

## **Report From Agency**

### **BEFORE THE PUBLIC SERVICE COMMISSION OF WISCONSIN**

Natural Gas Facilities Construction Authorization  
Clearinghouse Rule 07-020

1-AC-209

### **ORDER ADOPTING FINAL RULES**

The Public Service Commission of Wisconsin adopts an order to repeal PSC 133.01 (2) to (4), 133.02 (1) (title), (2) (title), (3) (title), (4) (title), (5) (title) and (6) (title), and 133.03 (1) (b), (e), (g), (i), and (2) (intro.), (b) and (c); to renumber and amend PSC 133.01 (5), 133.02 (1) to (6), 133.03 (1) (c), (d), (f), (h), (j), and (2) (a) and (d), and 133.04 (6) to (9); to amend PSC 133.03 (title) and (1) (a), and 133.04 (title), (intro.), (1) (intro.) and (2) to (5); to repeal and recreate PSC 133.03 (1) (intro.) and (2) (intro.), 133.05 and 133.06; and to create PSC 133.01(1), (2) (title) and (3), 133.02 (intro.), (1) to (5), (7), (8) and (14), and 133.03 (2) (b), and (3), and 133.04 (1) (a) to (d), (6), (9), (11), (12) and (14), and 133.07 and 133.08 regarding the construction, installation and placing in operation of natural gas facilities, and the authorization of natural gas service territory.

### **REPORT TO THE LEGISLATURE**

Set forth as Attachment A.

### **FISCAL ESTIMATE**

Docket 1-AC-209

No fiscal effect is anticipated and no substantial fiscal effect on the private sector is anticipated. A completed Fiscal Estimate form is included as Attachment B.

#### **EFFECTIVE DATE**

These rules shall take effect on the first day of the month following publication in the *Wisconsin Administrative Register* as provided in s. 227.22(2)(intro.), Stats.

#### **CONTACT PERSON**

Questions from the media may be directed to Amanda Wollin, Communications Specialist at (608) 266-9600. Other questions regarding this matter should be directed to case coordinator Jeff Murley, Gas and Energy Division at (608) 267-1207. Hearing or speech-impaired individuals may 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 obtain this document in a different format should contact the case coordinator listed above.

Dated at Madison, Wisconsin, June 15, 2007

By the Commission:

*/s/ Sandra J. Paske*

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Sandra J. Paske  
Secretary to the Commission

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Attachments

## **REPORT TO THE LEGISLATURE**

### **A. NEED FOR THE RULE**

The rulemaking docket was initiated to permit the Commission to review and update ch. PSC 133, Wis. Adm. Code, regarding the construction, installation, and placing in operation of natural gas facilities, and the authorization of natural gas service territories. This chapter has been amended over the years, but received its last complete review in 1959.

The rules were reviewed in light of recent statutory changes that were adopted under 2003 Wisconsin Act 89 (Act 89). Rule language has been included that reflects the pre-application consultations that are required of construction applicants with the Public Service Commission (PSC) and Department of Natural Resources (DNR). The filing requirements in the proposed rules have also been amended to reflect information that may be necessary to carry out the requirements of Act 89.

Finally, this docket presents new rules for the filing, review, and approval of territorial agreements and changes in natural gas utility boundaries because of annexations. There continues to be confusion in both of these areas.

### **B. PLAIN LANGUAGE ANALYSIS**

The analysis is set forth as Attachment A1.

### **C. TEXT OF THE RULE**

The text of the proposed rule is set forth as Attachment A2.

### **D. PUBLIC HEARING ATTENDEES**

Attended but did not testify at the hearing:

Deb Tschudy  
WE Energies

Leslie Nishida  
Wisconsin Public Service Corporation  
Written comments received from (comments and responses to comments are included in

Attachment A3):

Mark A. Nielsen  
Alliant Energy

Paul Vanderbloemen  
Madison Gas and Electric

Paul R. Farron  
WE Energies

John R. Ness  
Xcel Energy

E. RESPONSE TO LEGISLATIVE COUNCIL REPORT

A copy of the Legislative Council's Clearinghouse Report to Agency, and responses to it, are included with this Report as Attachment A4.

F. FINAL REGULATORY FLEXIBILITY ANALYSIS

Not required since the rule will not have a significant economic impact on a substantial number of small businesses.

**Plain Language Analysis**

Statute interpreted: Wis. Stat. § 196.49

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

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

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

**B. Related Statute or Rule**

None.

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

This rulemaking will update ch. PSC 133, Wis. Adm. Code. 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. Sections PSC 133.03(1)(h) and (i), Wis. Adm. Code, require utilities to request a certificate of authority for projects that cost \$600,000 or 4 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 comparable electric utility construction rules in s. 112.05 (3), Wis. Adm. Code, 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 enacted by 2003 Wisconsin Act 89 (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 Act 89.

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

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

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

Existing rule language requires Commission authorization before building plant in certain circumstances, such as where the utility is not authorized to serve, where a facility is designed to materially change output, for facilities for new types of gas, and, in certain situations, for 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 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.

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 or 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.

**F. Effect on Small Business**

This rule is not expected to have a significant financial impact on small businesses.

