

CR 13-101

PUBLIC SERVICE COMMISSION OF WISCONSIN

Providing CPCN Applications per 2013 Wis. Act 10

1-AC-242

Clearinghouse Rule 13-101

ORDER ADOPTING FINAL RULES

The Public Service Commission of Wisconsin issues an order to amend s. PSC 111.51 (4) (b) 2., regarding the electronic delivery of applications for a Certificate of Public Convenience and Necessity (CPCN).

REPORT TO THE LEGISLATURE

The Report to the Legislature is set forth as Attachment A.

FISCAL ESTIMATE

The Economic Impact Analysis for this rulemaking is included as Attachment A1.

FINAL REGULATORY FLEXIBILITY ANALYSIS

This rule will not affect small businesses. The s. 227.114(12), Stats., definition of “small business” states that to be considered a small business, the business must not be dominant in its field. Since electric utilities are monopolies in their service territories, they are dominant in their fields and, so, are not small businesses.

EFFECTIVE DATE

These rules shall take effect on the first day of the month following publication in the *Wisconsin Administrative Register* as provided in s. 227.22 (2) (intro.), Stats.

CONTACT PERSON

Questions regarding this matter should be directed to Justin Chasco at (608) 266-3708 or justin.chasco@wisconsin.gov. Small business questions may be directed to Anne Vandervort at (608) 266-5814 or anne.vandervort@wisconsin.gov. Media questions should be directed to Nathan Conrad, Communications Director at (608) 266-9600. Hearing or speech-impaired individuals may also use the commission's TTY number, if calling from Wisconsin (800) 251-8345, if calling from outside Wisconsin (608) 267-1479.

The commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to obtain this document in a different format should contact the docket coordinator listed above.

Dated at Madison, Wisconsin, this 13th day of May, 2014.

By the Commission:



Sandra J. Paske
Secretary to the Commission

Attachments

SJP:JMD:hms:DL: 00924200

REPORT TO THE LEGISLATURE

A. TEXT OF THE RULE

SECTION 1. PSC 111.51 (4) (b) 2. is amended to read:

PSC 111.51 (4) (b) 2. As soon as is practicable, but no more than 30 days after the commission has determined that a CPCN application is complete, the commission shall send ~~a paper~~ an electronic copy of the complete application to the clerk of each municipality and town in which the proposed facility is to be located and to the main public library in each county in which the proposed facility is to be located.

SECTION 2. Effective date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

B. PLAIN LANGUAGE ANALYSIS

1. Statutory Authority and Explanation of Authority

This rule is authorized under ss. 196.02 (1) and (3), 196.491 (3) (a) and 227.11, Stats.

Section 227.11 authorizes agencies to promulgate administrative rules. Section 196.02 (1) authorizes the commission to do all things necessary and convenient to its jurisdiction. Section 196.02 (3) grants the commission specific authority to promulgate rules. Section 196.491 (3) (a) references commission rules about certificates of public convenience and necessity.

Statutes Interpreted

This rule interprets s. 196.491 (3), Stats.

Related Statutes or Rules

None.

2. Brief Summary of Proposed Rules

Currently, s. 196.491, Stats., requires the commission to send a copy of an application for a Certificate of Public Convenience and Necessity (CPCN) to clerks and public libraries. While s. PSC 111.51 (4) currently requires the commission to send an electronic copy of an initial CPCN application to municipal and town clerks and public libraries, it requires the commission to send a paper copy of a completed application.

2013 Wisconsin Act 10 made changes to s. 196.491, Stats., to require the commission to send an electronic copy of both an initial and a completed CPCN application to clerks and public libraries. Upon request, the commission is also required to send a paper copy of the application. This rulemaking will make the 2013 Wisconsin Act 10 changes to s. PSC 111.51 (4).

3. Comparison with Existing or Proposed Federal Regulations

The commission is not aware of any existing or proposed federal regulations on this matter.

4. Comparison with Similar Rules in Adjacent States

The Illinois Commerce Commission generally uses electronic filing and services of records related to their proceedings, however, their administrative code does not specify the manner in which CPCN applications will be served upon interested persons. (Ill. Admin. Code tit. 83, pt. 200.150 (h)). The Minnesota Public Utilities Commission requires applicants to file paper copies of CPCN applications and serves those paper copies on interested agencies of government.

Minn. R. 7849.0200 (2). The Michigan Public Utilities Commission's administrative rules do not identify the manner in which CPCN applications will be provided to local units of government (Mich. Admin. Code r. 460.7601), but generally require parties serve paper copies upon interested parties (Mich. Admin Code r. 460.17105). The Iowa Utilities Board requires applicants to file paper copies of applications for CPCN in paper form and transmits those forms on behalf of the applicant to other "regulatory agencies." Iowa Admin. Code r. 199-24.3(476A).

5. Summary of Factual Data and Analytical Methodologies Used

The factual data is that 2013 Wisconsin Act 10 made changes to s. 196.491, Stats. Analysis is not necessary in this rulemaking since it merely conforms the rule to the statute.

