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Chapter PSC 184

CONSTRUCTION OF AND PLACING INTO OPERATION OF WATER AND SEWER FACILITIES

PSC 184.01 Scope.
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History: Chapter PSC 184 as it appeared on October 31, 1974 was repealed and a new chapter PSC 184 was created effective November 1, 1974; Chapter PSC 184 as it appeared on July 31, 2012 was repealed and a new chapter PSC 184 was created effective August 1, 2012.

PSC 184.01 Scope. (1) APPLICABILITY. This chapter applies to a utility.

(2) INDIVIDUAL SITUATIONS. Nothing in this chapter precludes the commission from giving individual consideration to exceptional or unusual situations or, upon investigation, from establishing requirements for a utility or service that are different from those provided in this chapter.

History: CR 11-039: cr. Register July 2012 No. 679, eff. 8-1-12.

PSC 184.02 Definitions. In this chapter:

(1) "Acquire" means the acquisition of plant in place and ready for operation, but does not include the purchase of materials or equipment for later installation.

(2) "Certificate" means a certificate issued by the commission under ss. 196.49 or 196.50, Stats.

(3) "Commission" means the public service commission.

(4) "Department" means the department of natural resources.

(5) "Municipality" means a city, village or town.

(6) "Plant" means all equipment, property, or facilities included in the utility plant accounts under the uniform system of accounts prescribed by the commission.

(7) "Project cost" means the total estimated costs of a proposed project including land acquisition, construction, pilot testing, test wells, inspection, and fees for professional services.

(8) "Service area" means the geographic area within which a utility has an obligation to provide service.

(9) "Utility" means a water public utility, as defined in s. 196.01 (5) (a), Stats., a combined water and sewer public utility under s. 66.0819, Stats., or any person, except a governmental unit, who furnishes service to or for the public by means of a sewerage system, as defined in s. 281.01 (14), Stats.

History: CR 11-039: cr. Register July 2012 No. 679, eff. 8-1-12.

PSC 184.03 Activities requiring commission authorization. (1) NEW UTILITY. A person intending to operate as a utility may not begin construction of, install, or place in operation any facilities for furnishing water or sewer service in a municipality in which the person is not currently furnishing water or sewer service as a utility without the commission's prior approval.

(2) EXPANSION, ACQUISITION, AND INTERCONNECTION. A utility shall obtain a certificate from the commission before undertaking any of the following:

(a) Constructing facilities or initiating service in a municipality not currently served by the utility.

(b) Constructing facilities or initiating service in a service area of another utility.

(c) Acquiring or placing in operation existing facilities for furnishing water or sewer service obtained from another person or utility.

(d) Establishing an interconnection with another utility with which it has no existing interconnection.

(e) Combining or consolidating with another utility.

(3) CONSTRUCTION OF FACILITIES. (a) A utility shall obtain a certificate from the commission before constructing, purchasing, installing, modifying, replacing, or placing in operation any plant not exempt under sub. (4) if the project cost exceeds the cost threshold specified in s. 196.49 (5g) (ar), Stats., as revised under par. (b).

Note: Examples of projects that typically require a certificate include all of the following:

1. Groundwater wells, surface water intakes, and other sources of water supply.
2. Water treatment, purification, and disinfection facilities.
3. Elevated tanks, reservoirs, and other storage facilities.
4. Pumping stations, pressure-reducing stations, and associated facilities.
5. Utility buildings.
6. Utility main if a portion of the main is located outside of the utility's service area or if the main is eight inches or greater in nominal diameter and three or more miles long.
7. Sewer facilities, including any pumping facilities or sewage treatment and disposal plant.

(b) Beginning on May 1, 2014, and on May 1 of each successive even-numbered year thereafter, the commission shall adjust the cost thresholds in s. 196.49 (5g) (ar), Stats., to reflect changes to the cost of water utility construction based on the applicable industry cost index numbers published in the "Handy-Whitman Index of Public Utility Construction Costs."

(c) The commission shall notify all water utilities of the resulting adjusted cost limits by May 15 of each even-numbered year and shall publicize the adjusted cost limits on the commission's website. If the Handy-Whitman Index is no longer available, an equivalent successor index may be used which is generally recognized by the water industry and acceptable to the commission.

Note: The commission maintains or has access to the Handy-Whitman Index of Public Utility Construction Costs and this reference or a copy may be reviewed by contacting the commission's offices.

(4) CERTIFICATE NOT REQUIRED. Notwithstanding sub. (3), a utility does not need a certificate to do any of the following:

(a) Install, replace, or repair a utility main, unless one of the following applies:

1. A portion of the main is located outside of the utility's service area.

2. The main is eight inches or greater in nominal diameter and three or more miles long.

(b) Install, replace, or repair service laterals, hydrants, or valves within the utility's service area.

(c) Meter installation, repair, or replacement.

(d) Install, replace, or repair supervisory control and data acquisition (SCADA) systems, telemetry equipment, or other electronic monitoring and control systems.

(e) Replace or repair existing pumps, motors, or associated equipment.

(f) Conduct routine maintenance or repair to utility facilities, including buildings used for utility purposes.

(g) Replace or repair filtration media used in existing water treatment purification and disinfection facilities.

(h) Install plant in accordance with filed extension rules and rates.

(i) Install plant in compliance with a commission order.

(j) Relocate or modify existing plant to accommodate highway or airport construction.

(k) Acquire vehicles or other movable equipment.

History: CR 11-039: cr. Register July 2012 No. 679, eff. 8-1-12; CR 14-053: renum. (3) to (3) (a) and am., cr. (3) (b), (c) Register April 2015 No. 712, eff. 5-1-15; correction in (3) (a), (b) made under s. 13.92 (4) (b) 7., Stats., Register January 2017 No. 733; 2021 Wis. Act 86: am. (4) (c) Register November 2021 No. 791, eff. 12-1-21.

