

## **Report From Agency**

### **PUBLIC SERVICE COMMISSION OF WISCONSIN**

Revision of Wisconsin Administrative Code Chapter PSC 113, for  
Individual Electric Metering

1-AC-257

#### **Clearinghouse Rule No. 25-010**

### **REPORT TO LEGISLATURE**

#### **Basis and Purpose of the Proposed Rule**

The individual metering waiver rules were originally promulgated in 1980. Individual electric meter waiver rules were initially promulgated in response to the requirement under the Public Utility Regulatory Policies Act of 1978 (PURPA) for states to address master-metering standards to support the goals of that act which included the conservation of energy supplied by electric utilities, optimization of the efficiency of the use of facilities and resources by electric utilities, and equitable rates for electric customers. The existing rule, Wis. Admin. Code § PSC 113.0803, last revised in 2002, generally requires that each dwelling in a non-transient multi-dwelling unit residential building and mobile home park, and each tenant space in a commercial building, constructed or renovated after March 1, 1980, must have its electric service individually metered. There are existing exceptions to this requirement identified in the code for mobile home parks and transient multi-dwelling buildings such as hotels, motels, campgrounds, hospitals, community-based residential facilities, residential care apartment complexes, nursing homes, college dormitories, fraternities, and sororities.

In recent years, the Public Service Commission of Wisconsin (Commission) has received an increasing number of requests for waivers of this rule from both utilities and individual property owners who would be affected by the metering requirements. Some applications sought waivers for new construction of buildings that would have been exempt from the individual metering requirements if they had been remodeled, pursuant to subsection (4) of the existing rule. Other applications have sought waivers to allow individual metering that would facilitate the use of renewable energy systems and more efficient electric heating/cooling systems, which have become more widely available since the initial drafting of this rule, and others have requested temporary or permanent waivers of the individual metering requirements due to concerns such as the limited availability of individual meters due to supply chain issues.

The changes to PSC 113.0803 proposed in this rulemaking will aid applicants, utilities, and the Commission and its staff in interpreting and applying the individual electric metering requirements. Specifically, this rulemaking proposes changes to Wis. Admin. Code PSC 113.0803 in order to address the issues raised through recent waiver requests and similar emerging considerations and to support simplicity and clarity in future applications of the rule. The rulemaking proposes language revisions to clarify the applicability of electric metering requirements, including revisions associated with changes in emerging technology.

#### **Summary of Public Comments**

The Joint Committee for the Review of Administrative Rules (JCRAR) did not request that the Commission hold a preliminary hearing on the statement of scope.

The Commission issued a draft economic impact analysis (EIA) stating that it believed the rulemaking will have minimal or no economic impact to the State and received four comments. Two comments stated that the Commission's EIA should have found the rulemaking could have positive economic impacts on the Wisconsin economy generally and positive economic impacts on multifamily building owners and residents. Two other comments stated that the rulemaking could impact utility customer affordability and increase costs relating to building inspections and interconnections. The Commission determined that no changes to the draft EIA were necessary.

The Commission held a virtual hearing on March 18, 2025, to solicit public input on the draft rules. The Commission received 112 written comments during the public hearing comment period of the proposed rulemaking. At the Commission meeting on June 19, 2025, the Commission determined that the draft rule language should be modified, taking into account various comments received at the hearing. These changes are meant to clarify and simplify the application of the individual metering requirements of the rule while accounting for current and emerging technologies. The rule language updates and clarifies the standards and situations in which developers and property owners would be exempt from the individual metering requirements under Wis. Admin. Code § PSC 113.0803. These revisions will provide clearer criteria on expectations for developers and property owners that want to utilize a single meter for a multi-dwelling residential building while maintaining consumer protections provided by the individual meter waiver requirements.

#### **Appearances at the Public Hearing**

There were three individuals that appeared and commented at the public hearing in addition to Commission staff.

#### **Changes to Rule Analysis and Fiscal Estimate**

The Commission made several revisions to the rule language based on comments received at the public hearing on March 18, 2025, and during the comment period. No changes were made to the fiscal estimate.

