

Chapter PSC 98

RULES WITHIN MEANING OF AND PURSUANT TO SECTION 300.304 OF THE REGULATIONS OF THE PRICE COMMISSION

PSC 98.01 Purpose.
PSC 98.02 Nature of enterprises to which rules apply.
PSC 98.03 Scope.
PSC 98.04 General statutory and existing Wisconsin Administrative Code provisions to be observed.

PSC 98.05 General criteria for authorizing increases in public utility rates.
PSC 98.06 Reports to the price commission.

PSC 98.01 Purpose. The purpose of the rules in this chapter is to meet all requirements specified in section 300.304 of the regulations of the price commission.

History: Cr. Register, December, 1972, No. 204, eff. 1-1-73.

PSC 98.02 Nature of enterprises to which rules apply. The rules in this chapter shall apply to all public utilities, investor-owned or municipal, engaged in furnishing electric, gas, telephone, water or sewer service to the public, and railroads, motor carriers, and carriers by water to the extent to which the public service commission of Wisconsin has regulatory jurisdiction thereover with respect to rates or charges for service rendered thereby.

History: Cr. Register, December, 1972, No. 204, eff. 1-1-73.

PSC 98.03 Scope. The rules in this chapter shall apply to all hearings, final orders or proceedings on rate increases before the public service commission of Wisconsin with respect to public utilities subject to price control under the provisions of the Economic Stabilization Act of 1970 and which have not been exempted from price controls under the rules of the cost of living council.

History: Cr. Register, December, 1972, No. 204, eff. 1-1-72.

PSC 98.04 General statutory and existing Wisconsin Administrative Code provisions to be observed.

(1) Charges made by any public utility for any heat, light, water, or power produced, transmitted, delivered, or furnished or for any telephone message conveyed or for any service rendered or to be rendered in connection therewith and all rates, fares, and charges made by a railroad or any common motor carrier of property or passengers shall be reasonable and just and any unjust or unreasonable charge is prohibited and unlawful. (ss. 194.19, 195.08 (1), and 196.03 (1), Stats.)

(2) No change in schedules which constitutes an increase in rates to electric, gas, telephone, water, and sewer customers shall be made except by order of the commission after an investigation and hearing (s. 196.20 (2), Stats.). Written notice of hearings setting forth the date, hour, place, and nature of the hearing is given by mail to all interested persons at least 10 days in advance (s. PSC 2.30 (1)). In rate as well as other proceedings, written notices of hearing shall be distributed to governing bodies of all political subdivisions in the utility service area, state press services, television, radio, and newspaper facilities in the utility service area, and all other individuals or organizations requesting notices with respect to individual utilities.

(3) In cases involving application for an increase in railroad and common motor carrier rates, the commission has power to suspend any filing thereof and to hold hearings before any rate increase is approved. Any such application for a general rate increase is suspended and hearing held on due notice. (ss. 194.22 and 195.08, Stats.)

Note: Chapter 341, Laws of 1981, repealed s. 194.22, Stats.

(4) A motor transportation calendar is issued each week as provided by s. 194.34 (1), Stats., and s. PSC 2.30 (2), containing

applications scheduled for hearing and other matters relating to motor carriers, which is distributed by first class mail to each county clerk for posting in a prominent place in the courthouse, to various publications of motor carrier organizations in Wisconsin, newspapers of general circulation and any individuals or organizations desiring to subscribe to such calendar.

(5) Any electric, gas, telephone, water, or sewer public utility making application to the public service commission of Wisconsin for a general revision of rates shall inform each affected customer of the filing of the application and the general nature and effect thereof by means of a bill insert over one complete billing cycle or by newspaper advertising if postcard billing is employed, prior to the first hearing with respect to such application. (s. PSC 2.73.)

(6) All interested persons and organizations, or their proper representatives, shall be afforded reasonable opportunity to attend and participate in all hearings held with respect to rate increases by means of cross examination of witnesses and presentation of direct testimony and evidence in support of their position in such proceeding. (ss. PSC 2.30 (1) and 2.32)

(7) Attendance at and participation in proceedings involving rates for utility service is encouraged by widespread dissemination of information regarding hearings, setting hearings at convenient places within service areas of the involved utility, and scheduling hearings at times convenient to the public as practical and within experienced participation.

(8) The staff of the public service commission of Wisconsin does, and for many years has, actively participated in rate proceedings before the commission through detailed review of applications and supporting evidence and preparation and presentation of testimony and evidence on all facets of revenue requirements and establishment of rates through income statements, rate base, cost of capital, and other matters. (s. PSC 2.32 (2)).

(9) The public service commission of Wisconsin has and does follow the concept of establishing rates for utility service on the basis of the just and reasonable costs incurred in providing adequate service to consumers. Cost of service is determined on a test year basis giving consideration to just and reasonable costs being incurred by the public utility, with the rate of return included in cost of service based on cost capital applied to a prudent investment (original cost) rate base related to the test year. (*West Allis v. Public Service Commission*, 42 Wis. 2d 569, 575; *M & S T. Co. v. Public Service Commission*, 268 Wis. 573, 585.)

(10) The staff of the public service commission of Wisconsin does, and for many years has, on a monthly basis reviewed the earnings of all classes A and B electric, gas, telephone, and water public utilities with the commission being informed, with recommendations for action, where realized earnings exceed rates of return considered reasonable and just. Annual reports of railroads and common motor carriers are reviewed with respect to operating results with data combined to review industry operations.

History: Cr. Register, December, 1972, No. 204, eff. 1-1-73.

