

Chapter PSC 2

PROCEDURE AND PRACTICE

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GENERAL

PSC 2.01 Communications and documents addressed to commission. (1) All written communications and documents should be addressed to Public Service Commission of Wisconsin, Hill Farms State Office Building, 4802 Sheboygan Avenue, Madison, Wisconsin 53702, and not to individual members of the staff. All communications and documents delivered at the office of the executive secretary are officially received.

(2) The executive secretary may designate agents to receive written communications and documents. Presiding officers will receive communications and documents at hearings.

(3) Office hours are 7:45 to 11:45 a.m. and 12:30 to 4:30 p.m., Monday through Friday. Offices are closed on Saturdays and Sundays and on holidays listed in s. 16.275 (6), Stats.

History: 1-2-56; am. (1), Register, September, 1964, No. 105, eff. 10-1-64; cr. (3), Register, December, 1966, No. 132, eff. 1-1-67; am. (1) and (2), Register, January, 1977, No. 253, eff. 2-1-77.

PSC 2.02 Parties. Parties to proceedings are known as complainants, defendants, interveners, respondents, applicants, objectors, and petitioners according to the nature of the proceeding and the relationship of the parties thereto.

(1) Parties who file complaints are complainants, the parties complained against are defendants, and other parties to the proceeding are interveners.

(2) In investigations or upon orders to show cause, the parties investigated or ordered to show cause are respondents. If the proceeding is initiated by the commissioner upon complaint, the parties complaining are complainants.

(3) All persons seeking approvals, authority, certificates of authority or of public convenience and necessity or other certificates, licenses, permits, or exemptions or other relief are applicants. Those opposing such applicants are objectors. Parties to such proceedings other than the applicants and objectors are interveners.

(4) Intervenors "As Their Interest May Appear" who fail to resolve their appearances further will be considered to be not "In Opposition" to the cause which initiated the proceeding.

History: 1-2-56; cr. (4), Register, December, 1966, No. 132, eff. 1-1-67.

PSC 2.03 Computation of time. The time within which an act is to be done as provided in any rule or order promulgated by the commission, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day be Saturday, Sunday, or a legal holiday, the act may be done on the next secular day. When any such time is expressed in hours, the whole of any intervening Saturday, Sunday, or legal holiday, from midnight to midnight, shall be excluded. When the time within which an act is to be done as specified in any rule or order promulgated by the commission is expressed in days and said period of time consists of less than 10 days, and said latter period contains both a Sunday and a legal holiday, as designated in s. 256.17, Stats., the time within which said act may be done is increased by 2 additional days.

History: 1-2-56; am. Register, June, 1965, No. 114, eff. 7-1-65; am. Register, May, 1967, No. 137, eff. 6-1-67.

PSC 2.04 Furnishing copies of records. (1) One certified copy of the decision in a proceeding will be furnished free of charge at the time of issuance to each party of record, except that when a party of record is represented by counsel, a copy of the decision will be furnished to said counsel. When a municipal utility is a party of record to a proceeding, a copy of the decision will be furnished both to the management of the utility and to the appropriate official of the municipality free of charge at the time of issuance.

(2) General orders will be distributed free of charge at the time of issuance under the supervision of the executive secretary.

(3) Except for copies distributed free of charge as enumerated in subsections (1) and (2) of this section and in Wis. Adm. Code section PSC 2.36 (1), copies of transcripts, orders, or other records of the commission may be obtained upon payment, in advance, of applicable rates determined by the commission.

History: 1-2-56; am. Register, September, 1964, No. 105, eff. 10-1-64; am. Register, December, 1971, No. 192, eff. 1-1-72.

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PSC 2.39 Witnesses, subpoenas and depositions. (1) Witnesses who appear by order of the commission may obtain from the secretary or from the presiding officer proper voucher blanks for the payment of witness fees.

(2) No witness subpoenaed at the instance of parties other than the commission shall be entitled to compensation from the state for attendance or travel unless the commission shall certify that his testimony was material to the matter investigated (s. 196.32, Stats.).

(3) The commission or any party in any investigation or hearing may cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in circuit courts (s. 196.33, Stats.).

(4) The presiding officer shall have all the inquisitorial powers granted to the commission and the powers of a court commissioner relative to depositions (s. 196.24, Stats.).

(5) (a) Any commissioner or examiner shall issue subpoenas requiring the attendance of witnesses and subpoenas requiring the production of documentary or other tangible evidence upon request therefore by any party; provided however, that:

1. A subpoena duces tecum will not be issued unless the person requesting the subpoena furnishes to the person requested to issue the subpoena a specific statement of the documents desired brought along by the subpoenaed witness.

2. Where it appears to the person requested to issue the subpoena that the subpoena sought may be unreasonable, oppressive, excessive in scope, or unduly burdensome, he may in his discretion, as a condition precedent to the issuance of the subpoena, require the person seeking the subpoena to show the general relevance and reasonable scope of the testimony or other evidence sought.

3. In the event the person requested to issue the subpoena shall, after consideration of all the circumstances, determine that the subpoena or any of its terms are unreasonable, oppressive, excessive in scope, or unduly burdensome, he may refuse to issue the subpoena, or issue it only upon such conditions as fairness requires. In making the foregoing determination, where he can do so without undue inconvenience to the participants in the proceeding, the person requested to issue the subpoena may inquire of the other participants whether they will concede the facts sought to be proved; but in this connection, except with the permission of the person seeking the subpoena, he shall not disclose the identity of the person sought to be subpoenaed.

