

## Chapter PSC 136

## GAS CONSERVATION

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**PSC 136.01 General.** (1) Chapter PSC 136, Wis. Adm. Code, constitutes a general order of the public service commission, authorized by ss. 227.014 and 196.97, Stats.

(2) The requirements of chapter PSC 136 shall be observed by all public utilities, both privately and publicly owned, engaged in the manufacture, mixing, purchasing, storage, transmission and/or distribution of gaseous fuel.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80.

**PSC 136.02 Adoption of federal rules prohibiting the sale and direct industrial use of natural gas for outdoor lighting.** (1) **SCOPE.** The federal department of energy, economic regulatory administration, pursuant to the Power Plant and Industrial Fuel Use Act of 1978, has established rules to prohibit the installation of new or replacement natural gas fixtures by local distribution companies and direct industrial customers. The rules also prohibit local distribution companies from providing natural gas to residential, commercial, and industrial customers for use in outdoor lighting, as set forth in 10 CFR Part 516, Code of Federal Regulations. In accordance with the Power Plant and Industrial Fuel Use Act of 1978, the economic regulatory administration has delegated its authority to the public service commission for administering prohibitions with regard to gas lighting under section 402 of the Act. The public service commission adopts the rules of the federal department of energy as state rules. Additions or changes have been made to the rules of the federal department of energy as adopted herein for purposes of administration.

(2) **DEFINITIONS.** Unless otherwise expressly provided for the purposes of this rule:

(a) The term "direct industrial customer" means an industrial user of natural gas who obtains the natural gas under a contract with a natural gas pipeline company, or any agent thereof.

(b) The term "local distribution company" means any person engaged in the business of interstate or intrastate transportation and local distribution of natural gas for ultimate consumption.

(c) The term "natural gas" means any fuel consisting in whole or in part of natural gas, liquid petroleum gas, or synthetic gas derived from petroleum or natural gas liquids.

(d) The term "natural gas outdoor lighting fixture" means a complete stationary natural gas outdoor lighting unit, or any parts thereof, which may include a mantle (s) together with the parts designed to distribute

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the light, to position and protect the mantle(s) and fuel supply lines, and to connect the mantle(s) to the fuel supply.

(e) The term "pipeline company" means any person engaged in the business of interstate or intrastate transportation of natural gas by pipeline other than as a local distribution company.

(f) The term "residence" means any single or multiple family dwelling unit, including commonly held areas associated with such unit and including multiple family dwelling units which may be classified by the local distribution company as "commercial" customers.

(g) The term "substitute lighting" means outdoor lighting which does not directly burn natural gas.

(3) GENERAL PROHIBITION ON INSTALLATION OF NATURAL GAS OUTDOOR LIGHTING FIXTURES. (a) *Prohibition.* No local distribution company or direct industrial customer shall install any natural gas outdoor lighting fixture.

(b) *Effective date.* The prohibition stated in paragraph (a) of this section shall be effective beginning on November 9, 1978.

(4) GENERAL PROHIBITION ON SALE OF NATURAL GAS FOR USE IN OUTDOOR LIGHTING. (a) *Prohibition.* No local distribution company shall supply natural gas for use in outdoor lighting.

(b) *Effective dates.* 1. In the case of any residential, commercial, or industrial customer, the prohibition stated in paragraph (a) of this section shall be effective on May 8, 1979, unless a later effective date is applicable under subs. (2), (3), or (4) of this section.

2. In the case of any industrial or commercial structure to which natural gas was being supplied by the local distribution company for outdoor lighting use on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective on November 5, 1979.

3. In the case of any municipal outdoor lighting fixture to which natural gas was being supplied by the local distribution company for outdoor lighting use on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective January 1, 1981.

4. In the case of any outdoor lighting fixture used in connection with a residence to which natural gas was being supplied by the local distribution company for outdoor lighting use on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective January 1, 1981.

(5) PROHIBITION ON USE OF NATURAL GAS BY DIRECT INDUSTRIAL CUSTOMERS FOR OUTDOOR LIGHTING. (a) *Prohibition.* No direct industrial customer shall use natural gas for outdoor lighting.

(b) *Effective dates.* 1. In the case of a direct industrial customer who was using natural gas for outdoor lighting on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective on November 5, 1979.

2. In the case of a direct industrial customer using a natural gas outdoor lighting a natural gas outdoor lighting fixture(s) that:

a. Was installed prior to the ban on the installation of such fixture (s) set out in PSC 136.02 (3); and

b. Was not using natural gas for such fixture (s) on May 8, 1979 —

c. The prohibition stated in paragraph (a) of this section shall be effective on May 8, 1979.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80.

