

Clearinghouse Rule 98-172

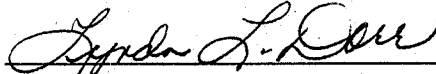
CERTIFICATE

STATE OF WISCONSIN)
)
PUBLIC SERVICE COMMISSION) SS
OF WISCONSIN)

I, Lynda L. Dorr, Secretary to the Public Service Commission of Wisconsin and custodian of the official records, certify that the attached proposed rules to create Chapter PSC 117, Wis. Adm. Code – Rules for Assignment of Costs and Opportunity Sales, were duly approved and adopted by this Commission at its open meeting on January 25, 2000.

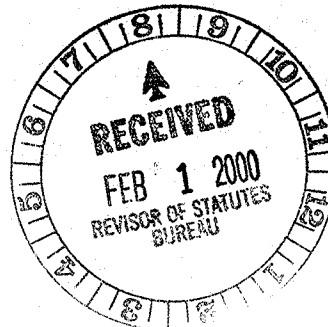
I further certify that this copy has been compared by me with the original on file in this Commission and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the Public Service Commission of Wisconsin at Madison, Wisconsin, this 27th day of January, 2000.

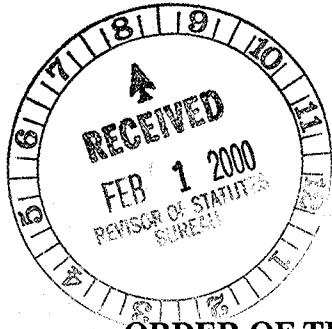


Lynda L. Dorr
Secretary to the Commission
Public Service Commission of Wisconsin

L:\Opportunity Sales\1-AC-177 Certificate of Filing



4-1-00
98-172



January 2000
Clearinghouse Rule 98-172
Docket 1-AC-177

**ORDER OF THE STATE OF WISCONSIN
PUBLIC SERVICE COMMISSION ADOPTING RULES**

1 The Public Service Commission of Wisconsin issued an order to create ch. PSC 117, relating to
2 the assignment of costs and revenues, from sales of electric capacity and energy by public utility
3 to out-of-state customers that the public utility does not have a duty to serve, in setting rates for
4 retail electric service.

Analysis Prepared by the Public Service Commission of Wisconsin

Statutory authority: ss. 196.02(1) and (3), 196.03(5m), and 227.22(2)(a), Stats.
Statute interpreted: ss. 196.01(1), 196.02(1), 196.03(1) and (5m), 196.37, and 196.645,
Stats.

1997 Wisconsin Act 204 (Act 204) created s. 196.03(5m), Stats., which required the Commission to promulgate rules establishing requirements and procedures for the Commission to reflect the assignment of costs and revenues, from sales to customers outside-the-state that the public utility does not have a duty to serve, in setting rates for retail electric service. This order proposes rules as required by s. 196.03(5m), Stats. The objective of the proposed rules is to ensure that retail rates for in-state customers of a public utility reflect a reasonable and just assignment of costs and revenues to out-of-state sales of electricity by the public utility. The Commission may apply these same rules to sales of electricity by the public utility to in-state customers that the public utility does not have a duty to serve. The proposed rules address these issues.

The rules created in ch. PSC 117 generally reflect the codification of informal policies that the Commission has applied in its regulation of the rates of electric public utilities in the past. The Commission does not expect the proposed rules in ch. PSC 117 to significantly increase or decrease the overall workload or fiscal costs of the agency.

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SECTION 1. Chapter PSC 117 (title) is created to read:

CHAPTER PSC 117

ASSIGNMENT OF COSTS AND OPPORTUNITY SALES

SECTION 2. PSC 117.01 to 117.05 are created to read:

PSC 117.01 Scope. This chapter implements s. 196.03(5m), Stats., which requires the public service commission to promulgate administrative rules to consider the costs and revenues related to sales to out-of-state customers in setting rates for retail electric service.

PSC 117.02 Applicability. This chapter applies to all electric public utilities as defined in s. 196.01(5), Stats., with respect to sales transactions set forth in s. PSC 117.01. The commission may also apply this chapter to sales to in-state customers that the utility does not have a duty to serve.

