

Clearinghouse Rule 99-140

CERTIFICATE

STATE OF WISCONSIN)
) ss.:
PUBLIC SERVICE COMMISSION)

I, Lynda L. Dorr, Secretary to the Commission and custodian of the official records, certify that the annexed rules, relating to the environmental analysis procedures for proposed actions before the Commission (docket 1-AC-185), were duly approved and adopted by this Commission on April 27, 2000.

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 official seal of the Wisconsin Public Service Commission at Madison, Wisconsin, this 27th day of April, 2000.



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

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99-140
7-1-00

**ORDER OF THE STATE OF WISCONSIN
PUBLIC SERVICE COMMISSION ADOPTING RULES**

1 The Public Service Commission of Wisconsin proposes an order to repeal Table 2, items f. and
2 g., and Table 3 item a.; to renumber and amend PSC 4.10 (5) and 4.20 (4); to amend PSC 4.05
3 (1), (6) (9), (13) and (15), 4.10 (1) to (3), 4.20 (2) (title), (d) (intro.) and 11. and (g) and (3), 4.30
4 (1) (a), (2), (3) (e) and (5) (a), (b) and (d) 1., 4.40 (3) (title), 4.50 (3), 4.60 (2) and (4) (a), 4.70
5 (1) (intro.) and (d) and (2) (a), (b) (intro.) and (c), 4.80 (1) (g), Table 2 items d. and g., and Table
6 3 item a. (intro.), i., and p.; to repeal and recreate PSC 4.20 (1), Table 1 item a., Table 2 items a.
7 and b.; and to create PSC 4.05 (2m), 4.10 (5) (b), 4.20 (1m) and (4) (b), 4.30 (3) (am), 4.35,
8 Table 1 items bg., br., and e. to g., Table 2 items bg., br., f. to gm., i., and m., and Table 3 items
9 ac. to aw., cg., cr., and z., relating to implementing the Wisconsin Environmental Policy Act.

Analysis Prepared by the Public Service Commission of Wisconsin

Statutory authority: ss. 196.02(3) and 227.11, Stats.
Statute interpreted: s. 1.11, Stats.

Section 1.11, Stats., is known as the Wisconsin Environmental Policy Act (WEPA). This statute requires each state agency to consider and make known to the public the environmental impacts of any major action the agency is proposing, if the action would significantly affect the quality of the human environment. The Public Service Commission (Commission) has adopted rules to implement WEPA.

The Commission's rules categorize various actions the Commission undertakes in three separate tables and describe when an environmental impact statement (EIS) or a preliminary document known as an environmental assessment (EA) must be prepared for these actions. Table 1 consists of "Type I" actions, which the Commission has determined are major actions significantly affecting the quality of the human environment. The rules specify that an EIS must be prepared for any Type I action. Table 2 consists of "Type II" actions, which the Commission has determined have the potential to significantly affect the quality of the human environment. The rules require the Commission to prepare an EA for each Type II action; the function of an

EA is to provide a preliminary factual investigation of the action's environmental impacts. Under current rules this preliminary investigation allows the WEPA coordinator, who is a qualified staff person designated by the Commission, to determine whether an EIS is necessary. For Type II actions, the WEPA coordinator also has the option of making a determination that an EIS is needed based on the information that is immediately available, without waiting for an EA to be completed. Table 3 consists of "Type III" actions, which the Commission has found do not normally have the potential to significantly affect the quality of the human environment. Type III actions normally require neither an EA nor an EIS, although an evaluation of a specific Type III proposal may indicate that preparation of such a document is warranted.

These proposed rules change the Type I, II, and III lists, in order to base the level of required environmental review on the potential for significant impacts rather than the current arbitrary thresholds. In addition, they modify the EA process in several ways. The proposed rules focus the EA on determining the need for an EIS, rather than using it to provide an encyclopedic description of potential environmental impacts. Finally, the proposed rules provide greater opportunity for public input by expanding the EA notification requirements and making the preliminary determination procedure a mandatory part of the EA process and increasing the length of the comment period on the determination.