**G. Agency Contact People**

Questions from the media may be directed to Amanda Wollin, Communications Specialist at (608) 266-9600.

Other questions regarding this matter should be directed to case coordinator Jeff Murley, Gas and Energy Division at (608) 267-1207.

Hearing or speech-impaired individuals may use the Commission's TTY number, if calling from Wisconsin (800) 251-8345, if calling from outside Wisconsin (608) 267-1479.

**TEXT OF THE RULES**

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**SECTION 1.** PSC 133.01 (2) 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 this chapter.

(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., and by other means as provided in statutory sections administered by the commission.

**SECTION 4.** PSC 133.01 (5) is renumbered PSC 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~~ this chapter, immediate corrective action may be taken by ~~the~~ a gas public utility, ~~which action, however,~~ This action shall be subject to review by the ~~public service~~ public service commission.



1 **SECTION 5.** PSC 133.02 (intro.) is created to read:

2 PSC 133.02 (intro.) **Definitions.** In this chapter:

3

4 **SECTION 6.** PSC 133.02 (1) (title) is repealed.

5

6 **SECTION 7.** PSC 133.02 (1) is renumbered PSC 133.02 (6) and amended to read:

7 PSC 133.02 (6) “Gas ~~line~~ pipeline” means any conduit for the conveyance of gas.

8

9 **SECTION 8.** PSC 133.02 (1) is created to read:

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

13

14 **SECTION 9.** PSC 133.02 (2) (title) is repealed.

15

16 **SECTION 10.** PSC 133.02 (2) is renumbered PSC 133.02 (9) and amended to read:

17 PSC 133.02 (9) “Mixing unit” means any apparatus designed to mix gas with air or other gas.

18

19 **SECTION 11.** PSC 133.02 (2) is created to read:

20 PSC 133.02 (2) “Certificate of authority” means a certificate issued by the commission under s.  
21 196.49, Stats.

22

1 **SECTION 12.** PSC 133.02 (3) (title) is repealed.

2

3 **SECTION 13.** PSC 133.02 (3) is renumbered PSC 133.02 (10) and amended to read:

4 PSC 133.02 (10) “Municipality” means any town, village, or city.

5

6 **SECTION 14.** PSC 133.02 (3) is created to read:

7 PSC 133.02 (3) “Commission” means the public service commission.

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9 **SECTION 15.** PSC 133.02 (4) (title) is repealed.

10

11 **SECTION 16.** PSC 133.02 (4) is renumbered PSC 133.02 (11) and amended to read:

12 PSC 133.02 (11) “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 of  
14 accounts prescribed by the ~~public service~~ commission for gas public utilities.

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16 **SECTION 17.** PSC 133.02 (4) is created to read:

17 PSC 133.02 (4) “Department” means the department of natural resources.

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19 **SECTION 18.** PSC 133.02 (5) (title) is repealed.

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1 **SECTION 19.** PSC 133.02 (5) is renumbered PSC 133.02 (12) and amended to read:

2 PSC 133.02 (12) “Principal gas manufacturing unit” means any ~~piece of equipment which plant~~  
3 that is capable of generating or manufacturing gas with or without connection to ~~other~~ any  
4 auxiliary apparatus.

5

6 **SECTION 20.** PSC 133.02 (5) is created to read:

7 PSC 133.02 (5) “Gas” means any gas or mixtures of gases suitable for domestic or industrial fuel  
8 that is transmitted or distributed to the public through a gas pipeline system, including natural  
9 gas, manufactured gas, and liquefied petroleum gas distributed as a vapor with or without  
10 mixture of air.

11

12 **SECTION 21.** PSC 133.02 (6) (title) is repealed.

13

14 **SECTION 22.** PSC 133.02 (6) is renumbered PSC 133.02 (13) and amended to read:

15 PSC 133.02 (13) “Public utility” ~~is defined~~ has the meaning given in s. 196.01 196.01 (5), Stats.;  
16 ~~and ch. PSC 133 applies to those supplying public utility gas service.~~

17

18 **SECTION 23.** PSC 133.02 (7) and (8) are created to read:

19 PSC 133.02 (7) “Highway” has the meaning given in s. 990.01 (12), Stats.

20 (8) “Master meter system” means a gas pipeline system for distributing gas within, but not  
21 limited to, a definable area, such as a mobile home park, housing project, or apartment complex,  
22 where the operator purchases metered gas from an outside source for resale through a gas

1 distribution pipeline system that supplies the ultimate consumer who either purchases the gas  
2 directly through a meter or by other means such as rents.

3

4 **SECTION 24.** PSC 133.02 (14) is created to read:

5 PSC 133.02 (14) “Territorial agreement” means an agreement between two or more gas public  
6 utilities designating gas service areas within a municipality for each of the signatory utilities.

7

8 **SECTION 25.** PSC 133.03 (title) is amended to read:

9 PSC 133.03 (title) ~~When certificate of authority~~ **commission authorization or notification is**  
10 **required.**

11

12 **SECTION 26.** PSC 133.03 (1) (title) is created to read:

13 PSC 133.03 (1) (title) CONSTRUCTION, INSTALLATION, OR USE.

14

15 **SECTION 27.** PSC 133.03 (1) (intro.) is repealed and recreated to read:

16 PSC 133.03 (1) (intro.) A gas public utility shall obtain a certificate of authority before  
17 constructing, installing, or placing in operation any of the following:

18

19 **SECTION 28.** PSC 133.03 (1) (a) is amended to read:

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

22

1 **SECTION 29.** PSC 133.03 (1) (b) is repealed.

