

<p>SERVICE DATE Jun 13, 2014</p>

PUBLIC SERVICE COMMISSION OF WISCONSIN

Applications for Service and the Fair and Accurate Credit
Transactions Act

1-AC-229

Clearinghouse Rule 13-048

ORDER ADOPTING FINAL RULES

The Public Service Commission of Wisconsin proposes an order to repeal PSC 113.0301 (1m) (j) and (3), 113.0406 (7), 134.062 (2), 134.063 (1) (L), 134.13 (7), 185.33 (18) and 185.37 (2) (L); to amend PSC 113.0301 (1m) (i), 134.062 (1) (k) and 185.37 (2) (k); and to create PSC 113.0408, 113.0409, 134.051, 134.053, 185.30 and 185.305, relating to applications for service and the Fair and Accurate Credit Transactions Act.

REPORT TO THE LEGISLATURE

The Report to the Legislature is set forth as Attachment A.

FISCAL ESTIMATE

The Economic Impact Analysis for this rulemaking is included as Attachment A2.

FINAL REGULATORY FLEXIBILITY ANALYSIS

This rule will not affect small businesses. The s. 227.114(12), Stats., definition of “small business” states that to be considered a small business, the business must not be dominant in its field. Since gas, electric, and water utilities are monopolies in their service territories, they are dominant in their fields, and so, are not small businesses.

EFFECTIVE DATE

These rules shall take effect on the first day of the month following publication in the *Wisconsin Administrative Register* as provided in s. 227.22 (2) (intro.), Stats.

CONTACT PERSON

Questions regarding this matter should be directed to docket coordinator Justin Chasco at (608) 266-3708 or justin.chasco@wisconsin.gov. Small business questions may be directed to Anne Vandervort at (608) 266-5814. Media questions should be directed to Nathan Conrad, Communications Director, at (608) 266-9600. Hearing- or speech-impaired individuals may also use the commission's TTY number. If calling from Wisconsin, use (800) 251-8345; if calling from outside Wisconsin, use (608) 267-1479.

The commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to obtain this document in a different format should contact the docket coordinator listed above.

Dated at Madison, Wisconsin, this 10th day of June, 2014.

By the Commission:

A handwritten signature in black ink, appearing to read 'S. Paske', followed by a small 'bar' symbol.

Sandra J. Paske
Secretary to the Commission

Attachments

DL: 00928345

REPORT TO THE LEGISLATURE

A. TEXT OF THE RULE

The text of the proposed rules is set forth in Attachment A1.

B. PLAIN LANGUAGE ANALYSIS

1. Statutory Authority and Explanation of Authority

This rule is authorized under ss. 196.02 (1) and (3), 196.745 (1) (a), and 227.11, Stats.

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 196.745 (1) (a) grants the commission specific authority to adopt rules requiring that the construction and operation of gas facilities be done in a reasonably adequate and safe manner.

Statutes Interpreted

Section 196.02 (1), Stats., authorizes the commission to do all things necessary and convenient to its jurisdiction. Section 196.03 (1) Stats., requires public utilities to furnish adequate service. Section 196.37 (2), Stats., requires utility practices and services to be reasonable.

Related Statutes or Rules

Chapters PSC 113, 134, and 185, which contain the commission’s rules for the provision of service by electric utilities, standards for gas service and standards for water public utility service.

2. Brief Summary of Proposed Rules

This rule is intended to harmonize the requirements of the Fair Credit Reporting Act with the commission's administrative rules on the provision of service by utilities. Specifically, the rule requires public utilities in Wisconsin to take steps to identify and mitigate theft risks by verifying the identity of applicants for service as required by the Fair and Accurate Credit Transactions Act¹ (FACT) rules. Many Wisconsin utilities already use procedures consistent with the requirements of this rule. This rule permits utilities to require an applicant for service to provide initial identifying information. If an applicant for service refuses to provide identifying information or provides inadequate identifying information, the rule permits utilities to require additional identifying information as a pre-condition for establishing service. If an applicant for service fails to provide identifying information, the utility may refuse to provide service to the applicant.

3. Comparison with Existing or Proposed Federal Regulations

FACT included a number of changes to the Fair Credit Reporting Act.² Many of these changes addressed identity theft risks and plans that companies must develop to ensure the identity of those who already have accounts, or who open new accounts, with the company. This rule is intended to harmonize the requirements of the federal government and the commission with regard to identity theft risks.

4. Comparison with Similar Rules in Adjacent States

Michigan permits utilities to request customer identification similar to this rule (MI Admin. Rule 460.106). Illinois (see, e.g., 83 Ill. Adm. Code 280.70), Minnesota, and Iowa (see

¹ Pub. L. No. 108-159, 117 Stat. 1952.

² 15 U.S.C. 1681.

Iowa Admin. Code r. 199-19.4(16)) do not have administrative rules either allowing or prohibiting a utility to require identification as a pre-condition for service, but each state requires utilities to comply with company-specific tariffs when they review applications for service. Many of those tariffs allow utilities to require supporting documentation, including identification.

5. Summary of Factual Data and Analytical Methodologies Used

The commission considered the FACT act and subsequent related interpretations and court cases. It also considered industry practices and commission experiences regarding applications for service.

6. Effect on Small Business

This rule has no effect on small businesses since these utilities, as monopolies and unlike small businesses, are all dominant in their field. Further, these rules primarily harmonize the commission's rules on the provision of utility service with federal regulations.