Changes to the Type I, II, and III lists

The proposed revisions to the Type I, II, and III lists concern the proper categorization of electric generating facilities and electric transmission lines. Current rules use the size in megawatts (MW) of a proposed new generating unit as the primary indicator of whether an EA or EIS should be prepared. An application for Commission approval of any new unit whose capacity is 20 MW or more is currently considered a Type I action, for which an EIS is mandatory. If the project would have a capacity of less than 20 MW, it is currently considered a Type II action. The proposed rules categorize a new generating unit according to the type of fuel it would use and the site where it would be located. Any new unit that would be powered by nuclear energy or fueled by coal is included in the Type I list. Combustion turbine facilities, combined cycle facilities, and cogeneration facilities that use gas or some other fuel are also included in the Type I list, but only if they would be constructed at a new electric generation site. If they would be located at an existing generation site, they are Type II projects. A similar distinction is made for hydroelectric facilities; if located at a new dam site, the project would be a Type I action, but if located at an existing dam site, the project is a Type II action.

Other Type II generating projects under these proposed rules would be new biomass or waste-to-energy units. A project to change an existing generating unit by adding another fuel type for the unit is also considered a Type II action. The proposed rules list new wind-powered electric generating facilities, less than 10 MW in size, and any new solar-powered facilities, as Type III actions. A proposal to construct any other new electric generating facility, not specifically listed elsewhere, is considered a Type II action.

Under existing rules, a proposal to construct, rebuild or upgrade a new electric transmission line at a voltage of 100 to 345 kilovolts (kV) is considered a Type II action if the new line would be more than one mile long. The proposed rules delete the criterion of length and substitute a

criterion concerning where related construction activity occurs. If any construction activity takes place outside the area of an existing transmission line right-of-way, the project is classified as a Type II action. If all construction activity occurs inside existing transmission line right-of-way, the project is considered a Type III action. This criterion is modeled after a recently enacted statutory exemption that is found in s. 196.491 (4) (c), Stats., declaring that a Certificate of Public Convenience and Necessity is not necessary to build a new transmission line of less than 230 kV if “all related construction activity takes place entirely within the area of an existing electric transmission line right-of-way.” (A Certificate of Authority under s. 196.49, Stats., may still be necessary for such a project, depending on its cost.)

The proposed rules add two other items to these tables. Existing rules of the Department of Natural Resources (DNR) classify as Type II actions any proposals to adopt long-range agency plans or policies that would predetermine future agency actions, if the future actions may significantly affect the human environment. The proposed rules include the same item in the Commission’s list of Type II actions. In addition, the proposed rules address a new action of the Commission that was created by 1997 Wisconsin Act 204. Under s. 196.491 (3m) (a), Stats., an affiliated interest of a public utility may not own, control, or operate a wholesale merchant plant without first securing the Commission’s approval. The proposed rules list this as a Type III action.

Changes to the process of preparing an EA

The purpose of an EA has been defined by federal regulations issued by the Council on Environmental Quality, and by case law interpretations. An EA is intended to be a concise document that provides sufficient evidence and analysis of potential environmental impacts to determine whether preparation of an EIS is necessary. This purpose, however, is not described in existing Commission rules and those prepared in recent years have begun covering all potential impacts associated with a proposed project, including minor environmental impacts. The proposed rule incorporates a declaration of the purpose of EA preparation, to provide direction to Commission staff.

Public notice

Current rules require the Commission to deliver an announcement that it is commencing the preparation of an EA to area legislators, news media, and others whom the Commission knows are interested. The announcement must establish a public comment period, lasting at least 10 days. The proposed rule provides a broader list of those receiving the announcement of an EA. It includes any person who has requested to receive this type of information, and local government representatives such as the heads of local municipalities and county clerks.

Current rules allow the Commission’s WEPA coordinator to make a preliminary determination about the need for an EIS before the EA is completed. If such a preliminary determination is made, the Commission must notify the same group and provide at least 10 days for public comment on the determination. The proposed rule revises this process. It specifies that this determination must occur after the EA is completed. Notice of this preliminary determination

will then be issued; in addition, the proposed rule provides that the Commission will make copies of the EA available upon request. A 15-day period for public comment on the determination is specified in the proposed rules. Based on the EA and the comments received, a final determination is then made as to whether the project constitutes a major action for which an EIS is required. The proposed rule also states that a copy of the EA will be sent to municipal offices in the project area.

