

The Texas Natural Resource Conservation Commission (commission) proposes the repeal of §§291.121-291.127, Utility Submetering; and new §§291.121, General Definitions; 291.122, Owner Registration and Records; 291.123, Rental Agreement; 291.124, Changes and Calculations; 291.125, Billing; 291.126, Discontinuance of Service; and 291.127, Submeters.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

The proposed new sections under Chapter 291, Subchapter H, relating to Utility Submetering and Allocation, govern the submetering or allocation of water or wastewater service provided by apartment houses, condominiums, manufactured home rental communities, and other multiple use facilities receiving master metered utility service from a retail public utility. These rules do not regulate those properties which include master metered water and wastewater service in tenants' rent or condominium members' assessments. The previous sections are repealed and new sections are proposed in order to improve the organization, clarity and consistency of this subchapter. The proposed rules are intended to identify information that must be made available to tenants affected by these rules, clarify a property owner's responsibilities with regard to record keeping and rental agreements, establish procedures for passing utility costs through to tenants, update and revise acceptable methods for allocating utility costs, ensure accurate and timely rendering of tenant bills, define circumstances under which utility service may be discontinued for nonpayment, and update the requirements related to the installation, use and testing of submeters. The proposed rules are also intended to implement statutory changes made by Senate Bill (SB) 950, 76th Legislature 1999; specifically, to encourage submetering of individual rental or dwelling units, to replace definitions of "mobile home" and "mobile home park" with "manufactured home" and "manufactured home rental community", to permit the collection of a service charge by

owners or managers of manufactured home rental communities, and to add manufactured home rental communities to the list of properties that may bill tenants for nonsubmetered (allocated) service. The proposed rules provide that if the property owner wishes to bill tenants for water utility service, he or she must do so on a submetered or approved allocation basis. For those property owners who do not wish to submeter or allocate, the owner can still include utility service in the monthly rental rate agreed upon in the lease agreement.

Staff conducted a series of roundtable meetings on the proposed changes with representatives from multi-family property owners, utility companies, billing service contractors, industry associations and consumer/tenant representatives. Roundtable participants provided guidance and suggestions on the revisions to the allocation methods and on issues related to submetering. This information was incorporated where appropriate into the proposed revisions.

SECTION BY SECTION DISCUSSION

Section 291.121 sets out the purpose of the subchapter, identifies the types of property covered by the rules, and defines terms used in the subchapter. Manufactured home rental communities are expressly included in the coverage of the subchapter in keeping with SB 950, 76th Legislature 1999.

Section 291.122 requires owners that intend to bill tenants for submetered or allocated utility service to register with the executive director. Provision is also made for records that must be kept by the owner and made available for inspection by tenants or the agency. New provisions require the owner to make available to tenants: a copy of these rules; a copy of Texas Water Code, Chapter 13, Subchapter M,

regarding “Submetering and Nonsubmetering for Apartments and Manufactured Home Rental Communities and Other Multiple Use Facilities” and information on the rates charged to the property by the retail public utility. The owner shall also make available any information regarding water conservation that is received by the owner from the retail public utility or the billing contractor.

Section 291.123 sets out the requirements for rental agreements between the owner and tenant where the owner wishes to bill tenants for submetered or allocated water or wastewater service. Subsection (d) prohibits an owner from changing from a submetered billing method where charges are based on a tenant’s actual use to an allocated method where charges are estimated. A new owner who purchases a property that has been providing service and billing under a submetering method, may change to an allocated method but must provide notice to the tenants and include the change in tenant’s rental agreements when they come up for renewal.

Section 291.124 provides for the acceptable methods of calculating charges for submetered utility service and allocated utility service. Subsection (a) lists charges billed by a retail public utility that may not be included in bills to tenants. Subsection (b) provides for a direct pass through of retail public utility charges if based on the number of dwelling units served by the utility through a master meter. Subsection (c) sets out the acceptable methods of calculating submetered utility service, including, for manufactured home rental communities, a service charge, as authorized by SB 950, 76th Legislature, 1999. Subsection (d) sets out acceptable methods of calculating allocated utility service. Current rules and approved methods that are proposed for repeal allow allocation of utility service based on the size of a dwelling unit, the size and occupancy of a dwelling unit, or the amount of submetered electric

service consumed in the dwelling unit. Under the proposed new rule, utility service may only be allocated according to the number of occupants in a dwelling unit or the amount of submetered hot water used in a dwelling unit. If all common areas are not metered or submetered separately from tenants' service, only 75% of the total amount billed by the retail public utility may be allocated to tenants. Subsection (e) provides for a transition period for those properties using one of the currently approved methods of allocation that will be prohibited under the proposed new rules.

