

Report From Agency

BEFORE THE PUBLIC SERVICE COMMISSION OF WISCONSIN

Revisions to Rules Regarding the Information to be Included in
an Electric Utility Construction Application

1-AC-216

Clearinghouse Rule 07-044

ORDER ADOPTING FINAL RULES

The Public Service Commission of Wisconsin proposes an order to renumber PSC 112.06 (1); to renumber and amend PSC 111.53 (2) (b) 1.; to amend PSC 111.51 (2) (intro.) and (b), 111.53(1) (e) and (f), 111.55 (10) (intro.), and 112.02 (1); to repeal and recreate PSC 111.53 (2) (b) 2.; and to create PSC 111.01 (3g) and (3r), 111.51 (4), 111.53 (1) (em), and (2) (b) 1. and 3., 111.55 (10) (q), 111.56, 111 Subchapter VIII, 112.06 (1), 112.073 and 112.075; relating to revisions to rules as a result of 2003 Wisconsin Act 89.

REPORT TO THE LEGISLATURE

The Report to the Legislature is set forth as Attachment A.

FISCAL ESTIMATE

This rulemaking will not have any fiscal effect and will not have a significant effect on the private sector. A completed Fiscal Estimate form is included as Attachment B.

EFFECTIVE DATE

Docket 1-AC-216

These rules shall take effect on the first day of the month following publication in the *Wisconsin Administrative Register* as provided in s. 227.22(2)(intro.), Stats.

CONTACT PERSON

Questions from the media may be directed to Amanda Wollin at (608) 266-9600. Other questions regarding this matter should be directed to docket coordinator Terri Kosobucki at (608) 267-3595 or terri.kosobucki@psc.state.wi.us. Hearing or speech-impaired individuals may use the Commission's TTY number, if calling from Wisconsin (800) 251-8345, if calling from outside Wisconsin (608) 267-1479.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to obtain this document in a different format should contact the docket coordinator listed above.

Dated at Madison, Wisconsin, November 19, 2007_____

By the Commission:

/s/ Sandra J. Paske

Sandra J. Paske
Secretary to the Commission

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Attachments

REPORT TO THE LEGISLATURE

A. NEED FOR THE RULE

This rulemaking docket has been initiated to allow the Commission to revise provisions in Chapters PSC 111 and 112 as a result of statutory changes enacted in 2003 Wisconsin Act 89. Act 89 revised statutory provisions relating to utility construction projects and agency review of the applications for authority to proceed with utility construction projects.

B. PLAIN LANGUAGE ANALYSIS

The analysis is set forth as Attachment A1.

C. TEXT OF THE RULE

The text of the proposed rule is set forth as Attachment A2.

D. PUBLIC HEARING ATTENDEES

A list of attendees, their comments and responses to those comments are included with this report as Attachment A3.

E. RESPONSE TO LEGISLATIVE COUNCIL REPORT

A copy of the Legislative Council's report, and responses to it, are included with this Report as Attachment A4.

F. FINAL REGULATORY FLEXIBILITY ANALYSIS

This rulemaking does not affect small businesses.

Plain Language Analysis

Statutory authority: ss. 196.02(3), 196.025, 196.491 and 227.11(2), Stats.
Statutes interpreted: ss. 196.491

A. Objective of the Rule

This rulemaking docket has been initiated to allow the Commission to revise provisions in Chapters PSC 111 and 112 as a result of statutory changes enacted in 2003 Wisconsin Act 89. Chapters PSC 111 and 112 include rules relating to electric utility construction projects. Act 89 revised statutory provisions relating to utility construction projects and agency review of the applications for authority to proceed with construction projects.

C. Analysis of the Proposed Revisions

Act 89 directs the Commission to promulgate rules to specify information to be included in an application to construct a high-voltage transmission line that may be eligible for expedited review by the Commission. Act 89 also creates new priorities for siting electric transmission lines, and requires utilities to consider using brownfield sites to the extent practicable. The rulemaking incorporates language which reflects these law changes.