#### **Response to Legislative Council Rules Clearinghouse Report**

The Legislative Council Rules Clearinghouse submitted comments on March 10, 2025. The comments pertained to: statutory authority, form, style, and placement in administrative code and clarity and grammar, punctuation and use of plain language. Changes to the proposed rule were made to address recommendations by the Legislative Council Rules Clearinghouse where applicable to the revised rule text.

#### **Comments related to Statutory Authority**

**Comment 1.** - *In the analysis for the proposed rule, consider moving the citations to ss. 196.03 (1) and 196.37 (2), Stats., from the listing of statutory authority to the listing of statutes interpreted. Also, the commission could consider whether the citation to s. 227.11, Stats., is necessary, as the other cited provisions provide statutory authority to promulgate the proposed rule.*

**Response:** Agree. The Commission has moved the citations for ss. 196.03(1) and 196.37(2), Stats., from the listing of statutory authority to the listing of statutes interpreted. However, the Commission left the citation to s. 227.11, Stats., as a cited provision under the Statutory Authority section as this is the provision that gives agencies the authority to promulgate rules.

#### **Comments related to Form, Style and Placement in the Administrative Code**

**Comment 2a.** - *In SECTION 3 of the proposed rule, amending s. PSC 113.0803 (4) (intro.), the new dash should be revised to the word "to", and the new material should be shown with underscoring. In other*

words, the text that is shown as “(1)-(3)” should be shown as “(1) to (3)”. [ss. 1.04 (4) (a) 1. and 1.08 (1) (h), Manual.]

**Response:** Agree. The Commission has made Legislative Council’s recommended changes. The applicable section is now Section 4.

**Comment 2b.** - *The following comments apply to SECTION 6 of the proposed rule:*

*(1) The treatment of s. PSC 113.0803 (5) should be divided into two treatment Sections as follows:*

*(a) A SECTION to renumber and amend s. PSC 113.0803 (5) to 113.0803 (5) (intro.). This SECTION should add, with underscoring, an introductory statement that ends in a colon, to identify the relationship of the subunits. It should also show the new designation for par. “(a)” with underscoring. [s. 1.04 (6) (g) and (Example), Manual.]*

*(b) A SECTION to create s. PSC 113.0803 (5) (b) and (c). The text should be shown without underscoring. [s. 1.04 (2) (a) and (6) (g) and (Example), Manual.]*

**Response:** No longer applicable. PSC 113.0803 (5) (a), (b), and (c) are no longer part of the rule text. Therefore PSC 113.0803(5) is no longer an introductory clause for (a), (b), and (c).

*(2) In par. (a), the underscored phrase should be moved to follow all of the stricken material. The final period should be shown without a strike-through or underscoring. [s. 1.04 (4) (a) 2. and (d), Manual.]*

**Response:** No longer applicable. PSC 113.0803 (5) (a), (b), and (c) are no longer part of the rule text. Therefore PSC 113.0803(5) is no longer an introductory clause for (a), (b), and (c).

*(3) In par. (b), the format for the reference to “5(a)” should be revised to “par. (a)”. [s. 1.15 (2) (c) (Examples), Manual.]*

**Response:** No longer applicable. PSC 113.0803 (5) (a), (b) and (c) are no longer part of the rule text. Therefore PSC 113.0803(5) is no longer an introductory clause for (a), (b) and (c).

*(4) In par. (b), the federal agency name should be shown without capitalization, and periods should be inserted in “U.S.”. [s. 1.06 (2) and (Example), Manual.]*

**Response:** No longer applicable. PSC 113.0803 (5) (a), (b), and (c) are no longer part of the rule text. Therefore PSC 113.0803(5) is no longer an introductory clause for (a), (b), and (c). However, all federal agency names in the rule text are shown without capitalization and periods are inserted between “U.S.” in “U.S. Energy Information Administration date” which is now in section 7 and creates PSC 113.0803(bm) 1., 2., and 3.