7. Agency Contacts

Questions regarding this matter should be directed to Docket Coordinator Justin Chasco at (608) 266-3708, or justin.chasco@wisconsin.gov. Small business questions may be directed to Anne Vandervort, Gas and Energy Division, at (608) 266-5814, or anne.vandervort@wisconsin.gov; or Denise Schmidt, Water Division, at (608) 266-1282, or denise.schmidt@wisconsin.gov. Media questions should be directed to Nathan Conrad, Communications Director, at (608) 266-9600. Hearing- or speech-impaired individuals may also use the commission's TTY number. If calling from Wisconsin, use (800) 251-8345; if calling from outside Wisconsin, use (608) 267-1479.

8. Accommodation

The commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs to receive this document in a different format should contact the docket coordinator, as indicated in the following paragraph, as soon as possible.

C. FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS

The Economic Impact Analysis for this rulemaking is included in Attachment A2.

D. BASIS AND PURPOSE OF RULES

This rule is intended to harmonize the requirements of the Fair Credit Reporting Act with the commission's administrative rules on the provision of service by utilities. Specifically, the rule requires public utilities in Wisconsin to take steps to identify and mitigate identity theft risks by verifying the identity of applicants for service as required by the FACT rules. Many Wisconsin utilities already use procedures consistent with the requirements of this rule. This rule permits utilities to require an applicant for service to provide initial identifying information. If an applicant for service refuses to provide identifying information or provides inadequate identifying information, the rule permits utilities to require additional identifying information as a pre-condition for establishing service. If an applicant for service fails to provide identifying information, the utility may refuse to provide service to the applicant.

E. SUMMARY OF PUBLIC COMMENTS AND COMMISSION RESPONSES

Comments were received from the Citizens Utility Board, Municipal Environmental Group-Water Division, Wisconsin Utilities Association, Milwaukee Water Works, Racine Water and Wastewater Utilities, Green Bay Water Utility, La Crosse Water Utility, City of Appleton, City of Oshkosh, and Bristol.

A summary of the comments and the commission's responses is included as Attachment A3.

F. APPEARANCES AT PUBLIC HEARING

No one outside the commission appeared at the public hearing. Written comments were submitted later.

G. ANY CHANGES TO THE FISCAL ESTIMATE OR THE ANALYSIS UNDER s. 227.14 (2), STATS.

Chapters PSC 113, 134, and 185 contain service rules for the electric, gas and water industries. Changes are being proposed to ensure that these rules do not interfere with a utility's ability to comply with FACT. The changes will allow a utility to refuse service if an applicant fails to provide adequate identity documentation, something that is not allowed under existing rules. Originally the commission predicted minimal costs for updating its customer service policies and computer systems.

During the hearing and comment process, it became apparent that additional costs would be incurred because of the practices of certain utilities, especially certain water utilities. The biggest cost is attached to proposed changes that would be required of some municipal water

utilities. Although water utilities are required now to have an application for service, they have interpreted that as an application when service is first provided to a piece of property. Currently some issue bills to addresses and, if they are not paid, the unpaid amount is transferred to the property tax rolls for collection. Other collection efforts are not made. Under the rule as originally drafted, those utilities will have to start issuing bills to individuals whose identities have been checked rather than to addresses, although they can still use the tax rolls as their collection devices. Total estimated compliance costs are moderate (\$50,000 - \$20 million), but likely toward the high end of that range. The Commission voted to change the proposed rules to allow water utilities to decide whether or not to take applications, thereby avoiding the compliance costs.

H. RESPONSE TO LEGISLATIVE COUNCIL COMMENTS

The Legislative Council report and comments are included as Attachment A4. Answers to their comments are below.

2. Form, Style and Placement in Administrative Code

- a. The rule analysis now contains all of the headings listed in c. 1.02 of the Manual.
- b. This error has been corrected.
- c. The sections that are the subject of this comment have been clarified.
- d. The provisions that are the subject of this comment have been separated as recommended.
- e. The citation has been corrected.
- f. The suggested change has been adopted.

g. The purpose of this provision is to ensure that a person who is responsible for bill payment know that an application has been filed in his or her name. No change has been made as a result of this comment.

h. There are a variety of situations in which the applicant is not the person responsible for bill payment. No change has been made as a results of this comment.

i. The commission's use of both terms is intentional to recognize a technical difference between refusing service and denying an application. No change has been made a result of this comment.

j. Where changes have been made for one section, they have been consistently made to all similar provisions.

k. This change has been adopted.

l. This change has been adopted.

I. MISCELLANEOUS DETERMINATIONS

The commission's WEPA Coordinator examined whether the rule has an environmental impact and concluded that it does not. Commission staff also considered whether the rule will impact housing, s. § 227.115, Stats., and concluded that it will not.

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TEXT OF RULES

SECTION 1. PSC 113.0301 (1m) (i) is amended to read:

PSC 113.0301 (1m) (i) Failure of an applicant for utility service ~~to provide adequate verification of identity and residency, as provided in sub.(3)~~ to provide information or documentation required by s. PSC 113.0408.

SECTION 2. PSC 113.0301 (1m) (j) and (3) are repealed.

SECTION 3. PSC 113.0406 (7) is repealed.

SECTION 4. PSC 113.0408 and 113.0409 are created to read:

PSC 113.0408 Application for residential service.

