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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 17-055

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]**

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

a. In the rule summary, a heading and entry should be inserted for the summary of factual data and analytical methodologies, and for the analysis and supporting documentation used to determine the effect on small business. [s. 1.02 (2) (a) 6. and 7., Manual.]

b. In various SECTIONS throughout the proposed rule, consider whether the proposed renumbering is needed. Renumbering to replace a repealed provision can lead to confusion and is unnecessary. [s. 1.03 (5) (a), Manual.]

c. In various SECTIONS of the proposed rule, review the formatting of subsection titles, and revise to be formatted in small capital letters.

d. In each instance of the proposed rule where a subsection title is added, but the rule text is otherwise unaffected, the SECTION should be revised to create the title, and the text of the unaffected subunits should not be shown. Revise, for example, SECTIONS 183, 184, 199, 200, 209, 210, 212, 213, 238, and 258. [s. 1.05 (3), Manual.]

e. SECTIONS 3 to 6 of the proposed rule could be combined. When two or more subunits of the same rule section are affected by the same treatment, and any intervening subunits are unaffected, they may be included in the same SECTION of the proposed rule. Likewise, SECTIONS 12 to 14 could be combined, as could SECTIONS 15 to 21, 28 to 31, and many others. [s. 1.04 (2) (a) 4., Manual.]

f. In SECTIONS 14, 27, 36, 42, 75, 250, 260, and 287 of the proposed rule, use the following citation format in the treatment clause to repeal the existing note: “PSC 185.22 (5) (b) (Note) is repealed”. [s. 1.09 (2) (b), Manual.]

g. In SECTION 33 of the proposed rule, the stricken-through semicolon should be shown immediately following the word “dispute”, with the new underscored text following. [s. 1.06 (1) (a), Manual.]

h. In SECTION 46 of the proposed rule, the affected section should be identified as “PSC 185.16 (1) (intro.)”. The designation “(intro.)” should likewise be added to SECTIONS 51, 88, 98, 225, 233, and 288. [s. 1.03 (3), Manual.]

i. The new text in SECTION 51 of the proposed rule, “to be filed”, should be underscored. Also, the word “schedules” should not be repeated; it can be shown as existing text without a strike-through. [s. 1.06, Manual.]

j. In SECTION 60 of the proposed rule, the stricken-through semicolon should be shown immediately following the word “bills”, with the new underscored text following. [s. 1.06 (1) (a), Manual.]

k. In SECTION 67 of the proposed rule, the affected section should be identified as “PSC 185.21 (2) (title)”. [s. 1.05 (3), Manual.]

l. In SECTION 77 of the proposed rule, the affected section should be identified as “s. PSC 185.30 (title)”. [s. 1.05 (3), Manual.]

m. In SECTION 87 of the proposed rule, the material should be divided into two SECTIONS:

(1) To renumber and amend s. PSC 185.32 to PSC 185.32 (1). The insertion of additional subsection identifiers for existing text can be included in the same manner as shown in the proposed rule.

(2) To create s. PSC 185.32 (5m), (7), and (8).

n. In SECTION 121, the stricken word “A” should be shown before the new underscored text. [s. 1.06 (1) (a), Manual.]

o. In SECTION 130, the treatment clause should be revised to appear as follows: “PSC 185.33 (19) (a) is renumbered PSC 185.33 (19) (am), and, as renumbered, PSC 185.33 (19) (am) (intro.) is amended to read:”.

p. In SECTION 154, the period at the end of the subsection should not be underscored.

q. SECTIONS 163 and 164 of the proposed rule should be combined. When the same provision is repealed and recreated, only one treatment is necessary. [s. 1.065, Manual.]

r. In SECTION 182 of the proposed rule, the material should be divided into two SECTIONS:

(1) To create s. PSC 185.37 (1) (title).

(2) To amend s. PSC 185.37 (1) (a) and (b).

s. In SECTION 186 of the proposed rule, the material should be divided into two SECTIONS:

(1) To renumber and amend s. PSC 185.37 (2) (am) to PSC 185.37 (2) (am) (intro.).

(2) To create s. PSC 185.37 (2) (am) 1. to 4.

t. In SECTION 191 of the proposed rule, the stricken-through semicolon should be shown immediately following the word “meter”, with the new underscored text following. [s. 1.06 (1) (a), Manual.]

u. In SECTION 197 of the proposed rule, the material should be divided into three SECTIONS:

(1) To renumber and amend s. PSC 185.37 (3) to PSC 185.37 (3) (a).

(2) To create s. PSC 185.37 (3) (title).

(3) To create s. PSC 185.37 (3) (b) to (d).

v. In SECTION 199 of the proposed rule, replace the reference to “of s. PSC 185.37” with the phrase “in this section”. Internal references to the same section are treated differently than external references to another section. Review and revise the citation style as needed for any other internal references; for example, in SECTION 208, the citation should be to “sub. (10)”. [s. 1.07 (2), Manual.]

w. In SECTION 211 of the proposed rule, the material should be divided into two SECTIONS:

(1) To create s. PSC 185.37 (11) (title).