*(5) In par. (c), the plural term “owner” should be revised to the singular “an owner.” The option to seek a waiver applies to each individual owner, not the group as a whole. This comment also applies to sub. (6), created in Section 7 of the proposed rule. [s. 1.05 (1) (c), Manual.]*

**Response:** No longer applicable. PSC 113.0803 (5) (a), (b), and (c) are no longer part of the rule text. Therefore PSC 113.0803(5) is no longer an introductory clause for (a), (b), and (c). Throughout the rule text, the Commission uses the singular of words, such as “owner” and “building.”

**Comment 2c.** - *The caption for the proposed rule should be revised to reflect any treatment changes made in response to these comments.*

**Response:** Agree. The Commission has revised the treatment section of the Final Rule to reflect any treatment changes made in the rule text.

Comments related to Clarity, Grammar, Punctuation and Use of Plain Language

**Comment 5.a.** - *In SECTION 6 of the proposed rule, creating s. PSC 113.0803 (5) (b), review and revise the plural and singular phrasing in the example to consistently use the singular. For example, the sentence could be rephrased as “An example of a building that could qualify as minimal usage is a multi-dwelling unit residential building where...” Also, consider whether the usage comparison in the example is intended as an example, or as a standard. The example of “less than half” appears to be setting a standard.*

**Response:** No longer applicable. PSC 113.0803 (5) (a), (b) and (c) are no longer part of the rule text. Therefore PSC 113.0803(5) is no longer an introductory clause for (a), (b), and (c).

**Comment 5.b.** - *In SECTION 6 of the proposed rule, creating s. PSC 113.0803 (5) (c), consider revising the sentence structure to identify that the commission may grant a waiver if an owner shows the long-term cost savings, rather than stating that an owner may seek a waiver.*

**Response:** No longer applicable. PSC 113.0803 (5) (a), (b), and (c) are no longer part of the rule text. Therefore PSC 113.0803(5) is no longer an introductory clause for (a) (b), and (c).

**Comment 5.c.** - *In SECTION 7 of the proposed rule, creating s. PSC 113.0803 (6), revise the phrase “shall neither” to “may neither” or “may not”. [s. 1.08 (1) (b), Manual.]*

**Response:** No longer applicable. The rule text no longer has PSC 113.0803(6).

**Final Regulatory Flexibility Analysis**

The proposed rule changes are not expected to result in significant economic impact on small businesses. The Wisconsin Stat. § 227.114 (12) definition of “small business” states that to be considered a small business, the business must not be dominant in its field. Since electric utilities are monopolies in their service territories, they are dominant in their field and not small businesses. While at least some building developers may qualify as small businesses, the Commission concluded in its EIA that the economic impacts on developers and the State’s economy as a whole will be minimal.

**Response to Small Business Regulatory Review Board Report**

The Small Business Regulatory Review Board did not prepare a report on this rule proposal.

**Wisconsin Environmental Policy Act and Housing Analysis**

This is a Type III action under Wis. Admin. Code § PSC 4.10(3). Commission staff completed a Type III environmental review of the individual electric metering revisions that found no unusual circumstances suggesting the likelihood of significant environmental effects on the human environment from the proposed action. Neither an environmental impact statement under Wis. Stat. § 1.11 nor an environmental assessment is required.

Commission staff completed an Evaluation of Any Potential Impact of Rulemaking on Housing for the Purposes of Wis. Stat. § 227.115 and found the rulemaking could increase or decrease, either directly or indirectly, the cost of the development, construction, financing, purchasing, sale, ownership, or availability of housing in this state. Commission staff conducted further research on potential housing and low-income resident impacts by working with the Department of Administration's Division of Energy, Housing, and Community Resources (DOA DEHCR) and Wisconsin Housing and Economic Development Authority (WHEDA) and to address housing questions and collect information from WHEDA-affiliated housing developers. The Housing Impact Analysis was provided as a separate document as required by Wis. Stat. § 227.115 to the entities stated in that statute and was separately posted electronically to the Commission website's electronic filing system in docket 1-AC-257 and distributed as required by Wis. Stat. §§ 227.15 and 227.115(2)(b).