



Municipal Environmental Group

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CHANGES TO PSC 184 AND 185 ADOPTED BY PSC ON JANUARY 5, 2012

I. APPROVAL OF CHANGES

The Public Service Commission (PSC) adopted final changes to PSC 184 and 185 on January 5, 2012. These changes will be sent forward to the Legislature for final approval

Chapter PSC 184, relating to construction by water public utilities, is completely replaced and updated.

Chapter PSC 185, relating to standards for water public utility service, is revised and new provisions on water audits, water supply shortage plans, and voluntary water conservations programs have been added.

The rule revisions went through a public hearing and comment period. MEG-Water provided written comments on the proposed rules. A copy of MEG-Water's comments can be found on the MEG-Water website at www.megwater.org. The PSC made changes in response to many of MEG-Water's comments. PSC Staff's response to MEG-Water's comments and the comments of others can be found on the website.

PSC Staff's recommended final changes to PSC 184 and 185 are also on the website. The final changes to PSC 185 recommended by PSC Staff were modified in a few places by the PSC Commission during its discussion on the rules. Important changes are mentioned in the summary below.

II. SUMMARY OF CHANGES TO PSC 184 - CONSTRUCTION BY WATER PUBLIC UTILITIES

Chapter PSC 184 as it currently exists will be totally replaced.

A. Exempt Projects Not Needing PSC Approval

The rule provides the following utility work would NOT need PSC approval:

- Installation, replacement, or repair of a utility main, unless a portion of the main is located outside of the utility's service area; or the main is eight inches or greater in nominal diameter and three or more miles long.
- Installation, replacement, or repair of service laterals, hydrants, or valves within the utility's service area.
- Routine meter repair or replacement. *(The proposed rule would have exempted the installation, replacement, or repair of all meters or automated metering systems. This exemption was limited by the PSC Commission in their final approval. Automated meter systems would now have to be approved by the Commission if the cost of the project exceeds the cost threshold.)*
- Installation, replacement, or repair of supervisory control and data acquisition (SCADA) systems, telemetry equipment, or other electronic monitoring and control systems.

- Replacement or repair of existing pumps, motors, or associated equipment.
- Conducting routine maintenance or repairing utility facilities, including buildings used for utility purposes.
- Replacement or repair of filtration media used in existing water treatment purification and disinfection facilities.
- Installation of plant in accordance with filed extension rules and rates.
- Installation of plant in compliance with a commission order.
- Relocation or modification of existing plant to accommodate highway or airport construction.
- Acquisition of vehicles or other movable equipment.

B. Cost Threshold for Non-Exempt Projects Needing PSC Approval

A non-exempt project does not need PSC approval if the project cost is equal to or less than the lesser of

- \$250,000; or
- 25% of the utility's gross operating revenue received during the previous calendar year.

The original proposal had included a cost threshold of \$25,000 for all utilities. This change increasing the amount of the cost threshold is directly related to MEG-Water's efforts on this issue.

C. Projects Needing PSC Approval - If Above Cost Threshold

The following types of projects WOULD need PSC approval -- if the cost of the project exceeds the threshold above.

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

Non-routine meter replacement, including the installation of automated meter reading, would also require PSC approval.

D. Application Process

- A utility must submit an application for PSC approval at least 90 days, but no earlier than 2 years, before beginning a project. A utility may, if it chooses, annually submit to the PSC a list of the projects requiring PSC approval that the utility intends to begin construction on within one year. This option already exists under PSC rules. For each project on the list, the utility would need to submit the information required by PSC 184.
- An application for PSC approval must include information similar to that currently required under PSC 184, plus the following where applicable.
 - A list of any permits or approvals required by other state agencies or local governmental units and a statement indicating whether the permits or approvals have been applied for or obtained;

- For a project that includes new or expanded groundwater wells, surface water intakes, or other sources of water supply, information on any action the utility has taken to mitigate the need for the project;
 - For utility main construction projects, information on surface waters, wetlands, endangered and threatened species, and archeological or historical resources, that may be impacted by the construction;
 - Identification of any flood-sensitive facilities that would be located in designated floodplains or flood-prone areas;
 - Information to allow the preparation of an environmental assessment if an assessment is required under PSC 4; and
 - Any other information relevant to the project requested by the PSC.
- Upon receipt of a complete application, the PSC is to issue a notice of investigation or notice of proceeding.
 - The PSC is not required to hold a hearing on a utility application except in certain limited circumstances.
 - Unless the application requires the preparation of an environmental assessment, if the PSC does not act on the application within 60 days after issuing a notice of investigation, the utility may proceed with the construction work. If the PSC requests additional information to process the application, the 60-day waiting period before construction work may commence begins on the date the additional information is received.
 - The PSC may approve, modify and approve, or deny the application.

E. Effect of Approval

- An approved project must be begun within 2 years, or else the utility must notify the PSC of revised project costs, the schedule for completion, and any other changes to the proposed project.
- The utility must notify the PSC if the scope, design or location of an approved project changes significantly, or if project costs may exceed estimated costs by more than **10%**. The PSC may reconsider its approval if that occurs. *(The original proposal did not require notice unless costs exceeded estimates by more than 25%. The 10% is consistent with rules and practices for electric utilities.)*

F. Emergency Projects

- A utility may begin necessary repair work without receiving prior PSC approval in case of an emergency that results from the failure of power supply or from fire, storm, or similar events.