Additionally, this rulemaking considers other revisions to rules relating to the application process to reflect Act 89 provisions. These revisions include identifying information needed to conduct a joint environmental review with the Department of Natural Resources, revising for consistency certain construction-related terminology, allowing utilities to begin necessary repair work in case of emergency, and efficiency improvements regarding provision of complete construction applications to area clerks and libraries.

Additional details may be found in section E.

D. Comparison with Existing or Proposed Federal Regulations

The Commission is not aware of any federal regulations in this area.

E. Comparison with Similar Rules in Adjacent States.

Existing statutes require that, within ten days of an applicant filing an application for a project that requires a Certificate of Public Convenience and Necessity, the Commission send a copy of the application to the clerk in each municipality and town in which the proposed facility is located and to the main library in such county. The proposed rule change would specify that this initial distribution be done electronically, with a statement indicating that this is an initial application, that there are likely to be updates, and how to find those updates on the PSC website. A paper mailing will then be done *after* the application is determined to be complete. This will prevent utilities from having to send multiple paper versions of the application or

multiple supplements to the application. The state of Ohio also requires that applications for new transmission lines or generation facilities be sent to local officials and libraries in the affected area after the application is determined, by the Ohio Power Siting Board, to be complete and ready for review.

2003 Wisconsin Act 89 included a requirement for a pre-application consultation between an applicant and the Public Service Commission and Wisconsin Department of Natural Resources staffs before an application is filed under Wis. Stat. §§ 196.49 and 196.491. One of the proposed rule changes acknowledges this requirement and provides guidance to the applicant about the scope of this consultation. Ohio's administrative rules also describe pre-application consultations between the applicants and the regulatory agencies.

Similar to some surrounding states (Minnesota, Iowa, Ohio), the current rules regarding applications for high-voltage transmission lines or large generating facilities state that applicants must file complete information for at least two proposed sites or routes. The Commission is proposing a rule change that would allow applicants, under certain circumstances, to submit fully developed information for only one site if the proposed generating project involves: modifying, rebuilding, replacing, or repowering an existing facility; using an existing brownfield site; or constructing a cogeneration facility located at the steam host's existing industrial plant. Also, Wisconsin Act 89 provides for an expedited review process for electric transmission projects that involve adding conductors to existing structures if all related construction activity takes place within an existing transmission line right-of-way. The proposed rule changes describe the application information needed for an expedited review and limit the information requirements for filing to the proposed route the applicants plan to use. In Iowa, application requirements can be waived if it is determined that the public interest would not be adversely affected by a proposed project and in Ohio the requirement for fully developed information for an alternative site or route can be waived for good cause.

Wisconsin Act 89 established priority corridors to be considered in routing new high-voltage transmission lines and specified that brownfield sites must be used to the extent practicable for new electric generating facilities. The Commission's proposed rule change requires that a project application must explain how the applicant considered the siting priorities for new high-voltage transmission lines and brownfield sites for large generation facilities. The state of Iowa also has designated "priority corridors" for siting high-voltage transmission lines and requires project applicants that submit proposals that deviate from these corridors to provide an explanation of why use of the corridors is not practicable or reasonable.

The current rule for applications filed under Wis. Stat. § 196.49 contains a definition for the term "begin construction." Wis. Stat. §196.491 contains a slightly different definition for the term "commencement of construction." The proposed rules use the same definition for these terms. This definition, which allows surveying or collection of geological data to ascertain foundation conditions or site suitability prior to project authorization, is similar to definitions for this term found in the rules of adjacent states, including Minnesota, Iowa, Michigan, and Ohio.

