

PUBLIC UTILITIES LAW UPDATE 2020

Annual Public Service Commission Update

March 4, 2020

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Public Service Commission of Wisconsin**





Agenda

- ▶ What's New
 - ▶ Personnel and Agency Realignment
 - ▶ Court Case Update
 - ▶ Rules Update
 - ▶ Programmatic Update

- ▶ Hot Topics
 - ▶ Recent Interesting Dockets from 2019
 - ▶ Interesting Dockets and Cases to Watch in 2020

New Faces



- ▶ Commissioner Vacancy with resignation of Mike Huebsch
- ▶ Matt Sweeney, Legislative and Communications Director
- ▶ New State Broadband Director - Jaron McCallum
- ▶ “New” faces associated with agency realignment

Agency Realignment



- ▶ June, 2019
- ▶ Achieve more effective and efficient operations
- ▶ Optimize the use of human resources and management personnel
- ▶ Provide more responsive service to the public and our customers
- ▶ Better meeting program and workflow demands

Agency Realignment



- ▶ Division of Energy Regulation and Analysis (DERA)
 - ▶ Administrator Martin Day
- ▶ Division of Water Utility Regulation and Analysis (DWURA)
 - ▶ Administrator Denise Schmidt
- ▶ Division of Digital Access, Consumer and Environmental Affairs (DACEA)
 - ▶ Administrator Kristy Nieto
 - ▶ Deputy Administrator Tara Pray
- ▶ Division of Business Operations and Office Management (DBOM)
 - ▶ Administrator Eric Esser

Agency Realignment



- ▶ Division of Energy Regulation and Analysis (DERA)
 - ▶ Bureau of Rates and Finance - Sherry Colstad
 - ▶ Bureau of Audit and Accounting - Jackie Madsen
 - ▶ Bureau of Electric Analysis and Engineering - Vacant
 - ▶ Engineering Unit - Andy Ehlert
 - ▶ Office of Regional Markets - Randy Pilo
 - ▶ Bureau of Natural Gas Analysis and Safety - Kate Christensen
 - ▶ Gas Pipeline Safety Unit - Alex Kirschling

Agency Realignment



- ▶ Division of Water Utility Regulation and Analysis (DWURA)
 - ▶ Bureau of Water Regulation - Andy Galvin

Agency Realignment



- ▶ Division of Digital Access, Consumer and Environmental Affairs (DACEA)
 - ▶ Bureau of Consumer Affairs - Brad Rose
 - ▶ Office of State Broadband & Telecommunications Access - Alyssa Kenney
 - ▶ Office of Environmental Analysis - Adam Ingwell
 - ▶ Office of Energy Innovation - Vacant

Agency Realignment



- ▶ Division of Business Operations and Office Management (DBOM)
 - ▶ Financial Services Bureau - Jenna Schmidt
 - ▶ Office of Business and IT Services - Jeff Thomas
 - ▶ Records Management
 - ▶ Applications and Technical Teams
- ▶ Employee Engagement

Court Case Update

▶ Recent Federal Court Decisions

- ▶ *Verso Corporation, et al. vs. Federal Energy Regulatory Commission*, 898 F.3d 1
 - ▶ U.S. Supreme Court Denied Petition for a Writ of Certiorari

▶ Recent Wisconsin Circuit Court Decisions

- ▶ *Oak Creek v. Public Ser'v Comm's*, Case No. 18-CV-5591 (Milw. Cty. Cir. Ct.)(Decision and Final Order Apr. 4, 2019 affirming PSC's Final Decision in docket 4310-CW-109)
- ▶ *Garrow Properties, LLC v. Public Ser'v Comm's*, Case No. 19-CV-0568 (Winnebago Cty. Cir. Ct.)(Order Feb. 6, 2020 affirming PSC's decision in docket 9300-SI-123)

Court Case Update

- ▶ Recent Wisconsin Supreme Court Decisions
 - ▶ *TMS Investments and Gregory Thompson v. Public Serv. Comm'n*, 2017-AP-001883, Petition for Review Denied
 - ▶ Lower courts affirmed the Commission's decision in docket 9300-SI-121
 - ▶ *Town of Forest vs. Public Serv. Comm'n*, 2018-AP-367, 2019 WL 81992, Petition for Review Denied
 - ▶ Relating to docket 2535-CE-100
 - ▶ *Eagle Point Solar LLC, et al. v. Public Ser'v Comm's*, 2019-AP-2281, Petition to Bypass Court of Appeals Denied
 - ▶ Second Bypass Petition filed February 24, 2020
 - ▶ Open docket 9300-DR-104

