mobile home park contractor owns the water supply facilities or the sewerage treatment facilities which serve the mobile home park, the water charge to a mobile home park occupant may not exceed 1.5 times the average amount charged for a similar level of water utility service furnished by Wisconsin Class D water public utilities. The charge for sewer service may not exceed 2.5 times the charge for water service.

Note: Information relative to the rates of Wisconsin Class D water public utilities is available from the commission.

(3) A mobile home park operator or mobile home park contractor may establish water and sewer rates in excess of those set forth in sub. (1) or sub. (2) if the mobile home park operator or mobile home park contractor can provide written documentation to the commission which demonstrates that higher charges are necessary to meet the reasonable costs associated with all or part of the requirements for the construction, reconstruction, improvement, extension, operation, maintenance, repair, or depreciation of the water and sewer system and for the payment of all or part of the principal and interest of any indebtedness associated with providing water and sewer service at a reasonable cost.

PSC 186.32 Billing methods. Sewer or water bills for mobile home park occupants may be based on one of the following methods:

(1) Metered.

- (2) Flat rate.
- (3) Residential equivalent units.
- (4) Any other method that can be shown to reasonably allocate costs among mobile home park occupants.

PSC 186.33 Billing. (1) A bill for water and sewer service issued at least quarterly and provided by the mobile home park operator or mobile home park contractor shall include all of the following on the mobile home park occupant's receipt:

- (a) The service address.
- (b) The present and last preceding meter readings if service is metered.
- (c) The present and last preceding meter reading dates if service is metered.
- (d) The number of units consumed if service is metered.
- (e) Clear itemization of the amounts included in the bill for the present billing period and any unpaid balance from previous billing periods, including any late payment charges.

(2) Estimated bills shall be distinctly marked as such, if service is on a metered basis.

(3) Except as provided in subs. (4) and (5), a partial payment received for water and sewer service shall be applied, in descending order until fully paid, to each of the following types of charges on the mobile home park occupant's account:

- (a) Current water and sewer service.
- (b) Current deferred payment agreement.
- (c) Water and sewer service arrears.
- (d) Miscellaneous water and sewer charges.
- (e) All other charges.

(4) If charges for water and sewer service are not paid separately from the charge for rent by the mobile home park occupant, the terms for the allocation of partial payments set forth in the lease agreement shall apply.

(5) Upon mobile home park occupant request, or at the discretion of the mobile home park operator or mobile home park contractor, partial payments may be allocated differently than set forth under sub. (3) if the 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 under sub. (3).

(6) The mobile home park operator or mobile home park contractor may apply late payment charges to any portion of mobile home park occupant's water and sewer service bill that is not paid in full based on the order of payment application as provided in sub. (3) and sub. (4), within 20 days following issuance of the bill. The late payment charge shall not exceed one percent of the total unpaid balance per month.

(7) (a) If a mobile home park operator or mobile home park contractor applies a late payment charge, the new charge shall apply only to water and sewer service provided after the effective date of initiation.

(b) 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 mobile home park operator or mobile home park contractor.

(8) (a) All new mobile home park occupants shall apply for water and sewer service. This application may be incorporated into the lease agreement. The mobile home park operator or mobile home park contractor may require that either a verbal or written application be made. The mobile home park operator or mobile home park contractor shall establish a uniform policy for obtaining the information required by this paragraph. The mobile home park operator or mobile home park contractor may require a mobile home park occupant to provide all of the following:

1. The name or names of parties responsible for bill payment.
2. The address where service is to be provided.
3. The address of residence immediately prior to application.

(b) Except as provided in s. PSC 186.35, water and sewer service shall not be disconnected or refused for refusal to provide any information other than that specified in par. (a).

(9) A mobile home park occupant or other responsible party who uses water and sewer service but does not apply for it may be billed an estimated or actual amount at a later date for service used prior to the time of application. The mobile home park operator or mobile home park contractor 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 mobile home park operator or mobile home park contractor shall inform the mobile home park occupant of the right to dispute the billing through the dispute procedures set forth in s. PSC 186.37.

PSC 186.34 Deposits for water and sewer service. (1) (a) A mobile home park operator or mobile home park contractor may require a deposit as a condition of new or continued water and sewer service. The amount of the required deposit shall not exceed the mobile home park occupant's highest estimated gross bill for any one-month period selected by the mobile home park operator or mobile home park contractor.

(b) A mobile home park operator or mobile home park contractor shall inform the mobile home park occupant of the mobile home park occupant's right to enter into an installment plan for payment of the deposit amount. Under the installment plan, the deposit amount shall be paid to the mobile home park operator or mobile home park contractor in no more than three equal monthly installments. Operators or contractors of small mobile home parks are not required to offer installment plans for the payment of deposits.

(2) The mobile home park operator or mobile home park contractor shall refund the water and sewer deposit of a mobile home park occupant within 14 days of the termination of the rental agreement.

(3) (a) Any arrearage owed by a mobile home park occupant for water and sewer service may be deducted from the mobile home park occupant's water and sewer deposit.

(b) If the mobile home park operator or mobile home park contractor deducts a water and sewer arrearage from a mobile home park occupant's deposit, it may require the mobile home park occupant to bring the water and sewer deposit up to its original amount. Failure of the mobile home park occupant to do so within 20 days of mailing a written request for payment is grounds for disconnection.

PSC 186.35 Reasons for disconnection and refusal of service. (1) Water and sewer service may be disconnected or refused for any of the following actions on the part of a mobile home park occupant:

(a) Failure to pay a delinquent account or failure to comply with the terms of a deferred payment agreement.

Note: see s. PSC 186.36.

(b) Failure to comply with deposit arrangements as specified in s. PSC 186.34.

(c) Diversion of service around the meter.