2

3 **SECTION 30.** PSC 133.03 (1) (c) and (d) are renumbered PSC 133.03 (1) (b) and (c) and  
4 amended to read:

5 PSC 133.03 (1) (b) ~~Any production~~ A production, mixing, standby, peak shaving, or storage  
6 plant or a principal gas manufacturing or mixing unit or any equipment designed to materially  
7 change the rated or nominal output characteristics thereof of such a plant or unit.

8 (c) ~~Any gas line or plant~~ Plant installed to bring in a new or additional supply of gas from a new  
9 ~~or existing supplier~~ for use as intrastate pipeline facilities to deliver gas to another gas public  
10 utility, an interstate or intrastate gas pipeline company, or a cooperative association.

11

12 **SECTION 31.** PSC 133.03 (1) (e) is repealed.

13

14 **SECTION 32.** PSC 133.03 (1) (f) is renumbered PSC 133.03 (1) (d) and amended to read:

15 PSC 133.03 (1) (d) ~~Any new~~ A new or altered existing ~~facility or facilities~~ plant for the purpose  
16 of bringing in a new type of gas or to supply a different type of gas to the public, as described in  
17 s. 196.49 (5) (a), Stats.

18

19 **SECTION 33.** PSC 133.03 (1) (g) is repealed.

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1 **SECTION 34.** PSC 133.03 (1) (h) is renumbered PSC 133.03 (1) (e) and amended to read:

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

8 1. Plant installed in accordance with filed extension rules and rates.

9 2. Plant installed in compliance with commission orders.

10 3. Gas pipelines and associated plant ordered to be relocated or modified to accommodate  
11 highway or airport construction.

12

13 **SECTION 35.** PSC 133.03 (1) (i) is repealed.

14

15 **SECTION 36.** PSC 133.03 (1) (j) is renumbered PSC 133.03 (1) (f) and amended to read:

16 PSC 133.03 (1) (f) ~~Any gas line~~ A gas pipeline or plant in a newly created municipality or newly  
17 annexed or consolidated area, unless the utility already owns service facilities ~~are already owned~~  
18 in the area and the exclusive right to serve a specified part or area has been established.

19

20 **SECTION 37.** PSC 133.03 (2) (title) is created to read:

21 PSC 133.03 (2) (title) CHANGE IN GAS.

22

1 **SECTION 38.** PSC 133.03 (2) (intro.) is repealed and recreated to read:

2 PSC 133.03 (2) (a) (intro.) Except as provided in sub. (b), a gas public utility shall obtain a  
3 certificate of authority before doing any of the following:

4  
5 **SECTION 39.** PSC 133.03 (2) (a) is renumbered PSC 133.03 (2) (a) 1. and amended to read:

6 PSC 133.03 (2) (a) 1. ~~Shall substitute~~ Substituting one kind of gas for another kind of gas to be  
7 ~~sold to the public~~ , as described in s. 196.49 (5) (a), Stats.

8  
9 **SECTION 40.** PSC 133.03 (2) (b) and (c) are repealed.

10

11 **SECTION 41.** PSC 133.03 (2) (d) is renumbered PSC 133.03 (2) (a) 2. and amended to read:

12 PSC 133.03 (2) (a) 2. ~~Shall change~~ Changing the heating value or specific gravity of the gas  
13 normally supplied to customers in excess of variation permitted in ch. PSC 134.21.

14

15 **SECTION 42.** PSC 133.03 (2) (b) is created to read:

16 PSC 133.03 (2) (b) Paragraph (a) does not apply when a utility uses cylinders of gas in order to  
17 keep customers in service temporarily during repairs, replacements, or modifications to the gas  
18 distribution system.

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1 **SECTION 43.** PSC 133.03 (3) is created to read:

2 PSC 133.03 (3) NOTIFICATION REQUIRED. (a) Unless a gas public utility is required to obtain a  
3 certificate of authority, it shall notify the commission of any of the following projects using the  
4 notification procedure in par. (b):

- 5 1. Connection of service to a customer that appears to be a master meter system operator.
- 6 2. Making a new connection to an interstate or intrastate gas pipeline.

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

11

12 **SECTION 44.** PSC 133.04 (title) and (intro.) are amended to read:

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

16

17 **SECTION 45.** PSC 133.04 (1) (title) is created to read:

18 PSC 133.04 (1) (title) PLAN.

19

20 **SECTION 46.** PSC 133.04 (1) (intro.) is amended to read:

21 PSC 133.04 (1) (intro.) ~~Description~~ A description or plan of the project; including:

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23

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1 **SECTION 47.** PSC 133.04 (1) (a) to (d) are created to read:

2 PSC 133.04 (1) (a) Operating pressure, pipe size, and material.

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

4 (c) The approximate construction schedule.

5 (d) Detailed maps clearly showing the location of the proposed or existing route with the pipe  
6 sizes, valve locations, and any proposed or existing regulation facilities and associated  
7 equipment or apparatus.

