

CR 80-144

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1-AC-30

CERTIFICATE

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STATE OF WISCONSIN )  
 ) ss.  
PUBLIC SERVICE COMMISSION )

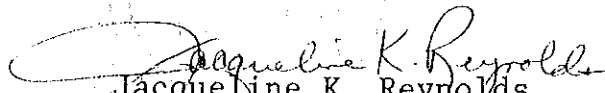
DEC 14 1982  
Revisor of Statutes  
Bureau

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Jacqueline K. Reynolds, Secretary of the Public Service Commission of Wisconsin, and custodian of the official records of said commission, do hereby certify that the annexed order adopting Wis. Adm. Code chapter PSC 3 was duly approved and adopted by this commission on December 9, 1982.

I further certify that said copy has been compared by me with the original on file in this commission and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the commission at the Hill Farms State Office Building, in the City of Madison this 10<sup>th</sup> day of December.

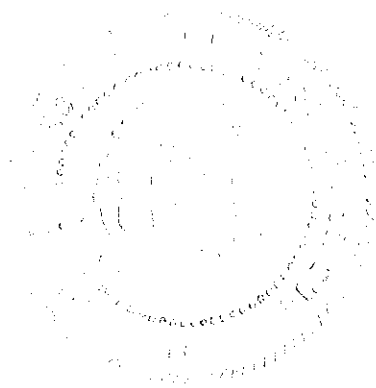
  
Jacqueline K. Reynolds  
Secretary of the Public Service  
Commission of Wisconsin

2-1-83

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1971 - 1972

Department of Education  
Washington, D.C.



DATE MAILED  
DEC 10 1982

COMPARED WITH AND CERTIFIED BY ME  
TO BE A FULL, TRUE AND CORRECT COPY  
OF THE ORIGINAL ON FILE IN MY OFFICE  
  
DEC 9 1982  
  
*Jacqueline K. Reynolds*  
Secretary to the Commission  
Public Service Commission of Wisconsin

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

Investigation by the Commission into )  
Rules Regarding Compensation of Consumer ) 1-AC-30  
Interests in Utility Proceedings )



ORDER OF THE PUBLIC SERVICE COMMISSION  
ADOPTING RULES

Relating to adoption of chapter PSC 3, Wis. Adm. Code,  
governing compensation of consumer interests in utility  
proceedings.

ANALYSIS PREPARED BY THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

On August 28, 1980, the commission held hearing into proposed rules to compensate intervenors in utility proceedings. The rules were originally prompted by sec. 122 of the Public Utility Regulatory Policy Act of 1978, which mandates compensation to electric consumers for the costs of advocacy of positions which are adopted by state utility commissions. The rules proposed by the commission however, are not limited to electric proceedings but apply to other types of utility proceedings as well. The purpose of the rules is to encourage greater participation in commission proceedings and the presentation of diverse viewpoints so that the commission has before it as full a record as possible in determining where the public interest lies. The rules are intended as a means of providing input into issues which the commission believes are

important for the public interest, not primarily as a funding mechanism for intervenors.

The rules specifically describe the following areas:

1) Purpose: To compensate utility consumers who participate in PSC proceedings by presenting important information of aid to the commission.

2) Type of proceedings for which compensation is available: Formal proceedings in which the applicant participates as a full party.

3) Eligibility criteria: Customers of the utility or persons whose substantial interests may be affected by the outcome of the proceeding and for whom participation would be a significant financial hardship. The interest to be presented must be material and necessary for a fair determination.

4) Application process: Written application within 15 days notice of hearing setting forth information about the applicant, the proceeding for which compensation is sought, and the issue to be presented.

5) Compensable costs: Fees of expert witnesses or attorneys costs of clerical services, studies and exhibits, travel, other reasonable fees--all determined at market rates, not to exceed rates authorized for commission employees.

6) Processing of applications: Evaluation and written recommendation by hearing examiner considering financial status of applicant, its interest in the proceeding, the issue it seeks to present, and its ability to do so.

7) Supplementary compensation: May be applied for subsequent to initial application if costs underestimated or additional funds would substantially improve presentation.

