



CR 92-68

Public Service Commission of Wisconsin

Cheryl L. Parrino, Chairman
Scott A. Neitzel, Commissioner

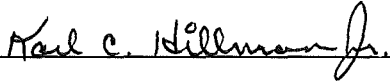
Jacqueline K. Reynolds, Executive Assistant
Lynda L. Dorr, Secretary to the Commission
Steven M. Schur, Chief Counsel

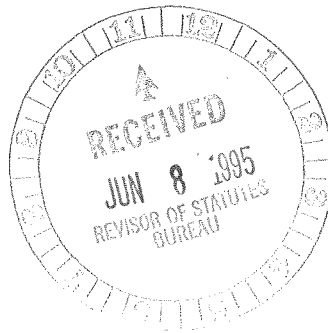
STATE OF WISCONSIN)
) SS
PUBLIC SERVIC COMMISSION)

I, Karl C. Hillman, Records and Forms Manager of the Public Service Commission and custodian of the official records, certify that the annexed rules, relating to Implementing Wisconsin Environmental Policy Act, were approved and adopted by this Commission on June 8, 1995.

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 the whole of the original.

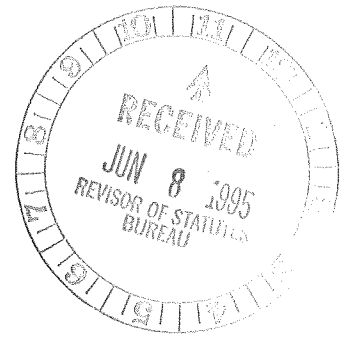
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Public Service Commission at 610 N. Whitney Way in the City of Madison, this 8th day of June, 1995.





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DATE MAILED
JUN 12 1995



BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Rules Implementing Wisconsin)
Environmental Policy Act) 1-AC-130

ORDER OF THE
PUBLIC SERVICE COMMISSION ADOPTING FINAL RULES

The Public Service Commission of Wisconsin approves a final order to repeal PSC 2.90 to 2.95, Wis. Adm. Code, and to create PSC 4, Wis. Adm. Code, relating to implementing the Wisconsin Environmental Policy Act, s. 1.11, Stats.

ANALYSIS PREPARED BY THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

The Wisconsin Environmental Policy Act (WEPA) requires that all state agencies carefully examine the environmental consequences of all actions that constitute "major actions significantly affecting the quality of the human environment." Alternatives to environmentally significant actions must also be considered.

In 1976 the Wisconsin Public Service Commission adopted and has since implemented rules to administer its obligations under WEPA. The rules cover such subjects as categorization of Commission actions, process to be followed in preparation of environmental impact statements (EISs) and screenings, and public

participation in these processes. The purpose of the revision to these rules is twofold: to bring the rules into conformance with and clarify current Commission practices and to change the categorization of some types of Commission actions. Current rules do not reflect some concepts and terminology adopted by the Commission in response to the 1978 adoption of rules by the National Council on Environmental Quality (CEQ). Current rules also cover the regulation of transportation, which is no longer a Commission function. Additional language has been added to clarify the existing language.

The final rules describe the CEQ concepts adopted by the Commission for its use. These include: scoping procedures; generic environmental assessments (EA) and EISs; and adoption of other agencies' EAs and EISs. Examples of changes in terminology to reflect the CEQ rules include: use of the term "draft EIS" rather than the current "preliminary environmental report (PER)" and "environmental assessment" rather than the current "environmental screening."

Changes to clarify Commission practices include: addition of a section describing the duties of the WEPA coordinator; an expanded description of the categorization of actions and the use of environmental information in non-EIS cases; addition of a section on preliminary determination of need for an EIS as a public notice tool; and addition of a section on information needed in utility applications.

The present rules categorize various types of Commission actions into classes depending on the nature of the activity and the Commission's obligations under WEPA. This categorization sets the minimum environmental review requirements for projects which are presented to the agency. The final rules do not change the parameters used to define projects which require Commission review and approval. The categorization of actions is a way to channel the many projects which come before the Commission into the WEPA process. The changes are based on the Commission's experience with the current environmental process and are designed to make the process more effective.

The rules governing categorization of actions define the minimum WEPA review for each type of Commission action. Type I actions require preparation of an EIS. Type II actions require preparation of an EA to determine if an EIS is necessary. Type III actions are checked to catch any unusual circumstances that might require further environmental review, which could include an EA or EIS.