PSC 117.03 Definitions. In this chapter:

- (1) "Capacity" means the continuous load-carrying ability of electric generation expressed in megawatts.
- (2) "Commission" means the public service commission of Wisconsin.
- (3) "Energy" means the amount of electric generation or use of electric power over a period of time, expressed in kilowatthours, megawatthours, or gigawatthours.
- (4) "Excess capacity" means any existing capacity and any planned additional capacity that is not needed to meet native customers' capacity demands, contracted firm power sales, and the required planning reserve margin after taking into consideration scheduled maintenance outages.
- (5) "Existing capacity" means all installed and in-service generating capacity owned by the public utility and all purchased firm capacity under contract to the public utility.

1 (6) "Firm capacity" means electric capacity that cannot be curtailed for economic
2 reasons by either the transmission provider or the supplier of capacity.

3 (7) "Firm power sale" means any sale by a public utility of firm capacity, or firm
4 capacity and electric energy to a customer other than the public utility's native customers.

5 (8) "Fuel rules" means the provisions of ch. PSC 116.

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7 **Note:** The commission administers the fuel rules, under ch. PSC 116, to individual public utilities in the
8 commission's rate orders for those public utilities.

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10 (9) "Fully-allocated sale" means a firm power sale that does not meet the definition of an
11 opportunity sale.

12 (10) "Incremental cost" means the additional costs that would be incurred by producing
13 or purchasing the next available unit of electric energy or capacity in order to supply the sale.

14 (11) "Jurisdictional cost-of-service study" means a method of allocating a public utility's
15 total revenue requirement among each retail and wholesale jurisdiction using factors such as
16 capacity demands, energy requirements, and customer data.

17 (12) "Native customers" means the retail electric customers that the public utility has a
18 duty to serve, under ss. 196.03(1), 196.20(1), and 196.53, Stats.

19 (13) "Non-firm power sale" means any sale of electric capacity, or electric capacity and
20 energy, to a customer other than the public utility's native customers, that is not a firm power
21 sale.

22 (14) "Opportunity sale" means either a non-firm power sale, or a firm power sale that
23 meets all of the following conditions:

24 (a) The contracted sale is a firm power sale that does not extend more than three years.

1 (b) The contracted sales capacity could be supplied from excess capacity that existed at
2 the time the sales contract was signed by the selling public utility, and at that time excess
3 capacity was reasonably expected to exist during the entire term of the contract.

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5 Note: (1) Firm power sales contracts that include options for the purchaser to extend the contract to a
6 period of more than three years shall be considered to extend more than three years.

7 (2) Firm power sales contracts that include a provision to automatically extend the contract to a period of
8 more than three years, unless the purchaser notifies the seller that it is exercising its option to cancel the automatic
9 extension, shall be considered a sale that extends more than three years.

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11 (15) "Planned additional capacity" means any additional capacity that will be owned by
12 the public utility and that is expected to be installed and in-service within three years. "Planned
13 additional capacity" does not include additional capacity which requires commission approval
14 under either s. 196.491, Stats., or ch. PSC 112 until such commission approval has been granted.
15 "Planned additional capacity" does not include additional capacity that does not require
16 commission approval under either s. 196.491, Stats., or ch. PSC 112 until the construction of
17 such additional capacity has been approved by the board of directors of the public utility.

18 (16) "Planning reserve margin" means the difference between the public utility's
19 expected annual peak existing capacity plus any planned additional capacity and the public
20 utility's expected annual peak demand, expressed as a percentage of the annual peak demand. In
21 this subsection, "public utility's expected annual peak demand" includes the expected peak
22 demand of its native customers, less any interruptible sales to native customers, plus any firm
23 power sales under contract.

24 (17) "Required planning reserve margin" means the minimum planning reserve margin
25 that the commission requires the public utility to maintain for system reliability.

1 (18) "Scheduled maintenance outages" means regularly scheduled outages or planned
2 outages caused by the removal of generation equipment from service for the purpose of
3 inspection or general maintenance of one or more major components.