(1) For purposes of this section, “written” or “in writing” means legibly printed on paper or, with the intended recipient’s permission, legibly printed in an electronic form that the recipient can electronically store and retrieve for future reference.

(2) (a) A residential user of electric service shall apply for service.

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

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

- 1 a. Legal name and birthdate of the user of service and the person responsible for bill
2 payment, if different than the user.
- 3 b. If the user of service has telephone service, the telephone number of the user of service. If
4 the person responsible for bill payment is different than the user and the person responsible
5 for bill payment has telephone service, the utility may also require the telephone number of
6 the person responsible for bill payment. Lack of telephone service is not grounds for service
7 refusal.
- 8 c. Address where service is to be provided.
- 9 d. Mailing address if different from service address.
- 10 e. Date requested for service to begin.
- 11 f. The most recent previous address of the person responsible for bill payment.
- 12 g. Initial identification data under subd. 2.
- 13 2. A utility shall accept any of the following items as adequate initial identification data,
14 although it may accept other forms of identification:
 - 15 a. Driver's license number.
 - 16 b. State identification card number.
 - 17 c. Passport number.
 - 18 d. Social security number or the last 4 digits of the social security number.
- 19 3. If a utility requests the initial identification data under subd. 2., it shall inform the
20 applicant of all acceptable forms of initial identification data and allow the applicant to
21 choose which the applicant wishes to provide.

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

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

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

10 **Note:** See sub. (3) (a) about what can be required if an applicant refuses to provide the initial
11 identification data under s. 113.0408 (2) (c) 1.g.

12 (3) IDENTITY AND RESIDENCY VERIFICATION. (a) A utility may require verification of the
13 initial identification data or the residency, or both, of the person responsible for bill payment
14 under any of the following circumstances:

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

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

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

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

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

3 1. Any one of the following items:

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

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

7 c. Valid passport.

8 2. Any two of the following items:

9 a. Social security card.

10 b. Certified copy of a marriage certificate.

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

12 d. Military discharge papers, including federal form DD-214.

13 e. Valid student identification card with the applicant's photo.

14 f. Current employee photo identification card that includes information, such as the
15 employer's telephone number or address, which can be used for verification purposes.

16 g. Letter of identification from a social service agency or employer that includes information,
17 such as the agency or employer's telephone number or address, which can be used for
18 verification purposes.

19 (d) 1. A utility shall accept any one of the following items as adequate verification of an
20 applicant's residency, although it may accept other forms of verification:

21 a. Current utility bill.

22 b. Current financial institution statement.

1 c. Rental agreement.

2 d. Documents indicating home purchase.

3 e. Current paycheck or pay stub showing the applicant's name and address, and the
4 employer's name.

5 f. Verification of address provided by a social service or government agency.

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

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

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

14 (g) If an applicant refuses to provide the information under sub. (3) (c) or (d) or a utility
15 finds, with reasonable certainty, that the verification is falsified, the utility may request an
16 additional item, refuse service or disconnect service.

17 (4) PROCESSING APPLICATIONS AND PROVIDING NOTICE. (a) Except under exceptional
18 circumstances, a utility shall approve or deny an application for service no later than 10
19 calendar days after receipt of the information required under this section. An expected high
20 volume of requests for service shall not be constitute exceptional circumstances.

21 (b) A utility shall notify the applicant in writing within 5 days of its denial. A utility may
22 notify an applicant verbally before written notification is sent. An application shall be

1 considered denied when a service refusal has been finalized and no immediate conditions that
2 could change that refusal remain. The notification shall include all of the following:

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

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

9 (c) If a third party applies for service, a utility shall send written notification of the
10 application to the most recent previous address of the person responsible for payment and the
11 address for which service has been requested.

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

17 **PSC 113.0409 Application for commercial and farm service.**

18 (1) For purposes of this section, "written" or "in writing" means legibly printed on paper or,
19 with the intended recipient's permission, legibly printed in an electronic form that the
20 recipient can electronically store and retrieve for future reference.

21 (2) (a) A user of electric service shall apply for service in a form specified by the utility.

1 (b) A utility may require a verbal or written application for commercial or farm service. The
2 utility shall establish a written policy for when a written application is required. A utility may
3 accept an application for service from a person other than the user or potential user of service

4 (c) The utility may only require that an applicant provide the following information in an
5 application:

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

8 2. Telephone number of the user of service and the person responsible for bill payment, if
9 different than the user.

10 3. Address where service is to be provided.

11 4. Mailing address if different from service address.

12 5. Date requested for service to begin.

13 6. The most recent previous address of the person responsible for bill payment.

14 7. Credit information under par. (e).

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

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

18 (e) A utility may request reasonable credit information from a commercial or farm applicant
19 as part of its application for service. A utility shall establish a written policy about when it
20 will request credit information and what credit information it will request.

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

1 1. Federal employer identification number or proof that it has been applied for but not yet
2 granted.

3 2. Wisconsin department of financial institutions identification number.

4 3. Wisconsin seller's permit identification number.

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

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

9 (3) IDENTITY VERIFICATION. (a) A utility may require verification of the initial identification
10 data of an applicant for commercial or farm service under any of the following
11 circumstances:

12 1. An applicant refuses to provide the information under sub. (2) (c), (e) or (f).

13 2. The utility finds, with reasonable certainty, that the information provided under sub. (2)
14 (c), (e) or (f) is falsified.

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

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

19 1. State or federal income tax returns.

20 2. Internal Revenue Service letter assigning federal employer identification number.