(b) A person whose request for a subpoena has been denied or modified may not request any other commission official to issue the subpoena; but he may appeal to the commission from the denial or modification.

(6) (a) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such subpoena, apply to the examiner, or if he is not available, to the commission, to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor.

(b) The examiner or the commission, as the case may be, may deny the application, or upon notice to the person upon whose request the subpoena was issued, and opportunity for reply, may:

1. Quash or modify the subpoena, or

2. Condition denial of the application to quash or modify the subpoena upon just and reasonable conditions, including in the case of a subpoena duces tecum, a requirement that the person in whose behalf the subpoena was issued shall advance the reasonable cost of transporting documentary or other tangible evidence to the designated place of hearing.

History: 1-2-56; am. (5), Register, December, 1966, No. 132, eff. 1-1-67; r. and recr. (5) and cr. (6), Register, August, 1976, No. 248, eff. 9-1-76.

PSC 2.391 Objections to proposed decisions. (1) Where a proposed decision is prepared and circulated pursuant to s. 227.09 (2) or (4), Stats., objections thereto shall be filed within 15 days of service unless a different period is specified by the hearing examiner or commission. Such objections and briefs in support thereof shall be filed together and shall be governed by section PSC 2.38 (2) . .

(2) Oral argument will be held only where directed by the commission. Requests for oral argument shall be included with objections and supporting briefs.

History: 1-2-56; am. Register, January, 1977, No. 263, eff. 2-1-77.

PSC 2.40 Certification of parties. When the commission receives a request for a certification pursuant to s. 227.16 (1) (c), Stats., each person who has entered an appearance, whether for limited or full intervention, will be notified of the request for certification and asked to respond within a reasonable time if the person wishes to be certified as a party to the appeal. Only those who respond will be certified as parties by the commission. The list of parties making a full intervention set forth in the order pursuant to PSC 2.32 (3) shall constitute the commission's certification of parties under s. 227.16 (1) (c), unless and until superseded by a certification under this section.

History: Cr. Register, October, 1978, No. 274, eff. 11-1-78.

REVIEW BY COMMISSION OF ORDERS AND DETERMINATIONS

PSC 2.60 Application for rehearing; objections. (1) Application for rehearing may be made within 20 days after entry of any determination or order, and the commission may order a rehearing on its own motion within 20 days after entry of an order. A petition for rehearing is not a prerequisite for judicial review.

(2) Applications for rehearing shall set forth the particular grounds as specified in paragraphs (a) through (c) of s. 227.12 (3), Stats., upon which the applicant claims that the order is unlawful, unreasonable, improper or unfair.

(3) If the applicant shall rely on the ground that the commission in making its determination has failed, or that any of the commissioners has failed, to consider any of the evidence presented in the proceeding, the application for rehearing shall so state, and shall include an abstract of all such evidence relied upon by the applicants.

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(4) Five copies of all applications for rehearing or objections thereto shall be filed and shall include a certification that copies have been served as required by section PSC 2.61. Such certificate shall state the names of the persons served, together with the date and manner of service.

History: 1-2-56; am. (4) Register, September, 1958, No. 33, eff. 10-1-58; am. (1) and (2), Register, January, 1977, No. 253, eff. 2-1-77.

PSC 2.61 Service of rehearing applications and objections; technical defects. (1) Applications for rehearing shall be served on all parties to the proceeding. Objections to an application for rehearing shall be served on all parties and filed with the commission within 7 days after the date of service of such application. Such applications for rehearing and objections thereto shall be accompanied by a certificate showing the names of the persons upon whom service was made and the date and manner of service.

(2) The commission will consider timely rehearing applications and objections which do not comply with sections PSC 2.60 (4) or 2.61 (1) if the defect is promptly corrected when called to the attention of the rehearing applicant or objector by the commission or another party to the proceeding.

History: 1-2-56; am. Register, September, 1958, No. 33, eff. 10-1-58; am. Register, January, 1977, No. 253, eff. 2-1-77.

PSC 2.611 Order entered without hearing; rehearing; evidence. In a rehearing upon an order entered without hearing, the presiding officer may receive such evidence as he deems will be of assistance to the commission in making a proper determination in the proceeding, and which otherwise complies with the provisions of s. 227.08 (1), Stats.

History: Cr. Register, August, 1961, No. 68, eff. 9-1-61; am. Register, January, 1977, No. 253, eff. 2-1-77.

PSC 2.62 Denial of applications by lapse of time. Any application for rehearing not granted within 20 days from the date of its filing shall be taken by the applicant to have been denied. (s. 227.12 (5), Stats.).

History: 1-2-56; am. Register, January, 1977, No. 253, eff. 2-1-77.

PSC 2.63 Petitions for reopening. Parties may petition the commission to reopen a proceeding for the purpose of rescinding, amending, or altering an order or determination (s. 196.39, Stats.). Such petition shall state the ground upon which it is based and the relief sought. It shall be served in the same manner as applications for rehearing. Five copies shall be filed with the commission. Objections to a petition may be filed and served in the same manner as objections to an application for rehearing. Petitions for reopening and objections thereto shall be accompanied by a certificate showing the