

Guidelines for Contested Case Proceedings

1	Contents
2	
3	A. General
4	B. Documents – Filing and Service, Formatting, Numbering
5	1. Filing and Service
6	2. Confidentiality
7	3. Written Testimony
8	a. Contents
9	b. Format
10	c. Filing
11	4. Exhibits
12	a. Contents
13	b. Format
14	c. Filing
15	5. Requests for an Order/Briefs
16	a. Contents
17	b. Format
18	c. Filing
19	d. Corrections
20	6. Paper copies
21	C. Motion Practice
22	D. ALJ Communications and Orders
23	E. Pre-Hearing Procedures
24	1. Discovery
25	2. Hearing Preparation
26	F. Hearing Procedures
27	G. Post-Hearing Procedures
28	H. Post-Decision Procedures
29	

Guidelines for Contested Case Proceedings

1 A. General

- 2
- 3 1. The Commission provides the following guidelines to inform the public of certain details of practice before the Commission in
- 4 contested case proceedings. These guidelines become binding procedures for a particular docket when ordered by the presiding
- 5 Administrative Law Judge. The presiding Administrative Law Judge may adopt these guidelines in whole, or in part, or modify
- 6 these guidelines as necessary to facilitate processing a particular docket.
- 7 2. The assigned Commission staff attorney is the first point of contact for a party on any procedural matter related to the docket.
- 8

9 B. Documents – Filing, and Service, Formatting, Numbering

10 1. Filing and Service

- 11
- 12 a. The Commission shall receive only Portable Document Format (“PDF”) files for the record. Documents shall contain no
- 13 attachments or embedded files. For more information, contact the Commission’s Records Management Unit at (608) 261-8521.
- 14 b. File any document by upload to the Commission’s Electronic Records Filing System (“ERF”)
- 15 <http://apps.psc.wi.gov/appsHome.html>).
- 16 c. If ERF does not accept a document, serve the document and contact the Commission’s Records Management Unit at
- 17 (608) 261-8521 for assistance.
- 18 d. ERF upload requires the assignment of a “Document Type.” Choose the “Document Type” that best corresponds with the
- 19 substance of the document from the following:
- 20 1. Application
- 21 2. Brief
- 22 3. Comments
- 23 4. Correspondence
- 24 5. Data Request/Response
- 25 6. Exhibit - Offered
- 26 7. Motion
- 27 8. Petition
- 28 9. Request for Intervenor / Party Status
- 29 10. Testimony - Offered
- 30 e. ERF upload requires the submission of a document “Description.” Be concise when doing so.
- 31 f. Filing constitutes certification of service. *See* Wis. Admin. Code § PSC 2.06(3)(a).
- 32 g. Parties and Commission staff serve by e-mail. Use a password protected PDF when serving a document that contains
- 33 information filed under a request for confidential handling. If size, or format prevents e-mail service, serve by physical
- 34 delivery on a standard optical disc storage media.

Guidelines for Contested Case Proceedings

- 1 **h.** Parties and Commission staff shall inform each other of any e-mail address and one physical address to which the
- 2 requirements of service shall apply.
- 3 **i.** Serve the Commission docket coordinator any, but, unless otherwise required, file no party to all-party correspondence.
- 4 **j.** In computing any period of time that follows service, the day of e-mailing is the day of mailing. *See* Wis. Admin. Code
- 5 § PSC 2.05(2). This applies regardless of any dated signature or ERF filing date stamp.
- 6

2. Confidentiality

- 8 **a.** To protect a record submitted in the course of this proceeding from public disclosure, request confidential handling treatment
- 9 under Wis. Admin. Code § 2.12(3).
- 10 **b.** For any filing that includes information subject to a request for confidential handling:
 - 11 **1.** File a confidential version with the affidavit required under Wis. Admin. Code PSC § 2.12 at the beginning of the
 - 12 document.
 - 13 **2.** Shade in light gray, any specific text to which the request applies.
 - 14 (“The cost was \$2.00”)
 - 15 **3.** File a public version with the specific text to which the request applies completely removed and replaced with a black
 - 16 mark. Include no affidavit in the public version.
 - 17 (“The cost was █████”)
 - 18 **4.** No confidential filing shall enter the record if the public version is a complete redaction of the original.
 - 19 **5.** The signatory of an affidavit required under Wis. Admin. Code PSC § 2.12 may not rely on a representation of another
 - 20 with respect to the substantive basis of the request for confidential handling, but shall have actual knowledge of, and
 - 21 personally verify that basis. This means filer of the document may need to obtain the affidavit from another party, or a
 - 22 third party. But if the document to be filed already exists on ERF subject to confidential handling treatment, the filer's
 - 23 affidavit may meet this requirement by making reference to the existing affidavit on file.
- 24 **c.** The Commission shall hear *in camera* any oral testimony and cross-examination that may include information subject to a
- 25 claim for confidential handling. The Commission shall handle the transcript volume for such hearing as confidential, subject
- 26 to the post-hearing process provided herein to maintain such claim.
- 27 **d.** Any party, or its representative, may review a record submitted in the course of this proceeding and protected under Wis.
- 28 Admin. Code § 2.12, and participate in any *in camera* proceedings in this docket, subject to any protective measures
- 29 necessary to protect the trade secrets of parties and any information entitled to confidentiality protection. Such measures
- 30 may be provided by agreement between the parties and without approval of the Administrative Law Judge or, if agreement
- 31 cannot be reached, by order of the Administrative Law Judge.
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Guidelines for Contested Case Proceedings