(d) Refusal or failure to permit authorized mobile home park operator or mobile home park contractor personnel access to the base meter or remote register.

(e) Use of service in a manner which interferes with the service of others or the operation of nonstandard equipment, if the mobile home park occupant has first been notified and provided with reasonable opportunity to remedy the situation.

(f) Failure to comply with Wisconsin statutes, commission rules, or commission orders pertaining to water and sewer service.

(g) Failure to pay costs or fees incurred by and awarded to the mobile home park operator or mobile home park contractor by a court of law for pursuit of collection of water and sewer bills, or failure to pay collection charges associated with water and sewer service.

(h) Use of a device that unreasonably interferes with communications or signal services used for reading meters.

(i) Failure to bring a deposit up to its original amount within 20 days of the written request to do so if all or a portion of the deposit has been used to pay a water and sewer arrearage.

(2) A mobile home park operator or mobile home park contractor may disconnect water and sewer service without prior notice where a dangerous condition exists for as long as the condition exists. Upon disconnection, the mobile home park operator or mobile home park contractor shall provide the mobile home park occupant a written explanation of the dangerous condition.

(3) Service may be discontinued with a written 24-hour notice for nonpayment of a bill covering surreptitious use of water and sewer.

(4) A mobile home park operator or mobile home park contractor may disconnect water and sewer service without notice where it has reasonable evidence that water and sewer service is

being obtained by potentially unsafe devices or potentially unsafe methods that stop or interfere with the proper metering of the water and sewer service.

(5) Water and sewer service may not be disconnected or refused for any of the following reasons:

(a) Failure to pay the account of another mobile home park occupant as guarantor of that account.

(b) Failure to pay charges arising from any underbilling occurring more than one year prior to the current billing.

(c) For the purpose of eviction of a mobile home park occupant.

(d) If a heat advisory or warning has been declared by the national weather service for a geographic area which includes the mobile home park.

(6) Between the dates of November 1 and April 15 of each year, a mobile home park operator or mobile home park contractor may not disconnect residential water service that is a necessary part of a mobile home's heating system.

(7) Notwithstanding any other provision of this section, a mobile home park operator or mobile home park contractor may not disconnect service or refuse to reconnect service to a mobile home park occupant if disconnection will aggravate an existing medical or protective services emergency of the occupant, a member of the mobile home park occupant's family or other permanent occupant of the premises where service is rendered and if the mobile home park occupant conforms to the procedures described in s. PSC 186.351(1)(d).

(8) Notwithstanding any other provision of this chapter, water and sewer service may not be refused or disconnected because of a delinquent account if the mobile home park occupant or applicant provides a deposit as a condition of future service, as governed by s. PSC 186.34, or a voucher agreement. If the guarantor has agreed to be responsible for payment of all future bills, the mobile home park occupant shall be notified of the billing arrangement and of the ability to reject the proposed arrangement.

PSC 186.351 Disconnection procedure. (1) (a) A notice of disconnection may not be issued until at least 20 days after the date of issuance of the bill.

(b) At least 8 calendar days prior to disconnection, the mobile home park operator or mobile home park contractor shall give a written notice of disconnection.

(c) Mobile home park water and sewer 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 s. PSC 186.37.

(d) A mobile home park operator or mobile home park contractor shall postpone the disconnection of service, or reconnect the service if disconnected, for up to 21 days on the written recommendation of a licensed physician 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. This postponement is to enable the mobile home park occupant to arrange for payment. During the period of continued service, the mobile home park operator or mobile home park contractor and mobile home park occupant shall work together to develop resources and make reasonable payment arrangements in order to continue the service on a permanent basis. Additional

postponements may be granted if there is evidence of reasonable communication between the mobile home park operator or mobile home park contractor and mobile home park occupant in attempting to make arrangements for payment.

(e) During the period service is continued under the provisions of this subsection, the mobile home park occupant is responsible for the cost of residential water and sewer service. However, no action to disconnect that service shall be undertaken until expiration of the period of continued service.

(f) If there is a dispute concerning an alleged medical emergency, either party may request an informal review by the commission staff. During the informal review, residential water and sewer service shall be continued if the mobile home park occupant has submitted a statement or notice as set forth in sub. (d).

(2) (a) A mobile home park operator or mobile home park contractor shall not disconnect service unless written notice by first class mail is sent to the mobile home park occupant or personally served upon a responsible party at least 8 calendar days prior to the first date of the proposed disconnection except as provided in subs. PSC 186.35(2), (3), and (4). If the billing address is different from the service address, notice shall be posted at the service address not less than 5 days before disconnection. The notice shall contain the information set forth in s. PSC 186.352.

(b) If disconnection is not accomplished on or before the 15th 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 mobile home park occupant and the mobile home park operator or mobile home park contractor agree to extend the 15-day time period. If disconnection is not accomplished on or before the 30th day after the original eight-day disconnection notice was issued, the mobile home park operator or mobile home park contractor shall issue a new eight-day disconnection notice prior to proceeding with the disconnection of water and sewer service.

(c) The mobile home park operator or mobile home park contractor shall make a reasonable effort to have a personal or telephone contact with the mobile home park occupant prior to disconnection. If a contact is made, the mobile home park operator or mobile home park contractor shall review the reasons for the pending disconnection of service and explain what actions shall be taken to avoid disconnection. The mobile home park operator or mobile home park contractor shall keep a record of the contacts and contact attempts.

(d) If a dispute cannot be resolved, the mobile home park operator or mobile home park contractor shall inform the mobile home park occupant of the right to appeal to the commission.

(3) Service shall not be disconnected on a day, or on the day immediately preceding a day, when the business offices of the mobile home park operator or mobile home park contractor are not available to the mobile home park occupants for the purpose of transacting all business matters, unless the mobile home park operator or mobile home park contractor provides personnel which are readily available to the mobile home park occupant 24 hours per day to evaluate, negotiate, or otherwise consider the mobile home park occupant's objection to the disconnection as provided under s. PSC 186.37, and proper service personnel are readily available to restore service 24 hours per day.

