

filing briefs has expired and the brief of one or more parties shall not be filed within such time, the commission may proceed to its determination of the proceeding.

(2) Evidence in any proceeding will be declared closed when due opportunity to furnish relevant evidence, including proper cross-examination of witnesses and rebuttal, has been afforded all parties. If by stipulation of the parties or by direction of the examiner documentary evidence is permitted or directed to be introduced subsequent to the close of testimony, the evidence will be declared closed when such documentary evidence is received or when the specified time for furnishing it has elapsed without its being furnished. The commission, in its discretion, may extend the time as originally prescribed for filing such evidence.

(3) When the evidence is closed, no further evidence shall be received unless the commission shall reopen the hearing for the taking of further evidence.

PSC 2.38 Briefs. (1) (a) Parties shall indicate on the record after the close of testimony whether they desire to file briefs. The party or parties having the affirmative shall file affirmative briefs within 15 days after date of mailing of transcript. Other parties 8 days thereafter shall file reply briefs, which may be replied to within 5 days.

(b) Where a party having the affirmative does not desire to file a brief but another desires to do so, the presiding commissioner or examiner shall specify the time and order for filing briefs. If the presiding commissioner or examiner makes no specific designation as to the time and order for filing briefs in cases where the party having the affirmative does not desire to file a brief, all other briefs shall be filed within 15 days after date of mailing of transcript. In any case not specifically covered by this rule, the time and order for filing briefs shall be fixed by the presiding commissioner or examiner.

(2) Five legible, dated copies of all briefs shall be filed with the commission together with a certification showing when and upon whom copies have been served. Briefs which contain a summary of evidence or facts relied upon shall include also reference to specific pages of the record containing such evidence.

(3) The filing of briefs in less time than allowed shall not change the due dates of remaining briefs.

History: 1-2-56; (1) renum. (1)(a); (b) cr.; Register, August, 1956, No. 8, eff. 9-1-56.

PSC 2.39 Witnesses, subpoenas and depositions. (1) Witnesses who appear by order of the commission may obtain from the secretary or from the presiding officer proper voucher blanks for the payment of witness fees.

(2) No witness subpoenaed at the instance of parties other than the commission shall be entitled to compensation from the state for attendance or travel unless the commission shall certify that his testimony was material to the matter investigated (Section 196.32, Wis. Stats.).

(3) The commission or any party in any investigation or hearing may cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in circuit courts (Section 196.33, Wis. Stats.).

(4) The presiding officer shall have all the inquisitorial powers granted to the commission and the powers of a court commissioner relative to depositions (Section 196.24, Wis. Stats.).

(5) Upon request any commissioner or examiner will issue subpoenas to compel the attendance of witnesses (Sections 196.32 and 325.01 (4), Wis. Stats.).

PSC 2.391 Exceptions to examiners' summary of evidence and recommendations. (1) Exceptions to the summary of evidence and recommendations as submitted by the examiner in any proceeding pursuant to section 227.12, Wis. Stats., shall be filed within 15 days or within the time specified by the commission.

(2) Exceptions to examiners' reports submitted pursuant to section 227.12, Wis. Stats., briefs in support thereof, and reply briefs shall be governed by section PSC 2.38. Exceptions and briefs in support thereof shall be filed together.

REVIEW BY COMMISSION OF ORDERS AND DETERMINATION

PSC 2.60 Application for rehearing; objections. (1) Application for rehearing must be made within 20 days after service of any determination or order. Such application will prevent the order from becoming effective upon and after the filing of the application, and until 10 days after such application for a rehearing is either denied, expressly or by implication, or the commission has announced its final determination on rehearing. Only one rehearing may be granted (Section 196.405, Wis. Stats.).

(2) Applications for rehearing shall set forth the particular grounds as specified in paragraphs (a) to (e), inclusive, of section 227.20 (1), Wis. Stats., upon which the applicant claims that the order is unlawful, unreasonable, improper or unfair.

(3) If the applicant shall rely on the ground that the commission in making its determination has failed, or that any of the commissioners has failed, to consider any of the evidence presented in the proceeding, the application for rehearing shall so state, and shall include an abstract of all such evidence relied upon by the applicants.

(4) Five copies of all applications for rehearing or objections thereto shall be filed and shall include a certification that copies have been served as required by section PSC 2.61.

