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Chapter PSC 133

CONSTRUCTION, INSTALLATION, AND PLACING IN OPERATION OF FACILITIES BY GAS UTILITIES

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Note: Chapter PSC 133 as it existed on February 28, 1959 was repealed and a new chapter PSC 133 was created effective March 1, 1959.

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) EMERGENCY ACTION. In case of emergency, where public interest requires immediate action without waiting for compliance with the specific terms of this chapter, immediate corrective action may be taken by a gas public utility. This action shall be subject to review by the commission.

(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.

History: Cr. Register, February, 1959, No. 38, eff. 3−1−59; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1997, No. 501; CR 06−046: r. (1) Register April 2007 No. 616, eff. 5−1−07; CR 07−020: r. (2) to (4), cr. (1) and (3), renum. (5) to be (2) and am. Register October 2007, No. 622, eff. 11−1−07.

PSC 133.02 Definitions. In this chapter:

(1) "Annexation" means the transfer of territory from one municipality to another by any means authorized by law, including annexations, detachments, attachments, and boundary agreements.

(2) "Certificate of authority" means a certificate issued by the commission under s. 196.49, Stats.

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

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

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

(6) "Gas pipeline" means any conduit for the conveyance of gas.

(7) "Highway" has the meaning given in s. 990.01 (12), Stats.

(8) "Master meter system" means a gas pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system that supplies the ultimate consumer who either purchases the gas directly through a meter or by other means such as rents.

(9) "Mixing unit" means any apparatus designed to mix gas with air or other gas.

(10) "Municipality" means any town, village or city.

(11) "Plant" means all equipment, property, or facilities includible in the utility plant accounts under the uniform system of accounts prescribed by the commission for gas public utilities.

(12) "Principal gas manufacturing unit" means any plant that is capable of generating or manufacturing gas with or without connection to any auxiliary apparatus.

(13) "Public utility" has the meaning given in s. 196.01 (5), Stats.

(14) "Territorial agreement" means an agreement between 2 or more gas public utilities designating gas service areas within a municipality for each of the signatory utilities.

History: Cr. Register, February, 1959, No. 38, eff. 3−1−59; CR 07−020: cr. (intro.), (1), (2), (3), (4), (5), (7), (8) and (14), renum. (1), (2), (3), (4) and (5) to be (6), (9), (10), (11) and (12) and am. Register October 2007 No. 622, eff. 11−1−07.

PSC 133.03 When commission authorization or notification is required. (1) CONSTRUCTION, INSTALLATION, OR USE. A gas public utility shall obtain a certificate of authority before constructing, installing, or placing in operation any of the following:

(a) Plant for furnishing service in a municipality in which the utility has not been authorized to serve by the commission.

(b) A production, mixing, standby, peak shaving, or storage plant or a principal gas manufacturing or mixing unit or any equipment designed to materially change the rated or nominal output characteristics of such a plant or unit.

(c) Plant installed for use as intrastate pipeline facilities to deliver gas to another gas public utility, an interstate or intrastate gas pipeline company, or a cooperative association.

(d) A new or altered existing plant for the purpose of bringing in a new type of gas or to supply a different type of gas to the public, as described in s. 196.49 (5) (a), Stats.

(e) 1. A single gas pipeline project and associated plant, or any plant or addition to plant the cost of which exceeds the cost threshold specified in s. 196.49 (5g) (a), Stats., as revised under subd. 2., except for any of the following:

a. Plant installed in accordance with filed extension rules and rates.

b. Plant installed in compliance with commission orders.

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

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

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

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

(f) A gas pipeline or plant in a newly created municipality or newly annexed or consolidated area, unless the utility already owns service facilities in the area and the exclusive right to serve a specified part or area has been established.

(2) CHANGE IN GAS. Except as provided in par. (b), a gas public utility shall obtain a certificate of authority before doing any of the following:

(a) 1. Substituting one kind of gas for another, as described in s. 196.49 (5) (a), Stats.

2. Changing the heating value or specific gravity of the gas normally supplied to customers in excess of variation permitted in s. PSC 134.21.

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

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

1. Connection of service to a customer that appears to be a master meter system operator.

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

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

History: Cr. Register, February, 1959, No. 38, eff. 3−1−59; renum. (1) (g) to (i) to be (h) to (j) and am. (1) (h) and (i), cr. (1) (g), Register, December, 1984, No. 348, eff. 1−1−85; CR 07−020: cr. (2) (b) and (3), r. and recr. (1) and (2) (intro.), am. (1) (a), r. (1) (b), (e), (g) and (i), renum. (1) (c), (d), (f), (h) and (j) to be (1) (b), (c), (d), (e) and (f) and am., renum. (2) (a) and (d) to be (2) (a) 1. and 2. and am. Register October 2007 No. 622, eff. 11−1−07; **CR14−053: renum. (1) (e) to (1) (e) 1. and am. (intro.), cr. (1) (e) 2., 3. Register April 2015 No. 712, eff. 5−1−15.**

PSC 133.04 Information to be included in an application. An application for a certificate of authority shall include all of the following, as applicable:

(1) PLAN. A description or plan of the project including:

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

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

(c) The approximate construction schedule.