PSC 186.352 Disconnection notice. (1) A disconnection notice shall contain the following information:

(a) The name and address of the mobile home park occupant and the address of the service, if different.

(b) The reason for the proposed disconnection of service and a statement that service will be disconnected if one of the following does not occur:

1. The account is paid.
2. Arrangement is made to pay the account under deferred payment agreement.
3. Other suitable arrangements are made.
4. Equipment changes are made.

(c) A statement that the mobile home park occupant shall immediately contact the mobile home park operator or mobile home park contractor at the number listed if the mobile home park occupant disputes the account considered delinquent, if the mobile home park occupant wishes to negotiate a deferred payment agreement as an alternative to disconnection, if any occupant is seriously ill, or if there are other extenuating circumstances.

Note: Extenuating circumstances include things such 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 occupants who use life support systems or equipment, and occupants who have mental retardation or other developmental or mental disabilities.

(d) A statement that residential water and sewer service shall be continued for up to 21 days during serious illness on the written recommendation of a licensed physician.

(e) A statement that the mobile home park occupant may appeal to the commission staff if the grounds for the proposed disconnection or the amount of any disagreement remains in dispute after the mobile home park occupant has pursued the available remedies with the mobile home park operator or mobile home park contractor.

(f) The date of the notice.

(g) The proposed date of disconnection.

(h) A phone number at which the mobile home park operator or mobile home park contractor can be contacted.

(i) A statement that the mobile home park occupant may apply to accept responsibility for future bills and avoid disconnection of service as allowed under s. PSC 186.33(9).

(j) A statement that disputing any matter does not relieve the mobile home park occupant of the obligation of paying charges not in dispute, prevent disconnection of water and sewer service for nonpayment of undisputed charges, or prevent the application of a late payment charge to amounts in dispute that are later determined to be correct.

(2) 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 mobile home park occupant which are considered to constitute default.

Note: A copy of a sample disconnection notice is available from the commission.

PSC 186.36 Deferred payment agreement. (1) A mobile home park operator or mobile home park contractor shall offer deferred payment agreements to mobile home park occupants for water and sewer service. The term of the deferred payment agreement shall not extend past the termination date of the lease in effect for the mobile home park occupant. Operators or contractors of small mobile home parks are not required to offer deferred payment agreements to mobile home park occupants.

(2) Every deferred payment agreement shall provide that service not be discontinued if the mobile home park occupant pays a reasonable amount of the outstanding bill, agrees to pay the remaining outstanding balance in installments, and agrees to pay the current bill by the due date.

(3) For purposes of determining reasonableness in sub. (2), the mobile home park operator or mobile home park contractor shall consider the mobile home park occupant's ability to pay, including the following factors:

- (a) Size of the delinquent account.
- (b) Mobile home park occupant's water and sewer service 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 mobile home park occupant, such as household size, income, and necessary expenses.

(4) A deferred payment agreement offered by a mobile home park operator or mobile home park contractor shall set out all terms and conditions of the agreement. If the mobile home park operator or mobile home park contractor and the mobile home park occupant cannot reach agreement on the terms and conditions of the deferred payment agreement, the mobile home park occupant shall be informed of the right to ask the commission to review the agreement being offered. The mobile home park occupant shall be informed that signing the agreement does not affect the responsibility of the mobile home park occupant to pay for current service or meet the payment schedule set out in the agreement. The mobile home park occupant will be considered in default of the agreement if any bill for current service or any payment under the agreement is allowed to become delinquent.

(5) If a deferred payment agreement cannot be reached because the mobile home park occupant's offer is unacceptable to the mobile home park operator or mobile home park contractor, the mobile home park operator or mobile home park contractor shall inform the mobile home park occupant why the mobile home park occupant's offer was not acceptable.

(6) If an applicant for mobile home park water and sewer service or a mobile home park occupant has not fulfilled the terms of a deferred payment agreement and there has not been a significant change in the mobile home park occupant's ability to pay since the agreement was negotiated, the mobile home park operator or mobile home park contractor may disconnect under s. PSC 186.35, 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 mobile home park occupant solely in compliance with a deferred payment agreement, and not as part of a payment for other mobile home park 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 mobile home park service,

which may include a portion for a deferred payment agreement, shall be credited as set forth in s. PSC 186.33 (3) and (4).

PSC 186.37 Dispute procedures. (1) If a mobile home park occupant disputes a mobile home park operator or mobile home park contractor's request for a deposit, or advises the mobile home park'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, the mobile home park operator or mobile home park contractor shall:

- (a) Investigate the dispute promptly and completely.
- (b) Advise the mobile home park occupant of the results of the investigation.
- (c) Attempt to resolve the dispute, including offering a deferred payment agreement under s. PSC 186.36.

(2) (a) After the mobile home park occupant has pursued the available remedies with the mobile home park operator or mobile home park contractor, the mobile home park occupant may request that the commission staff informally review the disputed issue and recommend terms of settlement.

(b) A request for informal review may be made in any reasonable manner, including written or telephone request directed to the commission. The commission staff may request in writing or by telephone the mobile home park operator or mobile home park contractor to investigate the dispute.

(c) A mobile home park operator or mobile home park contractor shall respond to the commission staff's request for an investigation promptly. Based on information provided by the mobile home park operator or mobile home park contractor and the mobile home park occupant, 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 mobile home park occupant disputing an informal determination of the right to pursue a formal review.

(d) At least 7 calendar days shall elapse between the date the commission staff telephones or mails notice of terms of settlement and disconnection.