PSC 98.05 General criteria for authorizing increases in public utility rates. (1)

No rate increase shall be authorized for a public utility by the public service commission of Wisconsin, except as otherwise provided herein, unless said commission finds and determines that it does meet the following general criteria:

(a) It shall be justified on the basis of cost and not reflect future inflationary expectations. See Application of General Criteria, s. PSC 98.05 (3) (a).

(b) It shall constitute the minimum required by the utility to assure continued adequate and safe service or to provide for necessary expansion to meet its future requirements. See Application of General Criteria, s. PSC 98.05 (3) (b).

(c) It shall achieve the minimum rate of return needed by the utility to attract capital at reasonable costs and not impair the credit of the utility. See Application of General Criteria, s. PSC 98.05 (3) (c).

(d) It shall not reflect labor costs of the utility which are in excess of those allowed by federal price commission policies. See Application of General Criteria, s. PSC 98.05 (3) (d).

(e) It shall take into account the expected and obtainable productivity gains of the utility. See Application of General Criteria, s. PSC 98.05 (3) (e).

(2) General criteria do not apply to a rate increase authorized for a public utility by the public service commission under the following circumstances:

(a) A rate increase that intends to pass through specific allowable costs, including taxes (except income taxes), purchase gas expenses, fuel costs, and purchased power costs, but not including labor costs, under an order or approved tariff provision.

(b) A rate increase that is intended only to adjust relationships between classes of customers.

(c) A rate increase that results from a revision or alteration of the nature or type of services offered to customers, and which does not increase the utility's aggregate annual revenues by more than 1%.

(3) (a) 1. Recently recorded financial results of the utility for a representative period (test year) shall be utilized to establish its actual costs for providing utility services. These costs will be further adjusted to reflect known changes in costs occurring during the test year not reflected in test year data. Changes in costs occurring subsequent to the test year will be carefully considered and taken into account only if found to be appropriate. Adjustments also will be made to eliminate the effects of conditions reflected in the test year data which are found to be abnormal or unrepresentative.

2. Adjustments for changes in test year costs will not be made unless either a) the change is found to be subject to definite computation or reasonable estimation, or b) in exceptional instances, a cost adjustment is dictated by overriding considerations of public policy and the commission finds that such adjustment should be allowed, because of such considerations of public policy, despite difficulties in estimation. In the case of adjustments falling within the latter category—which might include an increased allocation for research and development or for a program which the commission finds to be needed to protect public health and safety—the commission will require periodic reporting, or impose other protective conditions, to assure that the funds allowed are expended for the purpose intended. In no case will an adjustment be made on the basis of general predictions of increased costs.

3. Where necessary and practical, cost allocation studies with respect to rate base, revenues, and operating expenses to selected classes and groups of customers are performed for consideration by the commission as one element in the determination of just and reasonable rates for various categories of utility service. Generally, the commission adheres to the principles laid down in a Wisconsin supreme court case involving this question in *West Allis v.*

Public Service Commission, 42 Wis. 2d 569. In the establishment of overall rates for utility service at levels to cover just and reasonable costs of providing adequate service, the distribution of revenue requirements among different classes of customers does not on the whole contribute to inflation.

(b) Rate increases to cover costs associated with safety, expansion of service, improvement of service, or environmental or ecological protection will be allowed where definitely and quantitatively ascertainable but will not be allowed where there has not been a finding that those costs qualify as test year adjustments in rate proceedings as required under the provisions of s. PSC 98.05 (1) (b).

(c) 1. The overall rate of return will be determined by use of the utility's existing capital structure, adjusted only for the effect of changes which the commission finds to be due to imminent issues of new capital. A pro forma capital structure will be utilized where there is clear evidence that the use of the actual structure will result in inequities either for rate payers or for investors. The resulting capital structure will be one which will reasonably contribute to the financial soundness of the utility. Senior capital costs will reflect costs which the commission finds to be actually experienced during the recently completed test period and will recognize only those additional costs beyond the test year which the commission finds are clearly and definitely identifiable during the proceeding. The return rate for common stock equity will reflect only that rate which the commission finds is necessary to permit the utility to raise required capital on reasonable terms. In situations where a common equity return rate has been established for the utility in a recent rate order of the commission, the rate so prescribed will be increased by no more than the amount the commission finds to be necessary to reflect changes in the cost of capital.

2. While the commission determines a specific rate of return on rate base in order to determine the overall cost of service and a specific revenue requirement, it is done with the understanding that an earned rate of return within a small range around the authorized rate of return is acceptable. If the earned rate of return on common equity subsequent to the rate case increases in several basic points above the specific rate of return authorized, for example, as a result of productivity gains, the commission would consider this to be within the acceptable range and take no action to reduce the rates for utility service. Conversely, if the earned rate of return on equity fell several basic points below the specific rate of return authorized, the commission would expect the utility to regard this as a reasonable deviation from the precise rate of return specified in the proceeding.

(d) A wage or salary payment in excess of labor costs allowed by price commission regulations and policies will not be considered for rate-making purposes other than as to that portion allowable under price commission regulations and policies, except in those instances where the increase is required by a contract which became binding before November 8, 1971, or where the disallowance of such consideration would create an undue hardship on the employer. In respect to the latter exception, the question of whether an undue hardship will be created on the employer will be considered and determined on an individual case basis, and be allowed only where the commission makes a finding that such disallowance would constitute an undue hardship.

(e) 1. Expected productivity gains will be taken into account to the extent the commission finds that such gains are susceptible to quantitative measurement in accordance with the requirements of s. PSC 98.05 (1) (e). In particular, all productivity gains associated with increases in costs for which adjustments are allowed must be considered with a view to achieving a consistent and balanced projection of operating experience. Where productivity gains are not susceptible to quantitative measurement, the commission will make a specific finding to that effect.

2. Obtainable productivity gains will be taken into account by identifying, to the extent practicable, any present or projected