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3. Written Testimony

a. Contents

1. Parties and Commission staff produce written testimony in lieu of oral testimony at hearing, according the schedule established by order.
2. Rounds of written testimony, are defined as:
 - a. The first round of testimony, “direct,” provides each party the opportunity to present its positions and produce evidence to prove the facts needed to support its claims.
 - b. A second round of testimony, “rebuttal,” provides each party the opportunity to present responsive and countervailing evidence to that presented in direct.
 - c. A third round of testimony, “surrebuttal,” provides each party the opportunity to present responsive and countervailing evidence to that presented in rebuttal.
3. Testimony that supplements the contents of testimony the witness already filed requires a request for leave to file. Submit the request simultaneously, but separately, from the supplement.
4. The rounds of testimony filed after direct shall introduce no new issues.
5. The scope of written testimony is narrowed with each round of filing such that it addresses only the testimony filed in the previous round.
6. Failure to rebut or surrebut the testimony of another witness does not imply consent to that testimony. A witness must expressly recant any prior testimony. A witness need not repeat or restate prior testimony to retain its position on any matter.
7. The testimony of another witness speaks for itself. A witness should refer to the testimony offered by another witness by citation rather than restating it, whenever possible.
8. Only documentary evidence expressly offered for and duly received as an exhibit will come before the Commission. Therefore, testimony shall only direct the Commission to documents offered as exhibits. Testimony may include citations (including PSC REF#s) to documents not offered as exhibits, but only for the purpose of identifying the source of facts asserted so that the fact asserted maybe verified by other parties and Commission staff.
9. Identify in an errata sheet, any corrections to testimony known before the hearing. After the hearing, refile the testimony that requires corrections as provided in the post-hearing process provided in these Guidelines.

b. Format

1. Separate the testimony from any:
 - a. Exhibit being offered in that testimony.
 - b. Cover letter.
 - c. Request for an order.

Guidelines for Contested Case Proceedings

2. Include no cover page.
3. Allow space at the top right corner for the PSC REF# stamp.
4. Structure testimony in question and answer format.
5. Page numbers for each filing shall begin at “1” and continue in numerical order for that filing.
6. Use line numbers starting at “1” on the first line of each page.
7. Center page numbers at the bottom of every page.
8. Number each page according to the following convention:
 “[identify the round of testimony]-[identify the party]-[identify the witness]-[page #]”
9. If the filing is filed under a request for confidential handling, add “c” to the page number.
10. If the filing is a redacted public version of a document filed under a request for confidential handling, add “p” to the page number.
11. If the testimony offered in the filing supplements a round of testimony already filed, add “s” to the page number.
12. If the testimony offered corrects a round of testimony already filed, add “r” to the page number.
13. If the testimony offered is a subsequent refiling add a number to the page number that indicates the version of the filing.

	Initial Filing	1 st Revision	2 nd Revision
Public only	Direct-PSC-Smith-1	Direct-PSC-Smith-r-1	Direct-PSC-Smith-r2-1
Confidential	Direct-PSC-Smith-c-1	Direct-PSC-Smith-cr-1	Direct-PSC-Smith-cr2-1
Redacted	Direct-PSC-Smith-p-1	Direct-PSC-Smith-pr-2	Direct-PSC-Smith-pcr2-1
	1 st Supplemental Filing	1 st Revision	2 nd Revision
Public only	Direct-PSC-Smith-s-1	Direct-PSC-Smith-sr-1	Direct-PSC-Smith-sr2-1
Confidential	Direct-PSC-Smith-sc-1	Direct-PSC-Smith-scr-1	Direct-PSC-Smith-scr2-1
Redacted	Direct-PSC-Smith-sp-1	Direct-PSC-Smith-spr-1	Direct-PSC-Smith-spr2-1
	2 nd Supplemental Filing	1 st Revision	2 nd Revision
Public only	Direct-PSC-Smith-s2-1	Direct-PSC-Smith-s2r-1	Direct-PSC-Smith-s2r2-1
Confidential	Direct-PSC-Smith-sc2-1	Direct-PSC-Smith-s2cr-1	Direct-PSC-Smith-s2cr2-1
Redacted	Direct-PSC-Smith-sp2-1	Direct-PSC-Smith-s2pr-1	Direct-PSC-Smith-s2pr2-1

14. Include no live Internet hyperlinks.
15. Cite to any existing pre-hearing testimony in this docket by the assigned page or exhibit number. Include no PSC REF #s.
 (“As mentioned in Direct-PSC-Smith-15”)
16. Cite to any existing offered exhibit in this docket by the exhibit number. