

**Clearinghouse Rule 07-020**

BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Natural Gas Facilities Construction Authorization

1-AC-209

**NOTICE OF HEARING**

<b>Hearing Date:</b>	<b>Monday, March 26, 2007 at 1:00 p.m.</b>
<b>Hearing Location:</b>	<b>Public Service Commission, 610 North Whitney Way, Madison, WI</b>

This docket uses the Electronic Regulatory Filing system (ERF)	Address Comments To: Sandra J. Paske, Secretary to the Commission Public Service Commission P.O. Box 7854 Madison, WI 53707-7854 FAX (608) 266-3957
Comments Due: <b>Monday, April 2, 2007 – Noon</b>	
FAX Due: <b>Friday, March 30, 2007 – Noon</b>	

The Public Service Commission of Wisconsin proposes an order to repeal 133.01 (1) to (4), 133.02 (1) (title), 133.02 (2) (title), 133.02 (3) (title), 133.02 (4) (title), 133.02 (5) (title), 133.02 (6), 133.03 (1) (b), (e),(g) and (i), and 133.03 (2) (b) and (c); renumber and amend 133.01 (5), 133.02 (1) to (5), 133.03 (1) (c), (d), (f), (h) and (j), 133.03 (2) (d), (6) and (7), and 133.04 (9); amend 133.03 (1) (a) and (2) (a), and 133.04 (title) to (5); repeal and recreate 133.03 (1) (intro.) and (2) (intro.), 133.05 and 133.06; create 133.01(1), (2) (title) and (3), 133.02 (1) to (4), (7), (11) and (12), 133.03(3), 133.04 (6) and (9) to (12) regarding the construction, installation and placing in operation of natural gas facilities.

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

The analysis is set forth as Attachment A. A copy of this entire notice may be accessed from the electronic regulatory filing portion of the Commission's website (psc.wi.gov).

## TEXT OF PROPOSED RULE

The text of the proposed rule is set forth as Attachment B. A copy of this entire notice may be accessed from the electronic regulatory filing portion of the Commission's website (psc.wi.gov).

## INITIAL REGULATORY FLEXIBILITY ANALYSIS

This rulemaking will affect three small gas utilities. Each of these has revenues in excess of \$5 million but has 25 or fewer employees. The impact on these businesses will be minimal as this rulemaking clarifies and codifies existing practice. It also decreases the number of circumstances when certain reports must be filed.

## FISCAL ESTIMATE

No fiscal effect is anticipated. Fiscal information is included as Attachment C. Further, no substantial fiscal effect on the private sector is anticipated.

## NOTICE OF HEARING

**NOTICE IS GIVEN** that pursuant to s. 227.16(2)(b), Stats., the commission will hold a public hearing on these proposed rule changes in the Amnicon Falls Hearing Room at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, on Monday, March 26, 2007, at 1:00 p.m. This building is accessible to people in wheelchairs through the Whitney Way (lobby) entrance. Handicapped parking is available on the south side of the building.

## WRITTEN COMMENTS

Any person may submit written comments on these proposed rules. The hearing record will be open for written comments from the public, effective immediately, and until Monday, April 2, 2007, at noon (March, April 30, 2007, at noon, if filed by fax). All written comments must include a reference on the filing to docket 1-AC-209. File by one mode only.

**Industry:** File comments using the Electronic Regulatory Filing system. This may be accessed from the commission's website (psc.wi.gov).

### **Members of the Public:**

**If filing electronically:** Use the Public Comments system or the Electronic Regulatory Filing system. Both of these may be accessed from the commission's website (psc.wi.gov).

**If filing by mail, courier, or hand delivery:** Address as shown in the box on page 1.

If filing by fax: Send fax comments to (608) 266-3957. Fax filing cover sheet MUST state “Official Filing,” the docket number 1-AC-209, and the number of pages (limited to 25 pages for fax comments).

## CONTACT PERSON

Media questions should be directed to Linda Barth, Director of Governmental and Public Affairs at (608) 266-9600. Small business questions should be directed to Anne Vandervort at (608) 266-5814 or [anne.vandervort@psc.state.wi.us](mailto:anne.vandervort@psc.state.wi.us). Other questions regarding this matter should be directed to docket coordinator Jeffrey P. Murley at (608) 267-1207 or [jeff.murley@psc.state.wi.us](mailto:jeff.murley@psc.state.wi.us). Hearing or speech-impaired individuals may also use the commission's TTY number, if calling from Wisconsin (800) 251-8345, if calling from outside Wisconsin (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 accommodations to participate in this proceeding or who needs to get this document in a different format should contact the docket coordinator, as indicated in the previous paragraph, as soon as possible.

Dated at Madison, Wisconsin February 16, 2007

By the Commission.

*/s/ Sandra J. Paske*

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Sandra J. Paske  
Secretary to the Commission

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

Statutory authority: Wis. Stat. §§ 196.02, 196.49 and 227.11

Statute interpreted: Wis. Stat. § 196.49

**A. Objective and Analysis of the Rule**

This rulemaking will update Wis. Admin. Code ch. PSC 133. This chapter addresses the construction, installation and placing in operation of natural gas facilities and the authorization of natural gas service territories. The chapter sets out commission requirements for when a certificate of authority is required, the information that is to be included in a natural gas utility's application to the commission, and the procedures the commission follows in processing the application.

This chapter was last comprehensively reviewed and updated in 1959. It contains various thresholds that define when commission approval is required for gas utility projects. The proposal includes revisions of the defining thresholds based on agency experience with construction projects since 1959. For example, the chapter contains several provisions with monetary thresholds for requiring commission review and approval that are updated to reflect changes in industry procedures and economics. Wis. Admin. Code § PSC 133.03(1)(h), requires utilities to request a certificate of authority for gas line projects that cost \$600,000 or four percent of a utility's gross gas operating revenues, whichever is less. If this amount were adjusted for inflation since the last time this specific rule was updated, this amount would now range from approximately \$1,000,000 to \$1,500,000. This range looks at the construction costs for transmission mains, steel and plastic distribution mains and measurement/regulation station equipment for city gate stations. The electric utility construction rules have adopted a mechanism that automatically adjusts to reflect inflation and other factors. In the attached proposed rules, the Commission has chosen to retain a set amount for the gas construction rules of \$1,500,000, the upper range of the inflation adjusted costs.

A provision is added stating that prior commission authorization is not necessary when the relocation of existing pipelines and associated plant is needed to accommodate highway or airport construction.

Additionally, the proposal contains new rules for the filing, review and approval of territorial agreements and changes in utility boundaries because of annexations. These give the utilities clear directions regarding commission filing requirements and processes to be followed in these situations. For example, the proposed rules include definitions of annexation and territorial agreements, and establish what information must be provided to the commission regarding changes in service territory that result from territorial agreements and annexations.

Finally, changes were made in light of statutory changes that were adopted under 2003 Wisconsin Act 89. Rule language has been included that reflects the

pre-application consultation that is required of construction applicants with the PSC and Department of Natural Resources. The filing requirements in the proposed rules have also been amended to reflect information that may be necessary to carry out the requirements of 2003 Wisconsin Act 89.

**B. Statutory Authority to Promulgate the Proposed Rule**

Wis. Stat. § 196.49 authorizes the commission to issue rules about commission certification that public convenience and necessity require a gas project. Further, it states that utilities may not begin construction, installation or operation of any new plant, equipment, etc., unless it has complied with commission rules.

**C. Comparison with Existing or Proposed Federal Regulations**

The commission is not aware of any existing or proposed federal regulations in this area.

**D. Comparison with Similar Rules in Adjacent States**

Existing rule language requires authorization before building plant in certain limited circumstances, such as where the utility is not authorized to serve, where a facility is designed to materially change output, facilities for new types of gas, and, in certain situations, very large projects. The proposed rule clarifies when authorization must be obtained before constructing an intrastate pipeline to deliver to other gas suppliers, and includes an exclusion from the authorization requirement for construction needed due to highway or airport construction.

In Iowa, pipeline companies are required to get authorization to construct, maintain and operate a pipeline if that pipeline goes over or across public or private highways, grounds, waters and streams of any kind, if the pipeline operates at pressures over 150 pounds per square inch or is a transmission line. Illinois requires authorization before construction of any facilities that are not substitutions for existing facilities. Michigan requires construction authorization if a new Certificate of Public Convenience and Necessity is needed, but not otherwise. Minnesota requires authorization for large liquefied or underground gas storage facilities and for pipelines transporting at pressures higher than 200 psi with more than 50 miles of their length in Minnesota. Minnesota requires plans to be filed for gas transmission lines operating at more than 125 psi, not including gas distribution or gas gathering lines and associated facilities.

