

Chapter PSC 2

PROCEDURE AND PRACTICE

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GENERAL

PSC 2.01 Communications and documents addressed to commission. (1) All written communications and documents should be addressed to Public Service Commission of Wisconsin, Hill Farms State Office Building, 4802 Sheboygan Avenue, Madison, Wisconsin 53702, and not to individual members of the staff. All communications and documents delivered at the office of the executive secretary are officially received.

(2) The executive secretary may designate agents to receive written communications and documents. Presiding officers will receive communications and documents at hearings.

(3) Office hours are 7:45 to 11:45 a.m. and 12:30 to 4:30 p.m., Monday through Friday. Offices are closed on Saturdays and Sundays and on holidays listed in section 16.275 (6), Wis. Stats.

History: 1-2-56; am. (1), Register, September, 1964, No. 105, eff. 10-1-64; cr. (3), Register, December, 1966, No. 132, eff. 1-1-67; am. (1) and (2), Register, January, 1977, No. 263, eff. 2-1-77.

PSC 2.02 Parties. Parties to proceedings are known as complainants, defendants, interveners, respondents, applicants, objectors, and petitioners according to the nature of the proceeding and the relationship of the parties thereto.

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(1) Parties who file complaints are complainants, the parties complained against are defendants, and other parties to the proceeding are interveners.

(2) In investigations or upon orders to show cause, the parties investigated or ordered to show cause are respondents. If the proceeding is initiated by the commissioner upon complaint, the parties complaining are complainants.

(3) All persons seeking approvals, authority, certificates of authority or of public convenience and necessity or other certificates, licenses, permits, or exemptions or other relief are applicants. Those opposing such applicants are objectors. Parties to such proceedings other than the applicants and objectors are interveners.

(4) Intervenors "As Their Interest May Appear" who fail to resolve their appearances further will be considered to be not "In Opposition" to the cause which initiated the proceeding.

History: 1-2-56; cr. (4), Register, December, 1966, No. 132, eff. 1-1-67.

PSC 2.03 Computation of time. The time within which an act is to be done as provided in any rule or order promulgated by the commission, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day be Saturday, Sunday, or a legal holiday, the act may be done on the next secular day. When any such time is expressed in hours, the whole of any intervening Saturday, Sunday, or legal holiday, from midnight to midnight, shall be excluded. When the time within which an act is to be done as specified in any rule or order promulgated by the commission is expressed in days and said period of time consists of less than 10 days, and said latter period contains both a Sunday and a legal holiday, as designated in section 256.17, Wis. Stats., the time within which said act may be done is increased by 2 additional days.

History: 1-2-56; am. Register, June, 1966, No. 114, eff. 7-1-66; am. Register, May, 1967, No. 137, eff. 6-1-67.

PSC 2.04 Furnishing copies of records. (1) One certified copy of the decision in a proceeding will be furnished free of charge at the time of issuance to each party of record, except that when a party of record is represented by counsel, a copy of the decision will be furnished to said counsel. When a municipal utility is a party of record to a proceeding, a copy of the decision will be furnished both to the management of the utility and to the appropriate official of the municipality free of charge at the time of issuance.

(2) General orders will be distributed free of charge at the time of issuance under the supervision of the executive secretary.

(3) Except for copies distributed free of charge as enumerated in subsections (1) and (2) of this section and in Wis. Adm. Code section PSC 2.36 (1), copies of transcripts, orders, or other records of the commission may be obtained upon payment, in advance, of applicable rates determined by the commission.

History: 1-2-56; am. Register, September, 1964, No. 105, eff. 10-1-64; am. Register, December, 1971, No. 192, eff. 1-1-72.

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PSC 2.05 Service of documents. (1) Service of documents upon other parties in commission proceedings may be made by deposit thereof in the first class mail or by delivery in person.

(2) The date of service shall be the day when the matter served is deposited in the mail or is delivered in person, as the case may be.

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PSC 2.80 Applications for motor carrier authority and assignment thereof. (1) Applications for common motor carrier certificates, contract motor carrier licenses, or amendments thereto, should show the correct legal name of the applicant, his address, the names and addresses of all partners of a copartnership or of all officers and directors of a corporation, and should contain an accurate and complete description of the operations and transportation services proposed to be rendered in sufficient detail to give full notice to the public and other carriers.

(2) Applications for authority or assignment of authority to engage in intrastate commerce by motor vehicle shall not be combined with applications for state authority or assignment thereof to engage in operations in interstate commerce requiring a certificate or permit under the Federal Motor Carrier Act of 1935 (sections 194.03 (5) and 194.20, Wis. Stats.). In such cases separate applications must be filed and separate filing fees paid.

(3) No hearing will be held upon applications involving only interstate operations unless specifically required by the commission.

(3a) Applications for exempt interstate contract carrier authority under section 194.20, Wis. Stats., will be set for hearing, unless application is accompanied by substantial evidence that the entire proposed operations can and will be performed if authorized.

(4) No amendment of any application for a motor carrier license or certificate which includes additional operations not specified in such application and as to which no notice has been given will be allowed at the hearing. Amendments which have the effect of limiting, restricting, or eliminating authority sought by the application may be made at the hearing.

(5) An application for approval of assignment of a severable part or all of the operating authority contained in a certificate or license shall be signed by both the assignor and assignee. The application shall show the names and addresses of all partners of a partnership and of the officers and directors of a corporation. The application shall be accompanied by a copy of any assignment agreement. A form of application containing appropriate instructions will be furnished upon request. An application for approval of a mortgage of any authority shall be accompanied by a copy of the mortgage.

(6) Applications for approval of assignment of licenses will be handled ordinarily without hearing. Applications for approval of assignment of certificates ordinarily will be set for hearing.

(7) When, as provided for in section 194.34 (1), Wis. Stats., a petition is made for a hearing on a grant or amendment of a contract carrier license made without hearing, the following requirements shall be met:

(a) A copy of the petition for hearing shall be forthwith served in the manner provided in section PSC 2.05 upon the person receiving the grant or amendment.

(b) The petition filed with the commission shall include a certification that a copy has been served as provided in (a). Such certificate shall state the name of the person served, together with the date and manner of serving.

(c) The petition for hearing shall state the facts showing the ground on which it is claimed that the petitioner is one having an interest within the meaning of section 194.34 (1), Wis. Stats.

(d) The person receiving the grant or amendment may reply to such petition for hearing within 5 days after the date of service by filing such reply with the commission and mailing a copy thereof to the person who requests a hearing.

History: 1-2-56; cr. 2.80 (7), Register, April, 1958, No. 4, eff. May 1, 1956; am. Register, September, 1958, No. 33, eff. 10-1-58; cr. (7) (d), Register, December, 1966, No. 133, eff. 1-1-67.

PSC 2.81 Nonappearance of motor carrier applicants at hearings; examiner's proposed decision. Where an application for a new or amended motor carrier certificate or license has been docketed and set for hearing, failure of the applicant to appear without good cause shown shall be sufficient reason for the dismissal of the application for want of prosecution. The hearing examiner may issue a decision dismissing an application for want of prosecution and such decision shall become the final order of the commission. (section 227.09 (3), Wis. Stats.)

History: Cr. Register, January, 1977, No. 253, eff. 2-1-77.

PSC 2.90 Categorization of commission actions for environmental review purposes. (1) The following types of commission actions shall always require the preparation of an environmental impact statement:

(a) Approval of construction of electric generation facilities - 20 MW or greater.

(b) Approval of construction of electric transmission lines and substations rated at a nominal voltage of more than 345 kV.

(c) Approval of construction of major railroad facilities.

(2) The following types of commission actions shall be individually screened using a screening worksheet to determine whether an environmental impact statement is required:

(a) Approval of construction of electric generation facilities-less than 20 MW.