Court Case Update

▶ Pending Wisconsin Court of Appeals Cases

- ▶ *Eagle Point Solar LLC, et al. v. Public Ser'v Comm's*, 2019-AP-2281 - appeal from 19-CV-1449 where Dane Cty. Cir. Ct. dismissed Eagle Point's complaint.
- ▶ *Superior Ops, LLC, et al. v. Public Ser'v Comm's*, 19-AP-2001 - appeal from 19-CV-0178 where Douglas Cty. Cir. Ct. dismissed petition for review of PSC decision in docket 5820-CC-216798

▶ Pending Federal Cases

- ▶ *Driftless Area Land Conservancy and Wisconsin Wildlife Federation v. Public Ser'v Comm's et al.*, 19-cv-1007 (W.D. Wis.)
 - ▶ Relating to docket Cardinal Hickory Creek, docket 5-CE-146

Court Case Update

▶ Pending Wisconsin Circuit Court Cases

- ▶ *County of Dane, et al. v. Public Ser'v Comm's*, 19-CV-3418 (Dane Cty. Cir. Ct.) - review of Final Decision in docket 5-CE-146
 - ▶ Iowa County Case No. 19-CV-144, Columbia County Case No. 19-CV-334, and Iowa County Case No. 19-CV-142 consolidated into Dane County Action
 - ▶ Petitioners include: County of Dane, Driftless Area Land Conservancy, Wisconsin Wildlife Federation, Iowa County, Town of Wyoming, Village of Montfort
 - ▶ Intervenor-Petitioners include: Chris Klopp, Gloria and LeRoy Belkin, and SOUL
 - ▶ Intervenor-Respondents include: ATC, ITC, DPC, MISO, Clean Grid Alliance, Fresh Energy and Minnesota Center for Environmental Advocacy

Court Case Update

- ▶ Pending Wisconsin Circuit Court Cases

- ▶ *Sierra Club et al., v. Public Ser'v Comm's*, 20-CV-177 (Dane Cty. Cir. Ct.), appeal of portion of PSC's Final Decision in docket 5-UR-109 relating to determination of the parallel generation buyback rates for WEPCO's CGS tariffs.

Rules Update

- ▶ Wis. Stat. § 227.135(5) - Expiration of Statements of Scope
 - ▶ 1-AC-233 - Updates to Water Service Rules, Wis. Admin. Code ch. PSC 185
 - ▶ 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

Rules Update

- ▶ Wis. Stat. § 227.29(1) - Odd-numbered year reporting on unauthorized, obsolete, duplicative rules
- ▶ March 31, 2019 Report
 - ▶ Wis. Admin. Code § PSC 136.05 (non-essential uses of natural gas - repealed by Wis. Stat. s. 196.97)
 - ▶ Wis. Admin. Code §§ 173.02(4), (6), (7), (11), (13), (14) and (15), 173.06, 173.07, 173.08, 173.09, 173.10, 173.11 and 173.12 - related to wireless 911 sunset per Wis. Stat. s. 256.35(3m) in 2009
 - ▶ Repeal of authorized

Rules Update

- ▶ Recent completed rulemakings
 - ▶ 1-AC-250, Changes to Wis. Admin. Code ch. PSC 114 - state electrical code volume 1 - effective date March 1, 2020
- ▶ 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 held on Statement of Scope
 - ▶ Next step economic impact statement
 - ▶ SOS expires July 14, 2021

Rules Update

▶ Active Rulemakings

- ▶ 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 held on Statement of Scope
 - ▶ Next step economic impact statement
 - ▶ SOS expires July 14, 2021

- ▶ New Rulemaking - 1-AC-255, Revisions Wis. Admin. Code ch. PSC 135 - Federal Gas Pipeline Safety Code and Transmission Rule Update

Programmatic Update

- ▶ Focus on Energy
 - ▶ 2020 Changes to Renewable Energy Program Structure
 - ▶ All solar PV incentives prescriptive regardless of size, taking them out of RECIP track
 - ▶ Incentive amounts based on capacity rather than prior 12 percent of project costs and current cap for systems of 500 kW and larger at \$73,500 with adjustments to incentive levels to made periodically as installation costs change, using data from Focus program on installations receiving incentives
 - ▶ Quad Planning IV Starting Soon

Programmatic Update

▶ Broadband

- ▶ \$24 million grants available for FY 2020

- ▶ 5-BF-2020

- ▶ 143 grant applications from 54 different applicants requesting at total of \$50,876,685

