

PUBLIC SERVICE COMMISSION OF WISCONSIN

Joint Application of Dairyland Power Cooperative, Northern States Power Company - Wisconsin, and Wisconsin Public Power, Inc., for Authority to Construct and Place in Service 345 kV Electric Transmission Lines and Electric Substation Facilities for the CapX Twin Cities - Rochester - La Crosse Project, Located in Buffalo, Trempealeau, and La Crosse Counties, Wisconsin

5-CE-136

PREHEARING CONFERENCE MEMORANDUM

This memorandum orders the following consistent with the prehearing conference held on December 5, 2011, and pursuant to Wis. Admin. Code § PSC 2.04(1):

I. The following are parties to this proceeding:

1. Applicants

- a. Dairyland Power Cooperative.
- b. Northern States Power Company – Wisconsin.
- c. WPPI Energy.

2. Intervenors

- a. Citizens Utility Board.
- b. American Transmission Company, LLC, and its corporate manager, ATC Management, Inc.
- c. NoCapX 2020.
- d. Citizens Energy Task Force.
- e. State of Wisconsin Department of Transportation.
- f. Patricia Conway.
- g. Clean Wisconsin.
- h. Midwest Independent Transmission System Operator, Inc.

II. The following are the issues upon which the Commission may make findings of fact and conclusions of law:

1. Is a 345 kV transmission line needed to satisfy the reasonable needs of the public for an adequate supply of electric energy?
2. Does the proposed project provide usage, service or increased regional reliability benefits to wholesale and retail customers in Wisconsin that are reasonable in relation to its cost?
3. Does the proposed project comply with the requirements of Wis. Stat. §§ 196.49(3)(b) and 196.491(3)(d)5?
4. What is a reasonable cost for the proposed project?

5. What route for the proposed project is in the public interest, considering the requirements of Wis. Stat. §§ 1.12(6), 196.025(1m), and 196.491(3)(d)?
6. Should all or any part of the construction be subject to other specific design requirements or other conditions and, if so, how will they be enforced?
7. Has the proceeding complied with the requirements of Wis. Stat. § 1.11 and Wis. Admin. Code § PSC 4.30?

III. The schedule appears below.

December 19, 2011, at 12 noon	Requests of intervenor compensation under Wis. Admin. Code ch. PSC 3. Parties- A statement identifying their respective potential witnesses, including but not limited to expert witnesses, and the subject matter on which each witness is expected to present evidence. Intervenors- A statement of position with respect to the application, including the issues it plans to address in the proceeding.
January 9, 2012, at 12 noon	Applicants and Intervenors who generally support the application- Direct testimony and exhibits.
February 10, 2012, at 12 noon	Intervenors who generally oppose the application and Commission staff- Direct testimony and exhibits.
February 22, 2012, at 12 noon	All parties and Commission staff- Rebuttal testimony and exhibits.
February 29, 2012, at 12 noon	All parties and Commission staff- Surrebuttal testimony and exhibits.
March 2, 2012, at 12 noon	All parties and Commission staff- Errata or replacement pages to testimony and exhibits.
March 5, 2012, at 9:30 a.m.	Party hearing session at PSC Building begins. The ALJ may allow additional time.

Week of March 13 & 14, 2012 Afternoon & evening-times to be determined	Public hearing sessions. Two locations along the route to be determined.
March 30, 2012, at 12 noon	Parties and non-parties granted leave prior to deadline- Initial brief.
April 6, 2012, at 12 noon	Parties and non-parties granted leave prior to deadline- Reply brief.
April 20, 2012, at 12 noon	Commission staff briefing memo.
Seven days after issuance of the Briefing Memo, at 12 noon	Parties- Comments on Briefing Memo.

1. Except for direct testimony, the scope of written testimony is narrowed with each round of filing such that it may address only the testimony filed in the previous round.
2. Prior to cross-examination, any witness may offer brief oral testimony that responds only to the last testimony offered by another witness.
3. Commission staff may file testimony and exhibits in any round and with any position with respect to the application.