8) Payment process: Written claim for approved costs with documentation to be made within 90 days of completion of participation. Payment within 30 days of claim. Payment may be denied if applicant has not provided the specified representation.

9) Audits: Approved applicants to retain records for three years for possible PSC audit.

10) Discretion: Awarding of compensation solely at commission's discretion. Rules create no right or cause of action.

11) Source of funds: Direct or remainder utility assessment authorized by sec. 196.85.

Subsequent to the hearing in this proceeding, the Circuit Court for Dane County determined that the commission possesses the statutory authority to compensate intervenors.

This action is classified as a category 4 action under PSC 2.90(4), Wis. Adm. Code. It consequently is presumed to require neither an environmental impact statement under s. 1.11, Wis. Stats., nor an environmental screening. No special circumstances have been brought to the commission's attention which would disturb this presumption.

## STATUTORY AUTHORITY

Pursuant to authority vested in the Public Service Commission by Chapter 196 and sec. 227.014(2)(a), and by secs. 196.02(1), 196.02(3) and 196.85, Stats., the commission adopts Ch. PSC 3 as follows:

### CHAPTER PSC 3

#### INTERVENOR COMPENSATION

PSC 3.01 Purpose. The purpose of this chapter is to set forth rules governing compensation of intervenors who participate in public service commission proceedings.

PSC 3.02 Type of Proceeding. Compensation for the cost of intervenor participation in commission proceedings is available through the public service commission for participation in formal proceedings in which the applicant participates as a full party.

PSC 3.03 Eligibility. Persons eligible for compensation under this chapter must meet the criteria of subs. (1) to (4) below:

(1)(a) Customers of the utility which is the subject of the proceeding; or (b) Persons whose substantial interests may be affected by the outcome of the proceeding.

(2) Persons who would find full intervention in the proceeding to be a significant financial hardship without compensation from the public service commission.

(3) Persons who represent an interest material to the proceeding, which but for an award of compensation would not be adequately represented.

(4) Persons, representation of whose interests is necessary for a fair determination in the proceeding.

(5) In determining whether an applicant for compensation meets the criteria of subs. (3) and (4), the Public Service Commission shall consider the information to be presented by its own staff and by other persons who indicate they will be presenting information in the proceeding.

PSC 3.04 Applications for Compensation. (1) Not less than 15 days after notice of hearing, any person may apply to the public service commission for intervenor compensation under this chapter.

(2) The application for compensation may be on a form supplied by the public service commission on request and shall contain the following information:

(a) The applicant's name and address. In the case of an organization, the names, addresses, and titles of the members of its governing body, and a description of the organization's general purposes, size and structure.

(b) The proceeding for which the compensation is requested.

(c) The issues the applicant plans to address and how they affect the applicant's interest in the proceeding. The discussion shall explain which ideas or viewpoints the applicant believes are substantive, novel or significant and why their presentation would contribute to a full and fair determination of the issues involved in the proceeding.

(d) A statement of the amount of funds requested, including an itemized statement of the services and expenses to be covered by the requested funds.

(e) Financial status of the applicant, including:

1. A listing of annual gross income for the current and prior year.

2. A listing of current assets and liabilities or balance sheet.

3. An explanation of why the applicant cannot use the excess of assets over liabilities, if any, to cover the costs of participating in the proceeding.

4. If the applicant is other than an individual, the applicant's official budget for the current fiscal year, and a statement of revenues and expenses for the previous fiscal year.

5. A list of all proceedings before the public service commission in which the applicant has received compensation during the preceding 12 months, including the interest represented, the presentation made, and the amount of compensation received.

PSC 3.05 Compensable Costs. (1) Compensation shall be limited to the actual and reasonable expenses authorized by the commission and incurred as a result of the applicant's participation.



