PSC Water Construction and Conservation Rules
Summary of Changes & Highlights
August 1, 2012

This is an overview of the changes to Wis. Admin. Code chs. PSC 184 and 185 (Clearinghouse Rule 11-039) that are effective as of August 1, 2012. The text of the final rules can be downloaded at: http://legis.wisconsin.gov/rsb/code.htm.

Chapter PSC 184

The PSC is responsible for reviewing utility construction and expansion projects under Wis. Stats. § 196.49 to evaluate the effects on ratepayers and utility costs. This rule establishes criteria and procedures for establishing a new water utility, expanding a utility's service area, and obtaining Commission approval for water (and some sewer) utility construction projects. In general, Commission authorization (known as a "certificate") is required for all of the following activities:

- Establishing a new utility.
- Constructing, purchasing, installing, modifying, or replacing plant within a utility's service area.
- Constructing facilities or initiating service in a municipality not currently served by the utility.
- Constructing facilities or initiating service in the service area of another utility.
- Acquiring or placing into operation facilities obtained from another utility.
- Establishing a new interconnection with another utility.
- Combining or consolidating with another utility.

Exemptions

Any project that costs less than $250,000 or 25 percent of the utility's previous year gross water or sewer operating revenues, whichever is less, is exempt from the requirement to obtain approval. The cost threshold is indexed to the consumer price index and is adjusted biannually, according to Wis. Stat § 196.49(5g)(b). In addition, certain types of construction projects, regardless of cost, are categorically exempt from the requirement to obtain Commission approval. These include:

- Installing, replacing, or repairing utility main unless the main is located outside of the utility's service area or is greater than 8 inches in diameter and longer than three miles.
- Installing, replacing, or repairing service laterals, hydrants, or valves within the utility's service area.
- Routine meter repair and replacement.
- Installing, replacing, or repairing supervisory control and data acquisition (SCADA) systems, telemetry equipment, or other electronic monitoring and control systems.
- Repairing or replacing existing pumps, motors, or associated equipment.

- Conducting routine maintenance or repair to utility facilities and buildings.
- Repairing or replacing existing filtration media used in existing water purification facilities.
- Installing plant in accordance with filed main extension rules and rates.
- Installing plant in accordance with a Commission order.
- Relocating or modifying existing plant to accommodate highway or airport construction.
- Acquiring vehicles or other movable equipment.

Contents of Application

Any application for Commission authorization for one of the activities specified must contain the following information, where applicable:

- A description of the project and information supporting its purpose and necessity.
- An analysis and description of project alternatives.
- An analysis of the effect of the project on reliability and quality of service.
- Project costs itemized by major plant accounts, and proposed funding sources.
- Estimate of annual operating costs, by major expense accounts.
- A description of any plant being retired or replaced.
- A map showing the location of the project and proposed facilities.
- A list of other state and local permits or approvals required.
- An identification of facilities located in flood plains.
- For projects involving the development of a new water supply source, information about conservation activities the utility has taken to mitigate the need for the well or source of supply.
- For main construction projects, identification of each surface water or wetland affected by construction.
- An identification and evaluation of potential effects on threatened or endangered species, archeological sites, or historical resources.
- Any other relevant information requested by the Commission.

Process and Timing

A utility must file its application for Commission approval at least 90 days, but no earlier than two years, before beginning the project. The Commission will issue a notice of investigation or a notice of proceeding after the utility has submitted all of the required information. For projects that do not require an environmental assessment (EA) or environmental impact statement (EIS) under Wis. Admin. Code § PSC 4.10, the Commission must complete its review within 90 days of the date of the notice, unless a 90 day extension is granted by the Commission chairperson. For projects that require an EA or an EIS, the Commission must complete its review within 180 days, unless an extension is granted.

In general, applications will be reviewed and approved without a hearing. However, the Commission may hold a hearing on the proposed project if: (1) a hearing is required by another

statute or rule; (2) the project requires the preparation of an EA or EIS; (3) the application is treated as a contested case; or (4) the Commission otherwise determines that a hearing is appropriate.

If the utility does not initiate the project within 2 years from the date of Commission authorization, the utility must notify the Commission of any revised project costs, schedule for completion, and any other changes. In addition, a utility must notify the Commission if the scope, design, or location of a project changes significantly or if actual project costs exceed the authorized project costs by more than 10 percent. In either case, the Commission may reconsider its authorization of the proposed project.

Chapter PSC 185

This rule establishes service standards for regulated water and sewer utilities. The changes to this rule implement the PSC's water conservation and efficiency programs, update water loss standards, and make other miscellaneous revisions.

Definitions

The rule establishes new definitions for several commonly used terms, including:

- Utility classes (AB, C, D).
- Customer classes, including residential, non-residential, multi-family residential, commercial, industrial, public authority, and irrigation.
- Water conservation, water loss, and associated terms.

Rates and Billing

All utility rates and charges must be approved by the Commission. Each utility is required to adopt general service water rates that reflect the cost of service for each class of customer and include a volumetric charge that is based on actual consumption. A utility may establish different rates for different classes of customers, including multi-family residential and irrigation customers. The Commission may approve utility rates that are intended to promote efficient water use, such as inclining block rates, seasonal rates, or irrigation rates.