(2) To amend s. PSC 185.37 (11) (a) and (f) 1. to 4. In par. (f) 1. to 4, amend the punctuation at the end of each subunit with a period, in order to conform to current drafting style for a series of items, as is done in other SECTIONS of the proposed rule. The text of the unaffected subunits and introductory material that are not amended by the proposed rule should not be shown. [ss. 1.03 (4) and 1.04 (1) (b) 2., Manual.]

x. In SECTION 217, the treatment should be revised to renumber s. PSC 185.38 (2) to PSC 185.38 (2) (intro.) and to amend the provision. [s. 1.067, Manual.]

y. In SECTION 220 of the proposed rule, the stricken-through semicolon should be shown immediately following the word “history”, with the new underscored text following. [s. 1.06 (1) (a), Manual.]

z. In SECTION 232, the source notation “, Stats.” should be inserted after the statutory citation. [s. 1.07 (2) (Table), Manual.]

aa. In SECTION 239, the underscored word “dispute” should follow the stricken-through material. The period after the word “dispute” should then be underscored, and the period at the end of the paragraph should not be underscored. [s. 1.06 (1) (a), Manual.]

bb. SECTIONS 241, 242, and 243 should be combined under one treatment to amend s. PSC 185.39 (2) (c). The new paragraphs in SECTIONS 242 and 243 are divisions within the existing text.

cc. In SECTION 245 of the proposed rule, the material should be divided into two SECTIONS:

(1) The renumber s. PSC 185.39 (3) (a) to PSC 185.39 (3).

(2) To repeal s. PSC 185.39 (3) (b).

dd. In SECTION 254 of the proposed rule, the material should be divided into five SECTIONS:

- (1) To renumber s. PSC 185.52 (1) (a) to PSC 185.52 (1) (ar), using the material identified as par. (am).
- (2) To create s. PSC 185.52 (1) (ag), using the material identified as par. (a).
- (3) To repeal s. PSC 185.52 (1) (b).
- (4) To amend s. PSC 185.52 (1) (c) to (e).
- (5) To create s. PSC 185.52 (1) (g).

ee. In SECTION 255 of the proposed rule, the material should be divided into four SECTIONS:

- (1) To amend s. PSC 185.52 (2) (title).
- (2) To renumber s. PSC 185.52 (2) (a) to PSC 185.52 (2) (ar), using the material identified as par. (am).
- (3) To create s. PSC 185.52 (2) (ag), using the material identified as par. (a).
- (4) To amend s. PSC 185.52 (2) (b).

ff. In SECTION 259 of the proposed rule, it appears that the material should be divided into three SECTIONS:

- (1) To renumber s. PSC 185.65 (1) (intro.) to PSC 185.65 (1), and to amend the provision.
- (2) To repeal and recreate s. PSC 185.65 (1) (Table) and (Note 1).
- (3) To repeal s. PSC 185.65 (1) (Note 2).

gg. In SECTION 269 of the proposed rule, consider amending current s. PSC 185.75 (1) to (4) to end each subunit in a period, rather than a semicolon, in order to conform to current drafting style, as is done in other SECTIONS of the proposed rule.

hh. In SECTION 270 of the proposed rule, the affected provision should be identified as s. PSC 185.76 (1) (Table), and the text in s. PSC 185.76 (1) (intro.) should not be shown.

ii. In SECTION 273 of the proposed rule, the material should be divided into two SECTIONS:

- (1) To amend s. PSC 185.76 (6).
- (2) To create s. PSC 185.76 (6) (Note).

jj. In the treatment clause for SECTION 275 of the proposed rule, the word “title” should be placed in parentheses. This comment also applies to SECTION 284.

kk. In SECTION 276 of the proposed rule, the word “required” should be underscored.

ll. In SECTION 280 of the proposed rule, it appears that the identification of the affected provision should be corrected to s. PSC 185.82 (4).

mm. In SECTION 286 of the proposed rule, the period at the end of the paragraph should not be underscored.

nn. In SECTION 297 of the proposed rule, defined terms should be placed in alphabetical order. [s. 1.01 (7) (a), Manual.]

oo. In s. PSC 185.89 (3) (d), the word “commission” should be underscored. [s. 1.06 (2), Manual.]

pp. In SECTION 305 of the proposed rule, the treatment clause should be revised to amend s. PSC 185.90 (5) (intro.), (b), and (c). The text of the unaffected subunits should not be shown.

qq. In SECTION 310 of the proposed rule, the treatment clause should be revised to amend s. PSC 185.97 (2) (intro.) and (e) to (g). The text of the unaffected subunits should not be shown.