(2) Expenses compensable under this chapter include but are not limited to:

- (a) reasonable attorney fees
- (b) expert witness fees
- (c) cost of clerical services
- (d) preparation of studies, displays, and exhibits
- (e) travel and subsistence costs
- (f) other reasonable costs associated with the participation and actually incurred

(3) Compensation paid to the staff of a group or organization shall be limited to the rate of reimbursement normally paid by the applicant for comparable staff services, and shall not exceed the rates authorized for employees of the public service commission. Compensation of an applicant's contractor may be valued at prevailing market rates for the kind and quality of service.

(4) Compensation for travel, subsistence, and miscellaneous expenses shall not exceed the rates authorized for employees of the public service commission.

PSC 3.06 Processing of Applications. (1) Within 15 days of submission of the application for compensation, the hearing examiner or other employee assigned to evaluate the application shall submit in writing to the public service commission a recommendation as to whether, and to what extent, the applicant should be compensated.

(2) The hearing examiner or other assigned employee may request additional information necessary to process the application and may call a prehearing conference among applicants

to promote and coordinate joint presentations, if similar interests exist. The examiner may require cooperative efforts as a condition of compensation.

(3) The hearing examiner or other assigned employee may recommend approval of all or part of an application for compensation only if he or she finds:

(a) The applicant has demonstrated that it does not have sufficient resources to participate effectively in the proceeding without compensation under this chapter. In making this determination, the commission will consider the following factors, among others:

1. The financial status of the applicant, including the factors listed in PSC 3.04(2)(e).
2. The amount of an applicant's assets and revenues that are firmly committed for other expenditures.
3. The amount of its own funds the applicant will spend on its participation.

(b) The applicant is a customer of the utility which is the subject of the hearing or will be substantially affected by issues which will be determined in the proceeding.

(c) The applicant's participation would or could reasonably be expected to substantially contribute to a full and fair determination of the issues involved in the proceeding, considering:

1. The ability of the applicant to represent the interest it espouses, including the applicant's, its consultant's or its attorney's expertise in the matter at issue in the proceeding;

2. The manner in which the applicant's interest may be affected by the proceeding or evidence of the applicant's relationship to the interest it seeks to represent.

3. The novelty, complexity, and importance of the issues to be addressed by the applicant.

(4) The hearing examiner or other assigned employee shall prepare a written recommendation that compensation should be granted in a given amount or denied. (See PSC 3.06(3).) The recommendation shall be forwarded to the commission for its approval or modification, and the commission's decision shall be mailed to the applicant, the utility, and placed in the file.

(5) The commission may for good and timely reason given by an applicant, or the utility involved, reconsider its approval or disapproval of all or part of an application for compensation.

(6) Upon request and where practicable, the public service commission may extend the filing period for applicants or reschedule hearings in order to allow applicants to prepare their applications for compensation.

PSC 3.07 Supplementary Compensation. Applicants may apply to the public service commission for supplementary

compensation if for valid reason the costs of participation were underestimated or if additional funds would substantially improve the applicant's ability to contribute to the proceeding.

PSC 3.08 Payments to Applicants. (1) An applicant shall submit a claim for approved costs to the public service commission within 90 days of the applicant's completion of participation in the proceeding. The claim shall be certified as correct by the applicant and shall include bills, receipts or itemized statements of expenses incurred for each item of expense exceeding \$10. The commission shall attempt to authorize payment within 30 days of receipt of the claim. For good cause shown, partial payments may be made as an applicant's work progresses.

(2) Payment may be denied if the applicant has not provided the representation for which its application was approved.

PSC 3.09 Audits. The public service commission shall be granted access for the purpose of audit and examination to any pertinent books, documents, papers and records of an applicant receiving compensation. Approved applicants shall retain all relevant records supporting a claim for 3 years after receipt of compensation.

PSC 3.10 Discretionary Authority. The awarding of compensation under this chapter is solely in the discretion of the public service commission. The chapter establishes internal

procedures to assist the public service commission in determining an applicant's eligibility for compensation but shall not be construed as creating any right or cause of action under state law.

PSC 3.11 Source of Funds. (1) Funds for the compensation of intervenors under this chapter shall be assessed against the utility involved pursuant to sec. 196.85(1), Stats.

