

PUBLIC UTILITIES LAW UPDATE 2019

Annual Public Service Commission Update

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Agenda

- ▶ What's New
 - ▶ Personnel and Operational News
 - ▶ Legislative Update
 - ▶ Rules Update
 - ▶ Court Case Update
 - ▶ Programmatic Update
- ▶ Hot Topics
 - ▶ Interesting Dockets and Cases to Watch

New Faces



- ▶ New Commissioner and Chairperson Rebecca Cameron Valcq
 - ▶ Carrie Templeton, Executive Assistant to Chair
- ▶ Commissioner Ellen Nowak returns to complete term of Lon Roberts
 - ▶ Bob Seitz, Executive Assistant

New Faces



- ▶ Matthew Dannenberg, Legislative and Communications Director
- ▶ Eric Esser, Administrator, Division of Water, Telecommunications and Consumer Affairs

New Places

- ▶ We love our new home!

Transition to Hill Farms



Operational Update

- ▶ No more paper copies submitted following contested case hearings!
- ▶ Consistency, streamline of process and requirements for grants and IC
- ▶ New Confidential Determination Process
- ▶ Confidentiality Agreements for Contested Cases
- ▶ Enhancements to Customer Contact System (CCS) and other behind the scene upgrades

Operational Update - Confidential Determinations

- ▶ Submitter will receive email response:
 - ▶ Grant - Your request for confidential handling under Wis. Admin. Code § 2.12 has been granted.
 - ▶ Deny - Your request for confidential handling under Wis. Admin. Code § 2.12 has been denied because none of the record contains information qualifying for confidential handling under Wis. Admin. Code § 2.12(3). Please re-file only a public version of the record with no redactions. Contact the docket coordinator or division administrator with questions.

Operational Update - Confidential Determinations

- ▶ Deny - Your request for confidential handling under Wis. Admin. Code § 2.12 has been denied because you requested confidential handling of the entire record and only a portion of the record qualifies for confidential handling. Pursuant to Wis. Admin. Code § 2.12(4), please re-submit the request with only those *portions* of the record that are confidential identified (shaded in the confidential version/redacted in the public version). You must re-file both a public and confidential version of the record. Contact the docket coordinator or division administrator with questions.

Legislative Update - PSC's Implementation of New Authority

- ▶ 2017 Wisconsin Act 137, (Wis. Stat. § 196.372) relating to water public utility financial assistance and political subdivision loans for lead-containing customer-side water service laterals
- ▶ 2017 Wisconsin Act 136, PSC Bill
 - ▶ Settlements, Wis. Stat. § 196.026
 - ▶ One-Call System Enforcement, Wis. Stat. §

Legislative Update - Implementation of Wis. Stat. § 196.372

- ▶ Water public utility may provide financial assistance to the owner of a property for purpose of assisting owner in replacing customer-side LSL
- ▶ Sub. (3) requires utility seeking approval under sub. (2) to submit an application to the Commission
 - ▶ Investigation
 - ▶ May include hearing
 - ▶ Action with 90 days after complete application if no hearing and 180 days if hearing held
 - ▶ Optional extensions approved by Chairperson
- ▶ New Docket Type - “LS”

Legislative Update - Implementation of Wis. Stat. § 196.372

- ▶ Kenosha's program authorized in docket 2820-LS-100,
 - ▶ Final Decision, [PSC REF# 349639](#)
- ▶ Manitowoc's program - pending in docket 3320-LS-100
 - ▶ Staff Memorandum, [PSC REF# 359548](#)
- ▶ Menasha's program - pending in docket 3560-LS-100,
 - ▶ Notice of Investigation, [PSC REF# 359985](#)

Legislative Update - Implementation of Wis. Stat. § 196.026

- ▶ Encourages settlements when possible
- ▶ Parties may agree upon some or all of the facts, evidenced by stipulation
- ▶ Parties may agree upon a resolution of some or all of the issues
 - ▶ submit to the Commission the settlement agreement and any documents, testimony, or exhibits, including record citations if there is a record, and any other matters those parties consider relevant to the proposed settlement and serve a copy of the settlement agreement upon all parties to the docket.

