

2011 DRAFTING REQUEST

Bill

Received: **05/12/2011**

Received By: **mkunkel**

Wanted: **As time permits**

Companion to LRB:

For: **Public Service Commission**

By/Representing: **John Lorence**

May Contact:

Drafter: **mkunkel**

Subject: **Public Util. - gas and water**

Addl. Drafters:

Extra Copies: **TKK**

Submit via email: **YES**

Requester's email: **John.Lorence@wisconsin.gov**

Carbon copy (CC:) to: **Lori.Sakk@wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Repeal requirements for nonessential use of natural gas

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	mkunkel 05/12/2011	edt_sbasford 05/16/2011	mduchek 05/16/2011	_____	lparisi 05/16/2011		
/2	mkunkel 05/17/2011	jdye 05/17/2011	jfrantze 05/17/2011	_____	sbasford 05/17/2011	sbasford 08/05/2011	

FE Sent For: *none*

<END>

*Sent to
Rep. Honadel
per attached
request*

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	05/12/2011	05/16/2011	05/16/2011		05/16/2011		

Handwritten notes: 125/17 jld 9/5/17

FE Sent For:

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/?	mkunkel	1 SBB 5/12	MD S/B	==			
FE Sent For:		1 SBB 13 jld					<END>

Kunkel, Mark

From: Lorence, John - PSC [John.Lorence@wisconsin.gov]

Sent: Thursday, May 12, 2011 10:15 AM

To: Kunkel, Mark

Subject: RE: Repeal of s. 196.97

Ok by me then. I will see the analysis when we get the draft, so we can talk then if necessary.

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]

Sent: Thursday, May 12, 2011 10:13 AM

To: Lorence, John - PSC

Subject: RE: Repeal of s. 196.97

Correct, it isn't typical, but it looks like it would make things clearer for Bruce.

From: Lorence, John - PSC [mailto:John.Lorence@wisconsin.gov]

Sent: Thursday, May 12, 2011 10:10 AM

To: Kunkel, Mark

Subject: RE: Repeal of s. 196.97

I go both ways. It certainly is not typical to cite a rule, is it?

think if we have it in the drafting file for legislative intent that we will not enforce the rule upon repeal, and if Hoesly add a note to the Code, we are probably covered. But if you want to reference the rule, I suspect that is OK.

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]

Sent: Thursday, May 12, 2011 10:06 AM

To: Lorence, John - PSC

Subject: RE: Repeal of s. 196.97

Yeah, I just found my note from yesterday in which you said it was s. PSC 136.05. Do you have any opinion on whether we should cite it in the analysis?

From: Lorence, John - PSC [mailto:John.Lorence@wisconsin.gov]

Sent: Thursday, May 12, 2011 9:59 AM

To: Kunkel, Mark

Subject: RE: Repeal of s. 196.97

Wis. Admin. Code s. PSC 136.05. If anything else, it would be in ch. PSC 136, but I don't see anything on a very quick review.

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]

Sent: Thursday, May 12, 2011 9:53 AM

To: Lorence, John - PSC

5/12/2011

Subject: Repeal of s. 196.97

John:

I was talking to Bruce Hoesly about this request, and he seems to think it would be helpful to him if we cite the specific rules at issue in the analysis. If the bill were enacted, he'd know which rules are at issue, and he could put a note in the Wis Admin Code that, until the PSC actually repeals the rules, would alert the reader that the rules have no effect, as the statute authorizing the rules was repealed. I'm not sure exactly how he would word the note, but it would be something to that effect.

Of course, the above approach works only if I can identify all of the specific rules at issue, which may or may not work from your standpoint. I realize that ch. PSC 136 is the relevant chapter, but I don't know if all or only some parts of that chapter are relevant. It's also possible that a specific rule might pertain to s. 196.97 and some other statute, so maybe this approach wouldn't work afterall.