6. Effect on Small Business

The s. 227.114(1), Stats., definition of "small business" states that to be considered a small business, the business must not be dominant in its field. Since they are monopolies in their service territories, electric utilities are dominant in their fields and, so, are not small businesses.

7. Agency Contacts

Questions regarding this matter should be directed to Justin Chasco at (608) 266-3708 or justin.chasco@wisconsin.gov. Small business questions may be directed to Anne Vandervort at (608) 266-5814 or anne.vandervort@wisconsin.gov. Media questions should be directed to Nathan Conrad, Communications Director at (608) 266-9600. Hearing or speech-impaired individuals may also use the commission's TTY number, if calling from Wisconsin (800) 251-8345, if calling from outside Wisconsin (608) 267-1479.

8. Accommodation

The commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs to receive this document in a different format should contact the docket coordinator, as indicated in the following paragraph, as soon as possible.

C. FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS

The Economic Impact Analysis for this rulemaking is included in Attachment A1.

D. BASIS AND PURPOSE OF RULES

The basis and purpose of this rule is to conform ch. PSC 111 with s. 196.491, Stats., as amended by 2013 Wisconsin Act 10.

E. SUMMARY OF PUBLIC COMMENTS AND COMMISSION RESPONSES

No comments were filed in this rulemaking.

F. APPEARANCES AT PUBLIC HEARING

This rulemaking was done without a hearing because, under s. 227.16 (2) (b), Stats., no hearing is required when an existing rule is being brought into conformity with a statute that has changed.

G. ANY CHANGES TO THE FISCAL ESTIMATE OR THE ANALYSIS UNDER s. 227.14 (2), STATS.

None.

H. RESPONSE TO LEGISLATIVE COUNCIL COMMENTS

There were no comments from the Legislative Reference Bureau. A copy of its report is included as Attachment A2.

I. MISCELLANEOUS DETERMINATIONS

The commission's WEPA coordinator examined whether the rules have an environmental impact and concluded that they do not. Commission staff also considered whether the rule will impact housing, s. 227.115, Stats., and concluded that they will not.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Chapter PSC 111, Requirements For Strategic Energy Assessments, Certificates Of Public Convenience And Necessity, And Fixed Financial Parameters For Certain Rate Base Electric Generating Facilities 1

3. Subject

The electronic delivery of applications for a Certificate of Public Convenience and Necessity (CPCN)

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

This rulemaking is intended to harmonize PSC regulations with 2013 Wisconsin Act 10 which requires the Commission to send a electronic copy of an application for a Certificate of Public Convenience and Necessity to clerks and public libraries.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

Citizens' Utility Board, League of Wisconsin Municipalities, Municipal Electrical Utilities of Wisconsin, Wisconsin Counties Association, Wisconsin Industrial Energy Group, Wisconsin Towns Association, Wisconsin Utilities Association, Wisconsin Alliance of Cities, all electric utilities.

11. Identify the local governmental units that participated in the development of this EIA.

Members of the League of Wisconsin Municipalities, Wisconsin Towns Association, and Wisconsin Alliance of Cities.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

None.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The rulemaking with will bring Wis. Admin. Code § PSC 111.51 (4) (b) 2. into conformity with 2013 Wisconsin Act 10.

14. Long Range Implications of Implementing the Rule

The rulemaking with will bring Wis. Admin. Code § PSC 111.51 (4) (b) 2. into conformity with 2013 Wisconsin Act 10.

15. Compare With Approaches Being Used by Federal Government

Not applicable.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

The Illinois Commerce Commission generally uses electronic filing and services of records related to their proceedings, however, their administrative code does not specify the manner in which CPCN applications will be served upon interested persons. (Ill. Admin. Code tit. 83, pt. 200.150 (h)). The Minnesota Public Utilities Commission requires applicants to file paper copies of CPCN applications and serves those paper copies on interested agencies of government. Minn. R. 7849.0200 (2). The Michigan Public Utilities Commission's administrative rules do not identify the manner in which CPCN applications will be provided to local units of government (Mich. Admin. Code r. 460.7601), but generally require parties serve paper copies upon interested parties (Mich. Admin Code r. 460.17105). The Iowa Utilities Board requires applicants to file copies of applications for CPCN in paper form and transmits those forms on behalf of the applicant to other "regulatory agencies." Iowa Admin. Code r. 199-24.3(476A)

17. Contact Name

Lisa Farrell

18. Contact Phone Number

608-267-9086

This document can be made available in alternate formats to individuals with disabilities upon request.

WISCONSIN LEGISLATIVE COUNCIL

RULES CLEARINGHOUSE



Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Co-Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 13-101

AN ORDER to amend PSC 111.51 (4) (b) 2., relating to the electronic delivery of applications for a Certificate of Public Convenience and Necessity (CPCN).

Submitted by **PUBLIC SERVICE COMMISSION**

12-06-2013 RECEIVED BY LEGISLATIVE COUNCIL.

12-11-2013 REPORT SENT TO AGENCY.

SG:LAK

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO ✓

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO ✓

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO ✓

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO ✓

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO ✓

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO ✓

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO ✓