Section 291.125 provides rules for billing, including rules on the form of the bill, items that must be included on the bill, time of billing, due date, a provision for over billing and under billing and for billing disputes. Subsection (a) requires owners to bill tenants each month for the full amount owed for the tenant's submetered or allocated services. Subsection (h) extends, to sixteen, the number of days a tenant has before their payment is considered late. The repealed rules provided for seven days.

Section 291.126 provides proposed rules related to the circumstances, terms and conditions under which an owner may discontinue a tenant's utility service for nonpayment. Subsection (a) requires an owner to send a disconnection notice ten days prior to disconnecting service. The repealed rules provided for five days.

Section 291.127 sets out special rules related to submetered service, including requirements for using the same type as that used by the retail public utility, installation by the owner, testing, accuracy and record keeping.

FISCAL NOTE

Bob Orozco, Technical Specialist with Strategic Planning and Appropriations, has determined that for the first five-year period the proposed new sections are in effect there will be no fiscal implications for units of state and local government as a result of administration or enforcement of the proposed amendments. The proposed changes would repeal Subchapter H, Utility Submetering, and propose a new Subchapter H, Utility Submetering and Allocation, that would clarify portions of existing rules; specify certain duties and responsibilities of owners and tenants regarding submetered or allocated water and wastewater service. The rules would also implement certain provisions contained in SB 950, 76th Legislature, 1999, an act relating to submetered and nonsubmetered water utility service provided to residents of apartment houses and manufactured home rental communities. Submetered water utility service is service that is metered by the retail public utility for the owner and metered by the owner for each dwelling unit or multiple use facility unit; and wastewater utility service based on submetered water utility service. Allocated water/wastewater utility service is master metered to an owner by a retail public utility and allocated to each tenant by the owner.

The Texas Water Code, Chapter 13, Subchapter M, addresses submetering for apartments, condominiums, mobile home parks and other multiple use facilities. SB 950 revised Subchapter M by changing all references to “mobile home parks” to “manufactured home rental communities”; “mobile home” to “manufactured home”; defining “costs related to submetering” to include water costs as well as other applicable taxes and surcharges that are charged by the retail public utility to the manufactured home rental community owner or manager; and allowing manufactured home rental community owners or managers to impose a service charge of not more than 9.0% of the costs related to submetering

allocated to each submetered rental manufactured home. The bill also directed the commission to encourage submetering of apartments, condominiums, and manufactured homes by master meter operators to enhance the conservation of water resources.

The proposed rules would also prohibit an owner from changing from a submetered billing method to an allocated billing method for passing utility charges to tenants. There is an exception to this provision for a new owner. The proposed rules do not prohibit inclusion of water and wastewater service in the tenants' rent as long as the utility service is not billed separately.

The proposed rules apply to the submetering or allocation of water or wastewater service by apartments houses, condominiums, manufactured home rental communities, and other similar multiple use facilities that receive service from a retail public utility and bill tenants for utility service separately from rent charges. The proposed rules do not apply to apartments houses, condominiums, manufactured home rental communities, and other similar multiple use facilities that choose to discontinue separate billing for water and wastewater service and include this service in the tenants' rent.

The proposed new sections are also intended to establish acceptable methods for allocating utility service, promoting water conservation, and encouraging submetering of individual rental or dwelling units by master meter operators. Specifically, the proposed rules require owners of rental property that intend to either submeter or allocate utility bills to tenants to register with the commission and maintain certain records for inspection by tenants and/or the TNRCC. The proposed rules specify requirements for rental agreements between the owner and tenant where water and wastewater utility billing will be

submetered or allocated to tenants from a master meter and prohibits a property owner from changing from a submetered to an allocated billing. The proposed rules also specify acceptable allocation methods and methods of calculating both submetered and allocated utility services to tenants. The proposed rules specify items that must be included on the tenant's bill such as billing and due dates; and specify provisions for over-billing and under-billing. The proposed rules will also provide for circumstances and under what terms and conditions an owner may discontinue utility service to a tenant.

