

Clearinghouse Rule 25-010

PUBLIC SERVICE COMMISSION OF WISCONSIN

Proposed Revisions for Wisconsin Administrative Code Chapter PSC 113, for
Individual Electric Metering

1-AC-257

Clearinghouse Rule No. [number]

The statement of scope for this rule, SS 031-23, was approved by the Governor on May 18, 2023, published in Register No. 809A4 on May 22, 2023, and approved by the Commission on July 20, 2023. This rule was approved by the Governor on XX XX, 2025.

ORDER ADOPTING PROPOSED RULES

This is an Order of the Public Service Commission of Wisconsin proposing to **repeal** PSC 113.0803 (4) (c); **amend** PSC 113.0803 (1), (3), (4) (intro.); **renumber and amend** PSC 113.0803(5); **create** PSC 113.0803 (6), relating to service rules for electrical utilities.

ANALYSIS PREPARED BY THE PUBLIC SERVICE OF WISCONSIN

A. Text of Rule

The proposed rule text is provided in Appendix A.

B. Statute Interpreted

This rule interprets Wisconsin Stat. § 196.16.

C. Statutory Authority and Explanation of Authority

This rule is authorized under ss. 196.02(1) and (3), 196.03(1), 196.16(2), 196.20(1), 196.37(2), and 227.11.

Section 227.11 authorizes agencies to promulgate administrative rules. Section 196.02(1) authorizes the Commission to do all things necessary and convenient to its jurisdiction. Section 196.02(3) grants the Commission specific authority to promulgate rules. Section 196.03(1) requires public utilities to provide reasonably adequate service and facilities. Section 196.16(2) requires the Commission to establish reasonable rules, regulations, and specifications and

standards to secure the accuracy of all meters and appliances for measurement of public utility service. Section 196.37(2) authorizes the Commission to exercise control over the service rules that a public utility has with its consumers and requires the Commission to make a just and reasonable order if the Commission finds that the service is unjust, insufficient, or unlawful.

D. Related Statutes or Rules

As noted in B., this rule interprets Wisconsin Stat. § 196.16. Additionally, Wis. Stat. § 196.37(2) requires the Commission to exercise control over the service rules that a public utility has with its consumers. Wisconsin Admin. Code. ch. PSC 113 provides the service rules for electrical utilities. Wisconsin Admin. Code § PSC 113.01 notes that enforcement of the service rules is prescribed in Wis. Stat. § 196.66.

E. Plain Language Analysis

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.

The individual metering requirements in Wis. Admin. Code § PSC 113.0803 are generally intended to promote energy conservation, ensure that each customer is billed for their own energy

consumption only, and ensure that the utility is able to disconnect the electric service to an individual unit without affecting the service of other units at a property. In addition to the existing exceptions, the existing rule authorizes the Commission to grant waivers of the requirement in specified circumstances, including where residential tenants have minimal usage under their control and when electric equipment under tenant control is substantially more efficient than applicable codes. In recent years, the 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. The proposed rulemaking would update the existing provisions of Wis. Admin. Code § PSC 113.0803 to address the emerging considerations raised through recent waiver requests and support simplicity and clarity in future applications of the rule. Specific proposed updates include revising existing criteria for granting a waiver of individual metering requirements to provide clearer and up-to-date guidance on applicable standards, establishing new criteria defining when individual metering would not be required, and integrating consumer protection requirements for projects that do not require individual unit metering.

F. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations

This rule was originally created in response to the Public Utility Regulatory Policies Act of 1978 (PURPA), which was implemented to encourage the following:

- 1) The conservation of electric energy.
- 2) Increased efficiency in the use of facilities and resources by electric utilities.
- 3) Equitable retail rates for electric consumers.
- 4) Expeditious development of hydroelectric potential at existing small dams.
- 5) Conservation of natural gas while ensuring that rates to natural gas consumers are equitable.

PURPA states in Section 113(b)(1) that to the extent determined appropriate under section 115(d), master metering of electric service in the case of new buildings shall be prohibited or restricted to the extent necessary to carry out the purposes of this title."