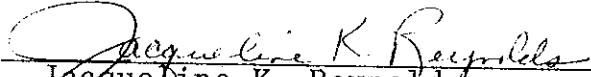
(2) A utility which is the subject of a proceeding in which intervenor compensation has been approved may request that the funding for such compensation be assessed under sec. 196.85(2)(a), Stats., on the ground that the issue for which compensation has been approved relates to utility matters in general--not only to the specific utility involved in the proceeding.

The proposed rules were forwarded to the legislature for review, pursuant to sec. 227.018, Stats. They will take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in sec. 227.026, Stats.

Dated at Madison, Wisconsin,

December 9, 1982

By the Commission.

  
Jacqueline K. Reynolds  
Secretary to the Commission

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State of Wisconsin \ PUBLIC SERVICE COMMISSION

December 10, 1982

STANLEY YORK, CHAIRMAN  
WILLIE J. NUNNERY, COMMISSIONER  
BRANKO TERZIC, COMMISSIONER  
4802 SHEBOYGAN AVENUE  
P.O. BOX 7854  
MADISON, WISCONSIN 53707  
(608) 266-2001

Mr. Gary Poulson  
Assistant Revisor of Statutes  
411 West, State Capitol  
Madison, Wisconsin 53702

File No.

1-AC-30

Re: Investigation by the Commission into Rules Regarding  
Compensation of Consumer Interests in Utility  
Proceedings

Dear Mr. Poulson:

Enclosed please find two copies (one certified) of an order  
of the Public Service Commission adopting rules in the above-  
entitled matter.

The rules have been seen by legislative committees (sent  
October 22, 1982). Thank you for your assistance.

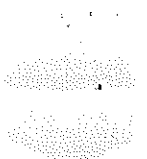
Sincerely,

A handwritten signature in cursive script that reads "Steve Levine".

Steven Levine  
Assistant Chief Counsel

SL:nea

Enc.



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CERTIFICATE

STATE OF WISCONSIN )  
 ) ss.  
PUBLIC SERVICE COMMISSION )

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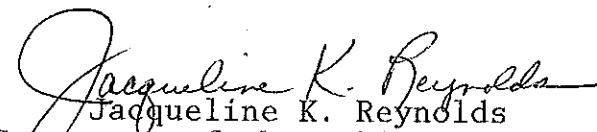
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*9:30 am*  
Revisor of Statutes  
Bureau

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Jacqueline K. Reynolds, Secretary of the Public Service Commission of Wisconsin, and custodian of the official records of said commission, do hereby certify that the attached is a corrected copy of sec. PSC 3.04(1), approved by the public service commission on December 9, 1982.

I further certify that said copy has been compared by me with the original on file in this commission and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the commission at the Hill Farms State Office Building, in the City of Madison this 15th day of February, 1983.

  
Jacqueline K. Reynolds  
Secretary of the Public Service  
Commission of Wisconsin

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Boston

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PSC 3.04. Applications for Compensation. (1) Not more than 15 days after notice of hearing, any person may apply to the public service commission for intervenor compensation under this chapter.

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**FEB 17 1983**  
Revisor of Statutes  
Bureau

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COMMUNICATIONS SECTION  
U.S. AIR FORCE



State of Wisconsin \ PUBLIC SERVICE COMMISSION

February 15, 1983

STANLEY YORK, CHAIRMAN  
WILLIE J. NUNNERY, COMMISSIONER  
BRANKO TERZIC, COMMISSIONER  
4802 SHEBOYGAN AVENUE  
P.O. BOX 7854  
MADISON, WISCONSIN 53707  
(608) 266-2001

Mr. Gary Poulson,  
Assistant Revisor of Statutes  
411 West, State Capitol  
Madison, WI 53702

File No.

Re: 1-AC-30

Dear Mr. Poulson:

Enclosed is a copy of corrected PSC 3.04(1), which should read "more" rather than "less." Thanks. Sorry for the trouble.

Sincerely,

Steve Levine  
Assistant Chief Counsel

SL:e

Enc.

**RECEIVED**

FEB 17 1983

Revisor of Statutes  
Bureau