Let me know what you think about this. If it turns out that, for your purposes, you prefer not cite the rules in the analysis, that would be okay by me.

-- Mark

Kunkel, Mark

From: Kunkel, Mark
Sent: Thursday, May 12, 2011 10:17 AM
To: Kunkel, Mark
Subject: PSC request

John Lorence called yesterday to request a bill repealing s. 196.197 (nonessential uses of natural gas). That statute requires the PSC to promulgate rules for approving nonessential uses. However, the PSC routinely approves nonessential uses, and the statute is no longer necessary.

John said that if the bill is enacted, the PSC would not enforce the rules and would take steps to repeal the rules, as the rules would no longer have any legal effect.

Note: make sure to cc John and Lori Sakk on enter request sheet

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

(a) Design heat loss, excluding infiltration and ventilation, through above-grade gross walls and roofs facing heated interiors shall not exceed 13 BTU per hour per square foot for the total building envelope;

(b) If a building exceeds the heat loss of par. (a), the building may receive gas service provided that it demonstrates additional innovative building or system designs that will reduce fuel consumption to a level equal to or less than fuel consumption which results from complying with par. (a);

(c) All exterior windows and doors shall be designed to limit leakage into or from the building and shall be weatherstripped; and

(d) Special use buildings such as greenhouses, inflatable structures, and the like, or any building exempt from the heating and ventilating requirements of ch. Comm 63 are exempt from these requirements.

(5) Prior to rendering natural gas spaceheating service to an existing rental unit, as defined in s. Comm 67.04 (27), which is converting to natural gas spaceheating, each utility shall inform the rental unit owner of the additional conservation requirements of s. Comm 67.05. The requirement of this subsection is in addition to subs. (3) and (4).

Note: Section Comm 67.04 (27) no longer exists, eff. 5-1-08.

History: Emerg. cr. eff. 5-2-80; cr. Register, January, 1981, No. 301, eff. 2-1-81; cr. (5), Register, December, 1983, No. 336, eff. 1-1-84; reprinted to correct error, Register, June, 1984, No. 342; am. (3), Register, February, 1985, No. 350, eff. 3-1-85; corrections in (3) (h) and (4) (d) made under s. 13.93 (2m) (b) 7., Stats., Register, December 2003, No. 576; CR 06-046: r. (1) (a), (g) and (j), am. (1) (b) to (f), (h) and (i) Register April 2007 No. 616, eff. 5-1-07; correction in (5) made under s. 13.93 (2m) (b) 7., Stats., Register April 2007 No. 616.

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 sub. (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 a passive solar blanket which covers the entire surface of the pool or an active solar system which uses a solar collector with a surface area of at least 50% of the pool's surface area; and

(d) 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 chs. Comm 22 and 63.

(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: Cr. Register, February, 1980, No. 290, eff. 3-1-80; am. (3) (c), Register, January, 1982, No. 313, eff. 2-1-82; am. (3) (c), r. (3) (d), renum. (3) (c) to be (3) (d), Register, March, 1982, No. 315, eff. 4-1-82; correction in (3) (d) made under s. 13.93 (2m) (b) 7., Stats., Register, December 2003, No. 576.

PSC 136.06 Conservation standards for conversion of an existing residential structure to an electric spaceheating system. (1) The provisions of this section

shall apply only to those investor-owned utilities set forth below:

- (a) Lake Superior district power company
- (b) Madison gas and electric company
- (c) Northern states power company
- (d) Superior water, light and power company
- (e) Wisconsin electric power company
- (f) Wisconsin power and light company
- (g) Wisconsin public service corporation

(2) Nothing in s. PSC 136.06 shall preclude special and individual consideration being given to exceptional or unusual situations. The rule may be modified or waived by the public service commission in particular cases whenever it is shown to be impracticable for special reasons. Upon due investigation of the facts and circumstances involved and after hearing if required, the commission may order requirements as to individual utilities or service which shall be lesser, greater, other, or different from those provided in the rules of this section.