The changes in categorization are based on Commission experience. Where Type II review of many projects has resulted in no finding of need for an EIS and the discovery of few environmental problems, the rules include a change to Type III. Conversely, where review of other projects has shown that they usually require preparation of an EIS, then the final rules include a change in categorization from Type II to Type I.

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Additionally, new types of Commission actions, such as approval of electric energy storage facilities, have been added to the list.

STATUTORY AUTHORITY

The Public Service Commission of Wisconsin has authority to issue rules regarding implementation of the Wisconsin Environmental Policy Act pursuant to ss. 196.02(1) and (3) and 227.11, Stats.

FINAL RULES

The Commission adopts rules to repeal PSC 2.90 to 2.95, Wis. Adm. Code, and to create PSC 4, Wis. Adm. Code, as shown in the attached Appendix.

PUBLIC HEARING

Pursuant to the Commission's Notice of Hearing issued on April 23, 1992, and published in the May 15, 1992, Wisconsin Administrative Register, public hearing was held on the proposed rules before Examiner John Crosetto in the Hill Farms State Office Building on June 18, 1992.

FISCAL ESTIMATE AND
INITIAL REGULATORY FLEXIBILITY ANALYSIS

The final rules change existing rules used by the Commission to implement the Wisconsin Environmental Policy Act (WEPA), s. 1.11, Stats. The Commission currently has approximately six positions addressing WEPA implementation. No significant change in overall workload is anticipated from adopting the final rules compared to that under the existing rules. The final rules will have no fiscal impact on other state or local units of government and will have no effect on small business or small telecommunications utilities.

ENVIRONMENTAL ANALYSIS

This action is classified as a Type 3 action according to s. PSC 2.90(3), Wis. Adm. Code. The primary effect of the rules changes relates to categorizing the minimal environmental review requirements for actions before the Commission. Nothing in the rules is expected to restrict or prohibit the Commission from adequately reviewing the environmental consequences of any future action before the Commission. It consequently requires neither an environmental impact statement under s. 1.11, Stats., nor an environmental assessment.

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The proposed rules were forwarded to the Legislature for review pursuant to s. 227.19, Stats. The Senate Committee on Environment and Energy held a public hearing on the proposed rules on June 1, 1995. Following the hearing, the committee waived the remaining waiting period for review of the rules without suggesting modifications or objecting to the rules. The Assembly Committee on Environment and Utilities let the waiting period for review expire without taking any action.

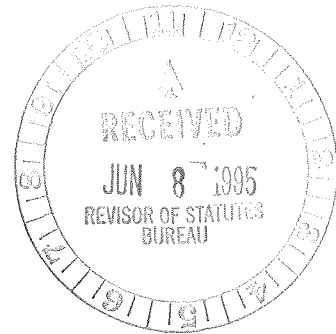
The final rules will take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin,
By the Commission.

June 8, 1995

Lynda L. Dorr
Lynda L. Dorr
Secretary to the Commission

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APPENDIX
FINAL RULE

SECTION 1. PSC 2.90 to 2.95 are repealed.

SECTION 2. PSC 4 is created to read:

CHAPTER PSC 4
ENVIRONMENTAL ANALYSIS

PREFATORY NOTE: Chapter PSC 4 establishes procedures to provide the public service commission of Wisconsin with adequate information on the short-term and long-term environmental effects of its actions, as required by the Wisconsin environmental policy act, ch. 274, section 1, laws of 1971 and s. 1.11, Stats.

PSC 4.05 DEFINITIONS. In this chapter:

(1) "Cogeneration" means the simultaneous generation of electrical power and useful heat from the same primary fuel source.

(2) "Commission" means the public service commission of Wisconsin.

(3) "Distribution line" means an electric line whose main function is to deliver energy from a distribution substation to individual customers.

(4) "Distribution substation" means an electric substation whose primary function is to transform the voltage of incoming power to the primary distribution voltage.

(5) "Electric energy storage facility" means a supply facility that does not transform fuel or energy into electricity, but stores electricity or power capable of being transformed into electricity, including:

(a) A magnetic energy storage system.

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(b) A battery.

(c) Pumped water.

(6) "Electric generation or cogeneration facility" means a physical plant used for generating electrical power and includes multiple generating units installed over time as part of an overall development project. It also includes situations, such as wind farms, where multiple small generators are installed as part of a single, overall project. In the case of multiple units at a single site or proximate sites, the environmental review will be predicated on the total project rather than unit by unit.

(7) "EA" means an environmental assessment.

(8) "EIS" means an environmental impact statement.

(9) "Human environment" means that natural or physical environment and the relationship of people with that environment.

(10) "kV" means kilovolt.

(11) "MW" means megawatt.

(12) "Person" has the meaning specified in s. 990.01 (26), Stats. "Person" also includes the State of Wisconsin and its political subdivisions.

(13) "Rebuilding an electric transmission line" means modifying an existing electric transmission line to increase its capacity to carry current at the same voltage, including changing conductors, insulators or structures, if the right-of-way remains substantially the same.

(14) "Scoping" means a process by which the commission requests other agencies and the public to help identify major environmental issues and how they will be addressed in an EIS.

(15) "Upgrading an electric transmission line" means modifying an existing electric transmission line to increase its capacity to carry current and increasing its voltage, including changing conductors, insulators or structures, if the right-of-way remains substantially the same.

(16) "WEPA" means the Wisconsin environmental policy act, chapter 274, section 1, laws of 1971, and s. 1.11, Stats.

PSC 4.10 CATEGORIZING COMMISSION ACTIONS. (1) TYPE I ACTIONS. The commission shall prepare an EIS in connection with any proposed action it determines is a major action significantly affecting the quality of the human environment, within the meaning of s. 1.11 (2) (c), Stats. The commission shall also prepare an EIS on any of the proposed actions involving a request for commission approval, categorized as Type I actions, listed in Table 1.

(2) TYPE II ACTIONS. Unless the WEPA coordinator decides to prepare an EIS instead of an EA, the commission shall prepare an EA on any of the proposed actions involving a request for commission approval, categorized as Type II actions, listed in Table 2.

(3) TYPE III ACTIONS. Type III actions are proposed actions involving requests for commission approval which do not

normally require an EA or an EIS. An evaluation of a specific Type III proposal, however, may indicate that the preparation of an EA or EIS is warranted for that proposal. Type III actions are listed in Table 3.

(3m) ACTIONS NOT REQUIRING ENVIRONMENTAL ASSESSMENT.

(a) commission actions not specified under sub. (2) do not normally require an environmental assessment except as otherwise determined by the commission under par. (b).

(b) Notwithstanding par. (a), the commission shall prepare an EA on a proposed action if it finds that:

1. The action may be a major action significantly affecting the quality of the human environment within the meaning of s. 1.11 (2) (c), Stats., and that an EIS may be required; or

2. The action involves unresolved conflicts concerning the use of available resources within the meaning of s. 1.11 (2) (e), Stats., such that the commission is required to study, develop and describe alternatives to the proposed action, and the commission has not studied, developed, and described alternatives in writing by other means.

(4) CATEGORIZING TRANSMISSION LINES. If an electric transmission line is designed with a combination of the structure height and strength, line insulators, right-of-way and other elements that would allow the line to be easily modified to operate at a higher voltage than the initial operating voltage,

the type of environmental review under this section is based on the line's potential higher voltage level.

(5) REASONABLE ALTERNATIVE PROPOSALS. If a reasonable alternative to any proposed action specified in subs. (2) to (3m) exists, and the alternative would require more rigorous environmental review than the proposal, environmental review under this section shall be based on the review the alternative would require.

PSC 4.20 ENVIRONMENTAL ASSESSMENT PROCEDURES.

(1) PUBLIC NOTICE. When it commences the preparation of an EA, the commission shall make a reasonable effort to notify the public. The commission shall deliver an announcement that an EA is being prepared to area legislators and news media and to other persons the commission knows are interested. The announcement may be included with a notice of investigation or notice of hearing. The announcement shall describe the proposed action, including a map where appropriate and list a commission staff contact person. The announcement shall provide for a public comment period lasting at least 10 days, beginning on the date the announcement is mailed or personally served.

(2) EA PREPARATION. Following the deadline for public comment, commission staff shall complete an EA to develop information for the commission's use and to determine whether an EIS is required. Each EA shall include the following information:

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(a) A description of the purpose and need for the proposed action.

(b) Maps, graphs or other description of the proposed action's location and design.