**PSC 136.03 Exemptions. (1) LIGHTING OF HISTORICAL SIGNIFICANCE.**

(a) *Scope.* A federal, state or local government agency, or an appropriate historical association may petition the public service commission for an exemption from the prohibitions set forth in PSC 136.02 for any property on the basis of historical significance. In the case of a petition for an exemption from the prohibition set forth in PSC 136.02 (3) (General prohibition on installation of natural gas outdoor lighting fixtures), an exemption shall be granted only for replacement of a natural gas outdoor lighting fixture (s) that was installed prior to November 9, 1978. Such replacement shall include:

1. Replacement of an extant original or reproduction fixture; or
2. Installation of an original or reproduction fixture to replace a fixture which existed during the life of the specified historic property.

(b) *Criteria.* The criteria for an extension on the basis of historic significance shall be satisfied upon certification, by the petitioner, that the specifically identified natural gas outdoor lighting fixture (s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and upon a finding that the specifically identified historic property:

1. Is listed on the National Register of Historic Places maintained by the heritage conservation and recreation service, department of interior, or is officially determined eligible for listing by the secretary of interior, pursuant to the National Historic Preservation Act (16 U.S.C. 470 as amended), applicable regulations (36 CFR Parts 60 and 63), and Executive Order 11593; or

2. Is in a district whose state or local statutes are certified as providing adequate protection of historic places by the secretary of the department of interior, pursuant to the Tax Reform Act of 1976 (26 U.S.C. 191, 380B) and applicable regulations.

(c) *Stays.* An exemption request shall result in a stay from the prohibitions set forth in PSC 136.02 if:

1. The petitioner has certified that the specifically identified natural gas outdoor lighting fixture (s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and

2. An application is pending, before the department of interior, for inclusion in one of the categories specified in subdiv. 1. or 2. of paragraph (b) of this section.

(2) **MEMORIAL LIGHTING.** (a) *Scope.* A federal, state or local government agency, or an appropriate historical association, may petition the public service commission for an exemption from the prohibitions set forth in PSC 136.02 (3) and (4) on the basis of memorial lighting. In the case of a petition for an exemption from the prohibition set forth in PSC

136.02 (3) of this rule (General prohibition on installation of natural gas for outdoor lighting fixtures), an exemption shall be granted only for replacement of a natural gas outdoor lighting fixture(s) that was installed prior to November 9, 1978. Such replacement shall include replacement of an extant fixture only.

(b) *Criteria.* The criteria for an exemption on the basis of memorial lighting shall be satisfied upon a finding that the specifically identified outdoor lighting fixture(s) directly contributes to preserving the memory of a deceased person or persons.

(3) **COMMERCIAL LIGHTING OF HISTORICAL SIGNIFICANCE.** (a) *Scope.* A person using natural gas outdoor lighting for commercial purposes may petition the public service commission for an exemption from the prohibitions set forth in PSC 136.02 (3) and (4) on the basis of historical significance. In the case of a petition for an exemption from the prohibition set forth in PSC 136.02 (3) of this rule (General prohibition on installation of natural gas outdoor lighting fixtures), an exemption shall be granted only for replacement of a natural gas outdoor lighting fixture(s) that was installed prior to November 9, 1978. Such replacement shall include:

1. Replacement of an extant original or reproduction fixture; or
2. Installation of an original or reproduction fixture to replace a fixture which existed during the life of the specified historic property.

(b) *Criteria.* The criteria for an exemption on the basis of historical significance shall be satisfied upon certification, by the petitioner, that the specifically identified natural gas outdoor lighting fixture(s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and upon a finding that the specifically identified historic property:

1. Is listed on the National Register of Historic Places maintained by the heritage conservation and recreation service, department of interior, or is officially determined eligible for listing by the secretary of interior, pursuant to the National Historic Preservation Act (16 U.S.C. 470 as amended), applicable regulations (36 CFR Parts 60 and 63), and Executive Order 11693; or
2. Is in a district whose state or local statutes are certified as providing adequate protection of historic places by the secretary of the department of interior, pursuant to the Tax Reform Act of 1976 (26 U.S.C. 191, 280B) and applicable regulations.

(c) *Stays.* An exemption request shall result in a stay from the prohibitions set forth in PSC 136.02 if:

1. The petitioner has certified that the specifically identified natural gas outdoor lighting fixture(s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and
2. An application is pending, before the department of interior, for inclusion in one of the categories specified in subdivs. 1. or 2. of paragraph (b) of this section.

(4) **SAFETY OF PERSONS AND PROPERTY.** (a) *Scope.* A local distribution company, a direct industrial customer, or an interested person, may pe-

tion the public service commission for an exemption from the prohibitions set forth in PSC 136.02(4) and (5) on the basis of the necessity to protect the safety of persons and property if such natural gas was being supplied on November 9, 1978.

