

Changes to Water Utility Construction Rules (PSC 184)

SECTION x. Chapter PSC 184 repealed and recreated to read:

PSC 184 Construction of and Placing into Operation Facilities by Water Public Utilities and by Municipal Combined Water and Sewer Public Utilities.

PSC 184.01 Scope.

PSC 184.02 Definitions.

PSC 184.03 Activities requiring commission authorization.

PSC 184.04 Applications for commission authorization.

PSC 184.05 Commission procedures.

PSC 184.06 Emergency work.

PSC 184.01. Scope. (1) **APPLICABILITY.** This chapter applies to a water public utility, as defined in s. 196.01(5)(a), Stats., a combined water and sewer public utility under s. 66.0819, Stats., and to any person, except a governmental unit, who furnishes services by means of a sanitary sewerage system.

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

PSC 184.02 Definitions. In this chapter:

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

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

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

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

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

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

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

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

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

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

- (a) Constructing facilities or initiating service in a city or village not currently served by the utility.
- (b) Constructing facilities or initiating service in an area that is currently served by another utility.
- (c) Acquiring or placing in operation existing plant from another person or utility.
- (d) Establishing an interconnection with another utility with which it has no existing interconnection.
- (e) Combining or consolidating with another utility.

(3) SEWER DEREGULATION. A person shall receive commission approval before deregulating utility sewer facilities. The commission shall hold a hearing on an application to deregulate sewer facilities.

(4) CONSTRUCTION OF FACILITIES. Except as provided in sub. (5), a utility shall obtain a certificate from the commission before constructing, purchasing, installing, modifying, replacing, or placing in operation any of the following:

- (a) Groundwater wells, surface water intakes, and other sources of water supply.
- (b) Water treatment, purification, and disinfection facilities.
- (c) Elevated tanks, reservoirs, and other storage facilities.
- (d) Pumping stations, pressure-reducing stations, and associated facilities.
- (e) Utility buildings.
- (f) A regional pipeline.
- (g) Sewer facilities, including any pumping facilities, sewage treatment and disposal plant.
- (h) Any other water or sewer project and associated plant, the cost of which exceeds \$250,000 or 25 percent of the utility's gross water or sewer operating revenue received during the previous calendar year, whichever is less, except for any of the following:
 - 1. Plant installed in accordance with filed extension rules and rates.
 - 2. Plant installed in compliance with commission orders.
 - 3. Water or sewer main and associated plant relocated or modified to accommodate highway or airport construction.

(5) EXEMPTIONS. Unless a necessary component of a project under sub. (4) (a) to (g), a utility does not need a certificate to do any of the following:

- (a) Install, replace, or repair water mains, sewer mains, service laterals, hydrants, or valves within the utility's service area.
- (b) Install, replace, or repair meters or automated metering systems.
- (c) Install, replace, or repair supervisory control and data acquisition (SCADA) systems, telemetry equipment, or other electronic monitoring and control systems.
- (d) Replace or repair existing pumps, motors, or associated equipment.

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

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

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

(b) For any project receiving commission authorization under s. PSC 184.05 that is not completed within 2 years from the date of the authorization, and for which actual or estimated project costs will be at least 25 percent higher than the costs authorized by the commission, a utility shall notify the commission of the revised project costs, schedule for completion, and any other changes to the proposed project. The commission may reconsider its authorization for a revised project under s. PSC 184.05.

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

(3) CONTENTS OF APPLICATION. A person or utility seeking authorization for any activity under s. PSC 184.03 (1) to (3) or a utility seeking a certificate under s. PSC 184.03 (4) shall submit an application to the commission that includes all of the following, where applicable:

- (a) A description of the project including all project components, phases, and a schedule of construction.
- (b) Information supporting the purpose and necessity of the project.
- (c) An analysis and description of alternatives to the project.
- (d) An analysis of the effect of the project on the quality and reliability of service.
- (e) The project cost itemized by major plant accounts as identified in the uniform system of accounts, including all administrative, overhead, engineering, legal, construction, and inspection costs.
- (f) Identification of the proposed project funding sources, including utility or municipal sources and outside grants or loans. If the project will be financed, the utility shall include expected financing rates and terms.
- (g) An estimate of annual operating costs of the project, by major expense accounts as identified in the uniform system of accounts.
- (h) A description of any plant being retired or replaced and the year it was placed in service, if known.
- (i) A map showing the location of the project and all proposed facilities by Public Land Survey System (PLSS) quarter-quarter section or by another methodology approved by the commission.
- (j) A list of any permits or approvals required by other units of government and a statement indicating whether the permits or approvals have been applied for or obtained.

(k) For a project under s. PSC 184.03 (4) (a), information that demonstrates that the need for the project could not be avoided by cost-effective efforts to promote water conservation, reduce customer demand, or minimize system loss, as defined in s. PSC 185.85 (1) (q).

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

(4) ENVIRONMENTAL REVIEW. A person or utility shall provide sufficient information in an application under this section for the commission to determine environmental effects under s. 1.11, Stats. For a project subject to ss. PSC 4.10 (1) or (2), a person or utility shall submit all of the information required by the commission to prepare an environmental assessment or environmental impact statement under ch. PSC 4.

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

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

PSC 184.05 Commission procedures. (1) APPLICATION REVIEW. (a) Except as provided in par. (b), upon receipt of an application under s. PSC 184.03, the commission shall issue a notice of investigation or proceeding. The commission may approve, modify and approve, or deny the application.

(b) Upon receipt of an application from a utility for a proposed project under s. PSC 184.03 (4) that has a cost of less than \$500,000, the commission may acknowledge receipt of the application and accept the information for filing, in which case the utility may proceed with the construction work.

(2) TIME FOR REVIEW. If no action is taken by the commission within 90 days after the commission issues a notice of investigation under sub. (1) (a), the application is considered approved.

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

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

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

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

(d) The commission determines a hearing is appropriate.

184.06 Emergency work. In case of an emergency, a utility may begin necessary repair work without receiving prior commission authorization. The utility shall promptly notify the commission of the emergency work and shall, within 30 days after commencing the work, furnish the commission with the information required under s. PSC 184.04 (3).

(end)