For submetered service, the proposed rules specify requirements for type of meter, installation of meters, and regular testing of meters for accuracy.

Currently, rules allow allocation of utility service charges based on the size of the unit and other methods approved by the executive director. The proposed rules specify that allocated water and wastewater service may only be based on either the number of occupants in the tenants dwelling unit divided by the total number of occupants in all dwelling units at the beginning of the retail utility billing period, or the individually submetered hot water usage of the tenant's dwelling unit divided by all hot water usage in all dwelling units.

PUBLIC BENEFIT

Mr. Orozco also has determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from enforcement of and compliance with the proposed rules will be allocated billing which more closely approximates actual tenant usage, increased use of

submetering, decreased costs to consumers as they react to their individual consumption by controlling usage, and increased conservation efforts by owners of multi-family and multi-use properties.

The fiscal implications of SB 950 are limited to the authorization for owners and managers of manufactured home rental communities to impose a service charge of not more than 9.0% of the costs related to submetering of each manufactured home rental unit. It is assumed that over time, the conservation of water resources will offset the additional costs of submetering and does not impose any additional requirements because it is optional.

If owners of multiple use rental properties opt to use submeters, it is anticipated that the costs of installing submeters on new construction will range from approximately \$175 to \$200 per meter. Plumbing costs associated with minor retrofitting to established systems, when required, is estimated to cost an additional \$50 to \$100 per meter. The total cost of installing submeters is estimated to be in the range of \$175 to \$300 per meter. Major plumbing retrofit, where required, is variable and is dependent on existing plumbing, site characteristics, and the design used for a submetering system. An estimate for a major plumbing retrofit could not be determined because of the extensive variables. It is anticipated that capital costs associated with submeter purchase and installation and additional costs associated with meter maintenance and service may be recovered over time through rent. It is also anticipated that some owners may choose to include master metered water and wastewater service in the tenants' rent or use an approved allocation method with an existing system if submetering is not economically viable.

The proposed rules include a transition period of one year during which affected facilities that are already allocating utility billing based on currently approved methods must transition to the proposed allocation methods or submetering. The proposed rules also prohibit an owner from changing to an allocated method from a submetered method for billing tenants. There is an exception from this prohibition for new owners. The proposed rules do not prohibit inclusion of water and wastewater service in the tenants' rent.

SMALL BUSINESS AND MICRO-BUSINESS IMPACT ANALYSES

It is anticipated that many of the facilities affected by the proposed rules are small business and micro-businesses. If owners of affected facilities choose to install submeters, the costs associated with installing submetering equipment is dependent on the number of rental units, meters required, and the characteristics of the property and the existing plumbing. It is estimated that costs for small businesses and micro-businesses would be similar to the estimated range of \$175 to \$300 per meter for business in general. It is anticipated that some owners may choose to include water and wastewater service in the tenants' rent or use an approved allocation method for existing rental properties if submetering is not economically viable.

DRAFT REGULATORY IMPACT ANALYSIS

The commission has reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in that statute. "Major environmental rule" means a rule the specific intent of which is to protect the

environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The proposed rulemaking is not intended to protect the environment or reduce risks to human health from environmental exposure. The proposed rulemaking is not anticipated to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state because the costs associated with submeter installation are relatively minor and may be recovered through rents. In addition, costs associated with submeter installation may be avoided by using an approved allocation method for existing rental properties, or utility billing may be discontinued by including water and wastewater service in rents. The proposed rulemaking does not meet the applicability requirements of a “major environmental rule” because it does not meet the definition as set forth in Texas Government Code, §2001.0225. The proposed rulemaking does not exceed a standard set by federal law, exceed an express requirement of state law, nor exceed a requirement of a delegation agreement. In addition, the proposed rules are consistent with provisions in SB 950 and are specifically required by Texas Water Code, §13.503 and §13.5031.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code, §207.043. The following is a summary of that Assessment. The specific purposes of the rule are to implement SB 950, 76th Legislature, 1999, and Texas Water Code, §§13.501-13.505. The rule would also set standards for submetering and allocation of master metered water and