The proposed rule includes requirements for commission approval of territorial agreements between utilities. Such agreements may be the result of situations such as those involving two utilities serving the same municipality and controversy over the area to be served by two or more utilities. Authorization is also required in certain annexation situations.

Illinois, Michigan and Minnesota each have similar rules requiring commission approval of territorial agreements and/or service provision in cases involving annexation or multiple utilities providing service to a municipality.

The rule contains many of the same requirements for what must be included in a construction application that adjacent states do, for example: maps showing routes, operating pressures, cost and financing information, alternatives, identification of utilities and municipalities affected, environmental information and conservation efforts. The proposed rule adds a requirement for identification of landowners from whom property or easements must be obtained and a statement as to which of these landowners have been notified of the project.

**TEXT OF PROPOSED RULE**

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**SECTION 1.** PSC 133.01 (1) to (4) are repealed.

**SECTION 2.** PSC 133.01 (1) and (2) (title) are created to read:

PSC 133.01 **General.** (1) PURPOSE AND SCOPE. (a) This chapter implements s. 196.49, Stats.

(b) This chapter applies to all gas public utilities.

(c) Nothing in this chapter precludes the commission from giving individual consideration to exceptional or unusual situations or, upon investigation of the facts and circumstances involved, adopting requirements as to an individual gas public utility or service which may be lesser, greater, other than or different from those provided in these rules.

(2) (title) EMERGENCY ACTION.

**SECTION 3.** PSC 133.01 (3) is created to read:

PSC 133.01 (3) ENFORCEMENT. This chapter shall be enforced in the manner prescribed in ss. 196.49(6) and 196.66, Stats.

**SECTION 4.** PSC 133.01(5) is renumbered 133.01(2) and amended to read:

PSC 133.01 (2) In case of emergency, where public interest requires immediate action without waiting for compliance with the specific terms of these rules, immediate



1 corrective action may be taken by ~~the~~ a gas public utility, ~~which action, however,~~ This  
2 action shall be subject to review by the ~~public service~~ commission.

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4 **SECTION 5.** PSC 133.02 (1) (title) is repealed.

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6 **SECTION 6.** PSC 133.02 (1) is renumbered 133.02 (5) and amended to read:

7 PSC 133.02 (5) “Gas ~~line~~ pipeline” means any conduit for the conveyance of gas.

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9 **SECTION 7.** PSC 133.02 (1) is created to read:

10 PSC 133.02 (1) “Annexation” means the transfer of territory from one municipality to  
11 another by any means authorized by law, including annexations, detachments and  
12 attachments, and boundary agreements.

13

14 **SECTION 8.** PSC 133.02 (2) (title) is repealed.

15

16 **SECTION 9.** PSC 133.02 (2) is renumbered 133.02 (6) and amended to read:

17 PSC 133.02 (6) “Mixing unit” means any apparatus designed to mix gas with air or other  
18 gas.

19

20 **SECTION 10.** PSC 133.02 (2) is created to read:

21 PSC 133.02 (2) “Commission” means the public service commission.

22

1 **SECTION 11.** PSC 133.02 (3) (title) is repealed.

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3 **SECTION 12.** PSC 133.02 (3) is renumbered 133.02 (8) and amended to read:

4 PSC 133.02 (8) “Municipality” means any town, village or city.

5

6 **SECTION 13.** PSC 133.02 (3) is created to read:

7 PSC 133.02 (3) “Department” means the department of natural resources.

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9 **SECTION 14.** PSC 133.02 (4) (title) is repealed.

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11 **SECTION 15.** PSC 133.02 (4) is renumbered 133.02(9) and amended to read:

12 PSC 133.02 (9) “Plant” ~~as used in ch. PSC 133~~ means all equipment, property items, or  
13 facilities includible in the utility plant accounts ~~provided for in~~ under the uniform system  
14 of accounts prescribed by the ~~public service~~ commission for gas public utilities.

15

16 **SECTION 16.** PSC 133.02 (4) is created to read:

17 PSC 133.02 (4) “Gas” means any gas or mixtures of gases suitable for domestic or  
18 industrial fuel that is transmitted or distributed to the public through a gas pipeline  
19 system. “Gas” includes natural gas, manufactured gas and liquefied petroleum gas  
20 distributed as a vapor with or without mixture of air.

21

22 **SECTION 17.** PSC 133.02 (5) (title) is repealed.