(c) A description of those environmental factors the proposed action affects most directly.

(d) An evaluation of significant positive and negative, short-term and long-term environmental effects that would result if the commission approves the proposed action. In preparing this evaluation, the commission staff shall consider:

1. Effects on geographically important or scarce resources, such as historic or cultural resources, scenic or recreational resources, prime farmland, threatened or endangered species and ecologically important areas.

2. Conflicts with federal, state or local plans or policies.

3. Significant controversy associated with the proposed action.

4. Irreversible environmental effects.

5. New environmental effects.

6. Unavoidable environmental effects.

7. The precedent-setting nature of the proposed action.

8. The cumulative effect of the proposed action when combined with other actions and the cumulative effect of repeated actions of the type proposed.

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9. The foreclosure of future options.

10. Direct and indirect environmental effects.

11. Other matters the commission staff considers significant.

(e) An evaluation of the reasonable alternatives to the proposed action and significant environmental consequences of the alternatives, including those alternatives that could avoid some or all of the proposed action's adverse environmental effects and the alternative of taking no action.

(f) A list of other persons contacted and summary of comments or other information received from them, including information regarding whether the proposed action complies with the regulations of other governmental units.

(g) A determination as to whether the proposed action requires an EIS.

(h) The name of the person preparing the EA.

(3) PRELIMINARY FINDINGS. (a) If the WEPA coordinator considers additional early public comment would be appropriate for a proposed action, the coordinator may make a preliminary determination about the need for an EIS, based on the information collected for the EA under sub. (2) but before the EA is completed, and invite public comment.

(b) The commission shall notify persons who received the notice of investigation for the proposed action, and other persons the commission knows to be interested in the proposed

action, of the preliminary determination. The announcement shall include a description of the proposed action, the preliminary determination whether an EIS is needed, any significant concerns raised about the proposed action, the name of a commission contact person and the period for comment.

(c) The commission shall authorize at least 10 days for public comment, commencing with the date notice under par. (b) is mailed or personally delivered. When the comment period expires, the commission staff shall complete the EA.

(4) DETERMINING NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT. After completion of an EA the WEPA coordinator shall determine whether the proposed action is a major action significantly affecting the quality of the human environment within the meaning of s. 1.11 (2) (c), Stats., for which an EIS is required. If the coordinator decides an EIS is not required, the commission shall enter the EA as part of the case file for the proposed action.

PSC 4.30 ENVIRONMENTAL IMPACT STATEMENT PROCEDURES.

(1) GENERAL INFORMATION. (a) The commission staff shall prepare an EIS to inform the commission and the public of significant environmental impacts of a proposed action and its alternatives, and reasonable methods of avoiding or minimizing adverse environmental effects. The environmental analysis shall be consistent with the guidelines issued by the U.S. council on environmental quality, ss. 1500 to 1508, under the authority of the national environmental policy act, 42 USC 4331.

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(b) Each EIS shall evaluate reasonably foreseeable, significant effects to the human environment and significant socioeconomic effects of the proposal and its alternatives. If information relevant to evaluating these effects is incomplete or unavailable, the EIS shall:

1. Indicate the availability of the information.
2. Describe the information's relevance.
3. Summarize available, credible scientific evidence that is relevant to the evaluation.
4. Evaluate effects based upon theoretical approaches or research methods generally accepted in the scientific community.

(c) For each action requiring an EIS, the commission shall prepare both a draft EIS and a final EIS.

(2) SCOPING. Scoping shall begin early in the process of preparing an EIS. The commission shall request any person it believes is interested in a proposed action to participate in scoping the proposed action. Scoping is an aid to help the commission identify all of a project's relevant environmental concerns and reasonable alternatives. Scoping may be achieved by means of meetings, hearings, workshops, surveys, questionnaires, interagency committees and other methods and combinations of methods that the commission considers appropriate. The commission may also integrate scoping with other public participation requirements.

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(3) CONTENT. Based on information obtained from the project applicant, scoping, site inspection, commission research, governmental agencies and other relevant sources, an EIS shall include:

(a) A description of the proposed action and the affected environment and other relevant information.

(b) An analysis of the probable impact of the proposed action on the environment, including:

1. An evaluation of positive and negative effects on the affected local and regional environments, including the proposed action's direct, indirect and cumulative environmental effects.