wastewater service to tenants. Promulgation and enforcement of these rules will not burden private real property because apartment house owners, condominium managers or owners of other multiple use facilities retain the freedom to choose not to submeter or allocate water and wastewater service. The proposed rules have been developed to encourage submetering, promote judicious use and maximum conservation of water, and provide safeguards to tenants as provided by statute. Submetering provides a fairer and more accurate accounting in billing for utility service. The proposed sections provide that if the property owner wishes to bill tenants for water utility service, they must do so on a submetered or approved allocation basis. For those property owners that do not wish to submeter, or allocate, the owners can still include water utility service in the monthly rental rate agreed upon in the lease agreement.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission has reviewed the proposed rulemaking and found that the rule is neither identified in Coastal Coordination Act Implementation Rules, 31 TAC, §505.11, relating to Actions and Rules Subject to the Texas Coastal Management Program (CMP), nor will it affect any action or authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC, §505.11. Therefore, the proposed rule is not subject to the CMP.

PUBLIC HEARING

A public hearing on this proposal will be held in Austin on April 18, 2000, at 10:00 a.m. in Building F, Room 2210 of the commission's central office, located at 12100 North IH-35, Park 35 Technical Center, Austin, Texas 78753. The hearing is structured for the receipt of oral or written comments by

interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

SUBMITTAL OF COMMENTS

Comments on the proposal may be submitted to Bettie Bell, Texas Natural Resource Conservation Commission, Office of Environmental Policy, Analysis, and Assessment, MC-205, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6087, or faxed to (512) 239-5687. Comments should reference Rule Log No. 1999-042-291-WT and must be received by 5:00 p.m. on April 18, 2000. For further information or questions concerning this proposal, please contact Kate Wilkins, Utilities and Districts Section, at (512) 239-6960.

STATUTORY AUTHORITY

The repeal sections are proposed under the Texas Water Code, §5.103, which provide the commission the authority to adopt and enforce rules necessary to carry out its powers and duties under the laws of this state; Texas Water Code, §5.011, which provides that the commission is established for the purpose of ensuring the efficient and effective administration of the conservation of the state's natural resources; Texas Water Code, §5.120, which requires the commission to administer the law so as to promote the judicious use and maximum conservation of water; Texas Water Code, §13.503, which requires the commission to adopt rules regulating submetering of water or sewer service under certain

situations; and Texas Water Code, §13.5031, which requires the commission to adopt rules governing the allocation of water and sewer service costs in certain situations.

The rule implements Texas Water Code, §§13.501-13.505.

§291.121. General Rules.

§291.122. Definitions.

§291.123. Records and Reports.

§291.124. Calculation of Costs.

§291.125. Billing.

§291.126. Discontinuance of Service.

§291.127. Submeters.

SUBCHAPTER H : UTILITY SUBMETERING AND ALLOCATION

§§291.121-291.127

STATUTORY AUTHORITY

The new sections are proposed under the Texas Water Code, §5.103, which provide the commission the authority to adopt and enforce rules necessary to carry out its powers and duties under the laws of this state; Texas Water Code, §5.011, which provides that the commission is established for the purpose of ensuring the efficient and effective administration of the conservation of the state's natural resources; Texas Water Code, §5.120, which requires the commission to administer the law so as to promote the judicious use and maximum conservation of water; Texas Water Code, §13.503, which requires the commission to adopt rules regulating submetering of water or sewer service under certain situations; and Texas Water Code, §13.5031, which requires the commission to adopt rules governing the allocation of water and sewer service costs in certain situations.

The proposed rules implement Texas Water Code, §§13.501-13.505.

§291.121. General Rules and Definitions.

(a) Purpose and scope. The provisions of this subchapter are intended to establish a comprehensive regulatory system to assure that the practices involving submetered and allocated billing

of dwelling units for utility service are just and reasonable and include appropriate safeguards for tenants.

(b) Application. The provisions of this subchapter shall apply to apartment houses, condominiums, multiple use facilities, and manufactured home rental communities billing for utility service on a submetered or allocated basis.

(c) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

(1) Allocated utility service - Water or wastewater utility service that is master metered to an owner by a retail public utility and allocated to tenants by the owner.

(2) Apartment house - A building or buildings containing five or more dwelling units which are occupied primarily for nontransient use, including a residential condominium whether rented or owner occupied, and if a dwelling unit is rented, having rental paid at intervals of one month or longer.

(3) Dwelling unit - One or more rooms in an apartment house or condominium, suitable for occupancy as a residence, and containing kitchen and bathroom facilities; or a manufactured home in a manufactured home rental community.