(b) *Criteria.* The criteria for an exemption on the basis of the necessity to protect the safety of persons and property shall be satisfied upon a finding that:

1. Compliance with the prohibition would significantly increase the chances of bodily injury or damage to property;

2. Compliance with the prohibition would significantly increase the chances of the occurrence of crime; or

3. The lighting is necessary because other existing lighting does not provide lighting adequate to insure conformance with American National Standards Institute (ANSI) Standard No. D 12.1. "The American National Standard Practice for Roadway Lighting;" and

4. Would impose a substantial hardship on a person other than a local distribution company, a pipeline company, or a company that manufactures or supplies natural gas outdoor lighting fixtures, in terms of personal income or savings; or

5. Would not be justified by the savings likely to be accrued over the useful life of the substitute lighting facility.

(5) **TIME TO INSTALL SUBSTITUTE LIGHTING.** (a) *Scope.* A local distribution company, a direct industrial customer, or an interested person, may petition the public service commission for a temporary exemption from the prohibitions set forth in PSC 136.02(4) and (5). Such an exemption shall be on the basis of the time needed to permit the installation of substitute lighting where no adequate outdoor lighting (other than that using natural gas) exists, if such natural gas was being supplied on November 9, 1978.

(b) *Criteria.* The criteria for an exemption on the basis of time to install substitute lighting shall be satisfied upon a finding that:

1. No adequate outdoor lighting (other than that using natural gas) is available at the time the applicable prohibition became effective; and

2. The time required for installation of the substitute lighting will not extend beyond one year from the date the applicable prohibition became effective unless facts and circumstances warrant a longer period.

(6) **SUBSTANTIAL EXPENSE.** (a) *SCOPE.* A local distribution company, a direct industrial customer, or an interested person, may petition the public service commission for an exemption from the prohibitions set forth in PSC 136.02(4) and (5) on the basis of substantial expense which would not be cost justified, if such natural gas was being supplied on November 9, 1978.

(b) *Criteria.* The criteria for an exemption on the basis of substantial expense which would not be cost justified shall be satisfied upon a finding that compliance with the prohibitions set forth in PSC 136.02(4) and (5) would substantially and negatively affect the profit margin, return on investment, or rates of a local distribution company or direct industrial customer.

(7) **PUBLIC INTEREST.** A local distribution company, a direct industrial customer, or an interested person, may petition the public service commission for an exemption from the prohibitions set forth in PSC 136.02 (4) and (5) on the basis of the public interest and consistency with the purposes of the federal rule, if such natural gas was being supplied on November 9, 1978.

(b) *Criteria.* The criteria for an exemption on the basis of the public interest and consistency with the purposes of the Federal Rule shall be satisfied upon a finding that converting a specific natural gas outdoor lighting fixture (s) to substitute lighting would not reduce the use of natural gas.

*History:* Cr. Register, February, 1980, No. 290, eff. 3-1-80.

**PSC 136.05 Nonessential uses of natural gas.** (1) A utility or other person shall not install, connect, or cause to be installed or connected to the distribution system any device which constitutes a nonessential use of natural gas, in accordance with PSC 136.05 (3), unless such device has been received by any person prior to the effective date of this rule, including item inventories held by retailers and wholesalers.

(2) For purposes of determining a nonessential use of natural gas, the public service commission shall consider the following criteria:

(a) Necessity of use;

(b) Availability and reasonableness of alternative fuel to provide a substitute service;

(c) Public health, safety and unusual hardship factors; and

(d) Compatibility of natural gas use with energy policy.

(3) In accordance with the preceding criteria, the use of natural gas in the following devices or for the following purposes is considered to be nonessential:

(a) Gas lights;

(b) Snowmelting equipment;

(c) Residential swimming pool heaters, unless provided with an active solar system which uses a solar collector with a surface area of at least 50% of the pool's surface area;

(d) Gas logs; and

(e) Heating areas containing swimming pools, porches, workshops, garages or other areas of marginal or seasonal use unless insulated to energy conservation standards as specified in Ind 22 and Ind 63, Wis. Adm. Code.

(4) The rule designating a nonessential use of natural gas may be modified or waived by the commission for reasons of health, safety or unusual hardship.

*History:* Emerg. cr. eff. 11-2-79; cr. Register, February, 1980, No. 290, eff. 3-1-80.

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**PSC 136.10 Disconnection or refusal of service.** Gas service may be disconnected or refused for failure to comply with the regulations contained in this chapter as specified in PSC 134.062.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80.