21 3. Wisconsin seller's permit or department of revenue letter assigning a Wisconsin seller's
22 permit identification number.

1 4. Business articles of incorporation, partnership agreement, limited liability company articles
2 of organization, or similar organizational documents.

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

5 (4) PROCESSING APPLICATIONS AND PROVIDING NOTICE. (a) Except under exceptional
6 circumstances, a utility shall approve or deny an application for service no later than 10
7 calendar days after receipt of the information required under this section. An expected high
8 volume of requests for service shall not constitute exceptional circumstances.

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

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

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

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

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

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7 **SECTION 5.** PSC 134.051 and 134.053 are created to read:

8 **PSC 134.051 Application for residential service.**

9 (1) For purposes of this section, "written" or "in writing" means legibly printed on paper or,
10 with the intended recipient's permission, legibly printed in an electronic form that the
11 recipient can electronically store and retrieve for future reference.

12 (2) (a) A residential user of gas service shall apply for service.

13 (b) A utility may require a verbal or written application for residential service. The utility shall
14 establish a written policy for when a written application is required. A utility may accept an
15 application for service from a person other than the user or potential user of service.

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

18 a. Legal name and birthdate of the user of service and the person responsible for bill
19 payment, if different than the user.

20 b. If the user of service has telephone service, the telephone number of the user of service. If
21 the person responsible for bill payment is different than the user and the person responsible
22 for bill payment has telephone service, the utility may also require the telephone number of

1 the person responsible for bill payment. Lack of telephone service is not grounds for service
2 refusal.

3 c. Address where service is to be provided.

4 d. Mailing address if different from service address.

5 e. Date requested for service to begin.

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

7 g. Initial identification data under subd. 2.

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

10 a. Driver's license number.

11 b. State identification card number.

12 c. Passport number.

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

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

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

1 **Note:** Also see s. PSC 134.061, which allows a request for a deposit if an applicant has an outstanding
2 account balance that accrued within the last 6 years.

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

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

7 **Note:** See sub. (3) (a) about what can be required if an applicant refuses to provide the initial
8 identification data under s. PSC 134.051 (1) (c) 1. g.

9 (3) IDENTITY AND RESIDENCY VERIFICATION. (a) A utility may require verification of the
10 initial identification data or the residency, or both, of the person responsible for bill payment
11 under any of the following circumstances:

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

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

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

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

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

22 1. Any one of the following items:

- 1 a. Valid driver's license or other photo identification issued by a state, U.S., or tribal
- 2 governmental entity.
- 3 b. Valid U.S. military or military dependent identification card.
- 4 c. Valid passport.
- 5 2. Any two of the following items:
- 6 a. Social security card.
- 7 b. Certified copy of a marriage certificate.
- 8 c. Certified copy of a judgment of divorce or legal separation.
- 9 d. Military discharge papers, including federal form DD-214.
- 10 e. Valid student identification card with the applicant's photo.
- 11 f. Current employee photo identification card that includes information, such as the
- 12 employer's telephone number or address, which can be used for verification purposes.
- 13 g. Letter of identification from a social service agency or employer that includes information,
- 14 such as the agency or employer's telephone number or address, which can be used for
- 15 verification purposes.
- 16 (d) 1. A utility shall accept any one of the following items as adequate verification of an
- 17 applicant's residency, although it may accept other forms of verification:
- 18 a. Current utility bill.
- 19 b. Current financial institution statement.
- 20 c. Rental agreement.
- 21 d. Documents indicating home purchase.

1 e. Current paycheck or pay stub showing the applicant's name and address, and the
2 employer's name.

3 f. Verification of address provided by a social service or government agency.

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

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

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

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

15 (4) PROCESSING APPLICATIONS AND PROVIDING NOTICE. (a) Except under exceptional
16 circumstances, a utility shall approve or deny an application for service no later than 10
17 calendar days after receipt of the information required under this section. An unexpected high
18 volume of requests for service shall not constitute exceptional circumstances.

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

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

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

7 (c) If a third party applies for service, a utility shall send written notification of the
8 application to the most recent previous address of the person responsible for payment and the
9 address for which service has been requested.

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

15 **PSC 134.053 Application for commercial and farm service.**

16 (1) For purposes of this section, “written” or “in writing” means legibly printed on paper or,
17 with the intended recipient’s permission, legibly printed in an electronic form that the
18 recipient can electronically store and retrieve for future reference.

19 (2) (a) A user of gas service shall apply for service in a form specified by the utility.

20 (b) A utility may require a verbal or written application for commercial or farm service. The
21 utility shall establish a written policy for when a written application is required. A utility may
22 accept an application for service from a person other than the user or potential user of service

1 (c) The utility may only require that an applicant provide the following information in an
2 application:

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

5 2. Telephone number of the user of service and the person responsible for bill payment, if
6 different than the user.

7 3. Address where service is to be provided.

8 4. Mailing address if different from service address.

9 5. Date requested for service to begin.

10 6. The most recent previous address of the person responsible for bill payment.

11 7. Credit information under par. (e).

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

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

15 (e) A utility may request reasonable credit information from a commercial or farm applicant
16 as part of its application for service. A utility shall establish a written policy about when it
17 will request credit information and what credit information it will request.

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

20 1. Federal employer identification number or proof that it has been applied for but not yet
21 granted.

22 2. Wisconsin department of financial institutions identification number.

1 3. Wisconsin seller's permit identification number.

