

## Modifications 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

### SUPPLEMENTAL ORDER ADOPTING FINAL RULES

The Public Service Commission of Wisconsin adopts an amended final rule relating to revisions to rules as a result of 2003 Wisconsin Act 89.

On November 19, 2007, the Commission sent a Final Order Adopting Rules to both houses of the legislature. On January 2, 2008, the Assembly Energy and Utilities Committee requested a meeting with the Commission about the rule. As a result, on February 21, 2008, the Commission submitted to the Committee the following changes to the rules:

#### **PSC 111.71 Notification of additional work areas.**

After the commission has issued a CPCN under s. 196.491, Stats., the applicant shall, before establishing any ~~construction area~~ lay down area, staging area or access route that ~~were~~ was not identified and described in the project application, notify the commission of the location of the ~~construction area~~ lay down area, staging area or access route, and demonstrate that the use of the ~~construction area~~ lay down area, staging area or access ~~road~~ route will not affect any threatened or endangered species, historic resources, wetlands, waterways or other sensitive resources. ~~A construction area includes a staging area for receiving and storing materials and equipment required for construction.~~

#### **PSC 112.073 Notification of additional work areas.**

After the commission has issued an authorization under s. 196.49, Stats., the applicant shall, before establishing any ~~construction area~~ lay down area, staging area or access route that ~~were~~ was not identified and described in the project application, notify the commission of the location of the ~~construction area~~ lay down area, staging area or access route, and demonstrate that the use of the ~~construction area~~ lay down area, staging area or access ~~road~~ route will not affect any threatened or endangered species, historic resources, wetlands, waterways or other sensitive resources. ~~A~~

~~construction area includes a staging area for receiving and storing materials and equipment required for construction.~~

**PSC 111.51(4) (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.

**PSC 111.51(4) (b) 2.** ~~Within 10~~ As soon as is practicable, but no more than 30 days after the commission has determined that a CPCN application is complete, the commission shall send a paper 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.

Attached is an amended version of the text of the rule that includes the changes detailed above.

#### **CONTACT PERSON**

Questions from the media may be directed to Tim LeMonds at (608) 266-9600. Other questions regarding this matter should be directed to Joyce Mahan Dingman, Assistant General Counsel, at (608) 267-6919 or Joyce.Dingman@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 Joyce Mahan Dingman as listed above.

Dated at Madison, Wisconsin, March 25, 2008

By the Commission:

*/s/ Sandra J. Paske*

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Sandra J. Paske  
Secretary to the Commission

Docket 1-AC-216

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**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 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).

2. As soon as is practicable, but no more than 30 days after the commission has determined that a CPCN application is complete, the commission shall send a paper copy of the complete

1 application to the clerk of each municipality and town in which the proposed facility is to be  
2 located and to the main public library in each county in which the proposed facility is to be  
3 located.

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5 3. The commission may fulfill subs. 1. and 2. by directing the applicant to send copies of the  
6 complete application to the locations identified in those subdivisions.

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9 **SECTION 4.** PSC 111.53 (1) (e) is amended to read:

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

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

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18 PSC 111.53 (1) (em) Information demonstrating how brownfields, as defined in s. 560.13(1)(a),  
19 Stats., and interpreted by the commission, were considered as site alternatives.

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22 **SECTION 6.** PSC 111.53 (1) (f) is amended to read:

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

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

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

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

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42 PSC 111.53 (2) (b) 1. Construction of a cogeneration facility located at the steam host's existing  
43 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:  
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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 lay down area, staging area  
7 or access route that was not identified and described in the project application, notify the  
8 commission of the location of the lay down area, staging area or access route, and demonstrate  
9 that the use of the lay down area, staging area or access route will not affect any threatened or  
10 endangered species, historic resources, wetlands, waterways or other sensitive resources.  
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13 **SECTION 15.** PSC 112.02 (1) is amended to read:  
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15 PSC 112.02 (1) “Begin construction” means ~~to make any physical modification to the site~~  
16 clearing, excavation, placement of facilities, or any other substantial action adversely affecting  
17 the natural environment of the site or physical modification to equipment at the site which would  
18 not be required if the proposed project ~~were~~ was not approved, ~~but does not include borings~~  
19 necessary to determine foundation conditions or other preconstruction monitoring or surveying  
20 to establish background information related to site or environmental suitability.  
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23 **SECTION 16.** PSC 112.06(1) is renumbered 112.06(1m).  
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26 **SECTION 17.** PSC 112.06(1) is created to read:  
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28 **(1) PRIOR TO FILING AN APPLICATION.** Before filing an application for commission authorization  
29 under s. 196.49, Stats., the applicant shall do all of the following:  
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31 (a) Notify the department and the commission of its intent to seek commission authorization.  
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33 (b) Consult with commission staff, in cooperation with staff from the department, on the scope of  
34 the proposed project, the alternatives that must be considered in the application, and additional  
35 information that the commission will require as part of the commission authorization application.  
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38 **SECTION 18.** PSC 112.073 and 112.075 are created to read:  
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40 **PSC 112.073 Notification of additional work areas.** After the commission has issued an  
41 authorization under s. 196.49, Stats., the applicant shall, before establishing any lay down area,  
42 staging area or access route that was not identified and described in the project application,  
43 notify the commission of the location of the lay down area, staging area or access route, and  
44 demonstrate that the use of the lay down area, staging area or access route will not affect any

1 threatened or endangered species, historic resources, wetlands, waterways or other sensitive  
2 resources.

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

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

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

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12 **SECTION 19. Effective date.** These rules shall take effect on the first day of the month  
13 following publication in the *Wisconsin Administrative Register* as provided in  
14 s. 227.22(2)(intro.), Stats.

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(END)

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