(4) Master meter - A meter used to measure, for billing purposes, all water usage of an apartment house, condominium, multiple use facility, or manufactured home rental community, including common areas, common facilities, and dwelling units.

(5) Manufactured home rental community - A property on which spaces are rented for the occupancy of manufactured homes for nontransient residential use and for which rental is paid at intervals of one month or longer.

(6) Multiple use facility - A commercial or industrial park, office complex or marina with five or more units which are occupied primarily for nontransient use and are rented at intervals of one month or longer.

(7) Owner - The legal titleholder of an apartment house, manufactured home rental community, or multiple use facility; a condominium association; or any individual, firm, or corporation that purports to be the landlord of tenants in the apartment house, manufactured home rental community, or multiple use facility.

(8) Submetered utility service - Water utility service that is master metered for the owner by the retail public utility and individually metered by the owner at each dwelling unit or multiple use facility unit; or wastewater utility service based on submetered water utility service.

(9) Tenant - A person who owns or is entitled to occupy a dwelling unit or multiple use facility unit to the exclusion of others and, if rent is paid, who is obligated to pay for the occupancy under a written or oral rental agreement.

(10) Utility service - For purposes of this subchapter, utility service shall only include drinking water and wastewater.

§291.122. Owner Registration and Records.

(a) Registration. An owner who intends to bill tenants for submetered or allocated utility service or who changes the method currently used to bill tenants for utility service shall register with the executive director in a form prescribed by the executive director.

(b) Records. The owner shall make the following records available for inspection by the tenant or the executive director at the onsite manager's office during normal business hours:

(1) a current and complete copy of Texas Water Code, Chapter 13, Subchapter M;

(2) a current and complete copy of this subchapter;

(3) a current copy of the retail public utility's rate structure applicable to the owner's bill;

(4) information regarding water conservation that is received by the owner from the retail public utility or an owner's billing contractor;

(5) the bills from the retail public utility to the owner;

(6) for allocated billing, the formula and percentage used to calculate tenant bills; and

(7) for submetered billing:

(A) the calculation of the average cost per gallon or cubic foot;

(B) all submeter readings; and

(C) all submeter test results.

(c) Records retention. Each of the records required under subsection (b) of this section shall be maintained for the current year and the previous calendar year, except that all submeter test results shall be maintained until the submeter is permanently removed from service.

(d) Availability of records.

(1) If the records required under subsection (b) of this section are not routinely maintained at the onsite manager's office, the owner shall provide copies of the records to the onsite manager within 15 days of receiving a written request from a tenant or the executive director.

(2) If there is no onsite manager, the owner shall make copies of the records available at the tenant's dwelling unit at a time agreed upon by the tenant within 30 days of the owner receiving a written request from the tenant.

§291.123. Rental Agreement.

(a) Rental agreement content. The rental agreement between the owner and tenant shall clearly state:

(1) the tenant will be billed by the owner for submetered or allocated utility services, whichever is applicable;

(2) which utility services will be included in the bill issued by the owner;

(3) any disputes relating to the computation of the tenant's bill or the accuracy of any submetering device will be between the tenant and the owner;

(4) the average monthly bill for all dwelling units in the previous calendar year; and

(5) if not submetered, a clear description of the formula used to allocate utility services.

(b) Information on applicable rules. At the time a rental agreement is discussed, the owner shall make a copy of this subchapter available to inform the tenant of his rights and the owner's responsibilities under this subchapter.

(c) Tenant agreement to billing method changes. An owner shall not change the method by which a tenant is billed unless the tenant has agreed to the change by signing a lease or other written agreement. The owner shall provide notice of the proposed change at least 35 days prior to implementing the new method.

(d) Change from submetered to allocated billing prohibited. An owner shall not change from submetered billing to allocated billing, unless there has been a change in ownership of the property and the rental agreement requirements under subsections (a), (b), and (c) have been met.

(e) Waiver of tenant rights prohibited. A rental agreement provision that purports to waive a tenant's rights or an owner's responsibilities under this subchapter is void.

§291.124. Charges and Calculations.

(a) Prohibited charges. Charges for submetered or allocated utility service shall not include any fees billed to the owner by the retail public utility or billing service contractor for any deposit, disconnect, reconnect, late payment, or other similar fees.