(3) (a) After informal review, any party to the dispute may make a written request for a formal review by the commission. To avoid disconnection pending a formal review, the mobile home park occupant shall request in writing a formal review by the commission within 7 calendar days of the issuance of the informal 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 a party to a dispute requests written confirmation of the commission staff decision, the 30-day period begins from the date of that mailing.

(b) The commission shall base its determination on the request for formal review and commission staff's informal dispute file. Within 45 calendar days from the time that a request for formal review is made, commission staff shall provide the commission with a memorandum based on the information it has received from the mobile home park operator or mobile home park contractor and the mobile home park occupant. 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 dispute may file a response to the commission staff's memorandum. A response 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 in writing of its decision.

(4) Either party to the dispute may request that the commission reconsider its formal determination under this section. A request for reconsideration 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 dispute. The commission may review and reaffirm its original decision, issue a new decision, or decide to hold a hearing on the matter for the gathering of additional information.

(5) (a) If the commission decides under sub. (4) to conduct a hearing, the commission may impose conditions on granting the hearing. If the mobile home park occupant fails to meet a condition, the commission may not hold a hearing and no subsequent hearing may be held by the commission on the dispute.

(b) The hearing shall conform to the procedures of ss. 196.26 to 196.34, Stats.

(c) The hearing shall be held not less than 10 days following mailing of the notice of hearing and a decision shall be rendered following the conclusion of the hearing.

(6) Mobile home park water and sewer 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 mobile home park operator or mobile home park contractor shall inform the mobile home park occupant that pursuing a disputed matter does not relieve the mobile home park occupant of the obligation of paying charges which are not in dispute, prevent disconnection of water and sewer service for nonpayment of undisputed charges, or prevent the application of a late payment charge to amounts in dispute and later determined to be correct.

PSC 186.38 Complaint procedures. (1) Mobile home park occupants may complain to the commission concerning adequacy of supply, general condition of the mobile home park's water distribution system, sewer collection system or sewer treatment system, or the mobile home park operator's or mobile home park contractor's billing methodology.

(2) The procedure for resolving complaints will be as set forth in s. PSC 186.37.

Subchapter IV. Engineering

PSC 186.41 General construction requirements. (1) Water and sewer systems owned by a mobile home park operator or mobile home park contractor shall be constructed and maintained in compliance with the applicable requirements of all federal, state or local agencies, including the Wisconsin department of commerce and Wisconsin department of natural resources.

(2) If water service is supplied by a mobile home park operator or mobile home park contractor on a metered basis, service may not be supplied to any mobile home park occupant from facilities which are downstream from another mobile home park occupant's meter.

Subchapter V. Customer Meters, Accuracy Requirements

PSC 186.51 Meters. All meters used for measuring the quantity of water delivered to a mobile home park occupant shall be in good working condition. They shall be adequate in size and design for the type of service measured and shall be accurate to the standard specified in s. PSC 185.65(2).

Subchapter VI. Meter Testing

PSC 186.61 Meter testing facilities and equipment. Each mobile home park operator or mobile home park contractor billing for water and sewer service on a metered basis shall own or provide, through contract or otherwise, adequate equipment and facilities to provide for testing all of its water meters.

PSC 186.62 Testing of mobile home park occupant meters. (1) The test of any mobile home park occupant's meter shall consist of a comparison of its accuracy with that of a standard of known accuracy. If the test standard consists of a previously calibrated reference or service meter, the test results for the mobile home park occupant meter shall be adjusted to compensate for the inaccuracies of the reference meter at the particular flow rates.

(2) Meters shall be tested before repair ("As Found") and after repair ("As Left"), if applicable.

(3) Meters not meeting the accuracy or other requirements of s. PSC 185.65(2) shall be repaired or rebuilt to meet those requirements before further use.

PSC 186.63 Test flows. The required test flow and normal test flow limits are as listed in s. PSC 185.65. The stated test flows apply for both "As Found" and "As Left" tests.

PSC 186.64 Required tests of mobile home park occupant meters. Meters shall be tested by the mobile home park operator or mobile home park contractor at the following times:

- (1) Before use if the meter has not been tested or certified to be accurate.
- (2) Upon mobile home park occupant request or dispute.

Note: See s. PSC 186.65.

- (3) When damaged or otherwise suspected of being inaccurate.

PSC 186.65 Requested test. Each mobile home park operator or mobile home park contractor shall promptly make an accuracy test of any metering installation upon request of a mobile home park occupant. If less than one year has elapsed since the last meter test, the mobile home park operator or mobile home park contractor is not obligated to test the meter unless there is evidence that the meter is damaged or otherwise registering incorrectly. When a meter test is performed upon request of the mobile home park occupant, an amount equal to 50 percent of the estimated cost of the meter test shall be advanced to the mobile home park operator or mobile home park contractor by the mobile home park occupant. This amount shall be refunded if the test shows the meter to be overregistering by more than 2 percent. The entire cost resulting from the meter test shall be the responsibility of the mobile home park occupant if the results of the test show the meter to be accurate under s. PSC 186.51. A report giving the results of the test shall be made to the mobile home park occupant and a complete original test record shall be kept on file by the mobile home park operator or mobile home park contractor for one year following the test date. Upon request, the test shall be made in the presence of the mobile home park occupant during normal business hours.

PSC 186.66 Remote outside meter system tests. The ROM system, if used, shall be tested each time the associated meter is tested. If the total recorded consumption of the ROM agrees with that of the base meter, no further testing of the ROM system is required.

Subchapter VII. Operating Requirements

PSC 186.71 Quality of water. (1) Mobile home park operators or mobile home park contractors shall provide water of such quality that it complies with state and federal requirements for drinking water.

Note: Department of natural resources requirements are set forth in ch. NR 809, Wis. Adm. Code.

