

RULES CLEARINGHOUSE

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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 98-194

AN ORDER to create chapter PSC 183, relating to requirements for joint local water authorities.

Submitted by **PUBLIC SERVICE COMMISSION**

12-08-98 RECEIVED BY LEGISLATIVE COUNCIL.

01-08-99 REPORT SENT TO AGENCY.

RNS:DLL:kjf:jt

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)]

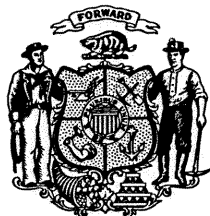
Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

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CLEARINGHOUSE RULE 98-194

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 arrangement of the rule-making order is out of order. In particular, the treatment clause of SECTION 1 should read: "SECTION 1. Chapter PSC 183 is created to read:" and the text of the new chapter should follow immediately thereafter, not in an appendix. [See s. 1.02, Manual.]

b. The acronym "PSC" should precede each section number in ch. PSC 183.

c. Section PSC 183.01 could be simplified as follows: "**183.01 Application of chapter.** This chapter applies to authorities. This chapter does not apply to public utilities." [See s. 1.07 (1) (a) and (2), Manual.]

d. Section PSC 183.02 (intro.) does not conform grammatically with the following subunits. A standard introduction to definitions is the simple phrase "In this chapter:". [See s. 1.01 (7) (a), Manual.]

e. Section 66.0735, Stats., does not define the term "joint local water authority." Consequently, in PSC 183.02 (1), the phrase "as defined by s. 66.0375, Stats.," should be replaced by the phrase "created under s. 66.0735 (3), Stats.".

f. In s. PSC 183.02 (2), the phrase "specific formal authorization" should be replaced by the more specific term "certificate of public convenience and necessity," since that is the

specific authorization called for under s. 66.0735 (8), Stats., and that is the way it is referred to elsewhere in the rule.

g. In s. PSC 183.02 (3), the word "of" should be replaced by the phrase "given in."
[See s. 1.01 (7) (c), Manual.]

h. Since there is only one subsection in s. PSC 183.03, the introduction to that subsection should be s. PSC 183.03 (intro.) and the paragraphs of that section should be numbered as subsections of s. PSC 183.03.

i. Once a term has been defined, the term should be used consistently throughout the rule, rather than using a longer descriptive term. Consequently, throughout the rule, the phrase "certificate of public convenience and necessity" should be replaced by the defined term "certificate." In the alternative, if the agency wishes to use the full term consistently throughout the rule, the definition of "certificate" should be deleted.

j. Section PSC 183.04 (1) uses the introduction and list format incorrectly to describe a sequential process. [See s. 1.03 (8) Manual.] This text should be presented as a single narrative subsection, such as the following:

Upon receipt of an application under s. PSC 183.02 (2), the commission shall review the application and determine if the proposal requires a hearing. After the hearing or after the determination that no hearing is required, the commission shall either issue a certificate pursuant to s. 66.0735 (8) (c), Stats., or deny the application for a certificate pursuant to s. 66.0735 (8) (b), Stats.

k. In s. PSC 183.04 (2), "commission" should replace "Commission" in two places.

DATE MAILED
DECEMBER 4, 1998

RECEIVED
DEC 04 1998
DIV. OF WATER, COMPLIANCE
AND CONSUMER AFFAIRS

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Rules Implementing § 66.0735(8), Stats.; Certification of Public
Convenience and Necessity Before Construction Debt is Issued
for a Joint Local Water Authority

1-AC-178

**NOTICE OF RULEMAKING HEARING AND
REQUEST FOR COMMENTS**

Comments Due: January 14, 1999 – Noon	Address Comments To: Lynda L. Dorr Secretary to the Commission Public Service Commission P.O. Box 7854 Madison, WI 53707-7854 Fax: (608) 266-3957
FAX Due Date: January 13, 1999 – Noon	

To create ch. PSC 183, Wis. Admin. Code: Requirements for Joint Local Water

PSC 183.03, Requirements of joint local water authorities before proceeding to issue bonds for a project. Specifies the information which must be submitted by a joint local water authority in order to receive Public Service Commission approval to construct a project which requires bonding.

PSC 183.04. Commission review of information submitted. Specifies the course of conduct to be followed by the Public Service Commission in considering an application to construct a project by a joint local water authority, including a 90-day limitation on Commission action.

