

*Filed Jan. 9 - 1959  
4:00 P.M.*

*PSC 51.01, .02*

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

In the Matter of the Diversion of )  
Truck Traffic From the Streets of ) MC-1021  
the City of Milwaukee by the Use )  
of Highway 100 as a By-Pass )

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, Edward T. Kaveny, Secretary of the Public Service Commission of Wisconsin, do hereby certify that I have compared the annexed copy of the decision with the original decision of the Public Service Commission of Wisconsin in the above-entitled matter, now on file in the office of said Commission, and that the same is a true copy of such original decision and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Commission at its office in the City of Madison, this *9th* day of *January*, A.D. 19*59*

*Edward T. Kaveny*  
Secretary

PUBLIC SERVICE COMMISSION OF WISCONSIN

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FINDINGS OF FACT AND ORDER

On August 19, 1957 the city of Wauwatosa filed a petition requesting the Commission to rescind its general orders or rules designated as follows:

<u>Original Designation</u>	<u>Present Designation</u>	<u>Date of Original Action</u>
MC-1014	PSC 51.01	Aug. 12, 1937
MC-1021	PSC 51.02	Jan. 11, 1938

During the proceedings the city of Wauwatosa withdrew its request for the rescinding of section PSC 51.01, Wisconsin Administrative Code, and no further reference will be made to that rule.

Pursuant to due notice hearings and oral argument were held as follows:

<u>Place</u>	<u>Date</u>	<u>Presiding Examiner</u>
Hearing - Milwaukee	October 14, 1957	Samuel Bryan
" - Madison	December 2, 1957	" "
Oral argument "	January 31, 1958	All Commissioners Present
On motion to Dismiss		
Hearing - Madison	May 21, 1958	Samuel Bryan
" - "	May 26, 1958	" "
" - Milwaukee	July 9, 1958	" "

Appearances:

City of Wauwatosa by

Hilton F. Burmaster, city attorney  
Wauwatosa

Herbert L. Mount, of counsel  
Milwaukee

City of Milwaukee by

Walter J. Mattison, city attorney  
John F. Cook  
Patrick J. Madden  
Ewald L. Moserke, Jr.  
John P. Kitzke, (all ass't. city attorneys)  
Milwaukee

Appearances: (continued)

Wisconsin Highway Commission by

D. H. Kuenzli, chief, economics studies  
section, planning research  
division

Madison

Dean C. Wahl, statistician  
Madison

Wisconsin Highway Commission and  
Milwaukee Metropolitan District by

Bernard Lockatch, construction and  
maintenance

Briefs were filed upon the motion of the city of Milwaukee to dismiss the petition prior to oral argument thereon. On February 17, 1958 the Commission denied the motion of the city of Milwaukee to dismiss the petition. A petition of the city of Milwaukee for rehearing on such denial was denied by order of March 21, 1958.

Upon the completion of the hearings briefs were filed upon the merits on behalf of the city of Wauwatosa and the city of Milwaukee. The request of the city of Milwaukee for oral argument on the merits was denied on October 23.

At the close of the hearings the city of Milwaukee renewed its motion to dismiss the petition.

The record comprises 357 pages of testimony and 73 exhibits.

#### Findings of Fact

##### THE COMMISSION FINDS:

The rule of the Commission which the city of Wauwatosa seeks to have rescinded reads as follows:

PSC 51.02 (MC-1021) Diversion of truck traffic from Milwaukee streets. Each private motor carrier, each contract motor carrier, and each common motor carrier of property shall cease and desist from operating any motor vehicle subject to the requirements of chapter 194, Wis. Stats, through the city of Milwaukee, except when pickup or delivery service is to be performed by such motor vehicle in the city of Milwaukee.

Highway 100 was constructed as a bypass around the city of Milwaukee by the state highway authorities. While the order complained of does not specifically mention highway 100, the effect of the order has been to channel through traffic over that highway, since it was and is the only practical beltline route. It is a class A highway designed to accommodate all types of traffic. It has been and is being improved by the highway authorities. For the promotion of public safety and the public interest it should be used by heavy trucks when there is no valid reason for entering the congested areas of the city of Milwaukee.

Since the rule in question was first promulgated in 1938 traffic conditions in the city of Milwaukee and its suburbs have materially changed. The municipal boundaries of Milwaukee and Wauwatosa have expanded with the growth of population, and areas which were then rural in character have developed urban or suburban density of residential and industrial use. Highway 100, which then constituted a substantially rural bypass around the city of Milwaukee and did not enter any part of the then incorporated areas of Milwaukee and Wauwatosa, now passes through some portions of both cities where suburban or urban conditions prevail.