2. An analysis of any probable adverse environmental effects that would be unavoidable if the action is approved.

This analysis shall consider:

a. The proposed action's short-term and long-term effects.

b. Any irreversible and irretrievable commitments of resources.

3. A statement of how other adverse effects could be mitigated or prevented if the commission approves a proposed action.

(c) An evaluation of the reasonable alternatives to the proposed action and significant environmental consequences of the alternatives, including those alternatives that could avoid some or all of the proposed action's adverse environmental effects and the alternative of taking no action.

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(d) A proposed action's socioeconomic effects.

(e) A proposed action's effect on energy usage, as required under s. 1.12, Stats.

(f) An evaluation of the archeological, architectural and historic significance of any affected resources. This evaluation shall include consultation with the state historical society of Wisconsin.

(g) An evaluation of the effects of a proposed action on agriculture. If the proposed action may result in condemnation of farmland, the commission shall coordinate preparation of an EIS with the Wisconsin department of agriculture, trade and consumer protection. To the extent possible, an EIS for a proposed action that affects agriculture shall incorporate the provisions of an agricultural impact statement under s. 32.035 (4), Stats., so the EIS can also serve the functions of an agricultural impact statement under s. 32.035 (3), Stats.

(h) A summary of the scoping process used and the major issues identified for analysis in the EIS.

(4) DRAFT ENVIRONMENTAL IMPACT STATEMENTS. (a) A draft EIS is a preliminary document, clearly describing a proposed project and the alternatives being considered so that other persons can begin assessing the environmental effects of the proposal.

(b) Each draft EIS shall include a preliminary evaluation of the information described in sub. (3).

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(c) The commission shall distribute a copy of each draft EIS to:

1. The governor.
2. Each county, state or federal agency and each Indian tribe the commission knows has special expertise or interest in the proposed project.
3. The state historical society of Wisconsin library.
4. The Wisconsin legislative reference bureau.
5. Each of the regional depository libraries.
6. The Wisconsin department of natural resources.
7. The project applicant.
8. Any person who requests a copy.
9. For a proposed action affecting a local area:
 - a. The public library nearest to the proposed project.
 - b. The county and the town or municipality chief executive officer for the project area.
 - c. Each regional, county and town or municipal planning agency with jurisdiction over the project area.
 - d. The Wisconsin department of natural resources field office with jurisdiction over the project area.
10. For a proposed action affecting a region of the state or the state as a whole:
 - a. One or more public libraries whose geographic distribution provides public access without undue travel.

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b. The chief executive officer of each county in the project area.

c. Each regional planning commission and each county planning or zoning agency with jurisdiction over the project area.

d. Each Wisconsin department of natural resources field office with jurisdiction over the project area.

(d) The commission shall notify the public about the availability of the draft EIS. The notice shall include a description of the proposed action and of the administrative procedures to be followed, the last date to submit comments on the draft EIS to the commission, the locations where copies of the draft EIS are available for review, the commission's contact person and, if known, the date of the public hearing. The commission shall deliver a copy of the notice to:

1. Any person with a demonstrated interest in the draft EIS or who has requested to receive this type of information.

2. Any person who participated in scoping the EIS.

3. For a proposed action affecting a local area:

a. The nearest public library.

b. The county clerk and the town or municipal clerk for the project area, with a request that the clerks post the notice publicly.

c. The county, town, village or city chief executive officer in the project area.

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d. Local news media.

e. The regional planning commission.

4. For a proposed action affecting a region of the state or the state as a whole:

a. The public libraries specified in par. (c) 10.

b. The county clerks in the proposed project area, with a request that the clerks post the notice publicly.

c. The county chief executive officers in the proposed project area.

d. Regional news media.

(e) 1. Except as provided in subd. 2, the commission shall allow the public at least 45 days, commencing with the date the draft EIS is mailed or personally served, to comment on the draft EIS.

2. The commission may shorten the public review period under subd. 1 for cause. If so, the commission shall include in its notice under para. (d) a statement calling attention to the reduced review period, specifying the date comments on the draft EIS are due to the commission in order to be considered in developing a final EIS, and describing the reasons why the commission decided to shorten the review period. The commission may also grant reasonable requests to extend the comment period.