A proposed addition in Wis. Admin. Code § PSC 112.075 related to emergency work was requested by Wisconsin utilities to allow necessary work in a speedy manner when an emergency situation occurs. Without such a provision a utility would, strictly speaking, be in violation of the construction application rule if it responded to an emergency without going through the procedures outlined in the rule. A similar rule applies to Wisconsin natural gas and water utilities. The notification requirement would ensure that this process was applied only in true emergencies. Finally, a requirement for Commission notification about new construction staging areas and access roads not described in a project application is added to Wis. Admin. Code chs. PSC 111 and 112. This requirement provides clear direction to utilities during project construction and reduces the potential for adverse environmental impact. Language pertaining to the two topics, emergency work or establishment of construction staging areas, was not found in reviewing utility-related statutes or rules in surrounding states.

Text of the Rules

SECTION 1. PSC 111.01 (3g) and (3r) are created to read:

PSC 111.01 (3g) “Commence construction” means site clearing, excavation, placement of facilities, or other substantial action adversely affecting the natural environment of the site or physical modification to equipment at the site that would not be required if the proposed project was not approved, but does not include borings necessary to determine foundation conditions or other preconstruction monitoring or surveying to establish background information related to site or environmental suitability.

(3r) “Department” means the Wisconsin department of natural resources.

SECTION 2. PSC 111.51 (2) (intro.) and (b) are amended to read:

PSC 111.51 (2) (intro.) **ACTIONS BEFORE FILING A CPCN APPLICATION.** ~~At least 60 days before~~ Before filing a CPCN application an engineering plan for a large electric generating facility or a detailed project plan for a high-voltage transmission line, as defined in s. 196.491 (3) (b), Stats., the applicant shall do all of the following:

(b) ~~Consult with commission staff to determine what, in cooperation with staff from the department, on the scope of the proposed project, the alternatives that must be considered in the application, and additional information that the commission will be required~~ may require as part of the CPCN application.

SECTION 3. PSC 111.51 (4) is created to read:

PSC 111.51(4) **COMPLETENESS DETERMINATION AND DISTRIBUTION OF APPLICATION.** (a) The commission shall notify an applicant of whether its CPCN application is complete within 30 days of its filing. If the commission does not notify an applicant within 30 days then the application shall be considered complete. An applicant may supplement and refile an incomplete CPCN application.

(b) 1. Within 10 days after a CPCN application has been filed, the commission shall send an electronic copy of the complete application to the clerk of each municipality and town in which the proposed facility is to be located and to the main public library in each county in which the proposed facility is to be located. A statement shall be included on the initial page of the electronic document explaining that this is an initial application, that it is likely to be changed, and that updates may be obtained from the applicant that filed the application or the commission’s website (psc.wi.gov).

1 2. Within 10 days after the commission has determined that a CPCN application is complete, the
2 commission shall send a paper copy of the complete application to the clerk of each municipality
3 and town in which the proposed facility is to be located and to the main public library in each
4 county in which the proposed facility is to be located.
5

6 3. The commission may fulfill subs. 1. and 2. by directing the applicant to send copies of the
7 complete application to the locations identified in those subdivisions.
8
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10 **SECTION 4.** PSC 111.53 (1) (e) is amended to read:

11
12 PSC 111.53 (1) (e) ~~At least two proposed sites for the proposed facility, including~~ A description
13 of the alternatives considered, a description of the siting process, and a list of the factors
14 considered in choosing and ranking the alternatives.
15
16

17 **SECTION 5.** PSC 111.53 (1) (em) is created to read:

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19 PSC 111.53 (1) (em) Information demonstrating how brownfields, as defined in s. 560.13(1)(a),
20 Stats., and interpreted by the commission, were considered as site alternatives.
21
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23 **SECTION 6.** PSC 111.53 (1) (f) is amended to read:

24
25 PSC 111.53 (1) (f) ~~Site-related~~ Except as provided in sub. (2) (b), site-related information for
26 each of two proposed power plant ~~site sites~~, including all of the following:
27
28

29 **SECTION 7.** PSC 111.53 (2) (b) 1. is renumbered 111.53 (2) (b) (intro.) and amended to read:

30
31 PSC 111.53 (2) (b) (intro.) ~~An~~ Based on the pre-application consultation required under s.
32 111.51(2) (b), an application for a ~~cogeneration~~ generation facility may ~~meet the requirement~~
33 ~~under sub. (1) (e) by filing information on 2 sites that are both located at the steam host's~~
34 ~~existing industrial plant, if the cogeneration facility will be a qualifying facility under 18 CFR~~
35 ~~292.205 and include the detailed information listed under sub. (1) (f) for only one site if none of~~
36 the needed infrastructure improvements would constitute a major action significantly affecting
37 the quality of the human environment under s. 1.11 (2) (c), Stats., and the application is for any
38 of the following:
39
40

41 **SECTION 8.** PSC 111.53 (2) (b) 1. is created to read:

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43 PSC 111.53 (2)(b) 1. Construction of a cogeneration facility located at the steam host's existing
44 industrial plant, if the cogeneration facility will be a qualifying facility under 18 CFR 292.205.

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SECTION 9. PSC 111.53 (2) (b) 2. is repealed and recreated to read:

PSC 111.53 (2) (b) 2. Modifying, rebuilding, replacing or repowering, as defined under s. 79.005 (4), Stats., an existing generating facility at its current location.

SECTION 10. PSC 111.53 (2) (b) 3. is created to read:

PSC 111.53 (2) (b) 3. Construction of a generating facility proposed to be located on an existing brownfield site, as defined in s. 560.13(1)(a), Stats., and interpreted by the commission, or on the site of a former or existing large electric generating facility.

Note: But see sub. (1) (e) concerning information that must be included about both the site in sub. (2) (b) and any alternatives.

SECTION 11. PSC 111.55 (10) (intro.) is amended to read:

PSC 111.55 (10) (intro.) ~~ALTERNATIVE~~ PROPOSED ROUTES. Except as otherwise submitted under this section, alternative proposed routes and the pertinent factors considered in choosing ~~alternatives~~ them, including engineering, economic, safety, reliability and environmental considerations. All of the following information shall be filed for each of the alternative proposed routes:

SECTION 12. PSC 111.55 (10) (q) is created to read:

PSC 111.55(10) (q) Information demonstrating how the transmission line siting priorities in s. 1.12(6), Stats., were considered.

SECTION 13. PSC 111.56 is created to read:

PSC 111.56 Expedited review. An applicant requesting expedited review of a high voltage transmission line application under s. 196.491(3b), Stats., shall include all of the following in its application:

(1) All the information required under s. PSC 111.55, except that the detailed information required under s. PSC 111.55(10) is required only for the route the applicant proposes to construct.

(2) Information and documentation describing in detail why the application should receive expedited review.

1 **SECTION 14.** PSC 111 Subchapter VIII is created to read:

2
3 **Subchapter VIII – Pre-construction Notices**
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5 **PSC 111.71 Notification of additional work areas.** After the commission has issued a CPCN
6 under s. 196.491, Stats., the applicant shall, before establishing any construction area or access
7 route that were not identified and described in the project application, notify the commission of
8 the location of the construction area or access route, and demonstrate that the use of the
9 construction area or access road will not affect any threatened or endangered species, historic
10 resources, wetlands, waterways or other sensitive resources. A construction area includes a
11 staging area for receiving and storing materials and equipment required for construction.
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14 **SECTION 15.** PSC 112.02 (1) is amended to read:

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16 PSC 112.02 (1) “Begin construction” means ~~to make any physical modification to the site~~
17 clearing, excavation, placement of facilities, or any other substantial action adversely affecting
18 the natural environment of the site or physical modification to equipment at the site which would
19 not be required if the proposed project ~~were~~ was not approved, ~~but does not include borings~~
20 necessary to determine foundation conditions or other preconstruction monitoring or surveying
21 to establish background information related to site or environmental suitability.
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24 **SECTION 16.** PSC 112.06(1) is renumbered 112.06(1m).
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27 **SECTION 17.** PSC 112.06(1) is created to read:

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29 **(1) PRIOR TO FILING AN APPLICATION.** Before filing an application for commission authorization
30 under s. 196.49, Stats., the applicant shall do all of the following:
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- 32 (a) Notify the department and the commission of its intent to seek commission authorization.
33
34 (b) Consult with commission staff, in cooperation with staff from the department, on the scope of
35 the proposed project, the alternatives that must be considered in the application, and additional
36 information that the commission will require as part of the commission authorization application.
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39 **SECTION 18.** PSC 112.073 and 112.075 are created to read:

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41 **PSC 112.073 Notification of additional work areas.** After the commission has issued an
42 authorization under s. 196.49, Stats., the applicant shall, before establishing any construction
43 area or access route that was not identified and described in the project application, notify the
44 commission of the location of the construction area or access route, and demonstrate that the use

1 of the construction area or access road will not affect any threatened or endangered species,
2 historic resources, wetlands, waterways or other sensitive resources. A construction area includes
3 a staging area for receiving and storing materials and equipment required for construction.
4

5 **PSC 112.075 Emergency work.** In case of emergency, an electric utility may begin necessary
6 work without complying with ss. PSC 112.06 and 112.07. The utility shall do all of the
7 following:

8 (1) Notify the commission of its actions within 48 hours of commencement of the work.

9 (2) Furnish the commission the information required under s. PSC 112.06 within 30 days of
10 commencement of the work.
11

12
13 **SECTION 19. Effective date.** These rules shall take effect on the first day of the month

14 following publication in the *Wisconsin Administrative Register* as provided in

15 s. 227.22(2)(intro.), Stats.
16

(END)

17
18

Public Hearing Attendees and Comments

A public hearing on this rulemaking was held in Madison, Wisconsin on June 21, 2007.

Written comments were also accepted.

Attendees:

Richie Sturgeon
Wisconsin Power and Light (WP&L)

Written comments received from:

Stephan Parker
American Transmission Company (ATC)

Richard Nordeng
Madison Gas and Electric (MGE)

Roman Draba
We Energies

Richie Sturgeon
WP&L

Bradley Jackson
Wisconsin Public Service Corporation (WPSC)

David Donovan
Excel Energy

COMMENT:

ATC suggests more completely adopting the wording of s. 196.491 (1) (b), Stats., to eliminate inconsistency that could arise from using the phrase “physical modification” in the rule.

RESPONSE:

Agree. Changes made.

COMMENT:

ATC suggests using “construct” rather than “reconstruct” in PSC s. 111.56 (1).

RESPONSE:

Agree. Change made.

COMMENT:

MGE, WPSC, and WP&L suggest changes to make clear that the commission retains the final authority to decide what must be included in an application, although it will consult with the DNR.

RESPONSE:

Agree. Changes made.

COMMENT:

WE Energies supports the rules, with minor changes. One of those changes is its suggestion that PSC s. 111.53 (2) (b) 3. be changed to mirror the statute.

RESPONSE:

Agree. Change made.

COMMENT:

WE Energies suggests that wetlands and waterways be removed from the list of things that the utility must demonstrate will not be affected by the use of a construction area or access road that was not identified and described in the project application. Instead it suggests that a provision be added that if there are other waterway or wetlands impacts the utility must get the necessary permits.

RESPONSE:

Disagree. An applicant is required to make this demonstration about areas identified and described in the application, so it is reasonable for it to make the same demonstration about such

areas when they are not identified and described in the application. This allows the commission to examine the impacts to identify those that it would not have allowed if the area was included in the application. This does not necessarily mean that no affect will be allowed, it just gives the commission and the applicant the opportunity to discuss the impacts and, perhaps, mitigation efforts.

A project's design may not be far enough along at the time of the CPCN application to identify all such affected areas. Rather than making an applicant wait and not file the application until it is further along in the design, the commission is allowing it to identify these areas and demonstrate impacts after the CPCN has been granted.

COMMENT:

ATC suggests that notification of impacts to work areas not identified in the application only be required if the impacts are beyond those identified and evaluated in the application.

