

Parties making exceptions to rulings may present the same to the commission for review in the manner provided in section PSC 2.35 (1).

(2) The presiding officer will open the hearing and make a concise statement of its scope and purposes. Appearances then will be entered on the record. If the matter is contested, the examiner then will state the issues in the proceeding. Thereafter, parties may make motions or opening statements in accordance with the practice in circuit courts of Wisconsin.

(3) When opening statements are made they shall be confined to: (a) a brief summary or outline in clear and concise form of the evidence intended to be offered; and (b) a statement of ultimate legal points relied upon. There shall be no argument on either the facts or legal theories.

(4) Parties may be off the record only when the examiner permits. If a discussion off the record is pertinent, the examiner will summarize it on the record. Any argument before the examiner on objections to receipt of evidence or on motions to strike will not be recorded. The legal reasons for the objection or motion will be recorded.

PSC 2.32 Appearances. (1) A person desiring to participate in a proceeding, whether on his own behalf or as an authorized agent or attorney, shall enter his appearance by giving his name and address and the name of any party he represents and in what capacity he is employed by such party.

(2) Members of the commission staff appear neither in support of nor in opposition to any cause, but solely to discover and present, if necessary, facts pertinent to the issues.

PSC 2.33 Changes in time or place of hearing; adjournments. Changes in the time and place of the first session of the hearing in any proceeding will be granted only for good cause shown in a written request made to the commission reasonably in advance of the time set. Changes will not be made, except in extreme circumstances, when the parties to the proceeding are not known. After a hearing has been called, adjournment thereof shall be under the direction of the examiner. The commission, upon its own motion, may change the time and place of any session.

PSC 2.34 Order of presenting evidence. Evidence ordinarily will be received in the following order:

(1) Upon investigation on motion of the commission instituted upon informal complaint—(a) the complainants and supporting interveners, (b) the respondent and supporting interveners, and (c) the commission's staff.

(2) Upon other investigations on motion of the commission—(a) the commission's staff, (b) the respondent, and (c) interveners.

(3) Upon applications and petitions—(a) the applicant or petitioner and supporting interveners, (b) objectors and their supporting interveners, and (c) the commission's staff.

(4) Upon formal complaints—(a) the complainant, (b) interveners supporting the complaint, (c) the defendant, (d) interveners supporting the defense, and (e) the commission's staff.

(5) Upon order to show good cause—(a) the commission's staff, (b) the respondent, and (c) interveners.

(6) Upon petition for hearing under section 194.34 (1), Wis. Stats. —(a) the applicant for authority and supporting interveners, (b) objectors and their supporting interveners, and (c) the commission's staff.

(7) Upon rehearing—(a) the applicant for rehearing and supporting interveners, (b) other parties, and (c) the commission's staff.

PSC 2.35 Rules of evidence. Rules of evidence are governed by section 227.10, Wis. Stats.

(1) Any party dissatisfied with a ruling by the presiding officer during a hearing may have such ruling reviewed by the commission by (a) noting an exception in the record, and (b) submitting to the commission within 5 days of the receipt of transcript containing such ruling a statement in writing showing the nature of the ruling and a brief summary of the reasons why such ruling is claimed to be erroneous. The commission will not rule upon exceptions to rulings of a presiding officer unless the foregoing requirements are complied with. Records and documents of the commission may be offered in evidence by any party, but if offered by reference shall be specified as to particular documents or portions of the record thus offered.

(2) When evidence to be presented consists of technical matter or figures so numerous as to make oral presentation difficult to follow, it shall be presented in exhibit form, supplemented and explained but not duplicated by oral testimony.

(3) Written or printed documents and maps received in evidence may not be withdrawn except with the approval of the presiding officer.

(4) Exhibits of documentary character should be typed on only one side of the paper with a sufficient margin for binding (1½ inches is suggested) on the left side of each sheet. If exhibits are more than 8½ inches by 11 inches in size they should be folded to approximately such dimensions. Exhibits of more than one page should be stapled together and pages numbered. The first page should provide space in the lower right-hand corner for exhibit number, docket number, and name of witness and should show the total pages in the exhibit. The source of information in the exhibit should be shown.

(5) Petitions or written communications addressed to the commission, not admissible as evidence, may be filed but will not be considered as evidence.

(6) Parties introducing documentary exhibits should be prepared to furnish copies to adverse parties and may be required, in the discretion of the examiner, to furnish such copies.

(7) In larger cases, parties may shorten hearings by preparing written testimony and exhibits and sending copies in advance to known other parties and to the commission. Such written testimony may be offered for inclusion in the transcript as though given orally subject to motions to strike any portion to which there is objection.

PSC 2.36 Transcripts. Proceedings in hearings will be transcribed and one copy furnished each party free of cost upon demand by such party at the hearing. Any party, within 5 days of the mailing of the transcript, may file with the commission a notice in writing of any claimed error therein, mailing a copy of such notice to each party of record. All parties will be advised by the commission of any authorized corrections to the record.