Other changes

The proposed rule describes a process by which a supplemental EA or supplemental EIS can be prepared. The proposed rule declares that a supplemental EA must be produced if, after an EA has been completed but before the Commission has taken action, new circumstances or information arise that the Commission decides could affect the quality of the human environment in a manner not considered in the EA. Similarly, a supplemental EIS must be produced if new circumstances or information arise that the Commission decides would affect the quality of the human environment in a manner not considered in the EIS.

Current rules require anyone who seeks Commission approval of a project to contact the Commission at least 30 days before filing their application. This advance notice allows the Commission to provide advice on the project alternatives that should be analyzed and on other agencies that must be contacted. The proposed rule limits this advance notice to Type I and Type II projects, but requires that notice of such projects must occur at least 30 days before the applicant provides an engineering plan to the DNR. This change will ensure that the environmental and engineering analysis of reasonable alternatives, which is required by s. 1.11 (2) (c) 3, Stats., is properly coordinated with the DNR. A definition for the term “constructing an electric transmission line” has been added to the proposed rules for clarification and to help differentiate between constructing, rebuilding, and upgrading transmission facilities.

1 **SECTION 1.** PSC 4.05 (1) is amended to read:

2 **PSC 4.05 (1)** ~~“Cogeneration” means the simultaneous generation of~~ “Cogeneration
3 facility” means a type of electric generation facility that simultaneously generates electrical
4 power and useful heat from the same primary fuel source.

5 **SECTION 2.** PSC 4.05 (2m) is created to read:

6 **PSC 4.05 (2m)** “Constructing an electric transmission line” means either of the
7 following:

1 (a) Installing new conductors, insulators, and structures.

2 (b) Adding an additional circuit to an existing electric transmission line.

3 **SECTION 3.** PSC 4.05 (6), (9), (13) and (15) are amended to read:

4 **PSC 4.05 (6)** “Electric generation ~~or cogeneration~~ facility” means a physical plant used
5 for generating electrical power and includes multiple generating units installed over time as part
6 of an overall development project. It also includes situations, such as wind farms, where multiple
7 small generators are installed as part of a single, overall project. In the case of multiple units at a
8 single site or proximate sites, the environmental review will be predicated on the total project
9 rather than unit by unit.

10 **(9)** “Human environment” means ~~that~~ the natural or physical environment and the
11 relationship of people with that environment.

12 **(13)** “Rebuilding an electric transmission line” means modifying an existing electric
13 transmission line to increase its capacity to carry current at the same voltage, including changing
14 conductors, insulators or structures, ~~if the right-of-way remains substantially the same.~~

15 **(15)** “Upgrading an electric transmission line” means modifying an existing electric
16 transmission line to increase its capacity to carry current and increasing its voltage, including
17 changing conductors, insulators or structures, ~~if the right-of-way remains substantially the same.~~

18 **SECTION 4.** 4.10 (1) to (3) are amended to read:

19 **PSC 4.10 (1) TYPE I ACTIONS.** ~~The commission shall prepare an EIS in connection with~~
20 ~~any proposed action it determines is a major action significantly affecting~~ Type I actions are
21 major actions that significantly affect the quality of the human environment, within the meaning
22 of s. 1.11 (2) (c), Stats. The commission shall ~~also~~ prepare an EIS on any of the proposed
23 actions involving a request for commission approval, categorized as Type I actions, listed in

1 Table 1. The commission shall also prepare an EIS for actions not listed in Table 1 that it
2 determines are Type I actions.

3 (2) TYPE II ACTIONS. ~~Unless the WEPA coordinator decides to prepare an EIS instead of~~
4 ~~an EA~~ Type II actions are proposed actions involving requests for commission approval that
5 have the potential to significantly affect the quality of the human environment, within the
6 meaning of s. 1.11 (2) (c), Stats. Unless the commission decides an EIS is necessary, the
7 commission shall prepare an EA on any of the proposed actions involving a request for
8 commission approval, categorized as Type II actions, listed in Table 2.