(3) Before electric spaceheating service may be furnished to an existing residential structure converting to an electric spaceheating system, each utility listed in sub. (1) shall perform an energy audit and require that the following conservation standards be met:

(a) *Ceiling or attic.* If the structure has ceiling or attic insulating material with insulation value less than R-19, the customer shall install insulation to a level of R-38. If inadequate space exists between ceiling and roof to install insulation to the level of R-38, then the customer shall install as much insulation as space permits.

Note: If the structure's ceiling or attic is insulated to a value of not less than R-11 and the customer chooses to add batt insulation, the additional insulation need only have a value of R-19.

(b) *Sill box.* Sill box area insulation shall be installed to a level of R-19, unless physically impractical.

(c) *Floor.* In accessible areas, floor insulation over vented crawl spaces or unheated basements shall be installed to a level of R-19. In heated crawl spaces, insulation with an R factor of 5 shall be installed on the walls.

(d) *Unheated areas.* In unheated areas, insulation shall be installed on all heating ducts, cold air returns, and hot water pipes.

(e) *Windows.* Windows shall be double-glazed or have storms.

(f) *Outside doors.* Each door exposed to the outside atmosphere shall have a storm door or equivalent insulated door.

(g) *Weatherstripping and caulking.* Weatherstripping shall be installed on all movable doors and windows exposed to an unheated space. Caulking shall be installed whenever two different materials or parts of a structure meet, such as areas around chimney openings, around windows and doors, and similar areas.

(h) *Side walls.* Where no insulation exists in accessible outside walls, side wall insulation of R-11 shall be installed.

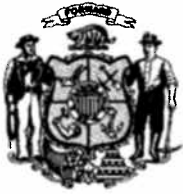
(i) *Ventilation.* A free ventilating area of not less than 1/300 of the horizontal area shall be installed above ceiling or attic insulation.

Note: One-half of venting near the eaves and the other half near the top of the roof is recommended. Where no vapor barrier is present, a free ventilating area of not less than 1/150 of the horizontal area is recommended.

(j) *Substituted standards.* For existing residential structures unable to meet the conversion standards required by this section, other methods of energy conservation may be substituted if the energy savings are equivalent. Substitutions shall be based on heat loss calculations performed by the utility.

History: Cr. Register, February, 1985, No. 350, eff. 3-1-85.

PSC 136.10 Disconnection or refusal of service. Gas or electric service may be disconnected or refused for fail-



JLD

2011 BILL

4

Gen cat

1 AN ACT ...; relating to: repealing a prohibition on certain nonessential uses of
2 natural gas.✓

Analysis by the Legislative Reference Bureau

*

With certain exceptions, current law prohibits any person, including a gas utility doing business in this state, from installing or connecting to a distribution system any device that constitutes a nonessential use of natural gas.✓ Current law requires the Public Service Commission (PSC)✓ to specify by rule the criteria for determining what constitutes such a nonessential use for purposes of the prohibition.✓ Current law also allows the PSC to provide for exemptions from the prohibition for reasons of health, safety, or unusual hardship.✓ The PSC has promulgated the required rule as section PSC 136.05, Wis. Adm. Code.✓

This bill repeals the prohibition and related requirements, including the PSC's rule-making authority.✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

X

3 SECTION 1. 196.97 of the statutes is repealed.

4 (END)

Kunkel, Mark

From: Lorence, John - PSC [John.Lorence@wisconsin.gov]
Sent: Tuesday, May 17, 2011 9:13 AM
To: Kunkel, Mark
Subject: RE: Draft review: LRB 11-2077/1 Topic: Repeal requirements for nonessential use of natural gas
 That sounds better. Thanks.