G. Other Approvals Required

- A water utility is required to obtain PSC approval before providing service in a new city, village or town. Under current practice, a water utility does not need PSC approval before it serves in a new township unless the township is already served by another water utility.

H. Sewer Utilities

The rule does not apply to municipal sewer utilities. A municipal sewer utility is not defined as a "utility" under the rule. However, the rule does apply to a sewer utility owned by a non-governmental unit.

II. SUMMARY OF CHANGES TO CHAPTER 185 --STANDARDS FOR WATER PUBLIC UTILITY SERVICE

Certain sections of PSC 185 are revised, and other new sections are created.

A. New Definitions

- The final rules include several new definitions for water public utilities. Definitions for utility classes (Class AB, C and D) are incorporated, based on the number of customer connections. The rules also establish definitions for various customer classes used in water utility tariffs, including residential, commercial, industrial, public authority, non-residential, and irrigation-only customers.
- A new definition for "multi-family residential customer" was added to the final rule. A multi-family residential customer is a customer taking service for a residential building that serves 3 or more dwelling units, and that is served by a single meter. For accounting purposes, sales to multi-family residential customers are still to be recorded as commercial sales. *(This addition was made after public comment on the proposed rule.)*
- A definition for "water conservation" is added. Water conservation is defined to mean "practices, techniques, and technologies that reduce the demand for water, reduce water loss or waste, or improve water use efficiency."

B. Water Rates and Bill Information

- The final rules require a water utility to adopt general service rates that reflect the cost of service for each customer class. *(The proposed rules included a requirement that rates include a fixed charge and a variable charge based on the volume of water used. The final rules eliminated the requirement that rates include a fixed meter charge. One PSC Commissioner had raised a concern that requiring a fixed charge would limit the PSC's options to choose alternate rate designs in the future, where warranted.)*
- The rule recognizes the PSC may approve rates that promote efficient water use.
- The rules require a water utility that calculates usage in cubic feet to provide customers with consumption information in gallons, or a formula for converting usage from cubic feet to gallons.

C. Water Loss

- The rule adds a new requirement on water audits and water loss. The PSC currently requires water utilities to annually report the amount of its "unaccounted for" water. The rule begins to phase out the use of "unaccounted for water" to measure losses in favor of measuring "water loss" in accordance with the water audit methodology adopted by the American Water Works Association (AWWA). Under the definition of "water loss" under the AWWA methodology,

water loss includes any water that is pumped and treated to drinking water standards but that is not sold to utility customers due to leaks, theft, metering errors, and other factors.

- The rules require an annual water audit. This audit will be included as part of a utility's annual report filed with the PSC.
- Under existing rules, water utilities with excessive system losses or unaccounted for water are required to identify the reasons for the losses and submit a corrective action plan to the PSC. Under the new rules, utilities would still be required to identify the reasons for the losses and submit a corrective action plan to the PSC. However, the new rule changes the criteria that the PSC would use to determine excessive water loss. Under the new rules, Class AB and Class C utilities would be required to submit a correction action plan if their water loss exceeds 15% of the water entering the distribution system and Class D utilities would be required to submit a plan if their water loss exceeds 25%. The requirement for a water loss control plan first applies to water audits submitted after these new rules become effective.

MEG-Water argued for a higher threshold for Class AB and C utilities, but the PSC was unwilling to make this change.

- The new rules allow the PSC to require a water utility to conduct a leak detection survey of its distribution system if the utility's water loss exceeds the water loss standard for three consecutive years. This requirement first applies to a water audit submitted after these new rules become effective.

D. Emergency Operations, Interruption of Service and Water Supply Shortages

- The new rule consolidates and slightly revises existing requirements in ch. PSC 185, related to providing a continuous and adequate water supply, procedures for interruption of service, and emergency operations.
- The new rules create a new section to address a water supply shortage, which a utility may declare if the utility cannot adequately meet customer demand due to drought, insufficient source supply or excessive demand. A water utility would be able to adopt a water supply shortage curtailment plan and file it with the PSC. If a water utility has not adopted a plan, the rule identifies a utility's responsibilities if facing a water supply shortage and permits temporary curtailments to customers other than essential use customers, such as hospitals.

E. Water Conservation

- A utility is required to provide information to residential customers, upon request, that may assist the customer in reducing water use. The information may be on the utility's website.
- The rule sets up a procedure for utilities to recover the cost of voluntary water conservation rebate or incentive programs they choose to implement. This applies to programs that provide rebates or other direct financial incentives to customers for water-efficient products or services.
- The rule requires a utility administering or funding a water conservation rebate or financial incentive program to obtain PSC approval for the program.

- The rule sets forth the considerations the PSC must consider when deciding whether to approve the program. Considerations include whether the program is in the public interest, and the net cost-effectiveness of the program.
- A utility may not modify or discontinue an approved program without the PSC's approval.
- The rule requires utilities to report on water conservation rebate or financial incentive program-related expenditures and program outcomes annually.

III. QUESTIONS AND COMMENTS

If you have any questions on the rule, please call or e-mail Lawrie Kobza at

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