9 (3) TYPE III ACTIONS. Type III actions are proposed actions involving requests for
10 commission approval ~~which~~ that normally do not have the potential to significantly affect the
11 quality of the human environment, within the meaning of s. 1.11 (2) (c), Stats. As such, they do
12 not normally require an EA or an EIS. An evaluation of a specific Type III proposal, however,
13 may indicate that the preparation of an EA or EIS is warranted for that proposal. Type III actions
14 are listed in Table 3.

15 **SECTION 5.** PSC 4.10 (5) is renumbered PSC 4.10 (5) (a) and is amended to read:

16 **4.10 (5) REASONABLE ALTERNATIVE PROPOSALS.** (a) If a reasonable alternative to any
17 proposed action specified in subs. (2) to (3m) exists, and the alternative would require ~~more~~
18 ~~rigorous environmental review than the proposal, environmental review under this section shall~~
19 ~~be based on the review the alternative would require~~ review under sub. (1) as a Type I action, the
20 proposed action shall be reviewed as a Type I action.

21 **SECTION 6.** PSC 4.10 (5) (b) is created to read:

1 **4.10 (5)** (b) Unless par. (a) applies, if a reasonable alternative to any proposed action
2 specified in subs. (3) to (3m) exists, and the alternative would require review under sub. (2) as a
3 Type II action, the proposed action shall be reviewed under sub. (2) as a Type II action.

4 **SECTION 7.** PSC 4.20 (1) is repealed and recreated to read:

5 **PSC 4.20 (1) GENERAL INFORMATION.** The commission shall prepare an EA as a
6 concise document that provides a factual investigation of the relevant areas of environmental
7 concern in sufficient depth to permit a reasonably informed preliminary judgment of the
8 environmental consequences of the proposed action. The EA shall include a recommendation
9 whether the proposed action is a major action significantly affecting the quality of the human
10 environment, within the meaning of s. 1.11 (2) (c), Stats., for which an EIS is required.

11 **SECTION 8.** 4.20 (1m) is created to read:

12 **PSC 4.20 (1m) PUBLIC NOTICE.** When it commences the preparation of an EA, the
13 commission shall make a diligent effort to notify the public that an EA is being prepared. The
14 announcement may be included with a notice of investigation or notice of hearing. The
15 announcement shall describe the proposed action, including a map where appropriate, list a
16 commission contact person and indicate how comments may be submitted. The announcement
17 shall specify a public comment period lasting at least 10 days, beginning on the date the
18 announcement is distributed. The commission shall distribute its announcement that an EA is
19 being prepared to:

20 (a) Any person with a demonstrated interest or who has requested to receive this type of
21 information.

22 (b) Area legislators.

23 (c) For a proposed action affecting a local area:

1 1. The county clerk and the town or municipal clerk for the project area, with a request
2 that the clerks post the announcement publicly.

3 2. The county, town, village or city chief executive officer in the project area.

4 3. Local news media.

5 4. The regional planning commission.

6 (d) For a proposed action affecting a region of the state or the state as a whole:

7 1. The county clerks in the area affected, with a request that the clerks post the
8 announcement publicly.

9 2. The county chief executive officers in the area affected.

10 3. Regional news media.

11 **SECTION 9.** PSC 4.20 (2) (title), (d) (intro.) and 11. and (g) are amended to read:

12 **PSC 4.20 (2)** (title) ENVIRONMENTAL ASSESSMENT PREPARATION.

13 (d) (intro.) An evaluation of significant positive and negative, short-term and long-term
14 environmental effects that would result if the commission approves the proposed action. In
15 preparing this evaluation, the commission staff shall consider:

16 11. Other environmental matters the commission staff considers significant relevant.

17 (g) A ~~determination~~ recommendation as to whether the proposed action requires an EIS.

18 **SECTION 10.** PSC 4.20 (3) is amended to read:

19 **PSC 4.20 (3)** PRELIMINARY FINDINGS. (a) ~~If the WEPA coordinator considers additional~~
20 ~~early public comment would be appropriate for a proposed action, the coordinator may~~ The
21 commission shall make a preliminary determination about the need for an EIS, based on the

1 information collected for the EA under sub. (2) ~~but before the EA is completed, and invite public~~
2 ~~comment.~~

3 (b) The commission shall notify persons who ~~received the notice of investigation were~~
4 provided the announcement of the EA for the proposed action, and other persons the commission
5 knows to be interested in the proposed action, of the preliminary determination. The
6 ~~announcement~~ notice of preliminary determination shall include a description of the proposed
7 action, the preliminary determination whether an EIS is needed, any significant concerns raised
8 about the proposed action, the name of a commission contact person and the period for comment.
9 The commission shall make copies of the EA available to those persons who request it.