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2 **SECTION 18.** PSC 133.02 (5) is renumbered 133.02 (10) and amended to read:

3 PSC 133.02 (10) “Principal gas manufacturing unit” means any ~~piece of equipment~~

4 ~~which~~ plant that is capable of generating or manufacturing gas with or without

5 connection to ~~other~~ any auxiliary apparatus.

6

7 **SECTION 19.** PSC 133.02 (6) is repealed.

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9 **SECTION 20.** PSC 133.02 (7) is created to read:

10 PSC 133.02 (7) “Master meter system” means a gas pipeline system for distributing gas

11 to a definable area, such as a mobile home park, housing project, or apartment complex,

12 where the operator purchases metered gas for resale through the system.

13

14 **SECTION 21.** PSC 133.02 (11) and (12) are created to read:

15 PSC 133.02(11) “Public utility” has the meaning given in s. 196.01(5), Stats.

16 (12) “Territorial agreement” means an agreement between two or more gas public

17 utilities designating gas service areas within a municipality for each of the signatory

18 utilities.

19

20 **SECTION 22.** PSC 133.03 (1) (intro.) is repealed and recreated to read:

21 PSC 133.03 (1) (intro.) A gas public utility may not, without commission authorization,

22 construct, install or place in operation any of the following:

1

2 **SECTION 23.** PSC 133.03 (1) (a) is amended to read:

3 PSC 133.03 (1) (a) ~~Any plant or gas line~~ Plant for furnishing service in a municipality in  
4 which the utility has not ~~theretofore rendered service~~ been authorized to serve by the  
5 commission.

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7 **SECTION 24.** PSC 133.03 (1) (b) is repealed.

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9 **SECTION 25.** PSC 133.03 (1) (c) and (d) are renumbered 133.03 (1) (b) and (c) and  
10 amended to read:

11 PSC 113.03 (1) (b) ~~Any production~~ Production, mixing, standby, peak shaving or storage  
12 plant or principal gas manufacturing or mixing unit or any equipment designed to  
13 materially change the rated or nominal output characteristics ~~thereof.~~

14 (c) ~~Any gas line or plant~~ Plant installed to ~~bring in a new or additional supply of gas from~~  
15 ~~a new or existing supplier~~ be used as intrastate pipeline facilities to deliver gas to another  
16 gas public utility, an interstate or intrastate gas pipeline company, or a cooperative  
17 association.

18

19 **SECTION 26.** PSC 133.03 (1) (e) is repealed.

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21 **SECTION 27.** PSC 133.03 (1) (f) is renumbered 133.03 (1) (d) and amended to read:

1 PSC 133.03 (1) (d) ~~Any new~~ New or altered existing ~~facility or facilities~~ plant for the  
2 purpose of bringing in a new type of gas or to supply a different type of gas to the public.

3

4 **SECTION 28.** PSC 133.03 (1) (g) is repealed.

5

6 **SECTION 29.** PSC 133.03 (1) (h) is renumbered 133.03 (1) (e) and amended to read:

7 PSC 133.03 (1) (e) ~~Any single~~ Single gas line pipeline project ~~(other than herein before~~  
8 ~~included)~~ projects and associated plant, or any plant or addition to plant the cost of which  
9 exceeds ~~\$600,000~~ \$1,500,000 or 4% of the utility's gross gas operating revenue received  
10 during the previous calendar year, whichever is less, except for ~~gas lines installed in~~  
11 ~~accordance with filed extension rules and rates, or in compliance with public service~~  
12 ~~commission orders.~~ any of the following:

- 13 1. Plant installed in accordance with filed extension rules and rates.
- 14 2. Plant installed in compliance with commission orders.
- 15 3. Gas pipelines and associated plant ordered to be relocated or modified to  
16 accommodate highway or airport construction.

17

18 **SECTION 30.** PSC 133.03 (1) (i) is repealed.

19

20 **SECTION 31.** PSC 133.03 (1) (j) is renumbered 133.03 (1) (f) and amended to read:

21 PSC 133.03 (1) (f) ~~Any gas line~~ Any pipeline or plant in a newly created municipality or  
22 newly annexed or consolidated area, unless the utility already owns service facilities ~~are~~

1 ~~already owned~~ in the area and the exclusive right to serve a specified part or area has  
2 been established.

3

4 **SECTION 32.** PSC 133.03 (2) (intro.) is repealed and recreated to read:

5 PSC 133.03 (2) (intro.) Unless authorized by the commission, a gas public utility may not  
6 do any of the following:

7

8 **SECTION 33.** PSC 133.03 (2) (a) is amended to read:

9 PSC 133.03 (2)(a) ~~Shall substitute~~ Substitute one kind of gas for another kind of gas to be  
10 ~~sold to the public.~~

11

12 **SECTION 34.** PSC 133.03 (2) (b) and (c) are repealed.

13

14 **SECTION 35.** PSC 133.03 (2) (d) is renumbered 133.03 (2) (b) and amended to read:

15 PSC 133.03 (2) (b) ~~Shall change~~ Change the heating value or specific gravity of the gas  
16 normally supplied to customers in excess of variation permitted in ch. PSC 134.

17

18 **SECTION 36.** PSC 133.03 (3) is created to read:

19 PSC 133.03 (3) (a) Unless a gas public utility is required to obtain a certificate of public  
20 convenience and necessity under s. 196.49, Stats., it shall notify the commission of any of  
21 the following projects using the notification procedure in par. (b):

22 1. Connection of service to a jurisdictional master meter system operator.

1 2. Making a new connection to an interstate or intrastate gas pipeline.

2 (b) A utility desiring to proceed with a project identified under par. (a) shall file a  
3 notification with the commission at least 15 days, or as soon as practicable, before it  
4 intends to begin construction of the project. The notification shall include a brief  
5 description and location of the project.

6

7 **SECTION 37.** PSC 133.04 (title) to (5) are amended to read:

8 PSC 133.04 (title) **Information to be included in an application.** ~~Application An~~  
9 application for authorization a certificate of authority shall set forth insofar include all of  
10 the following, as applicable:

11 (1) ~~Description~~ A description or plan of the project; including:

12

13 (a) Operating pressure, pipe size and material.

14 (b) Length of the project and the required right-of-way width.

15 (c) The approximate construction schedule.

16 (d) Detailed maps clearly showing the location of the proposed or existing route with the

17 pipe sizes, valve locations, and any proposed or existing regulation facilities and

18 associated equipment or apparatus.

19 (2) ~~Estimated~~ The estimated cost and proposed method of financing; including an

20 economic analysis of the proposed project.

21 (3) ~~Purpose~~ The purpose and necessity of the project with supporting data; including an

22 analysis of the alternatives found in s. 1.12, Stats.

1 (4) ~~Effect~~ The effect of the project on cost of operation and on quality, reliability and  
2 quantity of service;

3 (5) ~~Description~~ A description and ~~cost~~ the value of any ~~property plant~~ plant being replaced; or  
4 retired as a result of the proposed project.

5

6 **SECTION 38.** PSC 134.04 (6) and (7) are renumbered 133.04 (7) and (8) and amended  
7 to read:

8 PSC 133.04 (7) ~~Whether~~ An explanation of how the project is consistent with future  
9 overall projects;

10 (8) ~~Designation~~ Identification of and mailing addresses for public utilities, municipalities,  
11 and others principally any person with transmission facilities, as defined in s.  
12 182.0175(1)(c), affected by the project and a statement as to which, if any, have been  
13 notified ~~thereof~~ of the project by the applicant;

14

15 **SECTION 39.** PSC 133.04 (6) is created to read:

16 PSC 133.04 (6) A description of alternatives considered, including alternate routes and  
17 any alternative solutions, the associated costs for each alternative and an explanation of  
18 the reasons for selecting the proposed project over the alternatives.

19

20 **SECTION 40.** PSC 133.04 (8) is renumbered 133.04 (9).

21

22 **SECTION 41.** PSC 133.04 (9) is renumbered 133.04 (14) and amended to read:



1 PSC 133.04 (14) ~~Other facts as are~~ Any other information necessary to convey a full  
2 ~~understanding of~~ understand the project ~~and the reasons therefor.~~

3

4 **SECTION 42.** PSC 133.04 (10) to (13) are created to read:

5 PSC 133.04 (10) Names and mailing addresses of any landowners the applicant would  
6 need to acquire property or easements from for the project, and a statement as to which, if  
7 any, have been notified of the project by the applicant. Permissions to occupy public  
8 road rights-of-way or to install individual customer services do not need to be included.

9 (11) A list of authorizations required of other governmental authorities and a statement  
10 indicating whether or not the authorizations have been applied for or obtained.

11 (12) (a) For gas pipeline projects limited to construction within road rights-of-way,  
12 environmental information, including all of the following:

13 1. A map or drawing of the affected part of the existing gas system showing the location  
14 of the proposed sites or routes and any alternative sites or routes considered.