RESPONSE:

Disagree. The fact that certain impacts on the areas identified in an application were accepted does not mean that the same impacts on other areas will be. By definition, different areas are different. The impact on different areas must be considered independently.

An applicant is required to provide this information about areas identified and described in the application, so it is reasonable for it to provide the same information about such areas when they are not identified and described in the application. This allows the commission to examine the impacts themselves, the areas impacted, and the cumulative impacts of the project to identify situations that it would not have allowed if the area was included in the application.

A project's design may not be far enough along at the time of the CPCN application to identify all such affected areas. Rather than making an applicant wait and not file the application until it is further along in the design, the commission is allowing it to identify these areas and demonstrate impacts after the CPCN has been granted.

COMMENT:

Excel Energy supports many of the provisions but suggests adding a definition of "access roads."

RESPONSE:

Agree in part. The suggestion has been accommodated through language changes made based on other comments received.

COMMENT:

Excel Energy suggests adding definitions of “construction area” and “construction staging area” based on the use of the land.

RESPONSE:

Disagree. The commission believes that the focus should be on the impacts on the land rather than on what activity is taking place on it.

COMMENT:

WP&L suggests that when determining whether an application is complete, the commission not be able to consider whether additional information requested by the commission has been provided by the applicant yet.

RESPONSE:

Disagree. All of the necessary information the commission has thought of is outlined in the rule. However, because projects can be so very different from one another, additional project-specific information may be necessary. It is impossible to create an all-inclusive, definitive list ahead of time. Further, because of the tight time-frames for making decisions about applications, it is essential that the commission have all necessary information before its consideration of the application begins.

COMMENT:

WP&L suggests renumbering some rule provisions.

RESPONSE:

Agree. Renumbering done.

COMMENT:

ATC suggests that “access road” be changed to “access routes” since some access to work areas may not be along established roads.

RESPONSE:

Agree. Changes made.

COMMENT:

WPSC, MG&E, WP&L, and ATC suggest that utilities not be required to send clerks and libraries copies of applications after they are deemed complete since they are already required to send them within ten days of initial filing.

RESPONSE:

Agree in part. The language has been changed to require that the commission or applicant send an electronic version of the initial application, with an opening page indicating that this is an initial application that is likely to be changed and that updates may be obtained from the applicant or from the Commission website. The applicant will only have to send a paper copy of an application once the Commission has determined that it is complete.



LCRC
FORM 2

**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

Ronald Sidansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 07-044

AN ORDER to renumber PSC 112.06 (1); to renumber and amend PSC 111.53 (2) (b) 1.; to amend PSC 111.51 (2) (intro.) and (b), 111.55 (10) (intro.), and 112.02 (1); to repeal and recreate PSC 111.53 (2) (b) 2.; and to create PSC 111.01 (3g) and (3r), 111.51 (4), 111.53 (1) (em) and (2) (b) 1. and 3., 111.55 (10) (q) and note, 111.56, Subchapter VIII of chapter PSC III, 112.06 (1), 112.073, and 112.075, relating to revisions to rules as a result of 2003 Wisconsin Act 89.

Submitted by **PUBLIC SERVICE COMMISSION**

05-09-2007 RECEIVED BY LEGISLATIVE COUNCIL.

06-01-2007 REPORT SENT TO AGENCY.

RNS:DLL

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



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CLEARINGHOUSE RULE 07-044

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]

1. Statutory Authority

Section 196.491 (3b), Stats., directs the Public Service Commission (PSC) to promulgate rules specifying the information that must be included in an application for expedited review under that subsection. In addition to standard application information plus "information describing in detail why the application should receive expedited review," information should be required that documents that the project meets the eligibility requirements for expedited review. This should include documentation that "all related construction activity" (which presumably includes the "additional work areas" described in s. PSC 111.71) will take place "entirely within the area of an existing electric transmission line right-of-way." (Compliance with the requirement that the project is limited to adding conductors to existing towers or poles will be apparent from the information required under s. PSC 111.55 (2).)