8

9 **SECTION 48.** PSC 133.04 (2) to (5) are amended to read:

10 PSC 133.04 (2) (title) FINANCING. Estimated. The estimated cost and proposed method of  
11 financing; including an economic analysis of the proposed project.

12

13 (3) (title) PURPOSE. Purpose. The purpose and necessity of the project with supporting data;  
14 including an analysis of the alternatives found in s. 1.12 (4), Stats.

15 (4) (title) EFFECT. Effect. The effect of the project on cost of operation and on quality, reliability,  
16 and quantity of service;

17 (5) (title) EXISTING PLANT. Description. A description and cost the value of any property plant  
18 being replaced; or retired as a result of the proposed project.

19

20 **SECTION 49.** PSC 134.04 (6) is renumbered PSC 133.04 (7) and amended to read:

21 PSC 133.04 (7) (title) CONSISTENCY. Whether An explanation of how the project is consistent  
22 with future overall projects;

1 **SECTION 50.** PSC 133.04 (6) is created to read:

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

5

6 **SECTION 51.** PSC 133.04 (7) is renumbered PSC 133.04 (8) and amended to read:

7 PSC 133.04 (8) (title) OTHER AFFECTED FACILITY OWNERS. ~~Designation~~ Identification of public  
8 utilities, municipalities, and others principally, and mailing addresses for, any person with  
9 transmission facilities, as defined in s. 182.0175 (1) (c), Stats., affected by the project and a  
10 statement as to which, if any, have been notified thereof of the project by the applicant;

11

12 **SECTION 52.** PSC 133.04 (8) and (9) are renumbered PSC 133.04 (10) and (13) and amended  
13 to read:

14 PSC 133.04 (10) (title) GOVERNMENT AUTHORIZATIONS. ~~List~~ A list of authorizations required of  
15 other governmental authorities and a statement indicating whether ~~or not~~ the authorizations have  
16 been applied for or obtained.

17

18 (13) (title) OTHER NECESSARY INFORMATION. ~~Other facts as are~~ Any other information necessary  
19 ~~to convey a full understanding of~~ understand the project ~~and the reasons therefor.~~

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1 **SECTION 53.** PSC 133.04 (9) is created to read:

2 PSC 133.04 (9) (title) LANDOWNERS. (a) Except as provided in par. (b), names and mailing  
3 addresses of any landowners from which the applicant would need to acquire property or  
4 easements for the project, and a statement as to which, if any, have been notified of the project  
5 by the applicant.

6 (b) Permissions to occupy public road rights-of-way or to install individual customer services do  
7 not need to be provided under par. (a).

8

9 **SECTION 54.** PSC 133.04 (11) and (12) are created to read:

10 PSC 133.04 (11) ENVIRONMENTAL INFORMATION. (a) For gas pipeline projects limited to  
11 construction within road rights-of-way, environmental information, including all of the  
12 following:

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

- 1 (12) EFFICIENCY OR CONSERVATION. For projects involving new or modified buildings,  
2 information on energy efficiency or conservation features, including all of the following:  
3 (a) The type and R-value of insulating material used for walls, ceilings, roofs, doors, and  
4 windows.  
5 (b) The type of heating and cooling system selected and the system's energy efficiency rating.  
6 (c) The type and source of fuel selected.  
7 (d) The type of lighting system selected.

8  
9 **SECTION 55.** PSC 133.04 (14) is created to read:

10 PSC 133.04 (14) COMMISSION REQUESTED INFORMATION. Any other information requested by the  
11 commission.

12  
13 **SECTION 56.** PSC 133.05 and 133.06 are repealed and recreated to read:

14 PSC 133.05 **Pre-application consultation.** For any gas public utility project that requires a  
15 certificate of authority and is required to follow the department permit procedure for utility  
16 facilities under s. 30.025, Stats., the utility shall consult with the commission and department  
17 during development of the applications to discuss project scope, alternatives, routes or locations,  
18 and information required for the applications.

19  
20 PSC 133.06 **Commission procedure.** (1) HEARING REQUIREMENTS. The commission is not  
21 required to hold a hearing on a gas public utility application for a certificate of authority unless  
22 any of the following apply:

- 1 (a) The application proposes a change in the type of gas or proposes the construction,
- 2 installation, or the placing in operation of plant that contemplate a change in the type of gas.
- 3 (b) The application is treated as a contested case.
- 4 (c) The proposed project requires the preparation of an environmental impact statement under
- 5 s. 1.11, Stats.
- 6 (d) The commission determines that a hearing is necessary.
- 7 (2) COMMISSION AUTHORITY. The commission may grant or deny an application in whole or in
- 8 part, subject to any modification or condition the general public interest or public convenience
- 9 and necessity may require.

10

11 **SECTION 57.** PSC 133.07 and 133.08 are created to read:

12 PSC 133.07 **Territorial agreements.** (1) FILING. (a) A gas public utility may enter into a

13 territorial agreement with another gas public utility. A gas public utility that enters into a

14 territorial agreement shall file the territorial agreement with the commission for review and

15 approval.