The volume of traffic in the Milwaukee County urban area including both cities has greatly increased during the intervening years, substantially in proportion to the increase in the number of registered automobiles and trucks in Wisconsin and in the nation.

In this period the capacity of highways and streets has been materially increased and traffic regulation has been improved in many ways. Such improvements in street capacity and traffic regulation, however, have not cured all traffic problems, and the movement of traffic through the heart of Milwaukee is

still subject to many delays due to congestion of traffic. This congestion would be seriously aggravated by increased heavy truck traffic, thereby adversely affecting public safety and convenience. In this respect the over-all conditions have not changed to such degree or in such manner as to make unnecessary the essential restrictions on the routing of through truck movements over the streets of the congested Milwaukee downtown area imposed by the rule here under consideration.

Plans are in progress for new expressways which when completed will no doubt provide some diversion of traffic from highway 100 and may eventually make unnecessary some of the restrictions on travel which are now imposed by the order under consideration. However, the planning and construction of the new expressway facilities have not yet reached a point which justifies any material change in the rule.

Wauwatosa urges that a portion of highway 100 passes through a well developed residential and business area of that city. The development in this area, however, has been made during a period when this highway has been designated as and widely known as a bypass around the city of Milwaukee. If this highway should become insufficient for the purpose for which it was intended, it is the function of the highway authorities to correct the situation. The traffic conditions on highway 100 through the city of Wauwatosa are not such at the present time as to make unreasonable the use of such highway by through truck traffic.

The changes in municipal boundaries since the promulgation of the original order and the resulting need for traffic movement within the larger metropolitan area, make it necessary to modify the order. It is considered that instead of using the boundaries of the city of Milwaukee to delimit the area

through which truck traffic should be restricted it would be more appropriate to use a metropolitan area:

Bounded by Lake Michigan and highway 100 as such highway would be extended from its eastern terminal to Lake Michigan.

The term "pickup or delivery service" as used in the present rule does not include all movements which are necessary and proper in the restricted area. Trips are also necessary to or from motor carrier terminals within the area to provide a complete transportation service. The proper handling of vehicles domiciled within the area also requires trips therein, and trips to or from garages or repair shops are also necessary for repairs and maintenance. Small trucks having registered gross weight of less than 6,000 pounds are not materially different in their operation from modern automobiles and may properly be exempted.

With the minor modifications above-indicated, the rule will continue to promote the public safety and be in the public interest under present and reasonably foreseeable conditions.

#### Conclusion of Law

##### THE COMMISSION CONCLUDES:

That it has authority under chapters 194 and 227, Statutes, to modify the rule here under consideration as indicated in the findings of fact above set forth and otherwise to deny the petition herein.

#### Order

##### THE COMMISSION THEREFORE ORDERS:

1. That section PSC 51.02, Wisconsin Administrative Code, be and it is hereby amended to read as follows:

PSC 51.02 (MC-1021) Diversion of truck traffic  
from the Milwaukee Metropolitan Area: (1)

For the purposes of this section, the Milwaukee Metropolitan Area is defined as that area bounded by Lake Michigan and highway 100 as such highway would be extended from its terminus east to Lake Michigan.

(2) No private motor carrier, contract motor carrier, or common motor carrier of property shall operate any vehicle which has a registered gross weight in excess of 6,000 pounds between points in the Milwaukee Metropolitan Area as defined in (1) above on the one hand and points without said area on the other hand except to perform one or more of the operations described as follows:

- (a) Performing pickup and delivery service within said area.
- (b) Trips to or from motor carrier terminals located within said area.
- (c) Trips to or from the place where the vehicle operated is domiciled within said area.
- (d) Trips to or from garages or repair shops within said area for necessary repairs and maintenance of the vehicle operated.

2. That the petition herein be and it is hereby denied in all other respects.

3. That certified copies of section PSC 51.02, Wisconsin Administrative Code, as herein amended and adopted, be sent to

the Secretary of State and Rvisor of Statutes as required by section 227.023, Statutes.

4. That this order shall become effective February 1, 1959 pursuant to section 227.026, Statutes.

Dated at Madison, Wisconsin, this 4th day of December, 1958.

By the Commission.

Edward T. Kaveny

Secretary