(2) Each water supply system shall be designed and operated so that the water supplied to all mobile home park occupants is reasonably free from objectionable taste, color, odor, and sand or other sediment.

PSC 186.72 Adequacy of water supply. Each mobile home park operator or mobile home park contractor shall furnish a continuous and adequate supply of water to its mobile home park occupants.

PSC 186.73 Pressure standards. The pressure of any mobile home park water supply system shall meet all applicable federal, state, or local requirements.

Note: State rules are set forth by the department of commerce or department of natural resources.

PSC 186.74 Flushing mains. If practical, dead-end mains or other low-flow portions of distribution systems shall be flushed as needed to eliminate or minimize complaints from mobile home park occupants arising from an objectionable condition of water due to lack of circulation.

PSC 186.75 Interruptions of service. (1) Each mobile home park operator or mobile home park contractor shall make all reasonable efforts to prevent interruptions of service. When interruptions occur, the mobile home park operator or mobile home park contractor shall endeavor to re-establish service with the shortest possible delay consistent with safety to its employees, mobile home park occupants, and the general public.

(2) Reasonable notice shall be given to mobile home park occupants of planned interruptions of service.

PSC 186.76 Maintenance of water and sewer laterals. (1) Thawing of a mobile home park occupant's frozen lateral shall be at the mobile home park occupant's expense unless:

(a) The freeze-up is a direct result of a disconnect initiated by the mobile home park operator or mobile home park contractor and the disconnection occurs during a time when conditions are such that freeze-up could reasonably be expected to occur.

(b) The freeze-up is a result of a deficiency in the mobile home park distribution or collection system.

(2) All other maintenance of water and sewer laterals shall be at the expense of the mobile home park operator or mobile home park contractor unless the water and sewer lateral is physically damaged by the activities of the mobile home park occupant or by the discharge of improper materials into the sewer lateral by the mobile home park occupant. Improper materials include, but are not limited to, such materials as: any flammable or explosive liquids, solids, or gases; wastes having a pH lower than 5.0 or in excess of 10.0; or solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in the lateral.

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Standards for Water and Sewer Service in Mobile Home Parks 1-AC-172

REPORT

A. NEED FOR THE RULES

In 1997 Wis. Act 229 the legislature created Wis. Stat. § 196.498(2), which directed the Public Service Commission (Commission) to adopt rules establishing standards for the provision of water and sewer service in mobile home parks. These rules carry out that legislative directive.

B. MODIFICATIONS AFTER HEARING

In addition to changes in the proposed rules which were made as a result of the Legislative Council's comments and suggestions (which are discussed below in Part D of this report) the following changes were made in response to testimony at the hearing or to written comments submitted by persons who could not attend the hearings.

1. The title of proposed PSC 186.14 has been changed to more accurately describe the content of the rule.
2. Proposed PSC 186.31(1)(a) has been revised to clarify the intent of the rule.
3. Proposed PSC 186.34 has been revised to allow mobile home park owners to require utility deposits of all tenants and to allow owners to retain utility deposits until 14 days after termination of the lease agreement.
4. PSC 186.32 has been revised to make clear which party is taking the action.

5. PSC 186.33(3) has been redrafted to allow the lease to determine how a partial payment is to be applied where the occupant pays for rent and water/sewer service in one lump sum.
6. Proposed PSC 186.33(8)(a) has been rewritten to allow applications for water/sewer service to be made a part of the lease agreement instead of requiring a separate document.
7. Proposed PSC 186.65 has been revised to lengthen the period of time which must pass after a customer-requested meter test before the customer may request a second test.
8. PSC 186.21 has been redrafted to shorten to three years the period for which mobile home park owners must retain records of service interruptions.
9. PSC 186.12 has been revised to include a definition of "small mobile home park."
10. PSC 186.21 has been revised to require that only records of customer-reported service interruptions be kept.
11. PSC 186.22(2) was removed.
12. PSC 186.34(1)(b) has been revised to exempt small mobile home parks from offering installment plans for the payment of deposits.
13. PSC 186.36(1) has been revised to exempt small mobile home parks from offering deferred payment agreements to occupants.
14. PSC 186.65 has been revised to make the occupant responsible for the full cost of a requested meter test if the meter tests accurately.

C. APPEARING AT THE HEARING

In addition to Public Service Commission staff, the following persons appeared at the rulemaking hearing or submitted written statements, representing the following interests:

Mr. Ross Kinzler, 202 State Street, Suite 200, Madison, WI 53703
Wisconsin Manufactured Housing Association

Mr. Don Berg, 114 N. Douglas Street, Dodgeville, WI 53533
Shady Homes Mobile Home Park

Mr. Edwin Ganser, P.O. Box 192, Madison, WI 53701-0192
Alliant Energy – Manager, Water Operations

Ms. Carol Hundley, 1817 104th Street #25, Pleasant Prairie, WI 53158-6223
Timber Ridge Mobile Home Park Occupant

Mr. Roman Kaminski, 2715 Post Road, Stevens Point, WI 54481
WI Dept. of Commerce, Bureau of Program Development

Mr. Steven Foemmel, 2811 Agriculture Drive, Madison, WI 53718
WI Dept. of Agriculture

Mr. Jim Bernard, (no address – comments came via FAX)
US Energy

Ron & Linda Middleton, P.O. Box 66, Bonduel, WI 54107
Brookview Village and Westwood Meadows Mobile Home Parks

Mr. James Jackson, P.O. Box 418, Brookfield, IL 60513
Edgewater Mobile Home Park

Mr. Gary Schmitz, 115 Edgewood Street, Cleveland, WI 53015
Cleveland Heights Mobile Home Community

Mr. Gary Rhone, P.O. Box 179, New London, WI 54961
Lamplighter Village Mobile Home Park

Mr. Ben Tanner, 27362 County Road H, Webster, WI 54893
Mobile Home Park Owner

Attorney Scott Slattery, 411 E. Wisconsin Avenue Suite 700, Milwaukee, WI
53202-4470
For Asset Development Group, Inc.