(b) Approval of construction of electric transmission lines rated at nominal voltages of 100 kV to 345 kV, inclusive, and more than 1 mile in length. Distribution and subtransmission lines are excluded from this category. A distribution line is defined as a line whose main function is to deliver energy from a distribution substation to individual customers. A subtransmission line is defined as a line whose main function is to deliver energy from a bulk power substation to a distribution substation.

(c) Approval of construction of electrical substations rated at nominal voltages of 100 kV or above, or approval of transformer additions or replacements, which increase capacity at existing substations rated at nominal voltages of 100 kV or above. Distribution substations are excluded from this category. A distribution substation is defined as a station where no more than two high voltage transmission lines terminate and whose primary function is to transform incoming power into distribution voltage.

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(d) Approval of construction of synthetic gas production and/or storage facilities.

(e) Electric rate orders in which the utility involved sells more than 5% of the total electric sales in the state by all public utilities.

(f) Gas rate orders in which the utility involved sells more than 5% of the total gas sales in the state by all public utilities.

(g) Authorization to provide utility service to new service areas: cases in which the facilities are designed to accommodate the equivalent of 50 or more average residential customers (or an equivalent combination of industrial, commercial or residential customers) and service extension is greater than one half mile.

(h) Granting of applications for or amendments to common motor carrier certificates.

(i) Approval of abandonment of common carrier or rail passenger service.

(j) Approval of construction of steam production facilities.

(k) Approval of abandonment of train service on a line.

(l) Approval of construction of gas utility transmission facilities.

(m) Establishment of intrastate railroad rates.

(n) Approval of reduction of rail service at stations.

(o) Revision of the following portions of the Wisconsin Administrative Code:

PSC 16	PSC 60
PSC 34	PSC 65
PSC 35	PSC 69
PSC 37	PSC 89
PSC 40	PSC 111
PSC 41	PSC 112
PSC 50	PSC 113.11
PSC 52	PSC 133
PSC 53	PSC 134.04
PSC 55	PSC 140
	PSC 162
	PSC 184

(p) Paragraphs (f), (g), (j), (k), (l), (m), (n) and (o) shall become effective on June 15, 1977.

(3) The following types of commission actions shall not require an environmental impact statement:

(a) Approval of construction of electric transmission lines rated at a nominal voltage of less than 100 kV and all electric transmission lines less than 1 mile in length (excluding those lines rated at a nominal voltage of more than 345 kV). Included in this category are all distribution and subtransmission lines.

(b) Approval of construction of electrical substations, or additions to existing substations, rated at nominal voltages less than 100 kV and all distribution substations.

(c) Approval of construction of water well and distribution systems by water public utilities or by municipal water and sewer public utilities combined under section 66.077, Wis. Stats., except as provided otherwise under PSC 2.90 (2) (g).

(d) Approval of construction of telephone utility facilities, except as provided otherwise under PSC 2.90 (2) (g).

(e) Approval of construction of gas utility distribution facilities.

(f) Approval of construction of sewage treatment facilities by municipal water and sewer public utilities combined under section 66.077, Wis. Stats.

(g) Other electric rate orders not specified in (2) (e) of PSC 2.90.

(h) Other gas rate orders not specified in (2) (f) of PSC 2.90.

(i) Water, sewer, solid waste recycling, telephone and steam rate actions.

(j) Approval of issuance of securities.

(k) Certification of depreciation rates.

(l) Accounting orders.

(m) Service orders concerning adequacy of utility and rail service.

(n) Authorization to provide utility service to new service areas: other extensions not specified in (2) (g) of PSC 2.90.

(o) Orders relating to grade crossing additions, relocations or closings.

(p) Orders relating to railroad crossing protection.

(q) Approval of depot building removal or relocation.

(r) Approval of railroad station abandonment.

(s) Approval of spur track abandonment.

(t) Granting of applications for or amendments to contract motor carrier licenses.

(u) Other abandonments and discontinuances of service not specified in (2) (i) of PSC 2.90.