2. Form, Style and Placement in Administrative Code

a. The phrase "but shall contain all other application information listed in sub. (1)" is superfluous and should be omitted. If sub. (1) says it is so, it does not need to be said again in sub. (2).

b. Presumably, s. PSC 111.56 is intended to be part of subch. VI, in which case the treatment clause of SECTION 11 should read: "PSC 111.56 and note, preceding subch. VII (title), are created to read:"

4. Adequacy of References to Related Statutes, Rules and Forms

In the statutory citation in s. PSC 111.53 (2) (b) 2., "Stats." should be inserted at the end.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. "Commencement of construction" is a noun, and so the definition of that term in s. PSC 111.01 (3g) should read: "... means making any...."

b. Should the words "Construction of" be inserted before "A cogeneration facility" in s. PSC 111.53 (2) (b) 1. and 3.?

Response to Legislative Council Report

1. *Statutory Authority*

Agree. Change made.

2. *Form, Style and Placement in Administrative Code*

a. Agree. Change made.

b. Agree. Change made.

4. *Adequacy of References to Related Statutes, Rules and Forms.*

Agree. Change made.

5. *Clarity, Grammar, Punctuation and Use of Plain Language*

a. Agree. A different change to this language was made as a result of written comments submitted after the public hearing.

b. Agree. Changes made.

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|---|--|--|--|--|--|---|--|
| 2007 Session | | | | | | | |
| <p style="text-align: center;"><input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED</p> <p style="text-align: center;"><input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL</p> | <p>LRB or Bill No./Adm. Rule No. Ch. PSC 111 &112 Docket 1-AC-216</p> <hr/> <p>Amendment No. if Applicable</p> | | | | | | |
| <p>FISCAL ESTIMATE DOA-2048 N(R10/96)</p> | | | | | | | |
| <p>Subject Create Rules to Make Changes Necessitated by WI Act 89 Laws of 2003.</p> | | | | | | | |
| <p>Fiscal Effect</p> <p>State: <input checked="" type="checkbox"/> No State Fiscal Effect</p> <p>Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> <input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation </td> <td style="width: 50%; border: none; border-left: 1px solid black;"> <input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs </td> </tr> </table> | | <input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation | <input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs | | | | |
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| <p>Local: <input checked="" type="checkbox"/> No local government costs</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; border: none;"> 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </td> <td style="width: 33%; border: none;"> 3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </td> <td style="width: 33%; border: none;"> 5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts </td> </tr> <tr> <td style="border: none;"> 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </td> <td style="border: none;"> 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </td> <td style="border: none;"></td> </tr> </table> | | 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts | 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | |
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| <p>Fund Sources Affected</p> <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S | <p>Affected Ch. 20 Appropriations</p> 20.155 (1) (g) | | | | | | |
| <p>Assumptions Used in Arriving at Fiscal Estimate</p> <p>Act 89 directs the Commission to promulgate rules to specify the information to be included in an application to construct a high-voltage transmission line that may be eligible for expedited review by the Commission. Act 89 also creates new priorities for siting electric transmission lines, and requires utilities to consider using brownfield sites to the extent practicable. Additionally, this rulemaking considers other revisions to rules relating to the application process to reflect Act 89 provisions. These revisions include information needed to conduct a joint environmental review with the Department of Natural Resources, various construction related terminology, allowing utilities to begin urgently necessary work in case of emergency, and the provision of complete construction applications to area clerks and libraries.</p> <p>The proposed rules will not increase or decrease the costs for state or local governments.</p> | | | | | | | |
| <p>Long-Range Fiscal Implications</p> NONE | | | | | | | |
| <p>Agency/Prepared by: (Name & Phone No.) Gordon Grant 267-9086</p> | <p>Authorized Signature/Telephone No. Gordon Grant</p> | <p>Date 2/16/2007</p> | | | | | |