IV. Other facilitating matters:

General

1. File by ERF or, if prohibited by size or format, standard optical disc storage media.
2. Service to and between parties is by email or, if prohibited by size or format, standard optical disc storage media.
3. Serve all filings on the Commission staff docket coordinator.
4. The Commission's electronic (email) service list shall contain only one email contact for each party.
5. Filing constitutes certification of service. *See* Wis. Admin. Code § PSC 2.06(3)(a)2.
6. File and serve:
 - a. All filings identified in the above schedule by the deadline assigned.

- b. Any request for intervention under Wis. Admin. Code § PSC 2.21(4). File and serve any response by 12:00 noon 2 days after the filing of the request and any reply by 12:00 noon 1 day after the filing of the response.
 - c. Unless made at hearing, any request to waive or modify the application of this order in particular circumstances for good cause. File and serve any response by 12:00 noon 2 days after the filing of the request and any reply by 12:00 noon 1 day after the filing of the response.
 - d. Any other specified filing within the timeframe established by this order.
 - e. A redacted public version of every document filed under request for confidential handling. *See* Wis. Admin. Code § 2.12(4).
7. Serve, but do not file, all-party to all-party correspondence with the Commission staff docket coordinator.
 8. Unless made at hearing, the Office of Administrative Law Judge shall act only on a request officially filed.
 9. The Office of Administrative Law Judge shall issue every written order to parties and Commission staff by email.
 10. In computing any period of time that follows service by a party or Commission staff, or that follows an order of the Office of Administrative Law Judge, the day of emailing is the day of mailing. *See* Wis. Admin. Code § PSC 2.05(2).
 11. An order to grant a request that contains a representation or certification of the consent of the other parties and Commission staff shall await no response. An order to deny such request shall only follow an investigation upon reasonable notice.
 12. For any request for which there exists a deadline to respond, object, or request to offer rebuttal or countervailing evidence, without timely response, objection, or request, the Office of the Administrative Law Judge shall grant the request with no further order, or investigate the request upon reasonable notice.
 13. The Office of Administrative Law Judge may waive or modify the application of this order in particular circumstances for good cause.

Confidentiality

1. Wis. Admin. Code § PSC 2.12 already protects from public disclosure any record filed with the Commission under a request for confidential handling that meets the requirements of that section. Such protection renders unnecessary other protective measures available from the Office of Administrative Law Judge to prevent public disclosure of a trade secret, or other confidential research, development, or commercial

information filed in this docket unless and until a party demonstrates a specific and credible threat of disclosure.

2. The Commission shall hear *in camera* any oral testimony and cross-examination to which a claim that confidential handling under Wis. Admin. Code § PSC 2.12 should apply and place such testimony in a separate transcript volume. To maintain this claim the claimant shall file a request under Wis. Admin. Code § PSC 2.12(3) along with a redacted copy of the volume consistent with Wis. Admin. Code § PSC 2.12(4) by 12:00 noon 5 days after issuance of the volume by mail from the Office of Administrative Law Judge. The claimant shall omit from the original volume any affirmation of the veracity of that volume from the court reporter. The redacted volume exists only for Commission staff to evaluate the claim and for public convenience. The redacted volume provides no authoritative record of the proceedings. In the case of any discrepancy between the original volume and the redacted volume, the original volume shall control.
3. The Commission shall afford to any transcript volume receiving confidential handling under Wis. Admin. Code § PSC 2.12 the same handling and retention process and procedure that applies to all other documents which the Commission grants confidential handling.

Pre-Hearing

1. File any response to a Commission data request.
2. Do not file party discovery requests or responses. Serve any party discovery request with the Commission staff docket coordinator. Serve no party discovery responses on Commission staff.
3. Respond to data requests and discovery requests within 14 days of service of the request with exceptions of 21 days allowed for just cause.
4. Any party who compels a witness to appear at hearing shall create a volume of written testimony for that witness in the form of either a deposition or interrogatory. This requirement shall not apply if the party receives consent of the other parties and Commission staff prior to the deadline to file such testimony.
5. A party shall endeavor to identify its employees or members who wish to file written comments or participate at the public hearing session in support of that party's position and shall use best efforts to organize the testimony of such witnesses in a manner that avoids undue repetition.
6. File and serve:
 - a. The volume of written testimony for any witness being compelled to appear, and corresponding exhibits, by the deadline to file rebuttal testimony.

