

Public Service Commission of Wisconsin

Rebecca Cameron Valcq, Chairperson
Ellen Nowak, Commissioner
Tyler Huebner, Commissioner

4822 Madison Yards Way
P.O. Box 7854
Madison, WI 53707-7854

March 29, 2021

The Honorable Stephen Nass
c/o Senate Chief Clerk, Michael Queensland
State Senate Journal and Records
B20 Southeast, State Capitol
P.O. Box 7882
Madison, WI 53707

The Honorable Adam Neylon
c/o Assembly Chief Clerk's Office
State Assembly Records
17 West Main Street, Room 401
Madison, WI 53703

Re: Public Service Commission of Wisconsin's Rule Report
Pursuant to Wis. Stat. § 227.29

Dear Senator Nass and Representative Neylon:

The Public Service Commission submits the 2021 rule report to the Joint Committee for Review of Administrative Rules (JCRAR) as required by Wis. Stat. § 227.29. Pursuant to Wis. Stat. § 13.172, the Commission requests that the Chief Clerk of each house of the Legislature distribute this report to the co-chairs of JCRAR.

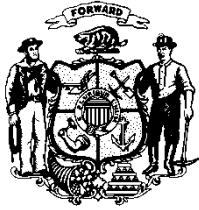
If you have any questions or concerns, please contact Assistant General Counsel Kara Koonce, at (406) 581-1256 or Kara.Koonce@wisconsin.gov

Sincerely,

Rebecca Cameron Valcq
Chairperson

KMK:DL:01788687

Enclosure



Public Service Commission of Wisconsin

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Ellen Nowak, Commissioner
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Public Service Commission of Wisconsin's Rules Report Pursuant to Wis. Stat. § 227.29

March 29, 2021

Pursuant to Wis. Stat. § 227.29, the Commission is required to submit the following report to the Joint Committee for Review of Administrative Rules (JCRAR) by March 31 of each odd-numbered year. Pursuant to Wis. Stat. 227.29(1), this report shall provide a listing of all rules that fall into the following categories:

- (a) Unauthorized rules, as defined in s. 227.26(4)(a), together with a description of the legislation that eliminated the agency's authority to promulgate any such rule.
- (b) Rules for which the authority to promulgate has been restricted, together with a description of the legislation that restricted that authority.
- (c) Rules that are obsolete or that have been rendered unnecessary, together with a description of why those rules are obsolete or have been rendered unnecessary.
- (d) Rules that are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction, together with a citation to or the text of any such statute, regulation, or ruling.
- (e) Rules that the agency determines are economically burdensome.

Unauthorized Rules – Pursuant to Wis. Stat. § 227.29 (1) (a)

Wisconsin Admin. Code § PSC 136.05

This section restricts the non-essential uses of natural gas but contains an explanatory note that this section is currently unenforceable due to the repeal of Wis. Stat. § 196.97. Under prior law, it was prohibited to install or connect to the natural gas distribution system any device that the Commission had determined, by rule, to be a non-essential use of natural gas. 2011 Wisconsin Act 154 repealed this prohibition and the Commission's related rule-making authority. Following submission of the 2019 report, the Commission filed a petition to repeal this rule pursuant to Wis. Stat. 227.26(4)(b)1, and JCRAR approved this petition. The Commission is currently finalizing the final rule for submission to Legislative Reference Bureau (LRB).

Wisconsin Admin. Code §§ PSC 173.02 (4), (6), (7), (11), (13), (14), and (15), 173.06, 173.07, 173.08, 173.09, 173.10, 173.11, and 173.12

These sections relate to the Wireless 911 Fund. The Wireless 911 Fund was created by 2003 Wisconsin Act 48, which became law on September 2, 2003. Pursuant to previous Wis. Stat. § 256.35(3m), the Wireless 911 Fund reimbursed county governments and wireless providers for the costs incurred to establish an enhanced wireless 911 system that automatically reports the geographic location of callers placing wireless calls to 911. However, Wis. Stat. § 256.35(3m) sunset in April 2009. As a result, the Commission no longer has rule-making authority related to the Wireless 911 Fund. Following submission of the 2019 report, the Commission filed a petition to repeal this rule pursuant to Wis. Stat. 227.26(4)(b)1, and JCRAR approved this petition. The Commission is currently finalizing the final rule for submission to Legislative Reference Bureau (LRB).

Restricted Rules – Pursuant to Wis. Stat. § 227.29 (1) (b)

Wisconsin Admin. Code § PSC 113.0404 (1)

This section states that a utility is required to offer deferred payment agreements to residential accounts and encouraged to offer such agreements to other customers. 2013 Wisconsin Act 274 and 2015 Wisconsin Act 176 provide that municipal utilities are not required to offer a tenant a deferred payment agreement and that a determination by a municipal utility to offer or not offer a deferred payment agreement does not require approval, and is not subject to disapproval, by the Commission. As a result, the Commission is not authorized to require municipal utilities to offer tenants deferred payment agreements. The Commission will address this section at the next substantive rulemaking of this chapter.

Wisconsin Admin. Code § PSC 134.063 (1)

This section states that a utility is required to offer deferred payment agreements to residential accounts and encouraged to offer such agreements to other customers. 2013 Wisconsin Act 274 and 2015 Wisconsin Act 176 provide that municipal utilities are not required to offer a tenant a deferred payment agreement and that a determination by a municipal utility to offer or not offer a deferred payment agreement does not require approval, and is not subject to disapproval, by the Commission. As a result, the Commission is not authorized to require municipal utilities to offer tenants deferred payment agreements. The Commission will address this section at the next substantive rulemaking of this chapter.