PSC 2.61 Service of rehearing applications and objections. Applications for rehearing shall be served on all parties to the proceeding. Objections to an application for rehearing shall be served on all parties and filed with the commission within 7 days after the date of service of such application.

PSC 2.62 Implied denial of applications. Any application for rehearing not granted within 20 days from the date of its filing may be taken by the applicant to be denied (Section 196.405(4), Wis. Stats.).

PSC 2.63 Petitions for reopening. Parties may petition the commission to reopen a proceeding for the purpose of rescinding, amending, or altering an order or determination (Section 196.39, Wis. Stats.). Such petition shall state the ground upon which it is based and the relief sought. It shall be served in the same manner as applications for rehearing. Five copies shall be filed with the commission. Objections to a petition may be filed and served in the same manner as objections to an application for rehearing.

History: 1-2-56; am. Register, April, 1958, No. 28, eff. 5-1-58.

PSC 2.64 Right of petition. Petitions made pursuant to section 227.015, Wis. Stats., for the promulgation, amendment, or repeal of the rules of the commission shall be addressed to the commission and shall contain a statement of the rules sought to be promulgated or

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repealed; and, in case of a proposed modification, shall contain a statement of the change thus proposed, together with a concise statement of the considerations upon which the promulgation, modification, or repeal of the rule is requested. Petitioners shall file 4 copies and shall furnish such additional copies as may be required by the commission.

✓ **PSC 2.65 Declaratory rulings.** Petitions made pursuant to section 227.06, Wis. Stats., for declaratory rulings shall be addressed to the commission and shall state the rule or statute with respect to which declaratory ruling is requested, the applicability of any such rule or statute to the petitioner, and the names of all others upon whom it is sought that the requested declaratory ruling shall be binding. The petition shall be verified and shall be accompanied by 3 additional copies. Petitioner shall furnish additional copies as may be required by the commission for service on such other persons as the commission may designate as proper parties to the proceeding. Any such petition will not be set for hearing unless it states facts showing that petitioner is affected by rule or statute with respect to which a declaratory ruling is requested or that the application of such rule or statute to him will affect him adversely.

PSC 2.66 Prehearing conference. The commission, in its discretion, prior to hearing upon due notice to the parties, may call a prehearing conference. The presiding officer, in his discretion after calling the hearing and noting appearances, may call a conference. The purposes of such conference shall be those specified in section 269.65, Wis. Stats., insofar as applicable.

ADDITIONAL PROVISIONS FOR PARTICULAR PROCEEDINGS

Utilities

✓ **PSC 2.70 Municipal acquisition proceedings.** In proceedings by municipalities to acquire the property of public utilities under chapter 197, Wis. Stats., the commission at the initial session of the hearing thereon will receive evidence and arguments on the validity of the municipality's determination to acquire the property of the public utility and as to the property to be acquired.

PSC 2.71 Abandonment or discontinuance of public utility service. No abandonment nor discontinuance of facilities or service of gas, electric, telephone, or water utilities shall be made without commission authority (Section 196.81, Wis. Stats.). A hearing will be held upon an application to abandon or discontinue service or facilities except in cases where it is accompanied by a map indicating location of facilities to be abandoned or facilities from which service is to be discontinued as well as all service locations thereon and a statement that all actual or potential subscribers or consumers have either consented to or waived objection to such abandonment or discontinuance. If such information is furnished, the commission may dispense with a hearing.

PSC 2.72 Sale of utility; reports; assessments. In all cases where the purchase and sale of a complete utility property involves an abandonment of service and the dissolution of the selling utility, it shall be a condition to the commission's approval of the purchase of such utility property that the purchasing utility shall assume the following obligations of the selling utility and shall be responsible

(1) For all charges which are due or may become due from both the selling and the purchasing utility under the provisions of section 196.85 (1), Wis. Stats., relating to the purchase and sale proceeding;

(2) For all charges which are due or may become due from the selling utility under the provisions of section 196.85 (2) (a), Wis. Stats., relating to the current part-year public utility operations;

(3) For the filing with the commission (section 196.07, Wis. Stats.) of the required part-year final report covering the operations of the selling utility (except where written exemption is obtained from the commission);

Unless the selling utility complies with the particular provisions of sections 196.85 and 196.07, Wis. Stats., as set forth in this rule.

History: Cr. Register, January, 1958, No. 25, eff. 2-1-58.

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Motor Carriers

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).

(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.

History: Cr. 2.80 (7), Register, April, 1956, No. 4. Eff. May 1, 1956.

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