



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 03-003

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]

1. Statutory Authority

The definition of “DG facility” is narrower than the corresponding definition in s. 196.496 (1), Stats. It excludes facilities whose location will support the functioning of the electric power distribution grid (unless the facility is also located near the point where the electricity will be used). Also, it is unclear whether being “located on the customer side of a point of common coupling” (the rule’s phrasing) is the same as “located near the point where the electricity will be used” (the statute’s phrasing). The rule seems to contemplate only those distributed generation facilities that are, essentially, self generation and that sell excess supply into the grid; it excludes facilities that are built in areas of high load but that sell all their output into the grid rather than providing it directly to one primary user.

2. Form, Style and Placement in Administrative Code

a. The Table of Contents should come before the title of the first subchapter and should include the titles of the subchapters.

b. The use of four-digit section numbers in ch. PSC 119 is excessive. The first digit is not used and would not be needed unless five more subchapters are created (which appears unlikely). In fact, with only 32 sections, there is no need for more than two digits. It is not necessary that the first digit of the section number correspond to the subchapter number. What is more, most of the sections in Subchapter III are just one paragraph of text--some only one sentence--and could be made subsections of a single section titled Design Requirements.

Similarly, the two sections of subchapter IV could (and perhaps should) be made a single section, as could the three sections of subchapter V.

c. The first sentence of s. PSC 119.01 includes a number of adjectives describing the facilities and utilities to which the chapter applies. The definitions of the terms should include these concepts, in which case they are not needed in the statement of scope. For example, the definition of “public utility” includes private and municipal utilities, so the phrase “whether privately or municipally owned” is redundant. “Customer-sited” appears to be included in the definition of “DG facility” (assuming that is what is meant by “located on the customer side of ...”), but it is not clear whether the concept “non-utility” is included in that definition. The scope statement need state only that the chapter applies to all DG facilities with a capacity of 15 MW or less that are or that seek to be interconnected to a public utility’s distribution system and to the public utilities to whose distribution systems DG facilities are interconnected or to which interconnection is sought.

d. The ranges specified in s. PSC 119.012 (5) to (7) should be expressed as “greater than ___ and not more than ___.” [See, also, the tables in ss. PSC 119.0203 and 119.0204.]

e. The definition of “DG facility” should precede that of “distribution feeder,” to maintain the alphabetical ordering of the definitions.

f. Has the Commission’s Wisconsin Distributed Generation Interconnection Guidelines (the definition given for the term “guidelines”) been incorporated into the rule by reference? If so, where is this done and where in the rule is information provided concerning how members of the public may obtain copies? Also, do the guidelines constitute regulations or standards of general application with the force of law, issued by the commission to implement laws under the commission’s jurisdiction? (See the definition of “rule” in s. 227.01 (13).) If so, the guidelines should be promulgated as rules.

g. The rule should provide information in a note following s. PSC 119.021 (29), explaining how and where to obtain a list of nationally recognized testing laboratories.

h. In s. PSC 119.0201, it appears that “point of contact” and “DG representative” are the same person; if this is correct, the rule should use a single term.

i. The rule often uses the abbreviation “DG” in a jargon-like manner, which reduces clarity. For example, it is unclear what inquiry would be a “DG inquiry” under s. PSC 119.0202 (1). Presumably, this refers to requests for interconnection, although this vague term could be construed to include requests for information regarding distributed generation. Other examples are “DG operating data,” “DG paralleling equipment,” and “DG application.” The last of those, presumably, refers to an application for interconnection of a DG facility to a utility’s distribution grid.

j. Section PSC 119.0202 (4) should be written in the same manner as the preceding subsection: “Within 10 working days of determining that the application is complete, the public utility shall” Also, to more clearly indicate who is responsible for making determinations,

the phrase “If the application review shows” should be written as “If the public utility determines on the basis of the application review” The same comment applies to the following subsection.

k. Section PSC 119.0202 places the decision-making power regarding applications for DG interconnections in the hands of utilities with no appeal process. It would appear appropriate to include a procedure for appealing decisions to the commission, or to at least include a note indicating that an aggrieved party can use the complaint process under s. 196.26, Stats., to appeal an unfavorable decision by a public utility.

l. It is suggested that the tables in the rule be numbered Tables 1 and 2 and that references to “the table below” or “the following table” be replaced by references to the table numbers.

m. The text that immediately follows the first table should either be included in sub. (1) (before the table) or be numbered as a separate subsection.

n. The title of s. PSC 119.0207 is “Disconnection and Reconnection.” However, that section addresses only disconnection. Either the title should be changed to reflect the section’s contents or provisions relating to reconnection should be added.

o. The term “nationally recognized certifying body,” used in s. PSC 119.0208, should be defined or further explained.

p. A rule does not need to state that other provisions of law apply in a given circumstance if it is clear from those provisions that they apply in the stated circumstance. Statements that appropriate provisions of the state electrical code apply to DG facilities should be deleted from ss. PSC 119.0303 and 119.0305 (2). However, it would be appropriate to include this information in notes.