▶ Energy Innovation Grant Program

- ▶ Second Round of Grants Opening Soon

Hot Topics - Interesting Dockets from 2019 and Dockets to Watch in 2020

- ▶ Wis. Stat. § 196.372 - financial assistance and political subdivision loans for lead-containing customer-side water service laterals
 - ▶ Manitowoc's program authorized in docket 3320-LS-100 ([PSC REF# 361768](#))
 - ▶ Menasha's program authorized in docket 3560-LS-100 ([PSC REF# 368602](#))
 - ▶ Pending: Fond du Lac (docket 2010-LS-100), Sun Prairie (docket 5810-LS-100), Green Bay (docket 2350-LS-100), Kaukauna (docket 2800-LS-100), and Sheboygan (docket 5370-LS-100)

Hot Topics - Interesting Dockets from 2019 and Dockets to Watch in 2020

- ▶ Settlements, Wis. Stat. § 196.026
 - ▶ NSPW Rate Case, docket 4220-UR-124 ([PSC REF#: 380611](#))
 - ▶ WEPCO and WG, docket 5-UR-109 ([PSC REF#: 381305](#))
 - ▶ WPSC, docket 6690-UR-126 ([PSC REF#: 381325](#))
 - ▶ IC in Settlement Process, docket 1-IC-530

Hot Topics - Interesting Dockets from 2019 and Dockets to Watch in 2020

- ▶ One-Call System Enforcement, Wis. Stat. § 182.0175(3)(c)
 - ▶ USIC Locating Services v. VC Tech, docket 9300-PLI-100
 - ▶ Maximum Fine issued (\$25,000), assessment and educational course ([PSC REF#: 375109](#))
 - ▶ NNG v. Muscatine Utility Services, docket 9300-PLI-101
 - ▶ Up to \$10,000 fine imposed -deferred collection of \$5,000 pending compliance with order and no additional violations for 1 year

Hot Topics - Interesting Dockets from 2019 and Dockets to Watch in 2020

- ▶ One-Call System Enforcement, Wis. Stat. § 182.0175(3)(c)
 - ▶ Alliant Energy v. Milenium, Inc., docket 9300-PLI-102
 - ▶ Alliant Energy v. DeMars Plumbing, docket 9300-PLI-103
 - ▶ Mecus v. Olameter, docket 9300-PLI-104
 - ▶ TC Energy v. Tel-Optic, docket 9300-PLI-105
 - ▶ Alliant v. House Doctors MD, Inc., docket 9300-PLI-106
 - ▶ TC Energy v. Edwards LLC, docket 9300-PLI-107
 - ▶ We Energies v. J&M Electrical, docket 9300-PLI-108
 - ▶ TC Energy v. Sunnyworld LLC, docket 9300-PLI-109

2019 and 2020 - 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
- ▶ Northern Lights Transmission Project, docket 137-CE-189
- ▶ Cardinal Hickory Creek Transmission Project, docket 5-CE-146
- ▶ Nemadji Trail Energy Center, dockets 9698-CE-100 and 101
- ▶ NextEra Point Beach Solar, docket 9802-CE-100
- ▶ Badger State Solar, docket 9800-CE-100
- ▶ More anticipated soon

2020 - Other Interesting Dockets to Watch

- ▶ Waukesha, docket 6240-CW-117 and Milwaukee, docket 3720-WR-135
- ▶ WEPCO Lakeshore Lateral Project, docket 6630-CG-138
- ▶ Enbridge Wis. Stat. § 32.02(13) Public Interest Determination for Relocation of Line 5, docket 9230-PI-101
- ▶ Petition of No Green County Wind for Appeal under Wis. Admin. Code § PSC 128.51 of Green County Zoning Offices approval of EDF Renewables Wind Energy System Application, docket 9300-WF-105
- ▶ Eagle Point Appeal of Denial of Application for Interconnection, docket 9300-DR-104

Hot Topics - Tariffs

- ▶ EV Charging Tariffs
 - ▶ Sun Prairie, docket 5810-TE-106, [PSC REF#: 378093](#)
 - ▶ WEPCO and WPSC Residential Vehicle Charger Incentive Programs, docket 5-UR-109 and 6690-UR-126
 - ▶ NSPW EV Home Service Program, docket 4220-TE-104 (pending)
- ▶ NSPW Residential Load Management Program, docket 4220-TE-103, [PSC REF#: 364752](#)
- ▶ MGE NLMP, docket 3270-TE-103, [PSC REF#: 368677](#)
- ▶ WPL Community Solar Tariff, Renewable Energy Partner Tariff and Customer-Hosted Renewables Pilot, docket 6680-TE-104, [PSC REF#: 372550](#)

Hot Topics - Tariffs

- ▶ MGE Expansion and Modification of Shared Solar, docket 3270-TE-104, [PSC REF#: 373113](#)
- ▶ NSPW EDR, docket 4220-TE-105 (pending)
- ▶ SWL&P Community Solar Garden Project, docket 5820-TE-100 (pending)

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
- ▶ New “AFR” Dockets
- ▶ Expect more!