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

17 (c) A gas public utility which seeks approval of a territorial agreement shall include in its filing

18 all of the following:

19 1. Identification of any commission action or docket that granted a gas public utility authority

20 for providing service in the municipality affected by the agreement.

21 2. A detailed map and the legal description of the area covered by the territorial agreement.

- 1 3. An evaluation demonstrating how the territorial agreement will avoid controversy over the  
2 area to be served by each utility, avoid duplication of facilities, and provide more efficient  
3 service.
- 4 (2) AUTHORITY TO SERVE. (a) 1. When one gas public utility is authorized by the commission to  
5 provide gas service in a municipality, and that utility has entered into a territorial agreement with  
6 another gas public utility that does not have commission authorization to serve in the  
7 municipality, the additional utility shall apply for and receive from the commission a certificate  
8 under ss. 196.49 and 196.50, Stats., before it can provide gas utility service in the municipality.
- 9 2. If the service area sought by one of the utilities covered by the territorial agreement requires  
10 commission approval under this paragraph, that utility's filing for a certificate of authority shall  
11 include an evaluation demonstrating why provision of service by an additional utility in the  
12 municipality is needed.
- 13 3. If a certificate of authority is granted, the certificate will specify the portions of the  
14 municipality in which the additional utility is authorized to serve. Any subsequent amendments  
15 to the territorial agreement between the utilities will be considered under par. (b).
- 16 (b) When two or more gas public utilities are authorized by the commission to provide gas  
17 service in a municipality, and the service area boundaries of the utilities are identified in a  
18 territorial agreement, the authorized service areas may be modified without the need for the  
19 commission to issue amended or additional certificates of authority if the commission approves  
20 an amended territorial agreement to which all affected gas public utilities are signatories.  
21 Commission approval of an amended territorial agreement constitutes amended authorizations.

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

10 (3) FILING DEADLINE. Requests for approval of territorial agreements shall be filed with the  
11 commission before the utilities provide service as permitted under the agreement. Amended  
12 territorial agreements shall be filed with the commission within 30 days after the date the  
13 amended agreement is signed and shall request commission approval of the proposed change.

14 (4) WAIVER OF RIGHTS. The commission will consider a signed territorial agreement to be a  
15 waiver of any rights a signatory to the agreement may have under ss. 196.49 and 196.50, Stats.,  
16 or under this chapter to object to the provision of natural gas service by the other signatory utility  
17 in those portions of the municipality assigned to the waiving utility.

18  
19 **PSC 133.08 Service in annexed areas.** (1) CURRENT AUTHORITY IN ANNEXING MUNICIPALITY.

20 A gas public utility that is authorized to provide service in a municipality that annexes an area of  
21 another municipality does not need further commission approval to provide service in a newly  
22 annexed portion if any of the following apply:



- 1 (a) The utility is also authorized to provide service in the municipality from which the area is  
2 annexed.
- 3 (b) No other gas public utility is authorized to provide service in the municipality from which  
4 the area is annexed.
- 5 (c) Another gas public utility is authorized to provide service in the municipality from which the  
6 area is annexed but does not have facilities or serve customers in the annexed area.
- 7 (2) CURRENT AUTHORITY IN ANNEXED AREA. A gas public utility that is authorized to provide  
8 service in a municipality from which an area is annexed may apply for commission authorization  
9 under ss. 196.49 and 196.50, Stats., to provide service in the annexed area when another gas  
10 public utility is authorized to provide service in the annexing municipality and neither gas public  
11 utility has facilities or serves customers in the annexed area. The commission shall determine  
12 which portions of the annexed area may be served by each utility.
- 13 (3) NEW AUTHORITY TO SERVE ANNEXED AREA. A gas public utility that is authorized to provide  
14 service in a municipality that annexes an area of another municipality shall apply for commission  
15 authorization under ss. 196.49 and 196.50, Stats., to provide service in an annexed area if another  
16 gas utility is authorized to provide service in the municipality from which the area is annexed  
17 and is serving customers or has facilities in the annexed area. The commission shall determine  
18 which portions of the annexed area may be served by each utility.
- 19 (4) CONTINUED AUTHORITY TO SERVE ANNEXED AREA. A gas public utility that is not authorized  
20 to provide service in a municipality that annexes an area of another municipality in which the  
21 utility is authorized to provide service shall apply for commission authorization to allow  
22 continued service to existing customers in the annexed area. The utility may continue to serve

1 existing customers while the commission acts on the authorization request. The commission  
2 shall determine whether the utility may provide gas service to any other portions of the annexing  
3 municipality.

4 (5) NEWLY INCORPORATED MUNICIPALITIES. Subsection (4), as it applies to newly-annexed areas,  
5 shall apply to newly-incorporated municipalities.

6 (6) APPLICATION REQUIREMENTS. Applications under this section shall include all of the  
7 following:

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

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

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

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

16

17 **SECTION 658. EFFECTIVE DATE.** This rule shall take effect on the first day of the month  
18 following publication in the Wisconsin administrative register as provided in s. 227.22 (2)

19 (intro.), Stats.

20 **(End)**

**Public hearing attendees and comments**

Attended but did not testify at the hearing:

Deb Tschudy  
WE Energies

Leslie Nishida  
Wisconsin Public Service Corporation

Written comments:

**COMMENT**

MGE states that it finds the rule revisions to be acceptable.