Attorney Jeff Batovsky, 202 State Street Suite 200, Madison, WI 53703-2215
For Wisconsin Manufactured Housing Association

Attorney Mark Dobberfuhl, P.O. Box 137, Barron, WI 54812-0137
For Riverview Terrace Mobile Home Park

Attorney Lawrie Kobza, P.O. Box 927, Madison, WI 53701-0927
For Municipal Environmental Group

Ms. Cheryl Gain, P.O. Box 7970, Madison, WI 53707
WI Dept. of Commerce, Small Business Ombudsman

D. RESPONSE TO LEGISLATIVE COUNCIL REPORT

The Legislative Council made a substantial number of suggestions designed to improve and clarify these proposed rules. In all, the Legislative Council made 118 suggestions for grammatical or substantive changes. Of that total, all but a few have been made. The changes made and not made are explained below, with reference to the paragraph of the Legislative Council's report where the change is suggested.

The Public Service Commission wishes to thank the Legislative Council for its thoroughness and for the excellent suggestions which, as always, have improved and clarified these rules.

2.a. The format of the introductory clause has been made more consistent with s. 1.02(1) of the rulemaking manual, as suggested by the Legislative Council.

2.b. The language change suggested by the Legislative Council has been made.

2.c. The language change suggested by the Legislative Council has been made.

2.d. The language change suggested by the Legislative Council has been made.

2.e. The language change suggested by the Legislative Council has been made.

2.f. The language change suggested by the Legislative Council has been made.

2.g. The language change suggested by the Legislative Council has been made.

2.h. The language change suggested by the Legislative Council has been made.

2.i. The language and punctuation changes suggested by the Legislative Council have been made.

2.j. The language change suggested by the Legislative Council has been made.

2.k. The change suggested by the Legislative Council to incorporate the material following the first sentence in a note has been made.

2.l. The language change here suggested by the Legislative Council has been made.

2.m. The language change here suggested by the Legislative Council has been made.

2.n. The language and grammatical changes here suggested by the Legislative Council have been made.

2.o. The language change here suggested by the Legislative Council has been made.

2.p. The language changes here suggested by the Legislative Council have been made.

2.q. The language changes suggested here by the Legislative Council have been made.

2.r. The language changes suggested here by the Legislative Council have been made.

2.s. The last sentence of proposed PSC 186.31(1)(b) has been placed in a note to the rule, as suggested by the Legislative Council.

2.t. The language change here suggested by the Legislative Council has been made.

2.u. The language change here suggested by the Legislative Council has been made.

2.v. The language change here suggested by the Legislative Council has been made.

2.w. The language change here suggested by the Legislative Council has been made.

2.x. The language change here suggested by the Legislative Council has been made.

2.y. The language change here suggested by the Legislative Council has been made.

2.z. The language and grammatical changes here suggested by the Legislative Council have been made.

2.aa. Treatment of proposed PSC 186.34 has been made consistent by eliminating all subsection titles.

2.ab. The title of s. PSC 186.34(1) has been deleted.

2.ac. The language change suggested here was not necessary as PSC 186.34(1)(b) has been deleted.

2.ad. PSC 186.34(1)(b) has been deleted, so the change suggested is not necessary.

2.ae. The title of PSC 186.34(3) has been deleted.

2.af. Proposed PSC 186.35 has been reorganized and rewritten, as here suggested by the Legislative Council.

2.ag. Proposed PSC 186.35(1)(a) has been rewritten to be clearer, as suggested by the Legislative Council.

2.ah. The language change here suggested by the Legislative Council has been made.

2.ai. The language change here suggested by the Legislative Council has been made.

2.aj. The language change here suggested by the Legislative Council has been made.

2.ak. Proposed PSC 186.35(9)(a) has been rewritten and subdivided, as suggested by the Legislative Council.

2.al. The language change here suggested by the Legislative Council has been made.

2.am. Proposed PSC 186.35(9)(d) has been eliminated as duplicative, as suggested by the Legislative Council.

2.an. The language change here suggested by the Legislative Council has been made.

2.ao. The language change here suggested by the Legislative Council has been made.

2.ap. Proposed PSC 186.35(11) has been eliminated as unnecessary, as suggested by the Legislative Council.

2.aq. The language change here suggested by the Legislative Council has been made.

2.ar. The language change here suggested by the Legislative Council has been made.

2.as. The language change here suggested by the Legislative Council has been made.

2.at. The language change here suggested by the Legislative Council has been made.

2.au. The language and grammatical changes suggested here by the Legislative Council have been made.

2.av. The language change here suggested by the Legislative Council has been made.

2.aw. The language change here suggested by the Legislative Council has been made.

2.ax. The language change here suggested by the Legislative Council has been made.

2.ay. The language changes here suggested by the Legislative Council have been made.

2.az. The language change here suggested by the Legislative Council has been made.

2.ba. The suggestion made here by the Legislative Council has been carefully considered but not followed, because there is a difference between a “complaint” and a “dispute” as those terms are used in the rules. Therefore, both PSC 186.38 and 186.37(1) have been left as separate rules.

2.bb. The language change here suggested by the Legislative Council has been made.

2.bc. The language changes here suggested by the Legislative Council have been made.

2.bd. The language changes here suggested by the Legislative Council have been made.

2.be. The language change here suggested by the Legislative Council has been made.

2.bf. A note has been added to proposed s. PSC 186.73, as suggested by the Legislative Council.

4.a. The change suggested here by the Legislative Council has been made.

4.b. The phrase which the Legislative Council questions here – “statutory sections administered by the public service commission” – has been left as is rather than made more specific, because the statutory sections administered by the Commission are so numerous, and they change from time to time.

