

CERTIFICATE

STATE OF WISCONSIN)
)
 PUBLIC SERVICE COMMISSION) SS
 OF WISCONSIN)

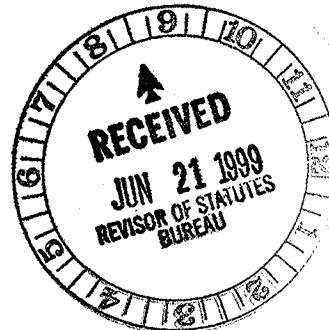
I, Lynda L. Dorr, Secretary to the Public Service Commission of Wisconsin and custodian of the official records, certify that the attached order of the Public Service Commission Creating Rules, docket 1-AC-173, was duly approved and adopted by this Commission at its open meeting on June 15, 1999.

I further certify that this copy has been compared by me with the original on file in this Commission and that it is a true copy of the original, and of the whole of the original.

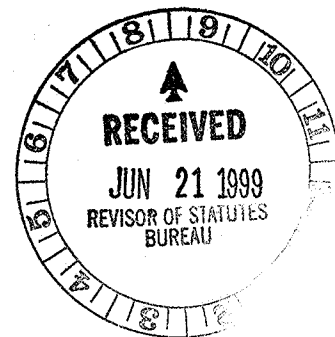
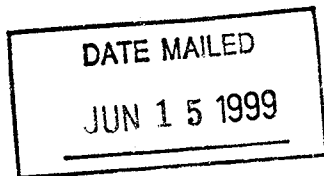
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the Public Service Commission of Wisconsin at Madison, Wisconsin, this 15th day of June, 1999.

Lynda L. Dorr

Lynda L. Dorr
 Secretary to the Commission
 Public Service Commission of Wisconsin



9-1-99



BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Rules for Sewer Main Extension Cost Recovery

1-AC-173

**ORDER OF THE PUBLIC SERVICE COMMISSION
CREATING RULES**

The Public Service Commission creates Wis. Admin. Code ch. PSC 187: Sewer Main Extension Cost Recovery.

**ANALYSIS PREPARED BY THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Pursuant to the legislature's instruction in Wis. Stat. § 66.076(1)(b) as created by 1997 Wis. Act 213, and section 5 of that Act, on October 15, 1998, the Public Service Commission submitted to the Legislative Council for review—and at the same time adopted as emergency rules—administrative rules establishing standards for the compensation of subdivision developers when a person outside the subdivision seeks to connect to a sewer system constructed by the developer. A hearing on the proposed rules was held January 8, 1999, and written comments were accepted through January 14, 1999. The rules set forth standards in the following areas:

PSC 187.01. Purpose. Provides the statutory authority for and purpose of the rules.

PSC 187.02. Definitions. Defines a number of key terms contained in this chapter: “developer,” “developer contribution,” “municipality,” “sewerage project,” “sewer main,” “sewer service lateral,” and “subdivision.”

Docket 1-AC-173

PSC 187.03. Application of the rules. Specifies those persons to whom the rules apply: “any person who connects a sewer main extension into a sewer main for which a developer is paying or has paid.”

PSC 187.04. Notice. Requires the municipality in which a sewerage project is located to inform a person who wishes to connect of the requirements of this chapter, i.e., that the developer who constructed the project must be paid.

PSC 187.05. Determining refund fees. Sets forth the formula for calculating the cost to be paid by a person seeking to connect to a developer-financed sewerage project within three years of the original construction.

RULES AND STATUTORY AUTHORITY

Pursuant to authority vested in the Public Service Commission by Wis. Stat. §§ 66.076(1)(b) and 227.11(2), and 1997 Wis. Act 213, section 5, and interpreting those provisions, the Public Service Commission adopts as final rules Chapter PSC 187 as follows:

SECTION 1: PSC Ch. 187 is adopted as follows:

Chapter PSC 187

SEWER MAIN EXTENSION COST RECOVERY

PSC 187.01	Purpose	PSC 187.04	Notice
PSC 187.02	Definitions	PSC 187.05	Determining Refund Fees
PSC 187.03	Application		

PSC 187.01 Purpose. The purpose of this chapter is to carry out the legislative directive in s. 66.076(1)(b), Stats—to adopt rules setting forth the method of determining payment to a developer by a person connecting an extension into a sewerage project for which the developer is paying or has paid in whole or in part.

PSC 187.02 Definitions. In this chapter:

1. "Developer" is a person who constructs or creates a subdivision.
2. "Developer contribution" is physical assets or capital contributed by a developer to a sewerage project.
3. "Municipality" has the meaning given under s. 66.076(1)(m), Stats.

Note: This chapter does not apply to town sanitary districts. Section 66.076(1)(m), Stats., defines "municipality" as any town, village, city or metropolitan sewerage district.

4. "Sewer main" means sewer pipe installed to transport sewage from the sewer service lateral to the wastewater collection system or wastewater treatment plant.
5. "Sewer service lateral" means the pipe installed from a building to the sewer main.
6. "Sewerage project" means that portion of a sewer main which has been financed by a developer contribution and which connects the remainder of the municipal sewerage system and the developer's subdivision. It also includes any lift stations, including pumping facilities, located within the development which have the capacity to serve outside the development.
7. "Subdivision" has the meaning given under s. 236.02(12), Stats.