PURPA Section. 115(d) states that separate metering shall be determined appropriate for any new building for purposes of Section 113(b)(1) if: 1) there is more than one unit in such building 2) the occupant of such unit has control over a portion of the electric energy used in such unit, and 3) with respect to such portion of electric energy used in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building.

G. Comparison with Similar Rules in Adjacent States

Illinois and Iowa have similar rules to Wisconsin, including listing of exceptions to individual electric meter requirements. Iowa conducted a rulemaking from 2016 – 2018 which included analysis on how to assess whether costs of individual meters exceed the long-term benefits. Michigan and Minnesota do not require individual electric meters in multifamily residential buildings through state rules, although in some cases similar requirements are established via other platforms such as utility tariffs. Minnesota recently enacted new rules that provide detailed regulation of landlord actions in multi-metered buildings by the Minnesota Public Utility Commission.

H. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen

The Commission reviewed the 21 dockets since 2017 applying for permanent waivers of the individual electric meter rule for multi-dwelling unit residential buildings to consider information provided by building developers or owners, utilities, and organizations on the costs associated with using either single or individual electric meters in each building. The Commission also gathered information from the Department of Administration's Division of Energy, Housing and Community Resources (DOA DEHCR) as well as the Wisconsin Housing and Economic Development Authority (WHEDA). Those staff were able to provide information that was used in evaluating potential housing impacts and the impacts to tenants if they did not

have individual electric meters. To assist with finding information that could be used by Commission staff in this Housing Analysis, WHEDA conducted a survey of building developers to gather information on the existing rules, including the interest or ability to obtain a waiver, as well as potential cost impacts to residential multifamily housing. That survey had 12 respondents from areas of the state that are served by large investor-owned utilities, although not all respondents answered all survey questions. Commission staff also discussed potential housing impacts from the current rule and proposed changes with faculty at the University of Wisconsin.

The information gathered was not sufficient to support clear quantitative analysis of average housing and electric costs per unit of a multi-family building, in part due to a missing or partial responses on cost-related questions in the developer survey, and substantial differences between the buildings that have sought waivers from the rule, such as building size, prior use if any, and potential use of renewable energy. Information from the public utilities regarding standard meter costs and DEHCR was used to evaluate potential impacts to low-income residents, and found that there was not anticipated to be a substantial negative financial impact as residents are able to use energy and heating assistance.

I. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report

The Commission's fiscal estimate and economic impact analysis determined that the proposed rules will not have an economic effect on small businesses and are anticipated to result in minimal financial impacts to the State's economy. Increased rule clarity and modified provisions may help reduce construction and energy-related costs for building owners and tenants associated with the increased deployment of renewable energy and energy efficient technologies. Revisions may also reduce the number of Commission staff hours reviewing and analyzing applications for waivers of this rule. Reducing the amount of review time may result in lower assessments for electric utilities involved, which may be passed on as savings to ratepayers. The

Commission sought input from all Wisconsin electric utilities, Wisconsin Utilities Association (WUA), and owners of non-transient multi-dwelling residential buildings.

J. Effect on Small Business (initial regulatory flexibility analysis)

These rules will not have an 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 economic impacts on developers and the State’s economy as a whole will be minimal for the reasons described above. C

K. Agency Contact Person

Questions regarding this matter should be directed to the docket coordinator, Stacy Schumacher, at 608-267-2547 or Stacy.Schumacher@wisconsin.gov. Small business questions should be directed to Tara Kiley at (608) 266-7165 or Tara.Kiley@wisconsin.gov. Media questions should be directed to the Communications Director Meghan Sovey at (608) 267-3871 or Meghan.Sovey@wisconsin.gov.

L. Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted at the public hearing, by regular mail, or on the Commission web site. The record will be open for written comments from the public until Monday, March 24, 2025. All written comments must include a reference on the filing to docket 1-AC-257. File by one mode only. Written comments may be submitted either through the Commission’s website at <http://psc.wi.gov>¹ or by mail and addressed to:

Docket 1-AC-257 Comments
Public Service Commission

¹ As an alternative to submitting a comment directly to the Commission, state law allows anyone to file a web comment on the Wisconsin Administrative Rules website, <https://docs.legis.wisconsin.gov/code/comment>. This site forwards the comment to the Commission.