Wisconsin Admin. Code § PSC 185.38 (1)

This section states that a utility is required to offer deferred payment agreements to residential accounts and encouraged to offer such agreements to other customers. 2013 Wisconsin Act 274 and 2015 Wisconsin Act 176 provide that municipal utilities are not required to offer a tenant a deferred payment agreement and that a determination by a municipal utility to offer or not offer a deferred payment agreement does not require approval, and is not subject to disapproval, by the Commission. As a result, the Commission is not authorized to require municipal utilities to offer tenants deferred payment agreements. The Commission will address this section at the next substantive rulemaking of this chapter.

Obsolete Rules – Pursuant to Wis. Stat. § 227.29 (1) (c)

Wisconsin Admin. Code §§ PSC 100.03 and 100.04

These sections reference a historical one-time reporting requirement for privately owned public utilities in Wisconsin. The Commission will address these sections at the next substantive rulemaking of this chapter.

Wisconsin Admin. Code § PSC 111.51 (2)

This section references a detailed project plan for high voltage transmission line projects. However, 2013 Wisconsin Act 10 revised Wis. Stat. § 196.491(3)(a)3.a. to remove the requirement for applicants to submit a detailed project plan for these projects. The Commission will address this section at the next substantive rulemaking of this chapter.

Wisconsin Admin. Code § PSC 116.02 (1) (d)

This section references Wis. Stat. § 196.192(2)(a). However, this provision was renumbered in 2017 Wisconsin Act 58 and subsequently revised in 2017 Wisconsin Act 136. The equivalent provision to Wis. Stat. § 196.192(2)(a) is currently Wis. Stat. § 196.192(2)(bm)1. The Commission requested that the Legislative Reference Bureau (LRB) revise and update the cross-reference in this administrative code provision. LRB has completed the revision and the revised ch. PSC 116 will be published in the administrative register on March 29, 2021.

Wisconsin Admin. Code § PSC 132.02 (3)

This section references an obsolete definition of a cable operator from Wis. Stat. § 66.0419(2)(b). However, this section includes an explanatory note stating that this statute was repealed by 2007 Wisconsin Act 42. The Legislature subsequently recreated this statute (on a

different topic) in 2015 Wisconsin Act 302. The Commission will address this section at the next substantive rulemaking of this chapter.

Wisconsin Admin. Code § PSC 134.062 (1) (g)

This section references Wis. Stat. § 101.865. However, this section includes an explanatory note stating that this statute was repealed by 2007 Wisconsin Act 63. The Commission will address this section at the next substantive rulemaking of this chapter.

Wisconsin Admin. Code § PSC 134.0622 (2) (g)

This section references Wis. Stat. § 101.865. However, this section includes an explanatory note stating that this statute was repealed by 2007 Wisconsin Act 63. The Commission will address this section at the next substantive rulemaking of this chapter.

Wisconsin Admin. Code § PSC 135.163 (1) (bw)

This section references Wis. Admin. Code § Comm 51.01(86). However, this section includes an explanatory note stating that Wis. Admin. Code ch. Comm 51 was repealed effective July 1, 2002. The Commission is currently working on a rulemaking docket 1-AC-255 to revise PSC 135. As part of this rulemaking, this administrative code provision will be revised. The Commission solicited comments on the potential economic impact of this rulemaking and is currently in the final stages of drafting the proposed rule language.

Wisconsin Admin. Code § PSC 136.04 (5)

This section references Wis. Admin. Code §§ SPS 367.04(17) and 367.11. However, the Department of Safety and Professional Services (DSPS) repealed Wis. Admin. Code ch. SPS 367 in CR-18-056, effective December 1, 2018. The Commission will address this section at the next substantive rulemaking of this chapter.

Wisconsin Admin. Code § 160.05 (9)

This section relates to the use of Universal Service Fund (USF) monies and references educational technology teacher training grants under Wis. Stat. § 16.996 as an appropriate use of USF funds. However, this statute was repealed by 2019 Wisconsin Act 9, the 2019-2021 Biennial Budget Act. This same budget act revised Wis. Stat. § 196.218(5)(a)12. to allow the use of Universal Service Fund monies for information technology infrastructure grants under Wis. Stat. § 16.9945 rather than educational technology teacher training grants under Wis. Stat § 16.996. The Commission will address this section at the next substantive rulemaking of this chapter.

Wisconsin Admin. Code § PSC 161.05 (3)

This section references an obsolete grant program from the previous Wis. Stat. § 16.997(6) that sunset on December 31, 2005. Wisconsin Stat. § 16.997(6) was repealed by 2007 Wisconsin Act 20. The Commission will address this section at the next substantive rulemaking of this chapter.

Wisconsin Admin. Code § PSC 161.08 (2)

This section references Wis. Stat. § 16.997(6). However, this section includes an explanatory note stating that this statute was repealed by 2007 Wisconsin Act 20. The Commission will address this section at the next substantive rulemaking of this chapter.

Duplicative Rules – Pursuant to Wis. Stat. § 227.29 (1) (d)

None

Economically Burdensome Rules – Wis. Stat. § 227.29 (1) (e)

None