4.c. The change suggested here by the Legislative Council has been made.

4.d. The change suggested here by the Legislative Council has been made.

4.e. The note suggested by the Legislative Council has been added to proposed PSC 186.35(2)(a).

4.f. The language changes suggested here by the Legislative Council have been made.

4.g. The change suggested here by the Legislative Council has been made.

4.h. The cross-reference change suggested here by the Legislative Council has been made.

4.i. The language change suggested here by the Legislative Council has been carefully considered but not followed. The Commission believes the change suggested by the Legislative Council is stylistic rather than substantive.

4.j. In proposed PSC 186.37(2)(a) the reference to “available remedies” has been left as is rather than being made more specific, because there are a number of remedies involved, and they may be amended from time to time.

4.k. The Legislative Council here asks whether the statutory reference can be made more specific and whether the procedure set forth in the statutory sections is clearly transferable to the hearing under the rule. The Commission believes that – for the same reasons cited above – the statutory references are sufficiently specific and that the statutory hearing procedure is applicable to the hearing under the rule. The Commission has used this hearing procedure for such rule hearings in the past.

4.l. The statutory reference in proposed PSC 186.51 has been made more specific, as suggested by the Legislative Council.

4.m. The parenthetical reference in proposed PSC 186.64(2) has been placed in a note, as suggested here by the Legislative Council.

4.n. Cross-references have been added to proposed PSC 186.71, as suggested here by the Legislative Council.

5.a. Here the Legislative Council recommends that the standards and procedures for granting exemptions to the general procedures of the chapter be set forth in the rules.

This rule regarding exemptions – proposed PSC 186.11(4) – is based on similarly written rules in other chapters of the PSC administrative code, all of which do not specify the standards or procedures for granting exemptions. For decades, requests for exemptions have been handled on a case by case basis under these rules, and the Commission believes this process has worked very well.

5.b. The definitions contained in proposed PSC 186.12 have all been reviewed and found to be necessary to the chapter or to an understanding of the chapter.

5.c. The clarification here suggested by the Legislative Council has been made.

5.d. Proposed PSC 186.21 has been reviewed and clarified, as suggested by the Legislative Council. The correct word that is intended is "or."

5.e. The reference to "the rules" in proposed PSC 186.22(1) is a reference to pertinent rules in ch. 186. The Commission will provide forms to operators and contractors on request.

5.f. Here the Legislative Council asks whether proposed PSC 186.22(2) could be more specific as to when a second language is "common" in a mobile home park. The Commission believes it would be difficult to set a specific number or percentage of occupants and that the term "common" allows some necessary discretion in that determination.

5.g. The language and grammatical changes suggested here by the Legislative Council have been made.

5.h. The question asked here by the Legislative Council has been answered by addition of the words "to the commission" to proposed PSC 186.31(1)(c).

5.i. The language change suggested by the Legislative Council has been made.

5.j. In answer to the Legislative Council's question, a provision regarding the frequency of billing has been added to proposed PSC 186.33.

5.k. The answer to the question asked here by the Legislative Council is "no." The ultimate decision as to how a partial payment will be applied is still up to the mobile home park owner, which is why the word "may" is used.

5.l. The language changes and clarifications suggested here by the Legislative Council have been made.

5.m. The language changes and clarifications suggested by the Legislative Council have been made.

5.n. The language changes and clarifications suggested by the Legislative Council have been made.

5.o. The language changes and clarifications suggested by the Legislative Council have been made.

5.p. Proposed PSC 186.34(1)(a) has been rewritten to make clear that the mobile home park customer's gross bill is being referred to, in answer to the Legislative Council's question.

5.q. In response to a comment submitted by a member of the public, this provision of the proposed rules has been stricken. Therefore, the Legislative Council's comment is no longer relevant.

5.r. The answer to the Legislative Council's comment here is "yes." That is the intent.

5.s. The language change suggested here by the Legislative Council has been made.

5.t. The change suggested here by the Legislative Council has been made.

5.u. Proposed PSC 186.35 (1)(b) and (c) have been entirely rewritten to incorporate the suggestions made here by the Legislative Council.

5.v. The change suggested here by the Legislative Council has become unnecessary, because this proposed section of the rules has been eliminated.

5.w. The language change suggested here by the Legislative Council has been made.

5.x. While the Legislative Council here points to an apparent inconsistency between proposed PSC 186.35(2)(a) and 186.36, the Commission believes that there is no inconsistency and that PSC 186.35(2)(a) should remain as is. However, an explanatory note has been added.

5.y. The Legislative Council here states that “[N]one of the paragraphs following s. PSC 186.35(2)(intro) indicates by whom the conduct must be undertaken in order to permit disconnection or refusal.” The Commission believes that the context of the rule makes it clear that the person undertaking the conduct would be the customer. However, language has been added to the rule to make clear that the action is that of the customer.

5.z. The change suggested by the Legislative Council has been made. The word “extraordinary” has been removed from proposed PSC 186.35(2)(g) to clarify the rule.

5.aa. The change suggested here by the Legislative Council has been made.

5.ab. Section PSC 186.35(6)(c) has been rewritten to make the rule clearer. The Legislative Council here had observed that the proposed rule was unclear.

5.ac. In proposed PSC 186.35(8)(b) the grammatical change suggested by the Legislative Council has been made and the rule has been rewritten to clarify the ambiguities cited by the Legislative Council.

5.ad. Proposed PSC 186.35(9)(a) has been rewritten to clarify the ambiguities cited by the Legislative Council.

5.ae. Proposed PSC 186.35(9)(f)3. has been rewritten to clarify the ambiguity cited by the Legislative Council. A note will be added to the rule to advise operators and contractors that a sample disconnection notice will be provided on request.