(v) Applications for approval of assignment of motor carrier certificates or licenses.

(w) All motor carrier rate matters.

(x) Registration of operations to artificially influence precipitation.

(y) Purchase, sale or transfer of utility property not otherwise specified in PSC 2.90.

(z) Construction of utility facilities not otherwise specified in PSC 2.90.

(za) Approval of mergers under section 196.80, Wis. Stats.

(zb) River water power toll allocations.

- (zc) Approval of territorial agreements between electric utilities.
- (zd) Approval of construction of steam transmission and distribution facilities.
- (ze) Granting of applications for certificates as common carrier by water.
- (zf) Declaratory rulings not otherwise specified in s. PSC 2.90.
- (zg) Approval of affiliated interest transactions.
- (zh) Revisions of the following portions of the Wisconsin Administrative Code:

PSC 1	PSC 95
PSC 2	PSC 98
PSC 5	PSC 100
PSC 8	PSC 102
PSC 10	PSC 103
PSC 13	PSC 104
PSC 15	PSC 108
PSC 17	PSC 109
PSC 18	PSC 110
PSC 19	PSC 113, except 113.11
PSC 20	PSC 114
PSC 21	PSC 130
PSC 22	PSC 134, except 134.04
PSC 24	PSC 135
PSC 25	PSC 150
PSC 38	PSC 160
PSC 70	PSC 164
PSC 71	PSC 165
PSC 72	PSC 166
PSC 82	PSC 180
PSC 83	PSC 185
PSC 84	E 2 to 145, inclusive
PSC 85	(Wis. State Electrical Code)

(4) Any action not specifically categorized in (1), (2) or (3) above is presumed not to be a major action which may significantly affect the human environment. The commission shall consider, on an individual basis, any such action brought to its attention, and may determine that an environmental screening shall be done.

Note: These rules are promulgated under the authority granted in s.1.11, Wis. Stats. See also guidelines promulgated by the U.S. Council on Environmental Quality under NEPA 42-USC-4331 appearing at 40 CFR Subpart V, Section 1500. Also see Guidelines for the Implementation of the Wisconsin Environmental Policy Act issued by Governor's Executive Order No. 69 and subsequent revisions.

History: Cr. Register, April, 1977, No. 266, eff. 5-1-77.

PSC 2.91 Environmental screening procedure. (1) A screening worksheet shall be completed by the commission staff for each individual action for the types of actions identified in PSC 2.90 (2).

(2) The screening worksheet shall contain the following information:

(a) An adequate description of the proposed action, including maps and graphs if appropriate.

(b) A listing, brief description and analysis of alternatives.

(c) A listing of other agencies or groups that may have been contacted and the comments and other pertinent information of the agencies and groups.

(d) An evaluation section which consists of questions, specific to the proposed type of action, that must be considered in evaluating the proposed action.

(e) A finding whether or not an environmental impact statement is required. This shall be based on the findings in the evaluation section.

(f) Identification of the individual evaluating the impact of the proposed action.

(e) Before completion of a screening worksheet, notice of the proposed action and screening procedure shall be sent to known interested persons. Upon completion of a screening worksheet, it shall be made available for public inspection and copies shall be sent to individuals requesting such notification.

(4) If a finding is made in the worksheet that no environmental impact statement is required, the environmental review is complete. If an environmental impact statement is required, the commission staff shall prepare a preliminary environmental report and final environmental impact statement.

History: Cr. Register, April, 1977, No. 256, eff. 5-1-77.

PSC 2.92 Preliminary environmental report. (1) The Preliminary Environmental Report (PER) shall contain at least 3 major sections:

(a) A description of the proposed action.

(b) Alternatives considered.

(c) A preliminary environmental evaluation of the impacts of the proposed action and significant alternatives.

(2) The PER is based on the information and expertise available within the commission and is not necessarily a complete environmental evaluation.

(3) The PER shall be distributed as follows:

(a) One copy to the governor's office.

(b) At least one copy to the department of natural resources.

(c) One copy to the Wisconsin state historical society.

(d) One copy to other state or federal agencies having related expertise.

(e) One copy to each regional planning agency located within the project area.

(f) One copy to each county planning and zoning agency located within the project area.

(g) At least one copy to the commission's main office.

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- (h) At least one copy to the project applicant.
- (i) At least one copy to each of the following:
 1. For projects affecting a small area: to a local library and to the county clerk or town clerk with a request to make the document available in the county courthouse, city hall or town hall.
 2. For projects of regional importance: to a reasonable number of public libraries with a geographic distribution which provides public access without undue travel.
 3. Projects having statewide significance: to at least one main library in each administrative district established by Executive Order No. 22, issued August 24, 1970, as hereafter amended.
- (j) To any individual requesting a copy. A nominal charge may be assessed to cover reproduction and handling costs.
 - (4) To publicize the availability of the PER, an announcement sheet giving a brief description of the proposed action, description of the administrative procedures to be followed, locations where copies of the PER are available for review, and the public hearing date if known, shall be circulated to the following:
 - (a) All local and regional units of government which have jurisdiction over the area that may be affected by the proposed action. A request shall be made for posting the announcement sheet at the place(s) normally used for public notices.
 - (b) Local and regional news media in the area affected.
 - (c) Groups, clubs, committees, or individuals which have demonstrated an interest or have requested receipt of this type of information.
 - (5) To assist in obtaining public response to the PER, the commission staff may conduct informal public meetings in the affected area.
 - (6) A minimum of 45 days from the date the PER is mailed will be allowed for the receipt of comments from other state agencies and the public. Depending on the complexity and length of the PER, the commission may extend the review period up to 90 days. If no notice of interest is received within 20 days of circulation of the PER, the commission may proceed as if the 45 days have expired, but this should be explained in the announcement sheet. A reasonable request for extension (usually up to 15 days) may be granted for the review of a PER. In an emergency situation, the commission may reduce the review period commensurate with the nature of the emergency.

History: Cr. Register, April, 1977, No. 256, eff. 5-1-77.

PSC 2.93 Environmental impact statement. (1) When the allotted time for comments on the PER has passed, an Environmental Impact Statement (EIS) shall be prepared. The EIS will be based on the information developed in the PER, comments received from other agencies and the public on the PER, and any other information needed to provide an in-depth analysis of the proposed action.

(2) The EIS shall emphasize the major environmental and economic issues and information should be conveyed succinctly in a form

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easily understood by the general public. The EIS shall contain the following categories of information:

(a) A description of the proposed action and of the environment affected including the project location, type of facility, anticipated costs and benefits, time schedules, maps and diagrams (where relevant) and other pertinent information which will adequately permit an assessment of the potential environmental impact by commenting agencies and the public. Highly technical and specialized analyses and data should be avoided in the body of the EIS. Such material should be attached as appendices or footnotes with adequate bibliographic references. The statement should also succinctly describe the environment of the area affected as it exists prior to a proposed action. Population and growth assumptions used to justify the project or program or to determine secondary population and growth impacts resulting from the proposed action and its alternatives shall be identified as appropriate. Sources of data should be identified.

(b) The probable impact of the proposed action. Positive and negative effects of the proposed action as it affects both the local and regional environment shall be assessed as appropriate. The attention given to different environmental factors will vary according to the nature, scale and location of proposed actions. Secondary as well as primary consequences to the environment should be included in the analysis.

(c) Alternatives to the proposed action. A rigorous exploration and objective evaluation of the environmental impacts of all reasonable alternative actions, particularly those that might avoid some or all of the adverse environmental effects, shall be made. Examples of such alternatives include: the alternative of taking no action or of postponing action pending further study; alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts; alternatives related to different designs or details of the proposed actions which would present different environmental impacts. Alternatives beyond PSC jurisdiction should be considered as appropriate. In each case, the analysis should be sufficiently detailed to permit comparative evaluation of the environmental and economic benefits, costs and risks of the proposed action and each reasonable alternative. Where an existing impact statement already contains such an analysis and the facts have not changed significantly, its treatment of alternatives may be incorporated.