10 (c) The commission shall authorize at least ~~40~~ 15 days for public comment on the
11 preliminary determination, commencing with the date the notice under par. (b) is ~~mailed or~~
12 ~~personally delivered.~~ ~~When the comment period expires, the commission staff shall complete~~
13 ~~the EA distributed.~~

14 **SECTION 11.** PSC 4.20 (4) is renumbered 4.20 (4) (a) and amended to read:

15 **PSC 4.20 (4) DETERMINING NEED FOR AN ENVIRONMENTAL IMPACT**

16 STATEMENT. (a) ~~After completion of an EA, the WEPA coordinator~~ When the comment
17 period expires, the commission shall determine whether the proposed action is a major action
18 significantly affecting the quality of the human environment within the meaning of s. 1.11 (2)
19 (c), Stats., for which an EIS is required. ~~If the coordinator decides an EIS is not required, the~~
20 ~~commission shall enter the EA as part of the case file for the proposed action.~~ The determination
21 shall be based on the EA prepared under sub. (2) and any comments received on the preliminary
22 determination under sub. (3).

23 **SECTION 12.** PSC 4.20 (4) (b) is created to read:

1 **PSC 4.20 (4) (b)** If a finding of no significant impact is made, the commission shall
2 enter the EA as part of the case file for the proposed action and shall send a copy of the EA to
3 each county clerk, city clerk, village clerk, and town clerk in the area of the project.

4 **SECTION 13.** PSC 4.30 (1) (a) and (2) are amended to read:

5 **PSC 4.30 (1) (a)** ~~The commission staff shall prepare an EIS to~~ An EIS shall inform the
6 commission and the public of significant environmental impacts of a proposed action and its
7 alternatives, and reasonable methods of avoiding or minimizing adverse environmental effects.
8 The environmental analysis shall be consistent with the ~~guidelines~~ regulations issued by the U.S.
9 council on environmental quality, ~~ss. 1500 to 1508, under the authority of the national~~
10 ~~environmental policy act, 42 USC 4331~~ 40 CFR Parts 1500 to 1508.

11 **(2) SCOPING.** Scoping shall begin early in the process of preparing an EIS. The
12 commission shall request any person it believes is interested in a proposed action to participate in
13 scoping the proposed action. Scoping is an aid to help the commission identify all of a project's
14 relevant environmental concerns and reasonable alternatives. Scoping may be achieved by
15 means of meetings, hearings, workshops, surveys, questionnaires, interagency committees,
16 requests for written comments, and other methods and combinations of methods that the
17 commission considers appropriate. The commission may also integrate scoping with other
18 public participation requirements.

19 **SECTION 14.** PSC 4.30 (3) (am) is created to read:

20 **PSC 4.30 (3) (am)** A description of the purpose of the proposed action and of the need
21 for the proposed action.

22 **SECTION 15.** PSC 4.30 (3) (e) and (5) (a), (b), and (d) 1 are amended to read:

1 **PSC 4.30 (3) (e)** A proposed action's effect on energy usage, ~~as required under~~
2 including an evaluation of the technical feasibility of alternatives, pursuant to s. 1.12, Stats.

3 **(5) (a)** Following the public review period on a draft EIS, the commission staff shall
4 prepare a final EIS. The final EIS may vary from the draft EIS in scope, based on comments
5 received on the draft EIS or other pertinent information ~~which~~ that becomes known to the
6 commission staff. The final EIS shall contain the information described in sub. (3).

7 **(b)** The commission shall distribute a copy of the final EIS to the same persons who
8 received a copy of the draft EIS under sub. (4) (c), and to any other person who ~~requested~~
9 requests a copy of the draft EIS or ~~commented~~ comments on the draft EIS.