(5) FINAL ENVIRONMENTAL IMPACT STATEMENTS. (a) Following the public review period on a draft EIS, the commission staff shall prepare a final EIS. The final EIS may vary from the draft

EIS in scope, based on comments received on the draft EIS or other pertinent information which becomes known to the commission staff. The final EIS shall contain the information described in sub. (3).

(b) The commission shall distribute a copy of the final EIS to the same persons who received a copy of the draft EIS under sub. (4) (c), and to any other person who requested a copy of the draft EIS or commented on the draft EIS.

(c) The commission shall notify the public about the availability of the final EIS in the manner specified for a draft EIS under sub. (4) (d), or by including a statement in a notice of hearing.

(d) 1. Except as provided in subd. 2, the commission shall distribute copies of the final EIS to the public and announce its availability at least 30 days before it holds a public hearing on the proposed action. The review period required under this paragraph commences with the date a final EIS is mailed or personally served.

2. The commission may shorten the public review period under subd. 1 for cause. If so, the commission shall include in its notice under par. (c) a statement calling attention to the reduced review period, and describing the reasons why the commission decided to shorten the review period. The commission may also grant reasonable requests to extend the public review period.

PSC 4.40 GENERIC ENVIRONMENTAL ASSESSMENTS AND ENVIRONMENTAL IMPACT STATEMENTS. (1) SIMILAR ACTIONS. If the commission is analyzing the environmental effects of a group of similar proposed actions with substantially similar effects on the human environment, major changes in ongoing policy which would affect the environment or proposed actions which are likely to recur, it may prepare a generic EA or EIS. Section PSC 4.20 applies to a generic EA and s. PSC 4.30 applies to a generic EIS, unless a provision in either section would conflict with the purpose of the generic EA or EIS.

(2) AMENDMENTS. The commission may amend a generic EA or EIS, either by reopening the generic docket or by addressing the generic EA or EIS in a specific case docket. If so, the original parties to the generic EA or EIS docket shall be notified.

(3) USE OF GENERIC EA OR EIS. An EA, a draft EIS or a final EIS may incorporate portions of a generic EA or EIS, if the EA or EIS summarizes the relevant portions of the generic EA or EIS.

PSC 4.50 PUBLIC HEARING ON PROPOSED ACTIONS. (1) DATE AND LOCATION. (a) 1. Except as provided in subd. 2, the commission shall hold a public hearing on a proposed action for which it has prepared an EIS before making a final decision. The commission shall hold the hearing at least 30 days after publishing a notice of hearing and distributing the final EIS under s. PSC 4.30 (5) (b).

2. The commission may reduce the review period prior to hearing for cause, as provided in s. PSC 4.30 (5) (d)2.

NOTE: Section 1.11 (2) (d), Stats., also requires the commission to wait at least 15 days after publishing a newspaper notice of a hearing, before holding the hearing.

(b) Concerning a proposed action of statewide significance, the commission may hold the public hearing in Madison. For other proposed actions the commission shall, as specified in s. 1.11 (2) (d), Stats., hold a hearing in the locality affected.

(2) HEARING NOTICE. In addition to the notice requirements specified for a hearing in s. 1.11 (2) (d), Stats.:

(a) The commission shall mail a notice of hearing to known interested persons and others specified in s. PSC 4.30 (4) (d).

(b) The commission may require a project applicant to place one or more advertisements about the project and the hearing in the news media.

(3) CONDUCT OF THE HEARING. The commission shall conduct the public hearing under this section as a contested case proceeding, in accordance with ss. PSC 2.30 to 2.66, or, if the proposed action involves rule making or a proposal for legislation, in accordance with s. 227.18, Stats. At the hearing commission staff shall offer the final EIS into evidence. The staff shall testify about the preparation of the final EIS and the issues it identifies, and may provide other relevant information on the environmental aspects of the case which may have come to its attention. The commission shall receive the

final EIS into evidence. The commission may also receive testimony at the hearing regarding the environmental aspects of the case and the content of the final EIS.

(4) ORDER. The commission shall distribute a copy of its order on the proposed action to each agency responding to the draft EIS or the final EIS, to each party to the proceeding and to any person who requests a copy.

4.60 INTERAGENCY COOPERATION. (1) EARLY CONSULTATION.

To the extent practical, the commission shall consult with federal and state agencies early when preparing an EA or EIS.