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

(2) FINANCING. The estimated cost and proposed method of financing, including an economic analysis of the proposed project.

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

(4) EFFECT. The effect of the project on cost of operation and on quality, reliability, and quantity of service.

(5) EXISTING PLANT. A description and the value of any plant being replaced or retired as a result of the proposed project.

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

(7) CONSISTENCY. An explanation of how the project is consistent with future overall projects.

(8) OTHER AFFECTED FACILITY OWNERS. Identification of, and mailing addresses for, any person with transmission facilities, as defined in s. 182.0175 (1) (c), Stats., affected by the project and a statement as to which, if any, have been notified of the project by the applicant.

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

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

(10) GOVERNMENT AUTHORIZATIONS. A list of authorizations required of other governmental authorities and a statement indicating whether the authorizations have been applied for or obtained.

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

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

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

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

a. The location of the crossing.

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

c. The proposed construction methods for the crossing.

d. Whether the waterway is defined as outstanding resource water or exceptional resource water by the department.

4. The identification and description of each wetland crossing, including all of the following:

a. The location of the wetland crossing.

b. The length of crossing.

c. The proposed construction methods for the crossing.

d. The wetland type using the Wisconsin Wetland Inventory classification.

e. The wetland type identified by vegetation community type.

f. The presence or absence of invasive species, noting whether they are dominant.

g. Whether any of the wetland is in or adjacent to an area of special natural resource interest as defined by the department.

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

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

(b) For gas line projects that involve construction outside the limits of road rights−of−way or require coordinated commission and department review under s. 30.025, Stats., the commission may require additional environmental information on a case−by−case basis after consultation with the utility.

(12) EFFICIENCY OR CONSERVATION. For projects involving new or modified buildings, information on energy efficiency or conservation features, including all of the following:

(a) The type and R–value of insulating material used for walls, ceilings, roofs, doors, and windows.

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(b) The type of heating and cooling system selected and the system's energy efficiency rating.

(c) The type and source of fuel selected.

(d) The type of lighting system selected.

(13) OTHER NECESSARY INFORMATION. Any other information necessary to understand the project.

(14) COMMISSION REQUESTED INFORMATION. Any other information requested by the commission.

History: Cr. Register, February, 1959, No. 38, eff. 3–1–59: CR 07–020: am. (intro.), (1) (intro.), (2) to (5), cr. (1) (a) to (d), (6), (9), (11), (12) and (14), renum. (6), (7), (8) and (9) to be (7), (8), (10) and (13) and am. Register October 2007, No. 622, eff. 11–1–07.

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

History: Cr. Register, February, 1959, No. 38, eff. 3–1–59; correction in (2) made under s. 13.93 (2m) (b) 7., Stats., Register April 2007 No. 616; CR 07–020: r. and recr. Register October 2007 No. 622, eff. 11–1–07.

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

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

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

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

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

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

History: Cr. Register, February, 1959, No. 38, eff. 3–1–59; correction made under s. 13.93 (2m) (b) 7., Stats., Register April 2007 No. 616; CR 07–020: r. and recr. Register October 2007 No. 622, eff. 11–1–07.

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

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

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

1. Identification of any commission action or docket that granted a gas public utility authority for providing service in the municipality affected by the agreement.

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

3. An evaluation demonstrating how the territorial agreement will avoid controversy over the area to be served by each utility, avoid duplication of facilities, and provide more efficient service.

(2) AUTHORITY TO SERVE. (a) 1. When one gas public utility is authorized by the commission to provide gas service in a municipality, and that utility has entered into a territorial agreement with another gas public utility that does not have commission authorization to serve in the municipality, the additional utility shall apply for and receive from the commission a certificate under ss. 196.49 and 196.50, Stats., before it can provide gas utility service in the municipality.

2. If the service area sought by one of the utilities covered by the territorial agreement requires commission approval under this paragraph, that utility's filing for a certificate of authority shall include an evaluation demonstrating why provision of service by an additional utility in the municipality is needed.

3. If a certificate of authority is granted, the certificate will specify the portions of the municipality in which the additional utility is authorized to serve. Any subsequent amendments to the territorial agreement between the utilities will be considered under par. (b).

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

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

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

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

History: CR 07–020: cr. Register October 2007 No. 622, eff. 11–1–07.

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

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

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

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

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

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

(4) CONTINUED AUTHORITY TO SERVE ANNEXED AREA. A gas public utility that is not authorized to provide service in a municipality that annexes an area of another municipality in which the utility is authorized to provide service shall apply for commission authorization to allow continued service to existing customers in the annexed area. The utility may continue to serve existing customers while the commission acts on the authorization request. The commission shall determine whether the utility may provide gas service to any other portions of the annexing municipality.

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

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

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

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

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

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

History: CR 07–020: cr. Register October 2007 No. 622, eff. 11–1–07.