10 **(d) 1.** Except as provided in subd. 2., the commission shall distribute copies of the final
11 EIS to the public and announce its availability at least 30 days before it holds a public hearing on
12 the proposed action. The review period required under this paragraph commences with the date
13 a final EIS is ~~mailed or personally served~~ distributed.

14 **SECTION 17.** PSC 4.35 is created to read:

15 **PSC 4.35 Supplemental documents. (1) SUPPLEMENTAL ENVIRONMENTAL**
16 **ASSESSMENT.** (a) The commission shall prepare a supplement to an EA if, after it has
17 prepared an EA but before it has made a final decision on the proposed action, it identifies any of
18 the following conditions:

19 1. Substantial changes to the proposed action, or significant new circumstances, that
20 have the potential to affect the quality of the human environment in a significant manner or to a
21 significant extent not already considered in the EA.

1 2. New information about the proposed action's potential to affect the quality of the
2 human environment in a significant manner or to a significant extent not already considered in
3 the EA..

4 (b) Section PSC 4.20 applies to the preparation of a supplemental EA under par. (a).

5 (c) Par. (a) does not apply if, following preparation of the initial EA, the commission
6 chooses to prepare an EIS.

7 **(2) SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT.** (a) The
8 commission shall prepare a supplement to a draft EIS if, after it has prepared a draft EIS but
9 before it has made a final decision on the proposed action, it identifies any of the following
10 conditions:

11 1. Substantial changes to the proposed action, or significant new circumstances, that
12 would affect the quality of the human environment in a significant manner or to a significant
13 extent not already considered in the draft EIS.

14 2. New information about whether the proposed action would affect the quality of the
15 human environment in a significant manner or to a significant extent not already considered in
16 the draft EIS.

17 (b) Section PSC 4.30 applies to the preparation of the supplemental draft EIS under par.
18 (a).

19 (c) Following issuance of the supplemental draft EIS, the commission shall prepare a
20 final EIS. If a condition specified in par. (a) 1. or 2. occurs after the commission has issued a
21 final EIS but before it has made a final decision on the proposed action, the commission shall
22 prepare both a supplemental draft EIS and a supplemental final EIS.

23 **SECTION 18.** PSC 4.40 (3) (title) is amended to read:

1 **4.40 (3)** (title) USE OF A GENERIC ENVIRONMENTAL ASSESSMENT OR
2 ENVIRONMENTAL IMPACT STATEMENT.

3 **SECTION 19.** PSC 4.50 (3) is amended to read:

4 **PSC 4.50 (3) CONDUCT OF THE HEARING.** The commission shall conduct the public
5 hearing under this section as a contested case proceeding, in accordance with ss. ~~PSC 2.30 to~~
6 ~~2.66~~ 227.44 to 227.50, Stats., or, if the proposed action involves rule making or a proposal for
7 legislation, in accordance with s. 227.18, Stats. At the hearing commission staff shall offer the
8 final EIS into evidence. The commission staff shall testify about the preparation of the final EIS
9 and the issues it identifies, and may provide other relevant information on the environmental
10 aspects of the case ~~which~~ that may have come to its attention. The commission shall receive the
11 final EIS into evidence. The commission may also receive testimony at the hearing regarding the
12 environmental aspects of the case and the content of the final EIS.

13 **SECTION 20.** PSC 4.60 (2) and (4) (a) are amended to read:

14 **PSC 4.60 (2) JOINT PREPARATION OF ENVIRONMENTAL ASSESSMENTS.** The
15 commission may enter into agreements with other federal, state or local agencies to develop a
16 joint environmental assessment that satisfies the requirements of the participating agencies. The
17 ~~WEPA coordinator~~ commission shall independently determine ~~the commission's~~ its need to
18 prepare an EIS.

19 **(4) (a)** The commission may adopt part or all of another state or federal agency's
20 environmental assessment as the commission's EA if the EA meets the requirements of this
21 chapter. The commission shall notify the public as required under s. PSC 4.20 (1) or (3). The
22 ~~WEPA coordinator~~ commission shall independently determine ~~the commission's~~ its need to
23 prepare an EIS.