(2) JOINT PREPARATION OF ENVIRONMENTAL ASSESSMENTS. The commission may enter into agreements with other federal, state or local agencies to develop a joint environmental assessment that satisfies the requirements of the participating agencies. The WEPA coordinator shall independently determine the commission's need to prepare an EIS.

(3) JOINT PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS. The commission may enter into agreements with other federal or state agencies to develop a joint EIS that satisfies the requirements of the participating agencies.

(4) ADOPTION OF OTHER ENVIRONMENTAL ASSESSMENTS OR ENVIRONMENTAL IMPACT STATEMENTS. (a) The commission may adopt part or all of another state or federal agency's environmental assessment as the commission's EA if the EA meets the requirements of this chapter. The commission shall notify the

public as required under s. PSC 4.20 (1) or (3). The WEPA coordinator shall independently determine the commission's need to prepare an EIS.

(b) The commission may adopt part or all of another state or federal agency's environmental impact statement as the commission's draft EIS if the EIS meets the requirements of this chapter. The commission shall distribute the draft EIS and notify the public as required under s. PSC 4.30 (4).

PSC 4.70 PROJECT APPLICATIONS. (1) ADVANCE NOTICE TO COMMISSION. Any person intending to file an application for commission approval of a proposed action listed in s. PSC 4.10 (1) or (2) shall contact the commission at least 30 days before filing, to:

(a) Describe the person's tentative plans, designs and timing.

(b) Seek a preliminary determination from the commission on alternatives to the proposed action that must be evaluated and the information necessary to complete the environmental review.

(c) Seek input concerning other agencies the applicant may be required to contact.

(d) For a proposed action listed in s. 4.10 (1), obtain information on commission methods and timing for public notice and scoping procedures.

(2) REQUIRED CONTENTS OF AN APPLICATION. (a) Each application for commission approval of a proposed action listed

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in s. PSC 4.10 (1) shall describe the project in sufficient detail that the commission can prepare an EIS meeting the criteria specified in s. PSC 4.30 (3). Each application for commission approval of a proposed action listed in s. PSC 4.10 (2) shall describe the project in sufficient detail that the commission can prepare an EA meeting the criteria specified in s. PSC 4.20 (2).

(b) Each application for commission approval of a proposed action listed in s. PSC 4.10 (1) or (2) shall:

1. Identify, develop and evaluate reasonable alternatives to the project.

2. Include a summary of the applicant's contacts with other agencies, as required under sub. (1) (c).

(c) No application for commission approval of a proposed action listed in s. PSC 4.10 (1) or (2) is complete until the information necessary for the commission to complete an environmental review is provided.

PSC 4.80 WEPA COORDINATOR. (1) POWERS AND DUTIES. The commission shall designate a qualified staff person as WEPA coordinator, to coordinate and oversee performance of environmental impact statement procedures and other WEPA requirements. The WEPA coordinator shall:

(a) Act as contact for other state agencies seeking assistance or opinions on environmental impact matters.

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(b) Participate on behalf of the commission in inter-agency environmental activities.

(c) Determine appropriate categorization of proposed actions under s. PSC 4.10.

(d) Determine whether an EIS is required for actions listed in s. PSC 4.10 (2) or (3).

(e) Determine whether an EA is required for proposed actions listed in s. PSC 4.10 (3) or (3m).

(f) Ensure the commission's environmental review of a proposed action complies with s. 1.11, Stats.

(g) Determine the proper time periods for review of EA and EIS documents under ss. PSC 4.20 (1) and (3) (c), 4.30 (4) (e) and (5) (d) and 4.50 (1).

(2) ASSISTANCE TO APPLICANTS. Any person uncertain as to whether s. PSC 4.10 (1), (2) or (3) applies to a project may contact the WEPA coordinator for assistance.