Legislative Update - Implementation of Wis. Stat. § 196.026

- ▶ If settlement is contested, convene at least one conference
- ▶ Within 30 days (or different time set by Commission), respond to settlement with consent or objection
- ▶ No response = non-objection
- ▶ Objector to state all objections with particularity and identify parts of settlement that are objectionable and how it adversely impacts objector

Legislative Update - Implementation of Wis. Stat. § 196.026

- ▶ Commission may approve if all below are met:
 - ▶ Each party has been given a reasonable opportunity to present evidence and arguments in opposition of the settlement
 - ▶ The public interest is adequately represented by the parties who entered into the settlement
 - ▶ Agreement represents a fair and reasonable resolution, supported by substantial interest and complies with applicable law
- ▶ May approve in whole or in part, and impose conditions

Legislative Update - Implementation of Wis. Stat. § 196.026

- ▶ Wisconsin Power and Light Rate Case Settlement, docket 6680-UR-121
- ▶ Madison Gas and Electric Rate Case Settlement, docket 3270-UR-122
- ▶ Kaukauna Settlement, dockets 2800-ER-108 and 2800-TE-103

Legislative Update - Implementation of Wis. Stat. § 196.026

- ▶ WP&L Settlement, docket 6680-UR-121, Final Decision, [PSC REF# 355884](#)
 - ▶ No change in rates for test years 2019 and 2020
 - ▶ No change to ROE
 - ▶ Increase in financial equity ratio from 51 to 52 percent
 - ▶ Use of tax savings
 - ▶ Recover of certain deferred costs
 - ▶ Modification to Earning Sharing Mechanism
 - ▶ No hearing required for settlement
 - ▶ Hearing for fuel case - agreement provided tax savings used to off-set any change from settled estimate of fuel costs with fuel costs set in fuel proceeding
 - ▶ CUB and WIEG settling parties. No parties objected

Legislative Update - Implementation of Wis. Stat. § 196.026

- ▶ MGE Settlement, docket 3270-UR-122, Final Decision, [PSC REF# 355887](#)
 - ▶ Decrease for electric, increase for natural gas
 - ▶ No change to ROE
 - ▶ No change to financial capital structure
 - ▶ Accelerated depreciation of certain assets
 - ▶ Only limited use of tax savings
 - ▶ Hearings for settlement and fuel case
 - ▶ All parties, except Sierra Club, signed settlement. No opposition to settlement
 - ▶ Commission directed changes to settlement provision

Legislative Update - Implementation of Wis. Stat. § 196.026

- ▶ Kaukauna Settlement, dockets 2800-ER-108 and 2800-TE-103, Final Decision, [PSC REF# 358621](#)
 - ▶ Interim Order in Rate Case, [PSC REF# 343047](#)
 - ▶ New standby tariff proposed as vehicle to settle rate case after issuance of Interim Order
 - ▶ Commission made modifications to settlement
 - ▶ All parties to case joined settlement

Legislative Update - Implementation of Wis. Stat. § 196.026

- ▶ Lessons Learned in year 1
 - ▶ Start negotiations early
 - ▶ Notice of Intent to Settle
 - ▶ Sharing of information critical
 - ▶ Balancing need for record and respect for confidential negotiations
 - ▶ Understand role of staff
 - ▶ Interplay with Fuel cases

Legislative Update - Implementation of Wis. Stat. § 182.0175(3)(br)2

- ▶ Jurisdiction over complaints involving alleged violation of one-call system upon referral from panel
 - ▶ Complaints can be filed by one-call system, political subdivision, transmission facility owner, or underground line locator
- ▶ Panel makes initial decision and can refer to the Commission for enforcement
- ▶ PSC must make determination initially whether sufficient cause exists to warrant a hearing
- ▶ If sufficient cause, set the matter for hearing upon 10 days notice
- ▶ Consent agreement, fines
- ▶ Pending, Dockets 9300-PLI-100 and 9300-PLI-101

Rules Update

▶ Active Rulemakings

- ▶ 1-AC-250, Revisions to Wis. Admin. Code ch. PSC 114, Wisconsin State Electrical Code, Volume 1
 - ▶ With JCRAR
- ▶ 1-AC-233 - Updates to Water Service Rules, Wis. Admin. Code ch. PSC 185
 - ▶ Commission reviewed final rules package and narrowed remaining issues to be addressed
- ▶ 1-AC-247, Changes to chs. PSC 113, 134 and 185 to conform to 2013 Wisconsin Act 274 and 2015 Wisconsin Act 176 regarding municipal utility collection practices
 - ▶ Drafting