5.af. Proposed PSC 186.35(9)(f)4. has been rewritten somewhat to address the Legislative Council's concern; however, the term "serious illness" has been left as is, because it would be impractical to define all the conditions covered by this phrase. The reference to sub. (10) has been stricken, as noted by the Legislative Council.

5.ag. The change suggested here by the Legislative Council has been made.

5.ah. Proposed PSC 186.36(1) has been rewritten to make clear that a deferred payment agreement is offered to the customer, as suggested by the Legislative Council's comment.

5.ai. The phrase questioned here by the Legislative Council has been removed.

5.aj. The relocation suggested here by the Legislative Council has been made.

5.ak. The rules cited here by the Legislative Council have been rewritten to avoid the conflict discussed by the Legislative Council.

5.al. Proposed PSC 186.37(2)(d) has been rewritten in the active voice, as suggested by the Legislative Council.

5.am. Proposed PSC 186.37(3)(a) has been rewritten to address the concerns raised here by the Legislative Council.

5.an. The words "in writing" have been added to proposed PSC 186.37(3)(b) to answer the question posed here by the Legislative Council: how the Commission will inform the parties of its decision.

5.ao. The change suggested here by the Legislative Council has been made.

5.ap. The word "mailing" has been added to proposed PSC 186.37(5)(c), to answer the question posed here by the Legislative Council as to when the rule's 10-day period is triggered.

5.aq. Proposed PSC 186.37(6) has been rewritten to address the concerns expressed here by the Legislative Council.

5.ar. The language change suggested here by the Legislative Council has been made.

5.as. The terms questioned here by the Legislative Council are well-known in the industry and therefore are being left as is.

5.at. Here the Legislative Council asks whether a mobile home occupant is informed of his or her right to request to be present at the meter test contained in proposed PSC 186.65. Other than the existence of the rule itself, there is no specific requirement that the mobile home occupant be informed.

E. SMALL BUSINESS

Wis. Stat. § 196.498(2) requires the Public Service Commission to adopt rules setting standards for water and sewer service in mobile home parks. Wis. Stat. § 196.01(3p) defines mobile home park as “any tract of land containing 2 or more individual plots of land that are rented or offered for rent for the accommodation of a mobile home or manufactured home.” It is obvious, therefore, that these rules will have an effect on small businesses and require a final regulatory flexibility analysis, as set forth in Wis. Stat. § 227.19(3)(e)1-6.

The Public Service Commission carefully considered each of the statutory factors in evaluating whether to modify the rules to lessen the burden on small businesses. (Each of the six factors is considered below.) After carefully balancing the interests of mobile home park residents who live in small parks with the burden these proposed rules place on the owners or operators of small mobile home parks, the Commission decided to exempt parks with fewer than six mobile homes from two requirements.

First, the Commission decided to exempt the owners or operators of mobile home parks with fewer than six mobile homes from the proposed § PSC 186.34(1)(b) requirement of allowing deposits to be made in installments rather than a lump sum. Second, the Commission exempted mobile home parks with fewer than six sites from the proposed § PSC 186.36(1) requirement of offering mobile home owners deferred payment agreements for outstanding utility bills.

Other than these two exceptions, the Commission believes that residents of all mobile home parks – whether large parks or small – deserve all of the protections contained in the proposed rules. The legislature appears to have had the same intent when it adopted the statute. The rules concern consumer protections regarding water and sewer service, two crucially important necessities of life. All mobile home park residents deserve the remaining protections embodied in the rules.

1. Wis. Stat. § 227.19(3)(e)1. The commission considered the methods listed in Wis. Stat. § 227.114 (2) to reduce the burden of these proposed rules on small businesses by establishing less stringent compliance or reporting requirements, or by exempting small businesses from the rules entirely. For the reasons discussed directly above, the rules have been amended to exempt mobile home parks containing fewer than six sites from the rules permitting water or sewer deposits to be made in installments, § PSC 186.34(1)(b), and the rules requiring owners or operators to offer deferred payment agreements to mobile home owners who are in arrears for their utility bills, § PSC 186.36(1). The Commission believes that all other customer protections contained in the rules are essential for all mobile home park residents.

2. Wis. Stat. § 227.19(3)(e)2. The issue of whether to exempt smaller sized mobile home parks from all or some of the requirements of these proposed rules was raised at the hearing and in written statements. For the reasons discussed in the previous paragraphs, the commission decided to exempt mobile home parks of fewer than six homes from the provisions of proposed §§ PSC 186.34(1)(b) and 186.36(1). All other rules will apply to all mobile home parks, regardless of size.

3. Wis. Stat. § 227.19(3)(e)3. The rules proposed in this order do not contain any reporting requirements.

4. Wis. Stat. § 227.19(3)(e)4. These proposed rules should not require mobile home park owners to make any additional investments in order to comply with the rules.

Mobile home park owners may have to recalculate water and/or sewer rates and keep some additional records, but this cost should be small in relation to the costs and record-keeping they already incur.

5. Wis. Stat. § 227.19(3)(e)5. There will be no additional cost to the agency from the adoption of any of the Wis. Stat. § 227.114(2) methods.

6. Wis. Stat. § 227.19(3)(e)6. The proposed rules contained in this order concern such areas as water quality, the cost of water and sewer service, and billing/consumer protection requirements, which are essential to the public health, safety, and welfare of residents of all mobile home parks, large or small. The commission believes strongly that – with the exception of proposed §§ PSC 186.34(1)(b) and 186.36(1) – using any of the methods contained in Wis. Stat. § 227.114(2) would leave some mobile home park residents without essential protections.

The Commission believes that the exemptions made and not made with respect to small businesses strike a correct balance between relieving unnecessary burdens on small businesses and preserving essential protections for mobile home park water and sewer customers.