Note: Section 236.02(12), Stats., defines "subdivision" as a division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of a building development, where: (a) The act of division creates 5 or more parcels or building sites of 1 ½ acres each or less in area; or (b) Five or more parcels or building sites of 1 ½ acres each or less in area are created by successive divisions within a period of 5 years.

PSC 187.03 Application. This chapter applies to any person who connects a sewer main extension into a sewer main for which there has been a developer contribution, and whose property is outside of the subdivision of the developer who made the developer's contribution. A person making a sewer main extension from a previously installed sewer main extension for which a developer is paying or has paid shall pay to the developer a fee as defined under s. PSC 187.05. This chapter does not apply to a combined water and sewer utility under s. 66.077, Stats.

Note: This chapter does not apply to limit any sewerage service charges or other means of collecting costs of providing wastewater treatment service as permitted under s. 66.076, Stats., by municipalities owning wastewater facilities or portions thereof for which no developer contribution has been made.

PSC 187.04 Notice. The municipality in which a sewerage project is located for which a developer is paying or has paid shall inform a person who wishes to connect an extension into a sewer main in the sewerage project of the requirements of this chapter.

PSC 187.05 Determining Refund Fees. (1) Where the cost of the sewer main extension is to be collected through special assessment by the municipality against the abutting property, the procedures set forth under ss. 66.60 and 66.62, Stats., shall apply, and no additional contribution for the cost of the sewer main extension will be required and no refund will be made to the developer.

(2) When a new sewer main is extended from an existing sewer main, which was not financed by developer contributions, the new sewer main extension shall not be subject to this chapter.

(3) Where the developer is paying, or has paid, all or part of the cost of a sewer main extension, part of the contribution may be refundable. If a person whose property is outside of the development connects a sewer main extension to a developer-financed sewer main within three years after the date of completion of the developer's sewer main installation, within 60 days of connection the person shall pay to the developer the following:

(a) Calculation of Sewer Main Extension Refund: The developer shall be refunded a percentage of the costs of the original sewerage project calculated using the Diameter Squared, Length of Sewer Main method, where

$$\text{Refund (\$)} = C \times P$$

C = the cost or portion of the cost of the original sewerage project paid or to be paid by the developer (\$)

$P = [L_2 \times (D_2)^2] \div [L_1 \times (D_1)^2]$; when $P \geq 0.50$, set $P = 0.50$ (i.e. *P may never be greater than 0.50 in calculating the refund*)

L_1 = Lineal feet of sewer main installed with the original sewerage project

D_1 = Diameter in inches of sewer main L_1

L_2 = Lineal feet of sewer main installed with new sewer main extension

D_2 = Diameter in inches of sewer main L_2

Note: Where multiple sewer main diameters are involved, calculating "P" requires summing the individual products of each length of sewer main multiplied by its respective diameter squared.

(b) Calculation of Additional Sewer Main Extensions: As additional sewer main extensions are made to the sewer main, paid or to be paid by the developer, the cost of the original sewerage project shall be redistributed on the basis of proportionality by expanding the Diameter Squared, Length of Sewer Main Method to include the additional extensions. Any calculations previously made under the formula shall be recalculated to adjust and determine new reimbursement payments to all parties. Reimbursement to the original developer shall never exceed 50% of the original

Docket 1-AC-173

sewerage project cost. No refunds will be made for sewer main extensions that do not directly connect to the sewer mains serving the original development.

**FISCAL ESTIMATE AND INITIAL
REGULATORY FLEXIBILITY ANALYSIS**

There will be minimal adverse fiscal impact of these proposed rules on state or local units of government. In an effort to minimize the impact of the rules on small businesses, as defined in Wis. Stat. § 227.114(1)(a), the Commission has met with and received input from a number of developers and municipalities, as well as their professional associations. These persons and groups indicate that there should be no unusual burdens on small business other than the burden of the legislation itself. The rules seek to minimize the burden on all parties by imposing a three-year limitation period on the obligation to pay a developer for the costs of a sewerage project to which a person seeks to connect.

EFFECTIVE DATE

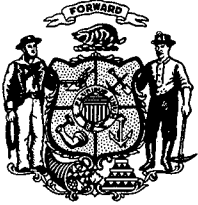
The rules have been sent to the legislature for review pursuant to Wis. Stat. § 227.19. They will become effective as final rules on the first day of the month following publication in the Wisconsin Administrative Register, as provided in Wis. Stat. § 227.22(2).

Dated at Madison, Wisconsin, June 15, 1999

By the Commission:

Lynda L. Dorr
Lynda L. Dorr
Secretary to the Commission

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Public Service Commission of Wisconsin

Ave M. Bie, Chairperson
Joseph P. Mettner, Commissioner
John H. Farrow, Commissioner

610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

June 18, 1999

Mr. Gary Poulson
Deputy Revisor
Revisor of Statutes Bureau
131 West Wilson Street, Suite 800
Madison, WI 53703-3233

Re: Rules for Sewer Main Extension Cost Recovery

1-AC-173

Clearinghouse Number 98-157

Dear Mr. Poulson:

Enclosed please find copies of rules approved by the Public Service Commission (Commission) on June 15, 1999. The rules were previously sent to the legislature for legislative review pursuant to Wis. Stat. § 227.19(2) and were not objected to. We will send the rules to you electronically in a couple days. Copies are also being sent to the Secretary of State for filing.

Please call if you have any questions. Thanks for your help.

Sincerely,

Steven Levine
Legal Counsel
Division of Water, Compliance, and Consumer Affairs

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Enclosures

cc: Secretary of State