q. Many of the provisions of Subch. III (*Design Requirements*) relate to the application process, not project design, and so might better be placed in Subch. II with the other provisions related to that process. In particular, numerous provisions require the applicant to “provide” various pieces of information, but do not say to whom this information must be provided. It appears that these are all part of the application for interconnection, although that is never made explicit.

r. Can the UL and IEEE standards incorporated by reference in s. PSC 119.0306 be made more available to the public than requiring individuals to visit the PSC library in person? In particular, are they available on the Internet, or could the commission make them available by mail, as well?

s. What is meant by s. PSC 119.0309? To create an obligation, the proper drafting format is to say that the applicant *shall* do something. To say that the applicant *is solely responsible* for something sounds as though the commission is trying to accomplish something other than creating an affirmative obligation of the applicant, such as relieving the utility of liability in the event of inadequate protection or synchronization. If that is the intent, then the

rule should explicitly state what is intended. If that is not the intent, then the standard drafting format should be followed.

t. The title of s. PSC 119.0311 refers to “non-certified” distributed generation. However, no explanation of the term is provided, and the provisions of that section appear to apply to all facilities, regardless of any certifications. It appears that the term should be deleted from the title. Similarly, s. PSC 119.0314 refers to noncertified equipment, but does not indicate what certification is intended. Does this refer to equipment that is not certified under s. PSC 119.0401?

u. Titles are not a part of rules, but merely describe their contents; all substance must be contained in the text. For this reason, s. PSC 119.0312 should begin: “An applicant for interconnection of a category 3 or category 4 DG facility shall”

v. The second sentence of s. PSC 119.0318 is unnecessary. Since the requirement it refers to is permissive, it goes without saying that the utility may waive (or not impose) the requirement.

w. With reference to s. PSC 119.0501, what is an anti-islanding test? Does that section completely describe the test? The last two sentences of that section are written as a description of the test, but should be rewritten as specific requirements.

4. Adequacy of References to Related Statutes, Rules and Forms

a. The definition of “public utility” should cross reference all of s. 196.01 (5), Stats., not only par. (a).

b. The last sentence of s. PSC 119.0206 (2) should reference something more precise than “these rules,” preferably the specific sections addressing testing, or, at the very least, “this chapter.”

c. What is meant by the reference to “these guidelines” in s. PSC 119.0313 (2)? Does that refer to ch. PSC 119? Or to s. PSC 119.012 (19)? It looks as though the commission used language from another document (a set of guidelines) without fully converting it into the format of a rule.

d. In s. PSC 119.0311 (2) (b), to what does the phrase “requirements stated herein” refer? An appropriate cross-reference is in order.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Throughout the rule, the term “commission” should be in lowercase.

b. The term “interconnection” is defined as the connection of a distributed generation facility to the distribution grid,” but “point of interconnection” is defined as the point at which the distributed generation facility is connected to a customer’s electrical system. Is this correct? If so, it might increase clarity to chose a different term for the second concept since the terms suggest that they relate to the same connection.

c. The indemnification provision of s. PSC 119.0203 (2) is sweeping in its scope. Clearly, this should be limited in some manner, such as to claims, etc., arising from or related to the interconnection agreement, or resulting from the negligence of the other party, or in some other way connected to the interconnection.

d. In s. PSC 119.0205, the parenthetical notations should be removed.

e. The first sentence of s. PSC 119.0206 (1) (intro.) is redundant with previous provisions. Also, the second sentence should be rewritten in the active voice and should more clearly identify the costs it mentions. It is not clear what costs are included--only studies, or system upgrades, as well. Also, "the cost of any ... study fee" does not make grammatical sense; "the amount" of such fees would be better.

f. In s. PSC 119.0206 (3), "accessed" should be "assessed."

g. Section PSC 119.0207 (5) limits the disconnection of a distributed generation facility for routine maintenance to "a reasonable length of time." Should this also require reasonable notice before disconnection? Should notice be required for disconnection for any of the other reasons?

h. In what sense is the word "closing" used in s. PSC 119.0301? The phrase "closing a DG facility" would suggest (to a lay reader, at least) shutting down the facility. If being out of synchrony with the distribution system is a bad thing (which, to a lay reader, seems likely), then one would not want to prevent closing the facility when this happens. However, is the term used in the sense of closing an electrical circuit? That meaning would make more sense (to a lay reader, at least), but is not suggested from the phrasing of the rule. This should be clarified.

i. The second sentence of s. PSC 119.0305 (1) requires an "adequate" fault current path. Adequate for what? Who determines its adequacy? The next sentence gives a hint of what may be intended, stating conditions for the conductors and grounding systems. If this is what is meant by the fault current path, then the reference to adequate fault current path in the preceding sentence could be eliminated as both vague and redundant.

j. In s. PSC 119.0306 (1), what constitutes "equivalent" standards, and who determines whether a standard is equivalent? This should be clarified.

k. Section PSC 119.0316 would be clearer if the last sentence read: "This requirement does not apply to an induction type ... or to other"