(d) Any probable adverse environmental effects which cannot be avoided. Included should be any adverse effects such as water and air pollution, creation of undesirable land use patterns, damage to life systems, urban congestion, threats to health or other consequences adverse to environmental goals set forth in the Wisconsin Environmental Policy Act, chapter 274, Laws of 1971. Those effects which are unavoidable under the proposed action should be briefly summarized. A statement of how other adverse effects could be mitigated to prevent apparent unavoidable consequences should also be included.

(e) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. A brief discussion of the extent to which the proposed

action involves trade-offs between short-term environmental gains at the expense of long-term environmental losses or vice-versa shall be presented.

(f) Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. This section shall identify the extent to which the action irreversibly curtails the range of potential uses of the environment.

(g) An assessment of economic impact. The economic advantages of the proposal shall be considered. The analysis shall give consideration to the economic impact including both advantages and disadvantages where these may be expected to occur. Consideration should be given to benefits as well as to costs both to the public sector and to the private sector, locally and regionally. Depending on the type of action, the economic impact section may vary from a few sentences to an extensive report.

(3) The EIS shall be distributed in the same manner as the PER (see PSC 2.92(3)) with the following additions:

(a) All local and regional governmental bodies such as town boards and city councils which have commented on the PER.

(4) To publicize the availability of the EIS, an announcement sheet shall be circulated in the same manner as for the PER (see PSC 2.92(4)).

(5) Reference to the availability of the EIS including the nearest place of public availability shall be made in the Class 1 Notice of Hearing.

History: Cr. Register, April, 1977, No. 266, eff. 5-1-77.

PSC 2.94 Public hearing. (1) A public hearing on the proposed action will be held no less than 30 days after the distribution of the EIS. A period of up to 90 days may be required depending on the complexity and length of the EIS. In an emergency situation the commission may reduce this time limit to a time period commensurate with the nature of the emergency. Holding a public hearing as required by another statute fulfills the obligation to hold a public hearing under the Wisconsin Environmental Policy Act.

(2) A Class 1 Notice of Hearing, as defined in chapter 985, Wis. Stats., shall be published in local newspaper(s) whose distribution covers the area affected at least 15 days prior to the hearing. For actions of state-wide significance the Notice of Hearing shall be published in the official state paper.

(3) The hearing will be held on the proposed action and shall be conducted in accordance with PSC 2.30-2.66 of the Wisconsin Administrative Code. The EIS shall be introduced by the commission staff and shall be received into evidence. The staff shall give testimony relating to the preparation of the EIS and to the issues identified therein. Relevant comments may be received and testimony taken regarding its content. When a joint EIS is prepared under PSC 2.95 the staff of agencies participating in the joint EIS shall assist the commission staff in entering the EIS into the record.

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(4) If the EIS is shown to be seriously inadequate the commission may either continue the hearing and remand the EIS for redraft including additional research if deemed necessary, or it may reject the proposed action on the basis of the hearing record and other related information.

(5) A written decision which states the findings of fact including the findings on environmental impact shall be sent to all agencies responding to the EIS, to other parties specifically requesting notification, and to others as required by law.

(6) To facilitate the development of the necessary data, the commission, at its discretion, may initiate and adjourn the public hearing prior to completion and circulation of the EIS. The hearing shall be reconvened in conformance with the time periods specified in PSC 2.94(1).

History: Cr. Register, April, 1977, No. 256, eff. 5-1-77.

PSC 2.95 Joint environmental impact statement. The commission may enter into agreements with other state agencies and federal agencies to develop a joint EIS which satisfies the requirements of the participating agencies.

History: Cr. Register, April, 1977, No. 256, eff. 5-1-77.