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

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

6 (3) IDENTITY VERIFICATION. (a) A utility may require verification of the initial identification
7 data of an applicant for commercial or farm service under any of the following
8 circumstances:

9 1. An applicant refuses to provide the information under sub. (2) (c), (e) or (f).

10 2. The utility finds, with reasonable certainty, that the information provided under sub. (2)
11 (c), (e) or (f) is falsified.

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

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

16 1. State or federal income tax returns.

17 2. Internal Revenue Service letter assigning federal employer identification number.

18 3. Wisconsin seller's permit or department of revenue letter assigning a Wisconsin seller's
19 permit identification number.

20 4. Business articles of incorporation, partnership agreement, limited liability company articles
21 of organization, or similar organizational documents.

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

3 (4) PROCESSING APPLICATIONS AND PROVIDING NOTICE. (a) Except under exceptional
4 circumstances, a utility shall approve or deny an application for service no later than 10
5 calendar days after receipt of the information required under this section. An expected high
6 volume of requests for service shall not be constitute exceptional circumstances.

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

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

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

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

21 (d) If an applicant indicates that a third party is responsible for payment, a utility shall send
22 written notification of the approval or denial of an application to both the third party and the
23 applicant within 5 days of the application's approval or denial, although a utility may notify

1 the third party and applicant before written confirmation is sent. If service is refused, the
2 written notification shall include the information in par. (b) 1. to 3.

3

4 **SECTION 6.** PSC 134.062 (1) (k) is amended to read:

5 PSC 134.062 (1) (k) Failure of an applicant for utility service to provide ~~adequate~~
6 ~~verification of identity and residency, as provided in sub. (2)~~ information or documentation
7 required by s. PSC 134.051.

8

9 **SECTION 7.** PSC 134.062 (2), 134.063 (1) (L) and 134.13 (7) are repealed.

10

11 **SECTION 8.** PSC 185.30 and 185.305 are created to read:

12 **PSC 185.30 Application for residential and multifamily service.** (1) For purposes of this
13 section, “written” or “in writing” means legibly printed on paper or, with the intended
14 recipient’s permission, legibly printed in an electronic form that the recipient can electronically
15 store and retrieve for future reference.

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

18 (b) A utility may require a verbal or written application for residential service. The utility shall
19 establish a written policy for when a written application is required. A utility may accept an
20 application for service from a person other than the user or potential user of service.

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

- 1 a. Legal name and birthdate of the user of service and the person responsible for bill
2 payment, if different than the user.
- 3 b. If the user of service has telephone service, the telephone number of the user of service.
4 If the person responsible for bill payment is different than the user and the person responsible
5 for bill payment has telephone service, the utility may also require the telephone number of
6 the person responsible for bill payment. Lack of telephone service is not grounds for service
7 refusal.
- 8 c. Address where service is to be provided.
- 9 d. Mailing address if different from service address.
- 10 e. Date requested for service to begin.
- 11 f. The most recent previous address of the person responsible for bill payment.
- 12 g. Initial identification data under subd. 2.
- 13 2. A utility shall accept any of the following items as adequate initial identification data,
14 although it may accept other forms of identification:
 - 15 a. Driver's license number.
 - 16 b. State identification card number.
 - 17 c. Passport number.
 - 18 d. Social security number or the last 4 digits of the social security number.
- 19 3. If a utility requests the initial identification data under subd. 2., it shall inform the
20 applicant of all acceptable forms of initial identification data and allow the applicant to
21 choose which the applicant wishes to provide.

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

6 **Note:** Also see s. PSC 185.36, which allows a request for a deposit if an applicant has an outstanding
7 account balance that accrued within the last 6 years.

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

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

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

14 (3) IDENTITY AND RESIDENCY VERIFICATION. (a) A utility may require verification of the
15 initial identification data or the residency, or both, of the person responsible for bill payment
16 under any of the following circumstances:

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

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

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

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

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

5 1. Any one of the following items:

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

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

9 c. Valid passport.

10 2. Any two of the following items:

11 a. Social security card.

12 b. Certified copy of a marriage certificate.

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

14 d. Military discharge papers, including federal form DD-214.

15 e. Valid student identification card with the applicant's photo.

16 f. Current employee photo identification card that includes information, such as the
17 employer's telephone number or address, which can be used for verification purposes.

18 g. Letter of identification from a social service agency or employer that includes information,
19 such as the agency or employer's telephone number or address, which can be used for
20 verification purposes.

21 (d) 1. A utility shall accept any one of the following items as adequate verification of an
22 applicant's residency, although it may accept other forms of verification:

- 1 a. Current utility bill.
- 2 b. Current financial institution statement.
- 3 c. Rental agreement.
- 4 d. Documents indicating home purchase.
- 5 e. Current paycheck or pay stub showing the applicant's name and address, and the
- 6 employer's name.
- 7 f. Verification of address provided by a social service or government agency.

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

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

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

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

19 (4) PROCESSING APPLICATIONS AND PROVIDING NOTICE. (a) Except under exceptional
20 circumstances, a utility shall approve or deny an application for service no later than 10
21 calendar days after receipt of the information required under this section. An unexpectedly
22 high volume of requests for service shall not constitute exceptional circumstances.

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

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

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

11 (c) If a third party applies for service, a utility shall send written notification of the
12 application to the most recent previous address of the person responsible for payment and the
13 address for which service has been requested.