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Tuesday, May 17, 2011 9:12 AM
To: Lorence, John - PSC
Subject: RE: Draft review: LRB 11-2077/1 Topic: Repeal requirements for nonessential use of natural gas

Your suggestion sounds okay to me, so I'll make a change to the analysis. I'll probably say, "rule-making regarding that prohibition" instead of "rule-making under that section". Or something like that.

From: Lorence, John - PSC [mailto:John.Lorence@wisconsin.gov]
Sent: Tuesday, May 17, 2011 8:52 AM
To: Kunkel, Mark
Subject: FW: Draft review: LRB 11-2077/1 Topic: Repeal requirements for nonessential use of natural gas

Hi, Mark;

Thanks much for the quick turn-around. I have one small question. I am loath to suggest any changes to an analysis, but I guess I would offer a small suggestion for your consideration. The last sentence says the bill repeals our rulemaking authority. Is it clear that this refers to only the rulemaking authority under the section being repealed? Maybe it would read better if it said something like:

This bill repeals the prohibition and related requirements, including the PSC's rule-making requirement under that section.

Again, feel free to ignore this if you want or to do something different. I defer to you completely.

From: Parisi, Lori [mailto:Lori.Paris@legis.wisconsin.gov]
Sent: Monday, May 16, 2011 4:38 PM
To: Lorence, John - PSC
Subject: Draft review: LRB 11-2077/1 Topic: Repeal requirements for nonessential use of natural gas

State of Wisconsin - Legislative Reference Bureau
 One East Main Street - Suite 200 - Madison

The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent. If you have any questions concerning the draft or would like to have it redrafted, please contact Mark D. Kunkel, Senior Attorney, at (608) 266-0131, at

5/17/2011

mark.kunkel@legis.wisconsin.gov, or at One East Main Street, Suite 200.

If you would like to jacket the draft for introduction, please click on the appropriate button below. Please select only one button. If you wish to introduce this draft in both houses please contact the drafting attorney to have a companion bill drafted.

**Jacket for the
ASSEMBLY**

**Jacket for the
SENATE**

Please allow one day for jacketing. If this is a "rush" please make a note in your response e-mail so we are aware that we need to give this request a high priority.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will submit a request to DOA when the draft is introduced. You may obtain a fiscal estimate on the draft prior to introduction by contacting our program assistants at LRB.Legal@legis.wisconsin.gov or at (608) 266-3561. If you requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on the current version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.

Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.

Lori Parisi
Program Assistant
State of WI Legislative Reference Bureau
1 East Main Suite 200
Madison, WI., 53703
Phone(608)266-3561 Fax(608)264-6948



Soon
IN 5-17

RM has
been
run

2011 BILL

X

Regen

1 AN ACT *to repeal* 196.97 of the statutes; **relating to:** repealing a prohibition on
2 certain nonessential uses of natural gas.

Analysis by the Legislative Reference Bureau

With certain exceptions, current law prohibits any person, including a gas utility doing business in this state, from installing or connecting to a distribution system any device that constitutes a nonessential use of natural gas. Current law requires the Public Service Commission (PSC) to specify by rule the criteria for determining what constitutes such a nonessential use for purposes of the prohibition. Current law also allows the PSC to provide for exemptions from the prohibition for reasons of health, safety, or unusual hardship. The PSC has promulgated the required rule as section PSC 136.05, Wis. Adm. Code.

* This bill repeals the prohibition and related requirements, including the PSC's rule-making authority *regarding the prohibition*

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 196.97 of the statutes is repealed.

4 (END)

Basford, Sarah

From: Vick, Jason
Sent: Thursday, August 04, 2011 11:27 AM
To: LRB.Legal
Subject: LRB 2077/2

Rep. Honadel has been working with PSC on a bill draft and our office received LRB 2077/2 from them. Rep. Honadel would like to request to have that bill draft jacketed for his office.

Thanks,

Jason Vick

Office of Rep. Mark Honadel
21st Assembly District
608-266-0611

8/4
Called John Lawrence @ PSC
Confirmed this is OK.