- b. A request for protective order to a discovery request within 7 days of service of the request. File and serve any response by 12:00 noon 2 days after the filing of the request and any reply by 12:00 noon 1 day after filing of the response.
 - c. Any request to compel a response to a discovery request. File and serve any response by 12:00 noon 2 days after the filing of the request and any reply by 12:00 noon 1 day after filing of the response.
 - d. Timely corrections to written testimony and exhibits require no request or pre-approval from the Office of Administrative Law Judge, but such corrections are subject to objection at hearing. An errata sheet shall indicate the location of each correction by page and line number or exhibit number.
 - e. Every objection to written testimony and corresponding exhibits by the deadline of the next round of filing. File and serve any response by 12:00 noon 2 days after the filing of the objection and any reply by 12:00 noon 1 day after filing of the response.
7. Contact the Office of Administrative Law Judge by 12:00 noon 1 day prior to the first day of the party hearing session to:
- a. Request to take a witness at a specific prearranged time.
 - b. Identify the witnesses it intends to cross-examine. This does not waive the right to cross-examine other witnesses.
 - c. Identify its need to conduct a portion of the hearing *in camera*.
 - d. Request the scheduling of additional hearing time.

Filing

1. Paginate every page of written testimony, centered at the bottom, and according to the following convention:
 - a. “[identify the round of testimony]-[identify the party]-[identify the witness]-[page #]”
 - b. Page numbers for each filing shall begin at “1” and continue in numerical order for that filing.
2. Paginate the first page of each exhibit at the top right-hand corner and according to the following convention:
 - a. “Ex.-[identify the party]-[identify the witness]-[exhibit #]”

- b. Exhibit numbers for each witness shall begin at “1” and continue in numerical order for that witness.
3. Within 2 days after the appearance on ERF of any document identified below, a party shall provide to Records Management:
 - a. 10 collated paper sets of all its filed exhibits.
 - b. For any written testimony that contains pages rendered in color, 10 collated paper sets of the entire filing.
4. Punch each paper filing to fit a standard three ring binder. Do not include a binder.
5. Precede each paper testimony filing with a tabbed page that indicates the following:
 - a. “[identify the round of testimony]-[identify the party] [identify the witness]”
6. Precede each paper exhibit with a tabbed page that indicates the following:
 - a. “Ex.-[identify the party]-[identify the witness]-[exhibit #]”
7. For any filing made under a request for confidential handling, only submit in paper, the confidential version of the filing.
8. Every paper copy shall exactly duplicate its corresponding ERF filing, including any color rendering and the PSC REF#.
9. Use a cover page for any document that when filed the Commission time stamp and PSC reference number will not clearly appear or for which a Commission time stamp or PSC reference number already exists.
10. Indicate on any page of written testimony and any exhibit, by highlight or shading, any specific text filed under request for confidential handling treatment.
11. Paginate any written testimony and mark any exhibit filed under request for confidential handling treatment under the proper numbering convention succeeded by the letter “c”.
12. Paginate any written testimony and mark any exhibit filed publicly for which another version is filed under request for confidential handling treatment the proper numbering convention succeeded by the letter “p”.
13. Paginate any replacement page and mark any replacement exhibit with the same page or exhibit number as the original version, except the letter “r” shall immediately succeed the number.

14. Refer to any existing written testimony or marked exhibit by using the pre-assigned page or exhibit number.
15. Except for the existing testimony or a marked exhibit in this docket, include in any reference to a document already posted on ERF, the ERF identifier in the following format “PSC REF #:_____”.
16. Except for direct testimony, the scope of written testimony is narrowed with each round of filing such that it may address only the testimony filed in the previous round.
17. No evidence shall enter the record solely by citation to an Internet hyperlink.
18. For any brief, request for rehearing or reopening under Wis. Stat. §§ 196.39 or 227.49, and response thereto, use 12 point double-spaced type and one-inch margins. Cite to the record all noted evidence and assertions of fact. Cite to no evidence or assertion of fact outside the record. Limit the number of pages as follows:
 - a. Initial brief - 30 pages.
 - b. Reply brief – 15 pages.
 - c. Non-party brief - 15 pages.
 - d. Request for rehearing or reopening and response thereto – 15 pages.