15 2. The identification of any flood sensitive facilities that would be located in designated  
16 flood plains or flood prone areas.

17 3. The identification and description of each surface water crossing, including all of the  
18 following:

19 a. The location of the crossing.

20 b. The width of the stream or waterbody at the proposed crossing location.

21 c. The proposed construction methods for the crossing.

- 1 d. Whether the waterway is defined as an outstanding or exceptional waterway by the  
2 department.
- 3 4. The identification and description of each wetland crossing, including all of the  
4 following:
  - 5 a. The location of the wetland crossing.
  - 6 b. The length of crossing.
  - 7 c. The proposed construction methods for the crossing.
  - 8 d. The wetland type using the Wisconsin Wetland Inventory classification.
  - 9 e. The wetland type identified by plant community type.
  - 10 f. The presence or absence of invasive species, noting whether they are dominant.
  - 11 g. Whether any of the wetland is in or adjacent to an area of special natural resource  
12 interest as defined by the department.
- 13 5. An evaluation of whether any endangered, threatened or special concern species are  
14 located along the project route and what affect the project could have on such species.  
15 For each species identified, describe how the proposed project may be modified to reduce  
16 or eliminate any potential effect on the species.
- 17 6. An evaluation of whether any known archeological or historical resources would be  
18 affected. For each resource identified, describe how the proposed project may be  
19 modified to reduce or eliminate any potential effect on the resource.
- 20 (b) For gas line projects that involve construction outside the limits of road rights-of-way  
21 or require coordinated commission and department review under s. 30.025, Stats., the

1 commission may require additional environmental information on a case-by-case basis  
2 after consultation with the utility.

3 (13) For projects involving new or modified buildings, information on energy efficiency  
4 or conservation features, including all of the following:

5 (a) The whole building heat loss in Btu per square foot of the building envelope.

6 (b) The type and R-value of insulating material used for walls, ceilings, roofs, doors and  
7 windows.

8 (c) The type of heating and cooling system selected and the annual end-use energy  
9 estimate in Btu per square foot per year for space heating, space cooling, and any process  
10 use.

11 (d) The type and source of fuel selected.

12

13 **SECTION 43.** PSC 133.04 (15) is created to read:

14 PSC 133.04 (15) Any other information requested by the commission.

15

16 **SECTION 44.** PSC 133.05 and 133.06 are repealed and recreated to read:

17 PSC 133.05 **Commission procedure.** (1) The commission is not required to hold a  
18 hearing on a gas public utility application for a certificate of authority unless any of the  
19 following apply:

20 (a) The application proposes a change in the type of gas or proposes the construction,  
21 installation, or the placing in operation of plant that contemplate a change in the type of  
22 gas.

1 (b) The application is treated as a contested case.

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

4 (d) The commission determines that a hearing is necessary.

5 (2) The commission may grant or deny an application in whole or in part, subject to any  
6 condition the general public interest or public convenience and necessity may require.

7

8 **PSC 133.06 Pre-application consultation.** For any gas public utility project that  
9 requires a certificate under s. 196.49, Stats., and is required to follow the department  
10 permit procedure for utility facilities under s. 30.025, Stats., the utility shall consult with  
11 the commission and department during development of the applications to discuss project  
12 scope, alternatives, routes or locations, and information required for the applications.

13

14 **SECTION 45.** PSC 133.07 and 133.08 are created to read:

15 **PSC 133.07 Territorial agreements.** (1) (a) A gas public utility may enter into a  
16 territorial agreement with another gas public utility. A gas public utility that enters into a  
17 territorial agreement shall file the territorial agreement with the commission for review  
18 and approval.

19 (b) A territorial agreement does not grant a gas public utility authority to serve in a  
20 municipality.