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

19 **PSC 185.305 Application for nonresidential service.** (1) For purposes of this section,
20 "written" or "in writing" means legibly printed on paper or, with the intended recipient's
21 permission, legibly printed in an electronic form that the recipient can electronically store and
22 retrieve for future reference.

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

3 (b) A utility may require a verbal or written application for nonresidential service. The
4 utility shall establish a written policy for when a written application is required. A utility may
5 accept an application for service from a person other than the user or potential user of service

6 (c) The utility may only require that an applicant provide the following information in an
7 application:

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

10 2. Telephone number of the user of service and the person responsible for bill payment, if
11 different than the user.

12 3. Address where service is to be provided.

13 4. Mailing address if different from service address.

14 5. Date requested for service to begin.

15 6. The most recent previous address of the person responsible for bill payment.

16 7. Credit information under par. (e).

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

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

20 (e) A utility may request reasonable credit information from a nonresidential applicant as part
21 of its application for service. A utility shall establish a written policy about when it will
22 request credit information and what credit information it will request.

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

3 1. Federal employer identification number or proof that it has been applied for but not yet
4 granted.

5 2. Wisconsin department of financial institutions identification number.

6 3. Wisconsin seller's permit identification number.

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

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

11 (3) IDENTITY VERIFICATION. (a) A utility may require verification of the initial identification
12 data of an applicant for nonresidential service under any of the following circumstances:

13 1. An applicant refuses to provide the information under sub. (2) (c), (e) or (f).

14 2. The utility finds, with reasonable certainty, that the information provided under sub. (2)
15 (c), (e) or (f) is falsified.

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

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

20 1. State or federal income tax returns.

21 2. Internal Revenue Service letter assigning federal employer identification number.

1 3. Wisconsin seller's permit or department of revenue letter assigning a Wisconsin seller's
2 permit identification number.

3 4. Business articles of incorporation, partnership agreement, limited liability company articles
4 of organization, or similar organizational documents.

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

7 (4) PROCESSING APPLICATIONS AND PROVIDING NOTICE. (a) Except under exceptional
8 circumstances, a utility shall approve or deny an application for service no later than 10
9 calendar days after receipt of the information required under this section. An expected high
10 volume of requests for service shall not constitute exceptional circumstances.

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

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

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

1 (c) If a third party applies for service, a utility shall send written notification of the
2 application to the potential user’s mailing address and the address for which service has been
3 requested.

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

9

10 **SECTION 9.** PSC 185.33 (18) is repealed.

11

12 **SECTION 10.** PSC 185.37 (2) (k) is amended to read:

13 PSC 185.37 (2) (k) Failure of an applicant for utility service to provide ~~adequate verification~~
14 ~~of identity and residency, as provided in sub-~~

15 ~~(5)-(a);~~ the information or documentation required by ss. PSC 185.30 or 185.305.

16

17 **SECTION 11.** PSC 185.37 (2) (L) is repealed.

18

19 **SECTION 12.** This rule shall take effect on the first day of the month following publication in
20 the Wisconsin administrative register as provided in s. 227.22(2) (intro.), Stats.

21

STATE OF WISCONSIN
 DEPARTMENT OF ADMINISTRATION
 DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
 101 EAST WILSON STREET, 10TH FLOOR
 P.O. BOX 7864
 MADISON, WI 53707-7864
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**ADMINISTRATIVE RULES
 Fiscal Estimate & Economic Impact Analysis**

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Chapters PSC 113, 134 and 185

3. Subject

Applications for Utility Service, Fair and Accurate Credit Transactions Act of 2003 (FACT)

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

This rulemaking is intended to harmonize PSC regulations and federal law that requires utilities to take steps to identify and mitigate identity theft risks by verifying the identity of the applicants for service as required by FACT rules.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

Gas, electric and water utilities, Citizens Utility Board, Municipal Electric Utilities of Wisconsin, International Brotherhood of Electrical Workers, Wisconsin Federation of Cooperatives, Utility Workers Coalition, Wisconsin Utilities Association, Wisconsin Rural Water Association, Wisconsin Water Association, and Municipal Environmental Group – Water Division.

11. Identify the local governmental units that participated in the development of this EIA

Municipal Electric Utilities of Wisconsin, West Salem Joint Municipal Utilities, Milwaukee Water Works, Village of Bristol, City of Appleton, City of Green Bay Water Utility Racine Water Utility, La Crosse Water Utility, and City of Oshkosh Water Utility.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

There are no estimated state fiscal effects from the draft revisions to Chapters PSC 113, 134, and 185.

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Chapters PSC 113, 134, and 185 contain service rules for the electric, gas and water industries. Changes are being proposed to ensure that these rules do not interfere with a utility's ability to comply with FACT. This rule permits utilities to require an applicant for service to provide initial identifying information. If an applicant for service refuses to provide identifying information or provides inadequate identifying information, the rule permits utilities to require additional identifying information as a pre-condition for establishing service. If an applicant for service fails to provide identifying information, the utility may refuse service to the applicant.

This rule has no effect on small businesses since these utilities, as monopolies and unlike small businesses, are all dominant in their field.