**RESPONSE**

Not applicable.

**COMMENT**

Alliant Energy and WE Energies recommended that the definition of “master meter operator” be changed to match the definition in 49 CFR 191.3.

**RESPONSE**

Agree. Change made.

**COMMENT**

Alliant Energy recommended that the definition of “master meter operator” be clarified to indicate that it does not apply to interior piping systems located within a single building.

**RESPONSE**

Disagree. The commission believes it is important to align with the federal definition, and it will enforce the provisions in which the definition is used in the same way that the federal government does.

**COMMENT**

Excel Energy recommends that the definition of “master meter operator” be amended since it appears to require a utility to report information that it may not have; that is, how its customer will use the gas it receives.

**RESPONSE**

Agree. Change made to reporting requirement rather than to the definition.

**COMMENT**

Alliant Energy and Xcel Energy suggest that a section be deleted so that utilities do not have to apply to continue to serve an area which it was formerly approved to serve when all or part of that area has since been annexed to an area where the utility has not been approved to serve. In the alternative, it suggests that a notice and opportunity to apply requirement be added.

**RESPONSE**

Disagree. Section 196.49, Stats., discusses authorization to serve in specified municipalities, and this is how the Commission's certificates to provide service are phrased. The utility formerly serving the annexed area is not authorized to provide service in the annexing municipality (another utility is authorized to serve the annexing municipality). The annexed area is no longer part of the municipality in which the former utility is already authorized to serve. The utility formerly serving the now annexed area has the opportunity to apply to continue providing service in the annexed area.

**COMMENT**

Alliant Energy recommends that s. PSC 133.08 (4) be eliminated because it allows the utility serving the annexing municipality to take over service of an annexed area even if the utility serving the annexed area has facilities and customers in the annexed area.

**RESPONSE**

Disagree. Section 196.49, Stats., discusses authorization to serve in specified municipalities, not to serve particular customers. The utility formerly serving the annexed area is not yet authorized to provide service in the annexing municipality, regardless of whether it has customers or facilities in the newly annexed part (another utility is authorized to serve the annexing municipality). The annexed area is no longer part of the municipality in which the former utility is already authorized to serve.

**COMMENT**

WE Energies recommended that the definition of plant be amended to remove intangible property.

**RESPONSE**

Disagree. Intangible property is in the rate base. The suggested change was made in the electric rules because electric projects tend to be very large and tangible plant intensive. As a result, the percentage of intangible plant to the total rate base tends to be very small. In gas projects, on the other hand, the percentage of intangible plant to the total rate base can be quite substantial.

**COMMENT**

WE Energies recommended that the monetary thresholds in s. PSC 133.03(1)(e) have an automatic inflation adjustment added, similar to the provision in s. PSC 112.05 for electric construction.

**RESPONSE**

Disagree. Section PSC 112.05 (3) (b) adjusts the electric construction cost thresholds for inflation on May 1 of each successive even-numbered year, starting in calendar year 2000. The adjustment is based on cost index numbers published in the “Handy-Whitman Index of Public Utility Construction Costs, Cost Trends of Electric Utility Construction- North Central Region for Total Transmission Plant.” This index was chosen because transmission cases are the vast majority of the cases that the electric part of the Gas and Energy Division deals with.

The Commission considered using a similar adjustment for inflation for natural gas construction projects. The “Handy-Whitman Index of Public Utility Construction Costs” publishes information for the natural gas industry. The construction cost information is broken down by transmission plant and distribution plant. The transmission plant category contains: total transmission plant; structures and improvements; mains; compressor station equipment; and measuring and regulating station equipment. The distribution plant category contains: structures and improvements; mains (cast iron); mains (steel); mains (plastic); compressor station equipment; measuring and regulating station equipment; measuring and regulating station equipment (city gate); services (steel); services (plastic); meters; meter installations; house regulators; and house regulators installations.

Natural gas utilities file for certificates of authority under a variety of different projects listed in the “Handy-Whitman Index,” rather than predominantly in one category as in electric cases. The Commission looked at the inflation adjustment for several of the categories listed in the “Handy-Whitman Index” while trying to develop a new cost threshold. However, the variety of projects that the gas portion of the Gas and Energy Division deals with makes the use of one particular index untenable. The inflation adjustments, using the current July 1, 2006, “Handy-Whitman Index,” for the current \$600,000 cost threshold ranged from approximately \$1,000,000 to \$1,500,000. Since there is not a single cost adjustment category, the Commission felt that a cost threshold of \$1,500,000 or 4% of the utility’s gross operating revenue was appropriate.

**COMMENT**

WE Energies recommended that s. PSC 133.03 (2) be changed to clarify that substituting one kind of gas for another does not include when a utility needs to utilize cylinders of gas in order to keep customers in service temporarily during repairs, replacements, or modifications to the gas distribution system.

**RESPONSE**

Agree. Change made.

**COMMENT**

WE Energies recommends that s. PSC 133.03 (3) (a) use the phrase “certificate of authority” be used rather than “certificate of public convenience and necessity.”

**RESPONSE**

Agree. Change made.