A utility that calculates its volume charges in units of cubic feet must provide information to its customers to assist them in determining their usage in units of gallons. A utility may comply with this requirement by either: (1) providing consumption information in both gallons and cubic feet on the bill; or (2) providing a formula on the bill for converting between cubic feet and gallons. Alternatively, a utility may provide this information to its customers as part of the required annual mailing of the utility's rate schedule.

Upon request from a residential customer, a utility is required to provide historical billing and consumption information, by billing period, for the past year. If requested, the utility must also provide information and instructions to assist the customer in making comparisons to similar

residential customers. In addition, upon residential customer request, a utility shall provide information to assist the customer in reducing outdoor water use, repairing leaks, and implementing other conservation measures. This information may be provided on a utility's web site.

Water Loss Control

Each utility is required to implement a water loss control program that includes the following components:

- Metering all water sales, where practicable.
- Maintaining and verifying the accuracy of customer and utility meters.
- Identifying and repairing leaks in the distribution system to the extent that it is reasonable to do so.
- Controlling water usage from hydrants.
- Maintaining records of system pumpage and consumption.
- Conducting an annual water audit.

A utility must report the results of its annual water audit to the Commission no later than April 1 of each year as part of the utility's annual financial report. The water audit generally follows the procedures identified by the American Water Works Association and includes measured or estimated volumes for the following:

- Water purchased or pumped from all sources.
- Water used in treatment or production processes.
- Water entering the distribution system.
- Water sold, including both metered and unmetered sales.
- Water not sold but used for authorized purposes such as flushing mains, fire protection, and freeze prevention.
- Real and apparent water losses
- Unknown and unaccounted for water.

A utility is required to calculate its annual percentage of non-revenue water (water that is pumped but not sold) and its percentage of water loss (real and apparent) based on the volume of water entering the distribution system. A utility shall submit a water loss control plan to the Commission if the utility reports that its percentage of non-revenue water exceeds 30 percent, or water losses exceeding 25 percent for Class D utilities or 15 percent for Class C utilities. A water loss control plan must include:

- The reasons for the excessive non-revenue water or water loss.
- A description of the measures that the utility plans to undertake to reduce losses.
- An analysis of the costs of implementing a water loss control program.
- Any other information required by the Commission.

The Commission may require a public utility to conduct a leak detection survey of its distribution system if the utility reports excessive water loss for three consecutive years, starting with the 2012 annual report.

Emergency Operations, Interruption of Service, and Water Supply Shortages

A utility is required to exercise reasonable diligence to furnish a continuous and adequate supply of water to its customers. In the event of an emergency resulting from fire, storm, power failure, or similar events, a utility shall establish procedures to prevent or mitigate the interruption or impairment of service. A utility shall make all reasonable efforts to prevent service interruptions. For planned service interruptions, a utility shall make reasonable efforts to notify customers and schedule the interruption at a time that minimizes customer inconvenience. If an interruption of service is unplanned or unavoidable, the utility shall:

- Make reasonable efforts to re-establish service with the shortest possible delay.
- Notify the fire chief or other responsible official, if an interruption affects fire protection service.
- Notify the Commission.

A utility may declare a water supply shortage emergency if it cannot adequately meet customer demand due to drought, insufficient capacity, or excessive demand. In the event of a water supply shortage, the utility may curtail water service to some or all of its customers as necessary to protect utility facilities, prevent a dangerous condition, or prevent an imminent threat to public health, welfare, and safety. A utility may adopt a water supply shortage curtailment plan and file such plan with the Commission. If a utility determines that curtailment is necessary, it shall do all of the following:

- Make reasonable efforts to notify affected customers.
- Request that all customers enact voluntary water conservation measures, including limiting irrigation and non-essential uses.
- Implement curtailment in an equitable manner that protects essential use customers and allows the utility to maintain reasonably adequate service to the greatest number of customers, consistent with public health, welfare, or safety.
- Promptly restore service when the conditions leading to the water supply shortage have been alleviated.
- File a report with the Commission within 7 days of declaring a water supply shortage.

Voluntary Water Conservation Programs

A utility may request Commission authorization to administer or fund programs for providing rebates or incentives to promote water conservation and efficiency within its service area. A utility requesting approval of a rebate or incentive program shall provide the following information to the Commission:

- A description of the proposed program, target market, eligible measures, and delivery and marketing strategy.
- The proposed annual program budget.
- Annual and multi-year performance targets.
- A portfolio and program level net cost-effectiveness analysis.
- A description of the utility's tracking and reporting system.
- A description of the utility's proposed evaluation and measurement plan.
- A description of how the utility will coordinate with any statewide water conservation programs.
- Any other information requested by the Commission.

In considering whether to approve a program, the Commission will consider whether the program is cost-effective, in the public interest, and likely to achieve the utility's stated goals. Once approved, a utility may not modify or discontinue its program without Commission approval. The Commission may conduct an audit to verify the performance of a utility's program. In addition, each utility with an approved program is required to submit a report to the Commission no later than April 1 of each year that includes the following information:

- A summary of program activities and itemized accounting of costs.
- Estimated water savings attributable to the program.
- The number of customers receiving incentives.
- Estimated non-water benefits, including energy savings.
- Other performance metrics identified by the utility.