Rules Update

▶ Active Rulemakings

- ▶ 1-AC-251, Changes to Wis. Admin. Code ch. PSC 160 to bring the Universal Service Rules into compliance with new FCC Lifeline guidelines

- ▶ Hearing for Statement of Scope

- ▶ 1-AC-252, Changes to Wis. Admin. Code ch. PSC 118, RRCs to conform to 2017 Wisconsin Act 53 which added heat that is a byproduct of a manufacturing process to lists of renewable resources and if used to provide thermal energy that displaces use of electricity to create a RRC

- ▶ Hearing for Statement of Scope

- ▶ Denial of request to commence rulemaking for solar siting, docket 1-AC-254, Order, [PSC REF# 359090](#)

Court Case Update

- ▶ Recent Wisconsin Court of Appeals Cases
 - ▶ *Town of Holland vs. Public Serv. Comm'n*, 2018 WI App 38, 382 Wis.2d 799, 913 N.W.2d 914
 - ▶ *TMS Investments and Gregory Thompson v. Public Serv. Comm'n*, 2017-AP-001883, Summary Disposition, Petition for Wis. S. Ct. Review pending
 - ▶ *Town of Forest vs. Public Serv. Comm'n*, 2018-AP-367, 2019 WL 81992 (unpublished)
 - ▶ Request for reconsideration and publication denied

Court Case Update

- ▶ Recent Federal Case

- ▶ *Verso Corporation, et al. vs. Federal Energy Regulatory Commission*, 898 F.3d 1

- ▶ Cert petition pending

- ▶ Pending Cases

- ▶ *Oak Creek v. Public Ser'v Comm's*, Case No. 18-CV-5591 (Milw. Cty. Cir. Ct.)

Programmatic Update

- ▶ Focus on Energy
 - ▶ Quadrennial Planning Process III Completed
 - ▶ Final Decision setting goals, priorities and measurable targets, [PSC REF# 343909](#)
 - ▶ RECIP modifications and new programs for agricultural and rural customers, Final Decision, [PSC REF#349339](#)
 - ▶ “New” Program Administrator - APTIM, docket 9501-FE-123
- ▶ Broadband
 - ▶ Over \$20 million awarded since programs inception
- ▶ Energy Innovation Grant Program, Inaugural awards of approximately \$5 million, docket 9709-FG-2018
 - ▶ Order, [PSC REF# 352181](#)

Hot Topics - CPCNs, CPCNs and more CPCNs...

- ▶ Two Creeks Solar Facility, dockets 9696-CE-100 and 101
- ▶ Badger Hollow Solar Facility, dockets 9697-CE-100 and 101
 - ▶ MGE and WSPC proposed acquisition of Two Creeks and Badger Hollow, docket 5-BS-228
- ▶ Northern Lights Transmission Project, docket 137-CE-189
- ▶ Cardinal Hickory Transmission Project, docket 5-CE-146
- ▶ Nemadji Trail Energy Center, dockets 9698-CE-100 and 101
- ▶ More solar CPCNs expected soon

Hot Topics - Rates

- ▶ WEPCO and WG rate case filing April 1, 2019, docket 5-UR-109
- ▶ WPSC rate case filing April 1, 2019, docket 6690-UR-126
- ▶ NSPW, docket 4220-UR-124
- ▶ 5-AF-101 - On-going work to be done

Hot Topics - Tariffs

- ▶ WEPCO's Solar Now and DRER Tariffs, docket 6630-TE-102, Final Decision, [PSC REF# 356192](#)
- ▶ NSPW Green Tariff Program, docket 4220-TE-102, Final Decision, [PSC REF# 356122](#)
- ▶ WP&L Tariffs for Credit Card and Late Payment Fees, dockets 6680-TE-103 and 6680-TG-108, Final Decision, [PSC REF# 355685](#)

Hot Topics - Tariffs

- ▶ WP&L Update to Renewable Energy Tariff, docket 6680-TE-104, Application, [PSC REF# 359738](#)
- ▶ MGE New Load Market Pricing Electric Tariff, docket 3270-TE-103, Application, [PSC REF# 359937](#)
- ▶ NSPW AC Rewards Program, docket 4220-TE-103, Application, [PSC REF# 357579](#)

Hot Topics - Generic Dockets

- ▶ Natural Gas Utility Extension Practices, docket 5-GI-116
- ▶ Gas Risk Management Practices, docket 5-UI-118
- ▶ Electric Vehicles, docket 5-UI-119
- ▶ Expect more!