PROPOSED RULES AND STATUTORY AUTHORITY

Pursuant to authority vested in the Public Service Commission by ss. 66.0735(8) and 227.11(2), Stats., and interpreting those provisions, the Public Service Commission proposes to adopt as rules ch. PSC 183, Wis. Admin. Code, as follows:

SECTION 1: Chapter PSC 183 is adopted as contained in the attached Appendix.

FISCAL ESTIMATE AND INITIAL REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse fiscal impact of these proposed rules on state or local units of government. In an effort to minimize the impact of the rules on small businesses, as defined in s. 227.114(1)(a), Stats., the Commission requested and received input from a number of municipalities, as well as their professional associations. The Commission sees no burden at all on small businesses as a result of these rules since these rules require compliance only by municipalities. Additional input on this issue is invited by correspondence or by appearance at the hearing noticed below.

EFFECTIVE DATE

The rules will become effective on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22, Stats.

ENVIRONMENTAL ANALYSIS

This is a Type III action under s. PSC 4.10(3), Wis. Admin. Code. No unusual circumstances suggesting the likelihood of significant environmental consequences have come to the Commission's attention. Neither an environmental impact statement under s. 1.11, Stats., nor an environmental assessment is required.

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Public Service Commission will hold public hearing with respect to these proposed rules at 1:30 p.m. on January 8, 1999 in the Amnicon Falls Hearing Room (Room 1300) at the Public Service Commission Building, 610 North Whitney Way, Madison, WI.

Docket I-AC-178

NOTICE IS FURTHER GIVEN that the building at 610 North Whitney Way is accessible to people in wheelchairs through the main floor entrance (lobby) on the Whitney Way side of the building. Any person with a disability who needs additional accommodations should contact the staff person noted below.

NOTICE IS FURTHER GIVEN that the Commission requests comments on this proposed rulemaking. Any party that desires to file comments should submit an **original and 15 copies** addressed as noted above. Comments are due at the Commission no later than **noon on January 14, 1999**. Comments filed by fax are due no later than noon on January 13, 1999. Fax filing cover sheets must state "**Official Filing**" and the number of pages (limit 20 pages). All correspondence should reference docket number I-AC-178. File by one mode only.

Questions regarding the hearing may be directed to Douglas Sorge at (608) 267-3799.

Dated at Madison, Wisconsin, December 3, 1998

By the Commission:



Lynda L. Dorr
Secretary to the Commission

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Appendix

Chapter PSC 183

JOINT LOCAL WATER AUTHORITIES

PSC 183.01	Application of rules
PSC 183.02	Definitions
PSC 183.03	Requirements for joint local water authorities before proceeding to issue bonds for a project
PSC 183.04	Commission review of information submitted

183.01 Application of rules. The rules in ch. PSC 183 shall apply to joint local water authorities as defined by s. 66.0735, Stats. The rules do not apply to any public utility.

183.02 Definitions. The following terms as used in this chapter mean:

(1) "Authority" means joint local water authority as defined by s. 66.0735, Stats.

(2) "Certificate" means a specific formal authorization granted by the commission pursuant to s. 66.0735(8), Stats.

(3) "Project" has the meaning of s. 66.0735(2)(g), Stats.

183.03 Requirements for joint local water authorities before proceeding to issue bonds for a project.

(1) Every authority shall submit the following information in an application for a certificate of public convenience and necessity that is required before the authority may issue bonds:

(a) A description of the project for which bonds are being issued, including a map showing proposed and existing facilities, and the location of floodplain areas.

(b) Information concerning applicable environmental factors for affected lands, such as land use zoning, forest lands, rivers, streams and wetlands.

(c) Any other environmental screening information that the commission staff requests.

(d) The purpose and necessity of the project, with supporting data including project start and end dates.

(e) The effect of the project on quality and reliability of service.

(f) A brief description and analysis of the alternatives to the project.

- (g) The cost of the project by major plant categories or functions.
- (h) The proposed method of financing the project including all terms and conditions.
- (i) The estimated annual operating costs of the project, by major expense categories and functions.
- (j) A description of and the original cost of any property being replaced, by major plant categories or functions.

183.04 Commission review of information submitted.

- (1) Upon receipt of an application for a certificate identified in s. PSC 183.02 (2), the commission shall review the application and:
 - (a) determine if the proposal in the application requires a hearing. After the hearing, or after the determination that no hearing is required,
 - (b) issue a certificate of public convenience and necessity pursuant to s. 66.0735(8)(c), Stats., or
 - (c) deny the application for a certificate of public convenience and necessity pursuant to s. 66.0735(8)(b), Stats.
- (2) The Commission shall grant or deny the application within 90 days of the date the application is received, unless extended by the Commission for good cause.