4 **PSC 117.04 Responsibilities of the public utility.** In each rate proceeding before the
5 commission that affects the selling public utility's retail rates, or at the request of the
6 commission, the public utility shall have the burden to prove that a sale for which the public
7 utility requests opportunity sales treatment, s. PSC 117.05(2), qualifies as an opportunity sale.
8 At a minimum, the public utility shall provide evidence that includes all of the following:

9 (1) Information showing that the term of the contract does not extend more than three
10 years, does not include an option for the purchaser to extend the term of the contract to more
11 than three years and does not include a provision which automatically extends the term of the
12 contract to more than three years

13 (2) Information showing that excess capacity to supply the sale existed at the time the
14 sales contract was signed by the selling utility and that available excess capacity was reasonably
15 expected to exist during the entire term of the contract.

16 (3) An analysis comparing the forecasted revenues expected to be earned as a result of
17 the sale with the forecasted incremental costs to the public utility supplying the sale. This
18 analysis shall be presented for each annual period covered by the sale. The analysis must include
19 supporting calculation for both the forecasted revenues and the forecasted incremental costs, and
20 explanations of any underlying assumptions made for the analysis.

21 **PSC 117.05 Revenues and costs allocations.** (1) In each rate proceeding involving the
22 public utility that requests opportunity sales treatment, under s. PSC 117.05(2), for a sale to a

1 non-native customer, the commission shall determine whether the sale qualifies as an
2 opportunity sale.

3 (2) For every sale that qualifies as an opportunity sale, the commission shall reflect the
4 greater of revenues received from the sale or the incremental costs associated with the sale as a
5 revenue credit in the jurisdictional cost-of-service study when determining the public utility's
6 Wisconsin retail revenue requirement. Opportunity sales revenue credits shall also be taken into
7 account under the provisions of the fuel rules.

8 (3) For every sale that qualifies as a fully-allocated sale, the commission shall assign to
9 the sale a proportionate share of the public utility's total revenue requirements in the
10 jurisdictional cost-of-service study when determining the public utility's Wisconsin retail
11 revenue requirement.

12
13 **Note:** The Wisconsin retail revenue requirement of a public utility is the level of forecasted revenues that
14 are necessary for the public utility to recover, from its retail customers in Wisconsin, its just and reasonable costs of
15 providing adequate service and facilities to those customers, as determined by the commission.
16

17 **EFFECTIVE DATE:** This rule shall take effect on the first day of the month following
18 publication in the Wisconsin administrative register, as provided in s. 227.22(2)(intro.), Stats.

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20

(End)



Public Service Commission of Wisconsin

Ave M. Bie, Chairperson
Joseph P. Mettner, Commissioner
John H. Farrow, Commissioner

610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

The Honorable Douglas LaFollette
Secretary of State
Office of the Secretary of State
30 West Mifflin Street, 10th Floor
Madison, WI 53703

Mr. Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
1 West Wilson Street, Room 800
Madison, WI 53703

Re: In the Matter of Proposed Creation of Chapter PSC 117, Wis. Adm. Code – Rules for Assignment of Costs and Opportunity Sales 1-AC-177

Dear Secretary LaFollette and Mr. Poulson:

At its open meeting on January 25, 2000, the Commission approved an order approving proposed rules, to create Chapter PSC 117, Wis. Adm. Code – Rules for Assignment of Costs and Opportunity Sales. Pursuant to s. 227.20, Stats., an agency is required to file a certified copy of each rule it promulgates with the offices of the Secretary of State and the Revisor of Statutes.

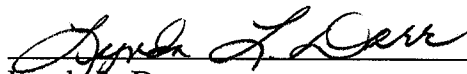
Enclosed for filing are certified copies of the Order of the Public Service Commission of Wisconsin Adopting Rules, to create Chapter PSC 117, Wis. Adm. Code.

Mr. Poulson's filing also includes a 3.5" diskette containing an electronic copy of the proposed rules.

If you have any questions or concerns, please contact Mr. Kevin Cronin, Assistant General Counsel, at (608) 267-9203.

Dated at Madison, Wisconsin, January 27, 2000

By the Commission:


Lynda L. Dorr
Secretary to the Commission

LLD:NM:ljv:l:\Opportunity Sales\Final Submittal -Secretary of State

Enclosures

cc: Records Management, PSCW
Service List

