

Chapter PSC 3

INTERVENOR COMPENSATION

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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.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

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.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

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 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.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

PSC 3.04 Applications for compensation. (1) Not more than 15 days after notice of prehearing conference or not more than 15 days after notice of hearing, whichever occurs first, any person may apply to the public service commission for intervenor compensation under this chapter. The 15 day period may be extended by the commission or by the person processing the application for good cause shown.

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

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(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.

(3) An original and 5 copies of the application shall be filed with the public service commission, and one copy shall be served on each utility involved in the proceeding.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83; reprinted to correct error in (1), Register, March, 1983, No. 327; r. and recr. (1), cr. (3), Register, August, 1984, No. 344, eff. 9-1-84.

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

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(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.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

PSC 3.06 Processing of applications. (1) Within 15 days of submission, if possible, the hearing examiner or other employee assigned to process the application shall submit the application and other relevant material to the public service commission. The examiner or other employee may include 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.

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

(4) The hearing examiner or other assigned employe may prepare a written recommendation that compensation should be granted in a given amount or denied. (See sub. (3).) The recommendation shall be forwarded to the commission for its approval or modification. 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 for good cause shown, 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.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83; r. and rec. (1), am. (4) and (6), Register, August, 1984, No. 344, eff. 9-1-84.

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.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

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. 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.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83; am. Register, August, 1984, No. 344, eff. 9-1-84.

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.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

PSC 3.10 Discretionary authority. The awarding of compensation under this chapter is solely in the discretion of the public service commission. This 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.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.
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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 s. 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 s. 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.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.