21 (c) A gas public utility which seeks approval of a territorial agreement shall include in its  
22 filing all of the following:

- 1 1. Identification of any commission action or docket that granted a gas public utility  
2 authority for providing service in the municipality affected by the agreement.
  - 3 2. A detailed map and the legal description of the area covered by the territorial  
4 agreement.
  - 5 3. An evaluation demonstrating how the territorial agreement will avoid controversy  
6 over the area to be served by each utility, avoid duplication of facilities, and provide  
7 more efficient service.
- 8 (2) (a) 1. When one gas public utility is authorized by the commission to provide gas  
9 service in a municipality, and that utility has entered into a territorial agreement with  
10 another gas public utility that does not have commission authorization to serve in the  
11 municipality, the additional utility shall apply for and receive from the commission a  
12 certificate under ss. 196.49 and 196.50, Stats., before it can provide gas utility service in  
13 the municipality.
- 14 2. If the service area sought by one of the utilities covered by the territorial agreement  
15 requires commission approval under this paragraph, that utility's filing for a certificate of  
16 authority shall include an evaluation demonstrating why provision of service by an  
17 additional utility in the municipality is needed.
  - 18 3. If a certificate of authority is granted, the certificate will specify the portions of the  
19 municipality in which the additional utility is authorized to serve. Any subsequent  
20 amendments to the territorial agreement between the utilities will be considered under  
21 par. (b).

1 (b) When two or more gas public utilities are authorized by the commission to provide  
2 gas service in a municipality, and the service area boundaries of the utilities are identified  
3 in a territorial agreement between all the utilities, the authorized service areas may be  
4 modified without the need for the commission to issue amended or additional certificates  
5 of authority if the commission approves an amended territorial agreement to which all  
6 affected gas public utilities are signatories. Commission approval of an amended  
7 territorial agreement constitutes amended authorizations.

8 (c) When more than two gas public utilities are authorized by the commission to provide  
9 gas service in a municipality, and the service area boundaries of some, but not all, of the  
10 utilities are identified in a territorial agreement, the authorized service areas may be  
11 modified without the need for the commission to issue amended or additional certificates  
12 of authority if the commission approves an amended territorial agreement after giving  
13 opportunity for the gas public utility not covered by the amended boundary agreement to  
14 object. If an objection is received, the commission may proceed with approving the  
15 amended territorial agreement or may require the agreement signatories to apply for  
16 amended certificates of authority. Commission approval of an amended territorial  
17 agreement constitutes amended authorizations.

18 (2) Requests for approval of territorial agreements shall be filed with the commission  
19 before the utilities provide service as permitted under the agreement. Amended territorial  
20 agreements shall be filed with the commission within 30 days after the date the amended  
21 agreement is signed and shall request commission approval of the proposed change.

1 (3) The commission will consider a signed territorial agreement to be a waiver of any  
2 rights a signatory to the agreement may have under ss. 196.49 and 196.50, Stats., or  
3 under this chapter to object to the provision of natural gas service by the other signatory  
4 utility in those portions of the municipality assigned to that utility.

5

6 **PSC 133.08 Service in annexed areas.** (1) A gas public utility that is authorized to  
7 provide service in a municipality that annexes an area of another municipality does not  
8 need further commission approval to provide service in a newly annexed portion if any of  
9 the following apply:

10 (a) The utility is also authorized to provide service in the municipality from which the  
11 area is annexed.

12 (b) No other gas public utility is authorized to provide service in the municipality from  
13 which the area is annexed.

14 (c) Another gas public utility is authorized to provide service in the municipality from  
15 which the area is annexed but does not have facilities or serve customers in the annexed  
16 area.

17 (2) A gas public utility that is authorized to provide service in a municipality from which  
18 an area is annexed may apply for commission authorization under ss. 196.49 and 196.50,  
19 Stats., to provide service in the annexed area when another gas public utility is authorized  
20 to provide service in the annexing municipality and neither gas public utility has facilities  
21 or serves customers in the annexed area. The commission shall determine which portions  
22 of the annexed area may be served by each utility.

1 (3) A gas public utility that is authorized to provide service in a municipality that  
2 annexes an area of another municipality shall apply for commission authorization under  
3 ss. 196.49 and 196.50, Stats., to provide service in an annexed area if another gas utility  
4 is authorized to provide service in the municipality from which the area is annexed and is  
5 serving customers or has facilities in the annexed area. The commission shall determine  
6 which portions of the annexed area may be served by each utility.

7 (4) A gas public utility that is not authorized to provide service in a municipality that  
8 annexes an area of another municipality in which the utility is authorized to provide  
9 service shall apply for commission authorization to allow continued service to existing  
10 customers in the annexed area. The utility may continue to serve existing customers  
11 while the commission acts on the authorization request. The commission shall determine  
12 whether the utility may provide gas service to any other portions of the annexing  
13 municipality.

14 (5) Subsection (4), as it applies to newly-annexed areas, shall apply to newly-  
15 incorporated municipalities.