rr. In SECTION 316 of the proposed rule, the treatment clause should be revised to amend s. PSC 185.97 (6) (intro.) and (g). The text of the unaffected subunits should not be shown.

ss. In various instances throughout current ch. PSC 185, parentheticals are used. Consider revising each instance to either set the material off with commas or place the material in an explanatory note. [s. 1.01 (6), Manual.]

tt. In various instances throughout current ch. PSC 185, the phrase “shall not” is used. Consider revising each instance to the phrase “may not” or “no person may”. [s. 1.01 (2), Manual.]

uu. An effective date should be inserted for the proposed rule. [s. 1.02 (4), Manual.] Also, consider whether an applicability provision would be warranted. [s. 1.02 (3m), Manual.]

vv. The introductory clause that enumerates the rule sections treated by the proposed rule should be updated to reflect any revisions made in accordance with these comments.

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

a. It would be helpful to define the term “municipality”. This term is used to mean different things throughout the statutes and the rule would benefit from clarity. In several instances, the rule adds the phrase “and unincorporated communities” after the term “municipality”. It may be simplest to define “municipality” as “any city, village, or town”. Alternatively, if unincorporated areas are not to be treated the same as cities and villages in each instance, it is clearer to refer to these areas by their synonym, “towns”, instead of “unincorporated areas”.

b. In SECTION 81 of the proposed rule, the phrase “An applicant refused service or disconnected because of this paragraph...” is vague. Consider being more specific.

c. It is unclear whether s. PSC 185.32 (7) applies only to meter readings taken in the event that a utility makes a final read through an automatic meter reading system, as described in sub. (6), or if it applies in all situations. If this new provision only applies in situations described in sub. (6), it would make the most sense to add this new language to the end of sub. (6). If this new provision applies in all cases where an automatic meter reading system does not provide a meter reading or indicates zero consumption, the phrase “If the automatic reading system...” should be replaced with “If an automatic reading system...”.

d. In SECTION 94 of the proposed rule, insert the word “a” between the words “in” and “separate”.

e. In SECTION 127 of the proposed rule, delete the word “paid”.

f. In SECTION 147 of the proposed rule, consider changing the phrase “are true:” to “apply:”.

g. In SECTION 186 of the proposed rule, for clarity, consider creating a new subsection to describe what happens if service is disconnected under s. PSC 185.37 (2) (am). Subsection (2) pertains to the reasons why service may be disconnected or refused. The new material pertains to a specific process that must be followed if service is disconnected or refused.

h. In SECTION 217 of the proposed rule, is it the commission’s intent to prohibit a customer from paying an outstanding bill in fewer than three payments? If not, consider rewording s. PSC 185.38 (2) (b).

i. In SECTION 239 of the proposed rule, add “or applicant” between the words “customer” and “may”.

j. In SECTION 247 of the proposed rule, it is not clear who may bring a claim of unconscionability; how such a claim is made to the commission; or how the commission may refuse to enforce unconscionable conduct. Furthermore, the prohibition appears vague. What is an unconscionable aspect? Is an unconscionable aspect limited to contracts or something more? Other language in this SECTION appears to be taken from a context other than water utilities. For example, in s. PSC 185.40 (2) (c), a reference is made to “goods”, and in par. (d), a reference is made to “merchants”. Does the commission intend enforcement of this new prohibition to be against entities other than water utilities? Additionally, consider describing the statutory authority for this provision in the rule summary.

k. In SECTION 248 of the proposed rule, it is not clear what consequences a water utility would face for engaging in oppressive or deceptive practices. It is also unclear why the word “ratepayer” is used in this section instead of the word “customer”, which is used throughout the rest of ch. PSC 185. It could also be clarified whether the list of oppressive or deceptive practices is a complete list or is illustrative of the types of practices prohibited by the rule. Additionally, consider describing the statutory authority for this provision in the rule summary.

l. Throughout the proposed rule, avoid using the word “and” in the place of using a comma. For example, in SECTION 257 of the rule, after “ROMS” a comma should be inserted and the word “and” deleted.

m. In SECTION 265 of the proposed rule, insert the word “be” before the word “discarded”.

n. In SECTION 267 of the proposed rule, it appears that the word “where” should replace “were”.

o. In SECTION 280 of the proposed rule, insert the word “are” instead of “is”.

p. In s. PSC 185.88 (6), it appears from the subsection title that the notice should be provided to individual customers, but perhaps not to commercial customers. The applicability of the notice requirement should be specified.

q. In s. PSC 185.88 (6) (d), should the phrase “at least” be inserted in both subds. 1 and 2.?

r. In s. PSC 185.88 (7) (a), it is unclear whether a utility must issue notice to customers via television, radio, **and** Internet website or whether these listed mediums are examples of ways to reach customers in compliance with par. (a).