Public utilities will incur some compliance costs updating their customer service policies and computer systems. The biggest cost was attached to changes that would be required of some municipal water utilities. Currently some issue bills to addresses and, if they are not paid, the unpaid amount is transferred to the property tax rolls for collection. Other collection efforts are not made. Under the rule as initially proposed, those utilities would have to start issuing bills to individuals whose identities have been checked rather than to addresses, although they can still use the tax rolls as their collection devices. However, the Commission modified the proposed rules to give municipal water utilities the discretion of whether or not to require applications.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Implementing the new rule will allow public utilities to comply with their obligations under various provisions of FACT, the Fair Credit Reporting Act, 31 CFR 103.121, 16 CFR chs. 614 and 681, and 31 CFR 103.121, which address identity theft risk identification and prevention. An alternative to the proposed rule would be to retain the current rules for applications for utility service. Current Commission rules, however, do not allow public utilities to request sufficient supporting documentation for new applicants under current federal law.

14. Long Range Implications of Implementing the Rule

Utilities will not be out of compliance with the administrative rules if they refuse service to someone who does not supply adequate identity information.

15. Compare With Approaches Being Used by Federal Government

This rule making is intended to harmonize PSC regulations and federal law that requires utilities to take steps to prevent identity theft.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Michigan allows utilities to request customer identification similar to the proposed rule (MI Admin. Rule 460.106). Illinois (see e.g. 83 Ill. Adm. Code 280.70), Minnesota and Iowa (see Iowa Admin. Code r. 199-19.4(16)) do not have administrative rules either allowing or prohibiting a utility to require an i.d. as a precondition for service, but each state requires utilities to comply with company specific tariffs when they review applications for service. Many of those tariffs allow utilities to require supporting documentation, including i.d.

17. Contact Name

Lisa Farrell

18. Contact Phone Number

608-267-9086

This document can be made available in alternate formats to individuals with disabilities upon request.

SUMMARY OF PUBLIC COMMENTS AND COMMISSION RESPONSES

COMMENT: Require utilities to include, in their written identity theft policies, a requirement that refusing or disconnecting service should be used as a last resort and only after less drastic options have been applied.

RESPONSE: The commission has in effect a formal complaint process that will sufficiently resolve any allegations of arbitrary or unfair refusals or disconnection of service. No change has been made as a result of this comment.

COMMENT: Require utilities to file a copy of their identity theft policies, and amendments to it, with the commission for review and potential revision.

RESPONSE: The commission has in effect a formal complaint process that will sufficiently resolve any allegations of arbitrary or unfair application of these rules. The policies must be available to the commission upon request. The commission will exercise continuing oversight of these issues but does not believe requiring every utility to file its policies with the commission is warranted. No change has been made as a result of this comment.

COMMENT: Require utilities to put their identity theft policies on their web sites.

RESPONSE: The commission expects utilities will provide their identity theft policy to customers as requested in their normal course of business and does not believe an affirmative requirement is warranted at this time. No change has been made as a result of this comment.

COMMENT: Clarify why disconnection is given as an option for failure to provide sufficient identity identification and whether these rules are intended to apply to existing accounts.

RESPONSE: Disconnection as a result of these rules should only take place if a utility has conditionally established service while it reviews the application. The commission believes this is clear in the rules and a review of the rulemaking history and does not warrant further explanation in the text of the rules themselves. The commission also has in effect a formal complaint process that will sufficiently resolve any improper disconnection. No change has been made as a result of this comment.

COMMENT: If a utility believes that it needs additional identity or credit information, it may ask for the applicant's residency information for the last 6 years. Providing information over this length of time is burdensome. The rule should be changed to state that failure to provide this information is not, by itself, a sufficient reason for disconnection of service.

RESPONSE: This provision is in existing rule and to date, the commission is unaware that customers have been unfairly denied service as a result of their inability to provide this information. No change has been made as a result of this comment.

COMMENT: Shorten the length of time that a utility has to approve or deny an application and the length of time that a utility has to send written confirmation of a denial from 5 days each to 3 business days each.

RESPONSE: In other proceedings in which this issue has been analyzed, the utilities who must comply with this rule have requested a longer time period for review. There is current

no deadline for a utility to approve or deny an application. As a result, the Commission accepted the request of the utilities who must comply this rule to have 10 days to adjudicate applications, but modified the utilities' suggestion to make the ten days calendar days rather than business.

COMMENT: Utilities should be given the flexibility to accept other forms of identification than those listed in the rule. Language such as "although it may accept other forms" should be added.

RESPONSE: These proposed changes have been adopted.

COMMENT: Add a requirement that a utility's written policy include the circumstances under which the utility will require certain identifying information be included in a written application.

RESPONSE: The commission believes the rule as drafted sufficiently balances the benefits of having proscribed policies against the value of having flexibility to make appropriate case by case decisions. Furthermore, the rule as currently drafted already limits when certain identifying information may be requested. No change has been made as a result of this comment.

COMMENT: Add a requirement that a utility's written policy include the circumstances under which the utility will require an applicant to provide the information in s. 196.23 (1), Stats.

RESPONSE: The commission generally believes that the statute referenced purposefully places the burden of action upon the applicant seeking the benefit of the statute's application. Furthermore, the commission has in place a complaint resolution process that can

address any allegations of unreasonable action by a utility relative that that statute's application.

No change has been made as a result of this comment.

COMMENT: Do not require that all water utilities obtain an application from a specific individual responsible for bill payment. Change the application requirements so that they only apply if a water utility requires an application. (This suggestion was made by a total of 10 commenters.)

RESPONSE: The Commission was concerned with the compliance costs described by the utilities who made this comment and has adopted the recommended change.