History: Am. Register, April, 1956, No. 4. Eff. May 1, 1956.

PSC 2.37 Close of hearing and evidence. (1) A hearing is closed when evidence is closed and when any period fixed for filing of briefs, presentation of oral argument, or both, has expired. If the time for Register, April, 1956, No. 4

repealed; and, in case of a proposed modification, shall contain a statement of the change thus proposed, together with a concise statement of the considerations upon which the promulgation, modification, or repeal of the rule is requested. Petitioners shall file 4 copies and shall furnish such additional copies as may be required by the commission.

PSC 2.65 Declaratory rulings. Petitions made pursuant to section 227.06, Wis. Stats., for declaratory rulings shall be addressed to the commission and shall state the rule or statute with respect to which declaratory ruling is requested, the applicability of any such rule or statute to the petitioner, and the names of all others upon whom it is sought that the requested declaratory ruling shall be binding. The petition shall be verified and shall be accompanied by 3 additional copies. Petitioner shall furnish additional copies as may be required by the commission for service on such other persons as the commission may designate as proper parties to the proceeding. Any such petition will not be set for hearing unless it states facts showing that petitioner is affected by rule or statute with respect to which a declaratory ruling is requested or that the application of such rule or statute to him will affect him adversely.

PSC 2.66 Prehearing conference The commission, in its discretion, prior to hearing upon due notice to the parties, may call a prehearing conference. The presiding officer, in his discretion after calling the hearing and noting appearances, may call a conference. The purposes of such conference shall be those specified in section 269.65, Wis. Stats., insofar as applicable.

ADDITIONAL PROVISIONS FOR PARTICULAR PROCEEDINGS

Utilities

PSC 2.70 Municipal acquisition proceedings. In proceedings by municipalities to acquire the property of public utilities under chapter 197, Wis. Stats., the commission at the initial session of the hearing thereon will receive evidence and arguments on the validity of the municipality's determination to acquire the property of the public utility and as to the property to be acquired.

PSC 2.71 Abandonment or discontinuance of public utility service. No abandonment nor discontinuance of facilities or service of gas, electric, telephone, or water utilities shall be made without commission authority (Section 196.81, Wis. Stats.). A hearing will be held upon an application to abandon or discontinue service of facilities except in cases where it is accompanied by a map indicating location of facilities to be abandoned or facilities from which service is to be discontinued as well as all service locations thereon and a statement that all actual or potential subscribers or consumers have either consented to or waived objection to such abandonment or discontinuance. If such information is furnished, the commission may dispense with a hearing.

Motor Carriers

PSC 2.80 Applications for motor carrier authority and assignment thereof. (1) Applications for common motor carrier certificates, contract motor carrier licenses, or amendments thereto, should show the correct legal name of the applicant, his address, the names and addresses of all partners of a copartnership or of all officers and directors of a corporation, and should contain an accurate and complete description of the operations and transportation services proposed to be rendered in sufficient detail to give full notice to the public and other carriers.

(2) Applications for authority or assignment of authority to engage in intrastate commerce by motor vehicle shall not be combined with applications for state authority or assignment thereof to engage in operations in interstate commerce requiring a certificate or permit under the Federal Motor Carrier Act of 1935 (Sections 194.03(5) and 194.20, Wis. Stats.). In such cases separate applications must be filed and separate filing fees paid.

(3) No hearing will be held upon applications involving only interstate operations unless specifically required by the commission.

(3a) Applications for exempt interstate contract carrier authority under section 194.20, Wis. Stats., will be set for hearing, unless application is accompanied by substantial evidence that the entire proposed operations can and will be performed if authorized.

(4) No amendment of any application for a motor carrier license or certificate which includes additional operations not specified in such application and as to which no notice has been given will be allowed at the hearing. Amendments which have the effect of limiting, restricting, or eliminating authority sought by the application may be made at the hearing.

(5) An application for approval of assignment of a severable part or all of the operating authority contained in a certificate or license shall be signed by both the assignor and assignee. The application shall show the names and addresses of all partners of a partnership and of the officers and directors of a corporation. The application shall be accompanied by a copy of any assignment agreement. A form of application containing appropriate instructions will be furnished upon request. An application for approval of a mortgage of any authority shall be accompanied by a copy of the mortgage.

(6) Applications for approval of assignment of licenses will be handled ordinarily without hearing. Applications for approval of assignment of certificates ordinarily will be set for hearing.

(7) When, as provided for in section 194.34 (1), Wis. Stats., a petition is made for a hearing on a grant or amendment of a contract carrier license made without hearing, the following requirements shall be met:

(a) A copy of the petition for hearing shall be forthwith served in the manner provided in section PSC 2.05 upon the person receiving the grant or amendment.

(b) The petition filed with the commission shall include a certification that a copy has been served as provided in (a).

(c) The petition for hearing shall state the facts showing the ground on which it is claimed that the petitioner is one having an interest within the meaning of section 194.34 (1), Wis. Stats.

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