PSC 184.04 Applications for commission authorization. (1) TIMING AND COST INCREASES. (a) For any project requiring commission authorization under s. PSC 184.03, a person or utility shall submit the information required in this section at least 90 days, but no earlier than 2 years, before beginning the project.

(b) For any project receiving commission authorization under s. PSC 184.05 that is not begun within 2 years from the date of the authorization, a utility shall notify the commission of revised project costs, the schedule for completion, and any other changes to the proposed project. The commission may reconsider its authorization for a revised project under s. PSC 184.05.

(c) If the scope, design, or location of a project receiving commission authorization under s. PSC 184.05 changes significantly, or if it is discovered or identified that the project cost may exceed the estimated project cost by more than 10 percent, the utility shall promptly notify the commission as soon as the utility becomes aware of the possible change or cost increase. The commission may reconsider its authorization for a revised project under s. PSC 184.05.

(2) CONSULTATION. For projects subject to s. 196.025 (2m), Stats., before submitting an application for a certificate, a utility shall consult with commission staff, in cooperation with staff from the department, on the scope of the proposed project, the alternatives that must be considered in the application, and additional information that the commission may require as part of the application.

(3) CONTENTS OF APPLICATION. A person or utility seeking authorization for any activity under s. PSC 184.03 (1) and (2) or a utility seeking a certificate under s. PSC 184.03 (3) shall submit an application to the commission that includes all of the following, where applicable:

(a) A description of the project including all project components, phases, and a schedule of construction.

(b) Information supporting the purpose and necessity of the project.

(c) An analysis and description of alternatives to the project.

(d) An analysis of the effect of the project on the quality and reliability of service.

(e) The project cost itemized by major plant accounts as identified in the uniform system of accounts, including all administrative, overhead, engineering, legal, construction, and inspection costs.

(f) Identification of the proposed project funding sources, including utility or municipal sources and outside grants or loans. If the project will be financed, the utility shall include expected financing rates and terms.

(g) An estimate of annual operating costs of the project, by major expense accounts as identified in the uniform system of accounts.

(h) A description of any plant being retired or replaced and the year it was placed in service, if known.

(i) A map showing the location of the project and all proposed facilities by Public Land Survey System (PLSS) quarter-quarter section or by another methodology approved by the commission.

(j) A list of any permits or approvals required by other state agencies or local governmental units and a statement indicating whether the permits or approvals have been applied for or obtained.

(k) For a project under s. PSC 184.03 (3), that includes new or expanded groundwater wells, surface water intakes, or other sources of water supply, information on any action the utility has taken to mitigate the need for the project.

(L) The identification of any flood-sensitive facilities that would be located in designated flood plains or flood-prone areas.

(m) For utility main construction projects, include all of the following:

1. The identification and description of each surface water potentially affected by construction.

2. The identification and description of each wetland potentially affected by construction.

3. An evaluation of whether any endangered or threatened species are present and what affect the project could have on those species. For each species identified, describe how the proposed project may be modified to reduce or eliminate any potential effect on the species.

4. An evaluation of whether any known archeological or historical resources are present. For each resource identified, describe how the proposed project may be modified to reduce or eliminate any potential effect on the resource.

(n) Information to allow the commission to prepare an environmental assessment for a project subject to s. PSC 4.10 (2), or for a project that require coordinated commission and department review under s. 30.025, Stats. After consultation with the applicant, the commission shall identify any additional information required on a case-by-case basis.

(p) Any other information relevant to the project requested by the commission.

(4) GROUPING OF PROJECTS. As an alternative to requesting a certificate for each project separately, a utility may submit on an annual basis a list of projects requiring approval under s. PSC 184.03 (3) that the utility intends to begin constructing within one year. For each project on this list, the utility shall include the information required by this section.

(5) APPLICATION SUBMITTAL. A person or utility shall submit an application under this section using the commission's Electronic Regulatory Filing (ERF) system.

History: CR 11-039: cr. Register July 2012 No. 679, eff. 8-1-12.

PSC 184.05 Commission procedures. (1) APPLICATION REVIEW. (a) Upon receipt of a complete application under s. PSC 184.04, the commission shall issue a notice of investigation or notice of proceeding.

(b) The commission may approve or deny an application in whole or in part, and may modify or condition the authorization as the public convenience and necessity may require.

(2) TIME FOR REVIEW. Unless the application requires the preparation of an environmental assessment under s. PSC 4.10 (2), if no action is taken by the commission within 90 days after the commission issues a notice of investigation under sub. (1) (a), the utility may proceed with the construction work. If the com-

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mission requests additional information to process an application after issuing a notice of investigation, the 90-day waiting period before construction work may commence begins the date the additional information is received by the commission.

(3) HEARING. The commission is not required to hold a hearing on a utility application for a certificate unless any of the following apply:

(a) A statute or rule otherwise requires a hearing.

(b) The commission treats the application as a contested case, as defined in s. 227.01 (3), Stats.

(c) The proposed project requires the preparation of an environmental impact statement under s. 1.11, Stats.

(d) The commission determines a hearing is appropriate.

History: CR 11-039: cr. Register July 2012 No. 679, eff. 8-1-12.

PSC 184.06 Emergency work. In case of an emergency resulting from the failure of power supply or from fire, storm, or similar events, a utility may begin necessary repair work without receiving prior commission authorization. In case of an emergency resulting from the contamination of water supply, a utility may begin necessary repair, temporary treatment, or other emergency work to address the issue without receiving prior commission authorization. The utility shall promptly notify the commission of the emergency work and shall, within 30 days after commencing the work, furnish the commission with the information required under s. PSC 184.04 (3).

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