**COMMENT**

WE Energies recommends that s. PSC 133.04 (12) (a) 3. d. be amended to use the phrases “outstanding resource water” and “exceptional resource water.”

**RESPONSE**

Agree. Change made.

**COMMENT**

WE Energies commented that s. PSC 133.04 (13) is duplicative and recommends its removal.

**RESPONSE**

Agree in part. The Commission agrees that some of the information contained in the proposed changes to s. PSC 113.04 (13) is similar to the requirements of the Department of Commerce’s Safety and Building Division. However, energy efficiency is an important part of new buildings and Wisconsin’s utilities stress energy efficiency to their customers. It is important that the utilities incorporate energy efficiency into their own buildings and show their customers that they are willing to lead in this area. Further, it is the Commission’s responsibility to ensure that the utility is spending the ratepayers’ money wisely and ensuring energy efficiency is being incorporated into the utilities’ building projects is one way of accomplishing this goal.

However, the Commission has streamlined the amount of information that must be provided.

**COMMENT:**

Excel Energy commented that it is unclear how s. PSC 133.03 (2) relates to the subject of the section in which it is included.

**RESPONSE:**

Agree. Change made.

**COMMENT:**

Excel Energy suggested that all relocations should be exempt from the requirement for a certificate of authority.

**RESPONSE:**

The Commission believes that since the statutory definition of “highway” is so broad, the proposed relocation exemption covers the vast majority of relocation situations. To ensure that “highway” is interpreted broadly, the s. 990.01, Stats., definition has been added to the proposed rule.

**COMMENT:**

Excel Energy asked for clarification of the phrase “another kind of gas” in s. PSC 133.03 (2) (a).

**RESPONSE:**

Agree. Change made.

**COMMENT:**

Excel Energy asked for clarification of the phrase “another kind of gas” in s. PSC 133.03(2)(b).

**RESPONSE:**

This phrase is not used in that section.

**COMMENT:**

Excel Energy asked how s. PSC 133.03(2)(c) is different from s. PSC 133.03(2)(a) and (b).

**RESPONSE:**

PSC 133.03(2)(c) was repealed as a part of this rulemaking.

**COMMENT:**

Excel Energy suggests that any reference to s. 1.12, Stats., should be eliminated because utilities no longer have the responsibility for administering conservation programs.

**RESPONSE:**

Disagree. While s. 196.37, Stats., relieves utilities from the responsibility to administer conservation programs, the commission is still bound to consider the priorities in s. 1.12 (4), Stats., when considering options for meeting state energy needs. These priorities may influence which options are chosen.

**COMMENT:**

Excel Energy commented that the requirement that the utility provide the mailing addresses of affected parties should be eliminated since the utility may not have this information.

**RESPONSE:**

The Commission believes that this is information that the utility should have.

**COMMENT:**

Excel Energy commented that the notification under s. PSC 133.04 (10) should not be required for projects within public rights-of-way.

**RESPONSE:**

Public rights-of-way are specifically excluded from this requirement. Language clarified.

**COMMENT:**

Excel Energy commented that the phrase “for building projects” be clarified to include only the construction of utility buildings.

**RESPONSE:**

This phrase is not used anywhere in the rule.





LCRC  
FORM 2

**WISCONSIN LEGISLATIVE COUNCIL  
RULES CLEARINGHOUSE**

**Ronald Sklansky**  
*Clearinghouse Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

**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 07-020**

AN ORDER to repeal PSC 133.01 (1) to (4), 133.02 (1) (title), (2) (title), (3) (title), (4) (title), (5) (title) and (6), and 133.03 (1) (b), (e), (g), and (i) and (2) (b) and (c); to renumber and amend PSC 133.01 (5), 133.02 (1) to (5), 133.03 (1) (c), (d), (f), (h), and (j), (2) (d), (6) and (7), and 133.04 (9); to amend PSC 133.03 (1) (a) and (2) (a), and 133.04 (title) and (1) to (5); to repeal and recreate PSC 133.03 (1) (intro.) and (2) (intro.), 133.05, and 133.06; and to create PSC 133.01 (1), (2) (title), and (3), 133.02 (1) to (4), (7), (11), and (12), 133.03 (3), and 133.04 (6) and (9) to (12), relating to the construction, installation, and placing in operation of natural gas facilities.

Submitted by **PUBLIC SERVICE COMMISSION**

02-19-2007 RECEIVED BY LEGISLATIVE COUNCIL.

03-19-2007 REPORT SENT TO AGENCY.

RNS:SG

**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  
RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 07-020

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 January 2005.]**

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

a. The relating clause should be amended to read:

AN ORDER to repeal PSC 133.01 (1) to (4), 133.02 (1) (title), (2) (title), (3) (title), (4) (title), (5) (title), and 133.03 (1) (b), (e), (g), and (i), and (2) (b) and (c); to renumber and amend PSC 133.01 (5), 133.02 (1) to (5), 133.03 (1) (c), (d), (f), (h), and (j), (2) (d), (6), and (7), and 133.04 (9); to amend PSC 133.03 (1) (a) and (2) (a), and 133.04 (title) and (1) to (5); to repeal and recreate PSC 133.02 (6), 133.03 (1) (intro.) and (2) (intro.), 133.05, and 133.06; and to create PSC 133.01 (1), (2) (title), and (3), 133.02 (1) to (4), (11), and (12), 133.03 (3), and 133.04 (6) and (9) to (12), relating to the construction, installation, and placing in operation of natural gas facilities.

b. In the first paragraph of section A. of the analysis, the commission should cite “ch. PSC 133, Wis. Adm. Code,” rather than “Wis. Admin. Code ch. PSC 133.”

c. In the second paragraph of section A. of the analysis, the commission should cite “Section PSC 133.03 (1) (h), Wis. Adm. Code,” rather than “Wis. Admin. Code § PSC 133.03 (1) (h).”