1 **SECTION 21.** PSC 4.70 (1) (intro.) and (d) and (2) (a), (b) (intro.) and (c) are amended

2 to read:

3 **PSC 4.70 (1) ADVANCE NOTICE TO COMMISSION.** Any person intending to file an
4 application for commission approval of a Type I or Type II proposed action listed in s. PSC 4.10
5 (1) or (2) shall contact the commission ~~at least 30 days before filing.~~ The applicant shall contact
6 the commission at least 30 days before filing, and at least 30 days before providing an
7 engineering plan to the department of natural resources if required under s. 196.491 (3) (a) 3.a.,
8 Stats., to:

9 (d) For a Type I proposed action listed in s. 4.10 (1), obtain information on commission
10 methods and timing for public notice and scoping procedures.

11 (2) (a) Each application for commission approval of a Type I proposed action listed in
12 s. PSC 4.10 (1) shall describe the project in sufficient detail that the commission can prepare an
13 EIS meeting the criteria specified in s. PSC 4.30 (3). Each application for commission approval
14 of a Type II proposed action listed in s. PSC 4.10 (2) shall describe the project in sufficient detail
15 that the commission can prepare an EA meeting the criteria specified in s. PSC 4.20 (2).

16 (b) (intro.) Each application for commission approval of a Type I or Type II proposed
17 action listed in s. PSC 4.10 (1) or (2) shall do all of the following:

18 (c) No application for commission approval of a Type I or Type II proposed action listed
19 in s. PSC 4.10 (1) or (2) is complete until the information necessary for the commission to
20 complete an environmental review is provided.

21 **SECTION 22.** PSC 4.80 (1) (g) is amended to read:

22 **PSC 4.80 (1) (g)** Determine the proper time periods for review of EA and EIS
23 documents under ss. PSC 4.20 ~~(1)~~ (1m) and (3) (c), 4.30 (4) (e) and (5) (d) and 4.50 (1).

1 **SECTION 23.** Item a. of Table 1, following PSC 4.80, is repealed and recreated to read:

2 **Table 1. a.** Construct a hydroelectric generating facility at a new dam site.

3 **SECTION 24.** Item b. of Table 1, following PSC 4.80, is repealed.

4 **SECTION 25.** Items bg., br., and e. to g. of Table 1, following PSC 4.80, are created to
5 read:

6 **Table 1. bg.** Construct an electric transmission line designed for operation at a nominal
7 voltage of 345 kV, if the line is more than 10 miles long and if any related construction activity
8 takes place outside the area of an existing electric transmission line right-of-way.

9 br. Upgrade an electric transmission line so it is designed for operation at a nominal
10 voltage of 345 kV, if the line is more than 10 miles long and if any related construction activity
11 takes place outside the area of an existing electric transmission line right-of-way.

12 e. Construct an electric generation facility powered by nuclear energy.

13 f. Construct an electric generation facility fueled by coal.

14 g. Construct, at a new electric generation site, any of the following electric generation
15 facilities: a combustion turbine facility; a combined cycle facility; or a cogeneration facility.

16 **SECTION 26.** Items a. and b. of Table 2, following PSC 4.80, are repealed and
17 recreated to read:

18 **Table 2. a.** Construct, at the site of an existing electric generation facility, any of the
19 following electric generation facilities (if not powered by nuclear energy or fueled by coal): a
20 combustion turbine facility; a combined cycle facility; or a cogeneration facility.

21 b. Construct a hydroelectric generation facility at an existing dam site.

22 **SECTION 27.** Items bg. and br. of Table 2, following PSC 4.80, are created to read:

23 **Table 2. bg.** Construct a biomass or waste-to-energy electric generation facility.

1 br. Construct any electric generation facility not otherwise specified in Tables 1, 2, or 3.

2 **SECTION 28.** Item d. of Table 2, following PSC 4.80, is amended to read:

3 **Table 2. d.** ~~Replace, modify or add to an electric generation facility to increase the~~
4 Increase an electric generation facility's capacity significantly beyond its nominal design rating,
5 ~~to~~ change the facility's fuel type, add an additional fuel type, or ~~to~~ extend the facility's life
6 significantly.

7 **SECTION 29.** Items f. and g. of Table 2, following PSC 4.80, are repealed.

