

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of the City of Menasha and WPPI Energy for Approval of the Sale and Leaseback of Certain Electric Utility Facilities from Menasha to WPPI Energy, Sale to WPPI Energy of Menasha's Ownership Shares in American Transmission Company, Authority for Menasha to Increase Electric Rates, and a Declaratory Ruling Regarding the Public Service Commission's Continuing Jurisdiction Over WPPI Energy

5-EI-149

**PREHEARING CONFERENCE MEMORANDUM**

On December 21, 2009, the Commission held a prehearing to: (1) identify persons who will actively participate as parties; (2) identify issues; (3) determine the date and time for a hearing; (4) specify dates for filing testimony and exhibits; and (5) any other matters that will facilitate the hearing.

Pursuant to the prehearing conference discussion and Wis. Admin. Code § PSC 2.04(1) the following matters with respect to regulating the course of the hearing are ordered:

1. Parties:

Except for Commission staff all persons designated in the table below as filers are identified as persons who will actively participate as parties.

2. Issues:

1. Are the interests of the City of Menasha and its residents best served by the City's sale of its electric utility distribution assets to WPPI Energy under Wis. Stat. § 66.0817?
2. Is the proposed sale and leaseback in the public interest under Wis. Stat. § 196.80?
3. If the Commission approves the proposed sale and leaseback under Wis. Stat. §§ 66.0817 and 196.80, what terms and conditions should be applied?
4. Should the Commission issue a declaratory ruling pursuant to Wis. Stat. § 227.41 that the consummation of the sale and lease transaction does not alter the extent of Commission regulation over WPPI?

5. Should the Commission grant in whole or in part Menasha’s request for an electric service rate increase under Wis. Stat. §§ 196.03(1), 196.20(1) and (2m), and 196.37(1), (2) and (3), and if so, under what terms and conditions?
  - a. What is Menasha’s revenue requirement for electric service?
  - b. What is the cost of service as related to each customer class?
  - c. What is the appropriate rate design, including service rules, for each customer class?

3. Dates:

Initial testimony and exhibit numbering assignment, and filing deadlines are as follows:

	Filers	Direct		Supplemental Direct	Rebuttal	Exhibits	Hearing		Pre-hearing Brief	Post Hearing Brief
							Public Session	Party Session		
	<b>Applicant</b>	D1.1-D1.x		SD1.1-SD1.x	R1.1-R1.x	1.1-1.x				
	<b>CUB</b>		D2.1-D2.x		R2.1-R2.x	2.1-2.x				
	<b>WI Paper Council</b>		D3.1-D3.x		R3.1-R3.x	3.1-3.x				
	<b>Commission staff</b>		D4.1-D4.x		R4.1-R4.x	4.1-4.x				
<b>Deadlines &amp; dates</b>		12/23/09 12:00 noon	01/19/10 12 noon	01/07/10 12 noon	01/21/10 12 noon	At the same time as testimony.	01/21/10 1:00 p.m. & 6:00 p.m.	01/21/10 1:00 p.m.	01/18/10	12:00 noon 5 calendar days after service of the transcript

4. Other facilitating matters:

- a. Parties and Commission staff shall:
  - i. File by Electronic Regulatory Filing system (ERF) or, if prohibited by size or format, a standard optical disc storage media.
  - ii. Serve each other by email or, if prohibited by size or format, a standard optical disc storage media.
  - iii. File responses to Commission staff data requests.
  - iv. Serve, but do not file, any party-to-party discovery request and response to other parties and the Commission staff docket coordinator.
  - v. Serve, but do not file, a copy of party-to-party correspondence on the Commission docket coordinator.

- vi. Except for purposes of impeachment serve, but do not file, any document for which it plans to use only for cross-examination by 12:00 noon 1 day prior to the day of the hearing. If received into the record the document's sponsor shall file the document by 12:00 noon 3 days after the last day of the hearing.
  - vii. Request the scheduling of additional hearing time by contacting the Office of Administrative Law Judge by 12:00 noon 1 day prior to the day of the hearing.
  - viii. Indicate any witness it plans to cross-examine and any need to conduct *in camera* cross-examination by contacting the Office of Administrative Law Judge by 12:00 noon 1 day prior to the day of the hearing.
- b. Prior to filing, parties and Commission staff shall:
- i. Center the page number on the bottom of each page of testimony and mark exhibit in the top right-hand corner of each exhibit. Use a cover page for any document where if upon filing the Commission's time stamp and PSC reference number will not clearly appear.
  - ii. Number all testimony and exhibits according to the numbering assignment indicated in the table above.
  - iii. Refer to each exhibit in testimony by using the pre-assigned exhibit number.
  - iv. Except for the filings in this docket, include in any reference to a document already posted on ERF, the ERF identifier "PSC REF #:\_\_\_\_\_".
  - v. Paginate any testimony and mark any exhibit filed under request for confidential handling treatment with the pre-assigned number succeeded by the letter "c".
  - vi. Paginate any testimony and mark any exhibit filed publicly for which another version is filed under request for confidential handling treatment with the pre-assigned number succeeded by the letter "p".
  - vii. 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.
  - viii. Cite to the record any reference to evidence contained in a post hearing brief.
- c. Parties and Commission staff shall file and serve:

- i. All written testimony and exhibits within the pre-assigned schedule indicated in the table above.
- ii. A redacted public version of every document filed under request for confidential handling treatment. *See* Wis. Admin. Code § 2.12(4).
- iii. Every correction to pre-filed testimony and exhibits in the form of an errata sheet or replacement page by 12:00 noon 1 day prior to day of the hearing. Indicate on the errata the location of each correction by page and line number or exhibit number. Timely corrections require no motion to file or pre-approval from the Office of Administrative Law Judge, but such corrections are subject to objection.
- iv. Any requests to take a witness at a specific prearranged time by 12:00 noon 3 days prior to the day of the hearing.
  - v. 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 3 days after the hearing.
  - vi. Documentary evidence not pre-filed but indentified at the hearing for which offer into the record is delayed until after the hearing (delayed exhibit) by 12:00 noon on the filing date set at the hearing.
  - vii. Every transcript correction by 12:00 noon 5 days after issuance from the Office of Administrative Law Judge of the public transcript by email and any confidential transcript by mail.
- viii. Any motion to compel a discovery response or motion for protective order in enough time to accommodate the full briefing schedule under Wis. Admin. Code § 2.23 plus one week prior to the day of hearing.
- ix. Any motion to take official notice under Wis. Stat. § 227.45(4) by 12:00 noon 1 day before the day of hearing.
  - x. Any response to a request for rehearing or reopening by 12:00 noon 5 days of the filing of the request. *See* Wis. Stat. §§ 196.39(2) and 227.49(5). The Commission shall accept no reply from the requester.
  - xi. Any response to a request for intervention, an objection to the receipt of evidence offered by a member of the public or a delayed exhibit, by 12:00 noon 3 days after filing. File any reply by 12:00 noon 2 days after the filing of the response.
- xii. Every objection to or request to offer rebuttal or countervailing evidence for:

1. Direct testimony and corresponding exhibits by the deadline for rebuttal testimony.
  2. Any evidence offered by a member of the public by 12:00 noon 3 days after service of the transcript.
  3. Any delayed exhibit by 12:00 noon 3 days after the date of filing.
- d. Filing constitutes certification of service. *See* Wis. Admin. Code § PSC 2.06(3)(a)2.
  - e. The Commission shall accept no Internet hyperlinks as record evidence.
  - f. Prior to cross-examination, any witness may offer brief oral testimony that responds only to the last submission of testimony of another witness. File no written version of this testimony, but if reading from a prepared statement, provide a copy of this statement to the court reporter.
  - g. For any evidence for which there exists a deadline to object or request to offer rebuttal or countervailing evidence, without timely objection or request the Office of the Administrative Law Judge shall receive the evidence into the record without further order.
  - h. Wis. Admin. Code § PSC 2.12(1)-(6) applies to any transcript volume that contains testimony taken *in camera*. The person who originally asserted that confidential handling treatment should protect information in what now appears in that volume shall file and serve a request under Wis. Admin. Code § PSC 2.12(3) and a redacted copy of the volume under Wis. Admin. Code § PSC 2.12(4) by 12:00 noon 5 days after issuance of the original by mail from the Office of Administrative Law Judge. Omit from this filing any verification from the court reporter with respect to the veracity of the original volume. This filing exists only for public convenience and provides no authoritative record of the proceedings. The original volume shall control in the case of any discrepancy between it and the filing.
  - i. The Commission shall afford to any transcript volume granted confidential handling treatment under Wis. Admin. Code § PSC 2.12 the same document handling and retention process and procedure that applies to all other documents granted confidential handling treatment.
  - j. The order of appearances and cross examination by parties shall follow the order of filers as provided in the table above. Commission staff shall follow all parties. Each filer may arrange its presentation of witnesses, but numerical order by pre-filed page number is preferred.
  - k. 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.

- l. The Applicant shall make an adequate number of personnel with knowledge of the issues in this docket available at the hearing to answer questions from members of the public.
- m. Briefs of a party shall not exceed 20,000 words. Non-party briefs shall not exceed 5,000 words. Briefs shall cite or introduce no document outside the record except for published court decisions and Commission orders.
- n. The Office of Administrative Law Judge shall issue every written order to parties and Commission staff by email.
- o. The Office of Administrative Law Judge shall act only on a request officially filed. Any unopposed motion shall contain a representation of the consent of the other parties and Commission staff.
- p. In computing any period of time that follows service by a party or Commission staff or follows an issue of the Office of Administrative Law Judge, the day of emailing is the day from which the designated period of time begins to run. *See* Wis. Admin. Code § PSC 2.05(2).

Monday, December 28, 2009



Michael E. Newmark  
Administrative Law Judge

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