

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 196.36, 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.

**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