(b) Dwelling unit base charge. If the retail public utility's rate structure includes a dwelling unit base charge, the owner shall bill each dwelling unit for the base charge applicable to that unit. A dwelling unit base charge is a flat rate or fee charged by a retail public utility for each dwelling unit recorded by the retail public utility. The owner shall not bill tenants for any base charges applicable to unoccupied dwelling units.

(c) Calculations for submetered utility service. After the retail public utility's monthly bill is received, the tenant's submetered charges shall be calculated each month as follows:

(1) water utility service: the retail public utility's total monthly charges for water service (less dwelling unit base charges if applicable), divided by the total monthly water consumption measured by the retail public utility to obtain an average water cost per gallon or cubic foot, multiplied by the tenant's monthly consumption;

(2) wastewater utility service: the retail public utility's total monthly charges for wastewater service (less dwelling unit base charges if applicable), divided by the total monthly water consumption measured by the retail public utility, multiplied by the tenant's monthly consumption; and

(3) the service charge which may be billed by the owner of a manufactured home rental community: multiply the tenant's charge for submetered water service by an amount not to exceed 9.0%.

(d) Calculations for allocated utility service.

(1) After deducting dwelling unit base charges if applicable, charges for allocated utility service shall be based on:

(A) the total amount billed by the retail public utility for water or wastewater service, if there are no common areas served through the master meter serving tenants; or

(B) the total amount billed by the retail public utility less charges applicable to common areas, all of which are separately metered or submetered; or

(C) 75% of the total amount billed by the retail public utility for water or wastewater service if all common areas are not separately metered or submetered.

(2) To calculate a tenant's bill, the owner shall multiply the amount established in subsection (d)(1) of this section by either:

(A) the number of occupants in the tenant's dwelling unit divided by the total number of occupants in all dwelling units at the beginning of the retail public utility's billing period; or

(B) the individually submetered hot water usage of the tenant's dwelling unit divided by all hot water usage in all dwelling units.

(e) Conversion to approved allocation method. Within 365 days after the effective date of this subchapter, an owner using an allocation formula other than those approved in subsection (d)(2) of this section shall provide notice as required under §291.123 (c) of this title (relating to Rental Agreement) and either:

(1) adopt one of the methods in subsection (d)(2) of this section; or

(2) install submeters and begin billing on a submetered basis; or

(3) discontinue billing for utility services.

§291.125. Billing.

(a) Monthly billing of total charges. The owner shall bill the tenant each month for the total charges calculated under §291.124 of this title (relating to Charges and Calculations).

(b) Rendering bill. Bills shall be rendered as promptly as possible after the owner receives the retail public utility bill and reads submeters, if applicable.

(c) Submeter reading schedule. Submeters shall be read within three days of the scheduled reading date of the retail public utility's master meter.

(d) Billing period. Bills shall be rendered for the same billing period as that of the retail public utility, generally monthly, unless service is provided for less than that period.

(e) Multi-item bill. If issued on a multi-item bill, charges for submetered or allocated utility service shall be separate and distinct from any other charges on the bill.

(f) Information on bill. The bill shall clearly state the utility service is submetered or allocated as applicable and shall include all of the following:

- (1) total amount due for submetered or allocated water;

- (2) total amount due for submetered or allocated wastewater;
 - (3) total amount due for dwelling unit base charge(s), if applicable;
 - (4) total amount due for a service charge, if applicable;
 - (5) the name of the retail public utility and a statement that the bill is not from the retail public utility;
 - (6) name and address of the tenant to whom the bill is applicable;
 - (7) name of the firm rendering the bill and the name or title, address, and telephone number of the firm or person to be contacted in case of a billing dispute; and
 - (8) name, address, and telephone number of the party to whom payment is to be made.
- (g) Information on submetered service. In addition to the information required in subsection (f) of this section, a bill for submetered service shall include all of the following:
- (1) the date and reading of the submeter at the beginning and at the end of the period for which the bill is rendered;

(2) the number of gallons or cubic feet metered; and

(3) the cost per gallon or cubic foot for each service provided.

(h) Due date. The due date on the bill shall not be less than 16 days after it is mailed or hand delivered to the tenant, unless the due date falls on a federal holiday or weekend in which case the following work day shall be the due date. The owner shall record the date the bill is mailed or hand delivered. A payment is delinquent if not received by the due date.

