



# Public Service Commission of Wisconsin

Phil Montgomery, Chairperson  
Eric Callisto, Commissioner  
Ellen Nowak, Commissioner

610 North Whitney Way  
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March 2, 2012

Representative Mark Honadel  
Room 113 West  
State Capitol  
Post Office Box 8952  
Madison, WI 53708

Senator Rich Zipperer  
Room 323 South  
State Capitol  
Post Office Box 7882  
Madison, WI 53707-7882

Re: Water Conservation and Construction Rules

CR No. 11-039

Dear Representative Honadel and Senator Zipperer:

Pursuant to Wis. Stat. § 227.19(4)(b)3., the Commission is submitting two germane modifications to Clearinghouse Rule No. 11-039 due to a recent statutory change. 2011 Wisconsin Act \_\_\_\_ (2011 Senate Bill 428) (Act), is currently awaiting the Governor's signature. The Act revises the Commission's statutory procedures for reviewing utility construction applications. Assuming the Act is signed, these two modifications make the new rule consistent with the language in the new Act. However, the Commission is submitting these modifications whether or not the new Act is signed.

First, the Act establishes a 90-day deadline for processing construction applications. See Bill Section 17, creating Wis. Stat. § 196.49(5r)(b). The rule draft that was submitted has a 60-day review deadline. The Commission is changing the deadline in the rule so that it is consistent with the one in the new statute.

This modification is in Wis. Admin. Code § PSC 184.05 (2), which would be changed to read:

**PSC 184.05 (2) TIME FOR REVIEW.** Unless the application requires the preparation of an environmental assessment under s. PSC 4.10 (2), if no action is taken by the commission within ~~60~~ 90 days after the commission issues a notice of investigation under sub. (1) (a), the utility may proceed with the construction work. If the commission requests additional information to process an application after issuing a notice of investigation, the ~~60-day~~ 90-day waiting period before construction work may commence begins the date the additional information is received by the commission.

Second, the Act sets new cost thresholds for utility projects requiring Commission review and indexes those thresholds. See Bill Section 16, creating Wis. Stat. § 196.49(5g)(a)5. and (b). The rule as originally submitted uses the same cost threshold as the Act, but did not include an

Representative Mark Honadel  
Senator Rich Zipperer  
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indexing provision. The Commission is modifying the rule to include the indexing provision contained in the Act.

This modification is in Wis. Admin. Code § PSC 184.03(3), which would be changed to read:

**PSC 184.03 (3) CONSTRUCTION OF FACILITIES.** A utility shall obtain a certificate from the commission before constructing, purchasing, installing, modifying, replacing, or placing in operation any plant not exempt under sub. (4) if the project cost 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, or exceeds the cost threshold established under s. 196.49 (5g) (b).

Enclosed is a full copy of the rule incorporating the modifications. While this letter shows the two changes in "strike-and-score" format, the enclosed rule has the two changes incorporated in clean text. All other provisions of the rule remain the same.

If you have any questions about this, please feel free to contact me at 608-266-8128 or john.lorence@wisconsin.gov. Thank you.

Sincerely,

*/s/ John Lorence*

John Lorence  
Assistant General Counsel

JL:hms:\g:\rules\active\1-AC-232\3-Legislative Step\Final\Modification Ltr 3-2-12

Enclosure