COMMENT: Do not require a utility to state in advance that supplying specified additional information is optional.

RESPONSE: While the commission is sensitive to the administrative burden this provision may cause, not making customers aware that certain information is optional will create the impression that the information is mandatory, thereby frustrating the purpose of those customer protections. No change has been made as a result of this comment.

COMMENT: Add the ability to request only the last 4 digits of a social security number rather than the full number as identifying information.

RESPONSE: Agree. Change made.

COMMENT: Do not require a utility to state all of the acceptable forms of initial identification data and then allow the applicant to choose which one s/he wishes to provide.

RESPONSE: While the commission is sensitive to the administrative burden this provision may cause, not making customers aware that it is the customer's choice which information to provide will create the impression that the first item requested by the utility is mandatory, thereby frustrating the purpose of those customer protections. No change has been made as a result of this comment.

COMMENT: Clarify where the notice of denial of an application is to be sent and only require that a reasonable attempt to notify be made.

RESPONSE: Where notification is sent depends on the situation. If service is ordered well before the move-in date, then the notification should be sent to the prior address. If service is ordered after move-in, the notification be should be sent to the service or mailing address.

The "reasonable attempt" language has not been added since the requirement to send notice provides flexibility. For example, if the notice is mailed but is returned by the post office, the utility has still met the requirement because it sent the notice.

The time period for providing notice has not been expanded. In this era of computerized systems and the availability of automated letters, it is reasonable to expect notification of denial of service within five days.

COMMENT: Increase the length of time a utility has to approve or deny an application and to notify an applicant of the denial of an application to 10 days each, and make this a conditional approval.

RESPONSE: The time period for providing notice has been expanded to ten business days.

COMMENT: Change the requirement that a utility process an application in a timely manner so that it states “in a timely manner relative to the date requested for service to begin.”

RESPONSE: A variant of this change has been accepted. The commission acknowledges that there may, from time to time, be just cause to deviate from the 10 day rule. However, an expected high volume of applications should not alone be justification for delaying action on an application.

COMMENT: Change the language to allow a utility to disconnect service in addition to refusing service if sufficient identifying information is not provided.

RESPONSE: Agree. Change made so that disconnection can occur if service has been conditionally provided pending a decision on an application.



LCRC
FORM 2

WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Co-Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **13-048**

AN ORDER to repeal PSC 113.0301 (1m) (j) and (3), 113.0406 (7), 134.062 (2), 134.063 (1) (L), 134.13 (7), 185.33 (18), and 185.37 (2) (L); to amend PSC 113.0301 (1m) (i), 134.062 (1) (k), and 185.37 (2) (k); and to create PSC 113.0408, 113.0409, 134.051, 134.053, 185.30, and 185.305, relating to applications for service and the Fair and Accurate Credit Transactions Act.

Submitted by **PUBLIC SERVICE COMMISSION**

06-24-2013 RECEIVED BY LEGISLATIVE COUNCIL.

07-11-2013 REPORT SENT TO AGENCY.

SG:LAK

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LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 13-048

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 November 2011.]

2. Form, Style and Placement in Administrative Code

- a. The rule analysis should contain all of the headings listed in s. 1.02 of the Manual.
- b. It does not appear that s. PSC 113.0306, referred to in SECTION 1, exists in current code or is created by the rule proposal. Should this refer to one or both of the sections created in SECTION 4 of the rule proposal? Also, the rule should refer to the cross-reference using “under” rather than “by”.
- c. In s. PSC 113.0408 (2) (a), it appears to be the PSC’s intent to require utilities to establish an application system for prospective residential customers, not to require a prospective residential user of electric service to apply for such service. In s. PSC 113.0408 (2) (b), a utility “may require a verbal or written application” for service. Does this mean that the utility may choose to require neither? If so, this would appear to conflict with par. (a). These paragraphs and their interaction should be clarified. It may be helpful to revise this section to require utilities to establish a general application system in an introductory clause at the beginning of the section, and to require that application system to meet “all of the following requirements”.
- d. In s. PSC 113.0408 (2) (c) 1. b., the provisions related to the user and another person responsible for bill payment should be separated into separate subdivision paragraphs or otherwise reworded to avoid confusion.
- e. With respect to the list under s. PSC 113.0408 (2) (f), there does not appear to be a subd. par. “h.” in the proposed rule.

- 2 -

f. It is not clear how the prohibition against a utility requiring anything more in an application than what is listed under s. PSC 113.0408 (2) (c) 1. relates to the identity verification information that may be obtained under s. PSC 113.0408 (3). Should the introduction to s. PSC 113.0408 (2) (c) 1. state that its requirements apply “except as provided in sub. (3)”?

g. It is not clear what is intended under s. PSC 113.0408 (4) (c).

h. It is unclear how a third party could become obligated to pay for utility service under s. PSC 113.0408 (4) (d).

i. Throughout the proposed rule, the commission may wish to reconcile the use of “refused” and “denied” with regard to a utility’s evaluation of an application for service. [See, e.g., s. PSC 113.0408 (4) (d).]

j. The comments above, relating to s. PSC 113.0408, should also be considered in relation to ss. PSC 113.0409, 134.051, 134.053, 185.30, and 185.305, as applicable.

k. The repeal of s. PSC 185.37 (2) (L) should follow SECTION 10 of the proposed rule. [s. 1.04 (2) (a) 4. and (b), Manual.]

l. In SECTION 10, the period ending the sentence should be underscored as new material.