- 2 -

- d. In section B. of the analysis, the commission should cite “Section 196.49, Stats.,” rather than “Wis. Stat. § 196.49.”
- e. The commission should organize the analysis in the manner specified in s. 1.02 (2), Manual.
- f. The commission should include an effective date in the rule-making order.
- g. In treatment clauses that involve renumbering, “PSC” should be inserted before the new number. For example, in SECTION 4, “PSC” should be inserted before “133.01 (2).”
- h. In s. PSC 133.02, the commission should clearly state the extent of the applicability of the definitions. For example, s. PSC 133.02 (intro.) could be created to read: “In this chapter:” [See s. 1.01 (7) (a), Manual.]
- i. Section PSC 133.02 (2) should be renumbered (7) rather than (6). Definitions are arranged alphabetically. [See s. 1.01 (7) (a), Manual.] Subsection (6), as created in SECTION 20, should be sub. (6).
- j. In s. PSC 133.02 (4), the commission may not use “means” and “includes” to define the same term. [See s. 1.01 (7) (c), Manual.] The subsection could be modified to merge the two sentences by adding “..., including natural gas...” at the end of the first sentence.
- k. In s. PSC 133.02 (7), the words “such as” should be replaced by “including.”
- l. In section 25 of the rule-making order, the commission should refer to s. PSC 133.03 (1) (b) rather than s. PSC 113.03 (1) (b).
- m. In section 37 of the rule-making order, the commission should amend the treatment clause to state: “PSC 133.04 (title), and (1) to (5) are amended to read:”.

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

- a. In the analysis, the commission should include a section on related statutes or rules.
- b. The references to “these rules” in s. PSC 133.01 (1) (c) and (2) should be changed to “this chapter.”
- c. In s. PSC 133.04 (8), the commission should refer to s. 182.0175 (1) (c), Stats.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

- a. In the rule-making order, the commission should be consistent in its use of commas before “and” and “or” in lists of three or more items. The preferred drafting style is to use commas.
- b. In s. PSC 133.03 (1) (c), it is suggested that the commission clarify its intent. The phrase “installed to be used” appears vague.
- c. In s. PSC 133.04 (11), the commission should delete the words “or not.”

- 3 -

d. In s. PSC 133.04 (12) (a) 2., the commission should insert a hyphen between “flood sensitive” and “flood prone.”

e. In s. PSC 133.04 (12) (a) 4. e., does the word “plant” have the same meaning as the term defined in s. PSC 133.02 (9)?

f. In s. PSC 133.04 (12) (a) 5., the commission should delete the word “such” and insert the word “the” in its place.

**RESPONSE TO LEGISLATIVE COUNCIL COMMENTS**

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

- a. Changes made.
- b. Change made.
- c. Change made.
- d. Change made.
- e. Change made.
- f. Change made.
- g. Changes made.
- h. Change made.
- i. Change made.
- j. Change made.
- k. Disagree. The Commission feels that “includes” expands a word or phrase to other reasonably related examples not enumerated while “such as” expands a word or phrase by indicating that what follows is a more descriptive example of the type of reasonably related items that are included.
- l. Change made.
- m. Change made.

**4. Adequacy of References to Related Statutes, Rules and Forms**

- a. Change made.
- b. Change made.
- c. Change made.

**5. Clarity, Grammar, Punctuation and Use of Plain Language**

- a. Changes made.
- b. Change made.
- c. Change made.
- d. Change made.
- e. No. Change made.
- f. Change made (but changed to “those” rather than “the”.)

<b>2005 Session</b>									
<p style="text-align: center;"> <input checked="" type="checkbox"/> ORIGINAL                      <input type="checkbox"/> UPDATED  <input type="checkbox"/> CORRECTED                      <input type="checkbox"/> SUPPLEMENTAL         </p> <p><b>FISCAL ESTIMATE</b> DOA-2048 N(R10/96)</p>	<p>LRB or Bill No./Adm. Rule No. <b>Ch. PSC 7 &amp; 170 &amp; 172</b></p> <p>Amendment No. if Applicable</p>								
<p><b>Subject</b>          Repeal of Wis. Admin. Code chs. PSC 7, 170 and 172 and other minor updates and repeals.          Docket 1-AC-218</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; border-left: 1px solid black;"> <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> <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 _____       </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;"> <input type="checkbox"/> School Districts            <input type="checkbox"/> WTCS Districts       </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	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 _____	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	<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<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								
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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 or eliminates obsolete rules and updates language to conform with current drafting conventions.          These changes will not have any fiscal effect on state or local government.</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>          3/28/2006</p>							