(i) Estimated bill. An estimated bill shall not be rendered unless a master meter or submeter has been tampered with, cannot be read, or is out of order; and in such case the bill shall be distinctly marked as an estimate and the subsequent bill shall reflect an adjustment for actual charges.

(j) Payment by tenant. Unless clearly designated by the tenant, payment shall be applied first to rent and then to utilities.

(k) Overbilling and underbilling. If a bill is issued and subsequently found to be in error, the owner shall calculate a billing adjustment. If the tenant is due a refund, an adjustment shall be calculated for all bills that included overcharges. If the tenant was undercharged, and the cause was not due to submeter error, the owner may calculate an adjustment for bills issued in the previous six months. If the total undercharge is \$25.00 or more, the owner shall offer the tenant a deferred payment

plan option, for the same length of time as that of the underbilling. Adjustments for usage by a previous tenant shall not be backbilled to a current tenant.

(l) Disputed bills. In the event of a dispute between a tenant and an owner regarding any bill, the owner shall investigate the matter and report the results of the investigation to the tenant. The investigation and report shall be completed within 30 days from the date the tenant gives written notification of the dispute to the owner.

§291.126. Discontinuance of Service.

(a) Disconnection for nonpayment. A tenant's water utility service may be disconnected if payment was not received by the due date, and the owner issues a disconnection notice after the due date at least ten days prior to a stated date of disconnection.

(b) Disconnection notice. The notice issued by an owner under this section shall include the following:

- (1) the words "disconnection notice" prominently displayed,
- (2) the date payment must be received by the owner to avoid disconnection,
- (3) the date service will be disconnected if payment is not received, and

(4) a local address where the tenant can go during normal business hours to make arrangements for payment of the bill and for reconnecting service.

(c) Disconnection on holidays and weekends. Unless a dangerous condition exists which is related to the type of service provided, or unless the tenant requests disconnection, service shall not be disconnected on a day, or on a day immediately preceding a day, when the owner or his representative is not available to collect payments and reconnect service.

§291.127. Submeters.

(a) Same type meters required. All submeters served through a master meter shall use the same unit of measurement as the master meter, such as gallon or cubic foot.

(b) Installation by owner. The owner shall be responsible for providing, installing, and maintaining all submeters necessary for the measurement of water to tenants and to common areas, if applicable.

(c) Submeter tests prior to installation. No submeter shall be placed in service unless its accuracy has been established. If any submeter is removed from service, it shall be properly tested and calibrated before being placed in service again.

(d) Accuracy requirements for submeters. Submeters shall be calibrated as close as possible to the condition of zero error and within the accuracy standards established by the American Water Works Association (AWWA) for water meters.

(e) Location of submeters. Submeters shall be installed in accordance with applicable plumbing codes and AWWA standards for water meters, and shall be readily accessible to the tenant and to the owner for reading, testing, and inspection where such activities will cause minimum interference and inconvenience to the tenant.

(f) Submeter records. The owner shall maintain a record on each submeter which includes:

- (1) an identifying number;
- (2) the installation date (and removal date if applicable);
- (3) date(s) the submeter was calibrated or tested;
- (4) copies of all tests; and
- (5) the current location of the submeter.

(g) Submeter test on request of tenant. Upon receiving a written request from the tenant, the owner shall either:

(1) provide evidence, at no charge to the tenant, that the submeter was calibrated or tested within the preceding 12 months and determined to be within the accuracy standards established by the AWWA for water meters; or

(2) have the submeter removed and tested and promptly advise the tenant of the test results.

(h) Billing for submeter test.

(1) The owner shall not bill the tenant for testing costs if the submeter fails to meet AWWA accuracy standards.

(2) The owner shall not bill the tenant for testing costs if there is no evidence the submeter was calibrated or tested within the preceding 12 months.

(3) The owner may bill the tenant for actual testing costs (not to exceed \$25) if the submeter meets AWWA accuracy standards and evidence as described in subsection (g)(1) of this section was provided to the tenant.

(i) Bill adjustment due to submeter error. If a submeter does not meet AWWA accuracy standards and the tenant was overbilled, an adjusted bill shall be rendered in accordance with §291.125(l) of this title (relating to Billing). The owner shall not charge the tenant for any underbilling that occurred because the submeter was in error.

(j) Submeter testing facilities and equipment. An owner shall comply with the meter testing requirements applicable to utilities under §291.89(e) of this title (relating to Meters).