16 (6) Applications under this section shall include all of the following:

17 (a) The commission action or docket that granted authority for providing service in the  
18 annexing municipality and the municipality from which an area is annexed.

19 (b) Detailed maps and legal description of the annexed area.

20 (c) An evaluation demonstrating how service to customers in the annexed area could be  
21 provided economically and efficiently by the applicant.



1 (d) If the service area sought by the utility in the annexed area requires a commission  
2 approval under s. 196.50, Stats., the filing shall include an evaluation demonstrating why  
3 provision of service by a second utility in the municipality is needed.

4

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<p><b>2007 Session</b></p> <p>LRB or Bill No./Adm. Rule No.  <b>Ch. PSC 133 – 1-AC-209</b></p> <p>Amendment No. if Applicable</p>							
<p><input checked="" type="checkbox"/> ORIGINAL      <input type="checkbox"/> UPDATED</p> <p><input type="checkbox"/> CORRECTED      <input type="checkbox"/> SUPPLEMENTAL</p>							
<p><b>FISCAL ESTIMATE</b>                  DOA-2048 N(R10/96)</p>							
<p><b>Subject</b>                  PSC Revision to Natural Gas Construction Rules</p>							
<p><b>Fiscal Effect</b></p> <p><b>State:</b>    <input checked="" type="checkbox"/> No State Fiscal Effect</p> <p>Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.</p> <table style="width:100%; border: none;"> <tr> <td style="width: 50%; border: none;"> <input type="checkbox"/> Increase Existing Appropriation      <input type="checkbox"/> Increase Existing Revenues  <input type="checkbox"/> Decrease Existing Appropriation      <input type="checkbox"/> Decrease Existing Revenues  <input type="checkbox"/> Create New Appropriation                 </td> <td style="width: 50%; border: none;"> <input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget    <input type="checkbox"/> Yes    <input type="checkbox"/> No   <input type="checkbox"/> Decrease Costs                 </td> </tr> </table>		<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Decrease Costs				
<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Decrease Costs						
<p><b>Local:</b>    <input checked="" type="checkbox"/> No local government costs</p> <table style="width:100%; border: none;"> <tr> <td style="width: 33%; border: none;">                 1. <input type="checkbox"/> Increase Costs                      <input type="checkbox"/> Permissive    <input type="checkbox"/> Mandatory             </td> <td style="width: 33%; border: none;">                 3. <input type="checkbox"/> Increase Revenues                      <input type="checkbox"/> Permissive    <input type="checkbox"/> Mandatory             </td> <td style="width: 33%; border: none;">                 5. Types of Local Governmental Units Affected:  <input type="checkbox"/> Towns            <input type="checkbox"/> Villages            <input type="checkbox"/> Cities  <input type="checkbox"/> Counties        <input type="checkbox"/> Others _____  <input type="checkbox"/> School Districts    <input type="checkbox"/> WTCS Districts             </td> </tr> <tr> <td style="border: none;">                 2. <input type="checkbox"/> Decrease Costs                      <input type="checkbox"/> Permissive    <input type="checkbox"/> Mandatory             </td> <td style="border: none;">                 4. <input type="checkbox"/> Decrease Revenues                      <input type="checkbox"/> Permissive    <input type="checkbox"/> Mandatory             </td> <td style="border: none;"></td> </tr> </table>		1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
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<p><b>Fund Sources Affected</b>  <input type="checkbox"/> GPR    <input type="checkbox"/> FED    <input checked="" type="checkbox"/> PRO    <input type="checkbox"/> PRS    <input type="checkbox"/> SEG    <input type="checkbox"/> SEG-S</p>	<p><b>Affected Ch. 20 Appropriations</b>                  20.155 (1) (g)</p>						
<p><b>Assumptions Used in Arriving at Fiscal Estimate</b></p> <p>The proposed rule changes provide a mechanism for utilities to report territorial exchanges between each other.</p> <p>The rule also modifies the types of construction that the Commission needs to be informed of and changes the cost threshold for Commission approval of projects. While there may be a slight reduction in staff work in this area, the rule changes will allow PSC staff to spend more time concentrating on important gas safety issues.</p>							
<p><b>Long-Range Fiscal Implications</b>                  NONE</p>							
<p><b>Agency/Prepared by: (Name &amp; Phone No.)</b>                  Gordon Grant 267-9086</p>	<p><b>Authorized Signature/Telephone No.</b>                  Gordon Grant</p>						
<p><b>Date</b>                  11/10/2006</p>							