P.O. Box 7854
Madison, WI 53707-7854

The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and on the Commission's web site, at <http://psc.wi.gov>.

Dated at Madison, Wisconsin

By the Commission:

Cru Stublely
Secretary to the Commission

CS:SS:bs DL: 02045614

Appendix A

TEXT OF PROPOSED RULE

Section 1. PSC 113.0803 (1) is amended to read:

PSC 113.0803 (1) Each dwelling in a multi-dwelling unit residential building ~~and or~~ mobile home park constructed after March 1, 1980, shall have installed a separate electric meter for each such dwelling unit. Dwelling unit means a structure or that part of a structure which is used or intended to be used as a home, residence or a sleeping place by one or more persons maintaining a common household and shall exclude transient multi-dwelling buildings and mobile home parks: for example, hotels, motels, campgrounds, hospitals, community-based residential facilities, residential care apartment complexes or similar facilities, nursing homes, college dormitories, fraternities, and sororities.

Section 2. PSC 113.0803 (3) is amended to read:

PSC 113.0803 (3) Any existing building which undergoes alterations involving a change in type of occupancy or substantial remodeling shall have installed a separate electric meter for each separate tenant space. This requirement does not apply if there is a legal impediment to the installation of such meters, or if the cost of individual meters exceeds the long-term benefits of individual metering.

Section 3. PSC 113.0803 (4) (intro.) is amended to read:

PSC 113.0803 (4) (intro.) For the purpose of carrying out the provisions of ~~sub~~ subs. (1)-(3), individual unit metering will not be required:

Section 4. PSC 113.0803 (4) (c) is repealed.

Section 5. PSC 113.0803 (4) (cm) is created to read:

PSC 113.0803 (4) (cm) For residential buildings of 10 or fewer units where renewable energy resources are installed to substantially meet the anticipated electric load of the building's residents. A minimum of at least 70 percent energy offset compared to a comparable new residential building, or for renovations, the residential building's previous electric usage, must be demonstrated to meet this criterion.

Section 6. PSC 113.0803 (5) is renumbered (5) (intro.) (a), (b), and (c) and amended to read:

PSC 113.0803 (5) (intro.) For reasonable cause shown, the Commission may grant waivers of this rule on a case-by-case basis. Applications for a waiver must be submitted to the commission in writing and set forth the facts or reasons applicant believes justify a waiver.

(a) In cases involving multi-dwelling unit residential buildings, the applicant must show that the electric equipment under tenant control ~~is substantially more efficient than required by applicable codes and that the overall electric usage under tenant control is minimal~~ meets established high efficiency standards. ~~Example cases which would not qualify for waiver are buildings which are electrically heated or buildings which have individual unit electric water heaters.~~

(b) If electric equipment under tenant control is not shown to meet established high efficiency standards under 5(a), a waiver may be granted if the overall electric usage under tenant control is minimal. One example of buildings that could qualify as minimal usage is multi-dwelling unit residential buildings where the average electric energy use per unit is projected to be less than half of average monthly residential use per customer in Wisconsin based on the previous five-year average of US Energy Information Administration data.

(c) Owners of new or rehabilitated multifamily buildings that have long-term regulatory agreements with state or federal agencies or authorities to provide affordable housing for qualifying low-income customers, such as through the Low-Income Housing Tax Credit Program, may seek a waiver of the requirement to have individual electric meters if the proposed new building or remodel shows long-term cost savings to residents.

Section 7. PSC 113.0803 (6) is created to read:

PSC 113.0803 (6) Owners or managers of multi-dwelling unit residential buildings that receive an individual meter waiver under sub. (5) shall neither resell electricity to tenants nor disconnect their service for nonpayment.

Section 8. Effective Date. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