At Hearing

1. The order of appearances and cross-examination by parties shall follow the order of parties as provided in the list above. Commission staff shall follow all parties. Each party and Commission staff may arrange the order of its witnesses.
2. The Commission shall accept individual witness appearances by telephone as provided by Wis. Stat. § 807.13. The Commission requires neither prior notice of such request nor prior notice of any consent of the other parties or Commission staff.
3. Prior to cross-examination, any witness may offer brief oral testimony that responds only to the last testimony offered by another witness.
4. Limit cross-examination of a witness by the length and scope required to reasonably investigate matters with respect to the testimony of that witness. To investigate beyond these parameters requires the party to have followed the applicable pre-hearing process for compelling the witness to appear at hearing.
5. The Commission intends to webcast all hearings held in Madison. Therefore, the Commission will make no phone lines available to monitor such hearing.
6. Upon an order to exclude proffered evidence the sponsor of such evidence may make an offer of proof separate from the record and entered into the record only if so ordered.

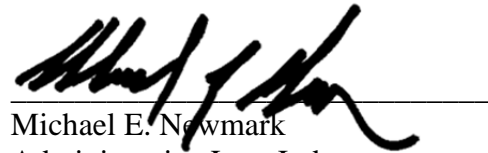
7. The applicants shall make an adequate number of personnel with knowledge of the issues in this docket available at each public hearing session to answer questions from members of the public.

Post-Hearing

1. File and serve:
 - a. Any document used for cross-examination or examination of an adverse witness not filed prior to the party hearing session but received into the record at party hearing session by 12:00 noon 2 days after the last day of the party hearing session. Do not ERF a document that is already filed in this docket, but follow the process for sending paper copies to the Commission.
 - b. Documentary evidence not pre-filed but identified at the party hearing session for which offer into the record is delayed until after the party hearing session (delayed exhibit) by 12:00 noon on the later of 2 days after the last day of the party hearing session or the filing date set at the hearing.
 - c. Every objection to or request to offer rebuttal or countervailing evidence for:
 - i. Any evidence offered by a member of the public by 12:00 noon 2 days after service of the transcript of the public hearing session. File and serve any response by 12:00 noon 2 days after the filing of the objection and any reply by 12:00 noon 1 day after filing of the response.
 - ii. Any delayed exhibit by 12:00 noon 2 days after the date of filing. File and serve any response by 12:00 noon 2 days after the filing of the objection and any reply by 12:00 noon 1 day after filing of the response.
 - d. Every transcript correction by 12:00 noon 5 days prior to the deadline to file the initial post hearing brief.
 - e. The affidavit of any witness attesting to the truthfulness and accuracy of that witness's pre-filed testimony and exhibits offered into the record in the absence of a live oath or affirmation by 12:00 noon 2 days after the hearing.
 - f. Any request for leave to present additional evidence [*See Wis. Stat. § 227.45(2)*] or request to take official notice under Wis. Stat. § 227.45(3). File and serve any response by 12:00 noon 2 days after the filing of the request and any reply by 12:00 noon 1 day after the filing of the response.
 - g. Any request for interlocutory review under Wis. Stat. § PSC 2.27. File and serve any response by 12:00 noon 2 days after the filing of the request and any reply by 12:00 noon 1 day after the filing of the response.

- h. Any request for rehearing or reopening under Wis. Stat. §§ 196.39 or 227.49. File and serve any response by 12:00 noon 5 days after the filing of the request. The Commission shall accept no reply from the requester.
2. The record closes one day after the last deadline for an evidentiary filing set by this order.
3. If before the Commission takes action to review the record a request is filed and served for leave to present additional evidence or take official notice, the Office of Administrative Law Judge may grant the request upon such terms it may deem proper if the additional evidence or noticed fact is material and good cause prevented its presentation at hearing. However, such request does not stay any Commission schedule to make decisions based on the existing record.

Tuesday, December 06, 2011



Michael E. Newmark
Administrative Law Judge