Table 1. Type I Actions

-
- a. Construct an electric generation or cogeneration facility, designed for operation at a nominal capacity of 20 MW or greater. This paragraph does not include:
 - 1. A hydroelectric facility at an existing dam site.
 - 2. An electric energy storage facility.
 - b. Construct an electric transmission line, designed for operation at a nominal voltage of 345 Kv, if the line is more than 10 miles long.
 - c. Construct an electric transmission line or substation designed for operation at a nominal voltage greater than 345 kV.
 - d. Rebuild or upgrade an electric transmission line or substation to a nominal voltage greater than 345 kV.
-

Table 2. Type II Actions

-
- a. Construct an electric generation or cogeneration facility, designed for operation at a nominal capacity of less than 20 MW.
 - b. Construct, at an existing dam site, a hydroelectric generation facility, designed for operation at a nominal capacity of 12 MW or more.
 - c. Construct an electric energy storage facility.
 - d. Replace, modify or add to an electric generation facility to increase the facility's capacity significantly beyond its nominal design rating, to change the facility's fuel type or to extend the facility's life significantly.
 - e. Construct a steam production facility by a steam utility.
 - f. Construct an electric transmission line designed for operation at a nominal voltage of 100 kV to 345 kV, if the line is more than one mile long. This paragraph does not apply to electric transmission lines specified in Item b, Table 1, or to distribution lines.
 - g. Rebuild or upgrade an electric transmission line to operate at a nominal voltage of 100 kV to 345 kV, if the line is more than one mile long.
 - h. Construct an electrical substation designed for operation at a nominal voltage of 100 kV to 345 kV. This paragraph does not apply to distribution substations.
 - i. Construct or replace a water, coal slurry, oil, gas or steam pipeline facility, if the pipeline is eight inches or greater in nominal diameter and three or more miles long.
 - j. Construct a fuel processing facility, including a coal gasification plant or a resource recovery facility.
 - k. Construct a liquefied natural gas plant.
 - l. Construct an underground natural gas storage facility.
-

Table 3. Type III Actions

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- a. Construct an electric transmission line meeting either of the following criteria:
 - 1. The line is designed for operation at a nominal voltage of less than 100 kV.
 - 2. The line is one mile long or less. This subdivision does not apply to transmission lines specified in Items c and d, Table 1.
 - b. Construct an electric distribution line.
 - c. Construct an electric substation, designed for operation at a nominal voltage of less than 100 kV, or construct a distribution substation.
 - d. Modify an existing substation.
 - e. Construct an electric utility ash disposal facility at a new site, or construct an expansion of an electric utility ash disposal facility at an existing site.
 - f. Construct a water well, water storage and distribution system by a water public utility or combined water and sewer public utility under s. 66.077, Stats., except as provided in Item i, Table 2.
 - g. Construct a sewage treatment facility by a combined water and sewer utility under s. 66.077, Stats.
 - h. Issue an order concerning a telecommunications utility, an alternative telecommunications utility, a telecommunications carrier or a telecommunications provider.
 - i. Construct or replace a gas, coal slurry, water, oil or steam pipeline facility, except as provided in Item i, Table 2.
 - j. Construct a fuel storage facility, except as provided in Item 1, Table 2.
 - k. Establish utility rates.
 - l. Issue securities.
 - m. Certify depreciation rates.

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- n. Provide utility service to a new area.
 - o. Purchase, sell or transfer utility property.
 - p. Construct a utility facility not otherwise specified in Tables 1, 2 or 3.
 - q. Establish river water power toll allocations.
 - r. Establish a territorial agreement between utilities.
 - s. Conduct an affiliated interest transaction under s. 196.52, Stats.
 - t. Conduct a generic commission investigation of rate-making methods or rate structures.
 - u. Issue an order specifying proper utility accounting methods.
 - v. Issue an order concerning the adequacy of utility service.
 - w. Proposed changes or additions to Administrative Code.
 - x. Proposed legislation.
 - y. Formation of holding companies.
-



Public Service Commission of Wisconsin

Cheryl L. Parrino, Chairman
Scott A. Neitzel, Commissioner

Jacqueline K. Reynolds, Executive Assistant
Lynda L. Dorr, Secretary to the Commission
Steven M. Schur, Chief Counsel

June 8, 1995

Mr. Gary Poulson
Assistant Revisor of Statutes
James Wilson Plaza, Suite 800
131 West Wilson St.
Madison, WI 53703

Re: To Repeal PSC 2.90-2.95, Wisconsin Administrative Code and to
Create Chapter PSC 4, Wisconsin Administrative Code - 1-AC-130

Dear Mr. Poulson:

Enclosed please find two copies (one certified) and a diskette of the order of the Public Service Commission adopting rules in the above entitled matter.

The rules have been seen by Legislative committees.

Sincerely,

Michael John Jaeger
Natural Gas Division

MJJ:H:\letter\Poul0607.mjj

Enclosure

