

AUG 14 2000

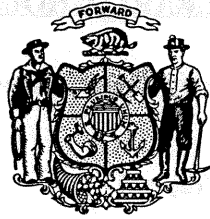
LCRC  
FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

**RULES CLEARINGHOUSE**

**Ronald Sklansky**  
Director  
(608) 266-1946

**Richard Sweet**  
Assistant Director  
(608) 266-2982



**Terry C. Anderson, Director**  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

---

**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 00-113**

AN ORDER to amend PSC 132.02 (3), relating to the definition of "public utility" and sewerage systems access to railroad rights-of-way.

Submitted by **PUBLIC SERVICE COMMISSION**

07-12-00 RECEIVED BY LEGISLATIVE COUNCIL.  
08-04-00 REPORT SENT TO AGENCY.

RS:WF;jal;rv

**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 STAFF

## RULES CLEARINGHOUSE

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



Terry C. Anderson  
Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 00-113

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 2. Form, Style and Placement in Administrative Code

- a. The treatment clause of SECTION 1 should read: "PSC 132.02 (3) is amended to read:".
- b. The citations in s. PSC 132.02 (3) should be stated in the following form: "s. 196.01 (5), Stats."
- c. The citation to s. 66.082 (2) (b), Stats., should be amended to reflect the recodification of ch. 66, Stats., in 1999 Wisconsin Act 150.

**DATE MAILED**  
JUL 7 2000

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

Rule Amendment to Add Sewerage Systems to Wis. Admin.  
Code ch. PSC 132

1-AC-195

**NOTICE OF RULEMAKING**

The Public Service Commission of Wisconsin proposes an order to amend Wis. Admin. Code § PSC 132.02(3), relating to ch. PSC 132's definition of "public utility" and sewerage systems access to railroad rights-of-way consistent with statutory change embodied in 1999 Wis. Act 9, §§ 2311q and 2311s.

**ANALYSIS PREPARED BY THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Statutory authority: Wis. Stat. §§ 196.02(1) and (3), 196.04(4), and 227.11(2)  
Statute interpreted: Wis. Stat. § 196.04(4)

Wis. Stat. § 196.04(4), permits the Commission, under certain circumstances, to order the extension of a public utility, telecommunications provider, sewerage system operator or cable operator's lines on, over or under the right-of-way of any railroad, or require the tracks of any railroad be extended on, over or under the right-of-way of any public utility, telecommunications provider, sewerage system operator or cable operator. The Commission is required to prescribe conditions and compensation that are equitable and reasonable under the circumstances.

Chapter PSC 132 was created to set forth the compensation to be paid and conditions to be met by the above-described entities for the construction or maintenance of facilities within a railroad right-of-way in cases where the entity and the railroad cannot agree.

A Statement of Scope on this rule was approved by the Commission on May 4, 2000, and was published in the Wisconsin Administrative Register on May 31, 2000.

**TEXT OF PROPOSED RULE**

SECTION 1. PSC 132.02(3) shall be amended to read:

(3) "Public utility" has the meaning given in Wis. Stat. § 196.01(5), and includes a "telecommunications provider," as defined in Wis. Stat. § 196.01(8p), and a "cable operator," as defined in Wis. Stat. § 66.082(2)(b), and a "sewerage system operator" as defined in Wis. Stat. § 196.04(4)(a)2.

**INITIAL REGULATORY FLEXIBILITY ANALYSIS**

The proposed rules would apply to the entities defined in Wis. Stat. § 196.04(4). The proposed rules do not affect small businesses as defined in Wis. Stat. § 227.114.

**FISCAL ESTIMATE**

This rule change has no fiscal impact independent of that of the legislation change that necessitates it. A completed Fiscal Estimate form is included as Attachment A.

**EFFECTIVE DATE**

These rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in Wis. Stat. § 227.22(2)(intro.).

**NOTICE THAT THERE WILL BE NO HEARING**

**NOTICE IS HEREBY GIVEN** that pursuant to Wis. Stat. § 227.16(2)(b), the Commission will not hold a public hearing on the proposed rule change since it merely brings an existing rule into conformity with a statute that has been changed.

**CONTACT PERSON**

Questions regarding this matter should be directed to Bruce Schmidt at (608) 266-5726, or by email at [schmib@psc.state.wi.us](mailto:schmib@psc.state.wi.us). Hearing or speech-impaired individuals may also use the Commission's TTY number, (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 to get this document in a different format should contact Bruce Schmidt, as indicated in the previous paragraph, as soon as possible.

Dated at Madison, Wisconsin

July 6, 2000

By the Commission.

Lynda L. Dorr  
Lynda L. Dorr

Secretary to the Commission

2000 Session

LRB or Bill No./Adm. Rule No.  
1-AC-195

Amendment No. if Applicable

**FISCAL ESTIMATE**

DOA-2048 N(R10/96)

- ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

**Subject**

Add Sewerage Systems to Ch. PSC 132

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

- Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No  
 Decrease Costs

Local:  No local government costs

1.  Increase Costs  
 Permissive       Mandatory  
2.  Decrease Costs  
 Permissive       Mandatory

3.  Increase Revenues  
 Permissive       Mandatory  
4.  Decrease Revenues  
 Permissive       Mandatory

5. Types of Local Governmental Units Affected:  
 Towns       Villages       Cities  
 Counties       Others \_\_\_\_\_  
 School Districts       WTCS Districts

**Fund Sources Affected**

- GPR     FED     PRO     PRS     SEG     SEG-S

**Affected Ch. 20 Appropriations**

20.155(l)(g)

**Assumptions Used in Arriving at Fiscal Estimate**

This rule would add sewerage systems to the definition of "public utility" in Chapter PSC 132. Chapter PSC 132 sets forth the compensation to be paid and conditions to be met by a "public utility" for the construction or maintenance of facilities within a railroad right-of-way in cases where the utility and railroad cannot agree. This change is not expected to add costs to the operation of either state or local government.

**Long-Range Fiscal Implications**

Agency/Prepared by: (Name & Phone No.)

PSC/Bruce Schmidt      266-5726

Authorized Signature/Telephone No.

*Jordan Grant*      267-9086

Date

6/20/2000