8 **SECTION 30.** Items f. to gm. of Table 2, following PSC 4.80, are created to read:

9 **Table 2. f.** Construct an electric transmission line designed for operation at a nominal
10 voltage of 100 kV to 345 kV, if any related construction activity takes place outside the area of
11 an existing electric transmission line right-of-way. This paragraph does not apply to electric
12 transmission lines specified in Item bg., Table 1.

13 fm. Rebuild or upgrade an electric transmission line so it is designed for operation at a
14 nominal voltage of 100 kV to 345 kV, if any related construction activity takes place outside the
15 area of an existing electric transmission line right-of-way. This paragraph does not apply to
16 electric transmission lines specified in Item br., Table 1.

17 g. Construct an electric transmission line designed for operation at a nominal voltage of
18 345 kV, if all related construction activity takes place entirely within the area of an existing
19 electric transmission line right-of-way.

20 gm. Upgrade an electric transmission line so it is designed for operation at a nominal
21 voltage of 345 kV, if all related construction activity takes place entirely within the area of an
22 existing electric transmission line right-of-way.

23 **SECTION 31.** Item i. of Table 2, following PSC 4.80, is created to read:

1 **Table 2. i.** Construct or replace a ~~water~~, coal slurry, oil, gas or steam pipeline or water
2 main facility, if the pipeline or main is eight inches or greater in nominal diameter and three or
3 more miles long.

4 **SECTION 32.** Item m. of Table 2, following PSC 4.80, is created to read:

5 **Table 2. m.** Adopt or approve long-range commission plans or policies that would
6 predetermine future individual commission actions, if these future actions may significantly
7 affect the human environment.

8 **SECTION 33.** Item a. of Table 3, following PSC 4.80, is repealed.

9 **SECTION 34.** Items ac. to aw. of Table 3, following PSC 4.80, are created to read:

10 **Table 3. ac.** Construct an electric transmission line designed for operation at a nominal
11 voltage of less than 100 kV.

12 ah. Rebuild or upgrade an electric transmission line so it is designed for operation at a
13 nominal voltage of less than 100 kV.

14 am. Construct an electric transmission line designed for operation at a nominal voltage
15 of less than 345 kV, if all related construction activity takes place entirely within the area of an
16 existing electric transmission line right-of-way.

17 ar. Upgrade an electric transmission line so it is designed for operation at a nominal
18 voltage of less than 345 kV, if all related construction activity takes place entirely within the area
19 of an existing electric transmission line right-of-way.

20 aw. Rebuild an electric transmission line so it is designed for operation at a nominal
21 voltage of 345 kV or less, if all related construction activity takes place entirely within the area
22 of an existing electric transmission line right-of-way.

23 **SECTION 35.** Items cg. and cr. of Table 3, following PSC 4.80, are created to read:



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

The Honorable Douglas LaFollette
Secretary of State
Office of the Secretary of State
30 West Mifflin Street, 10th Floor
Madison, WI 53703

Mr. Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
1 West Wilson Street, Room 800
Madison, WI 53703

Re: In the Matter of Proposed Revision of Chapter PSC 4, Wis. Admin.
Code – Rules for Environmental Analysis

1-AC-185

Dear Secretary LaFollette and Mr. Poulson:

At its open meeting on April 27, 2000, the Commission approved an order adopting rules to revise ch. PSC 4, Wis. Admin. Code. Pursuant to s.227.20, Stats., an agency is required to file a certified copy of each rule it promulgates with the offices of the Secretary of State and the Revisor of Statutes.

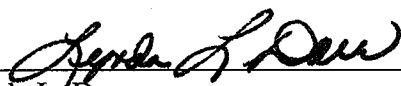
Enclosed for filing are certified copies of the Order of the State of Wisconsin Public Service Commission Adopting Rules, to revise ch. PSC 4, Wis. Admin. Code.

Mr. Poulson's filing also includes a 3.5" diskette containing an electronic copy of the proposed rules.

If you have any questions or concerns, please contact Mr. David A. Ludwig, Assistant General Counsel, at (608) 266-5621.

Dated at Madison, Wisconsin, April 27, 2000

By the Commission:


Lynda L. Dorr
Secretary to the Commission

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Enclosures
cc: Records Management, PSCW
Service list

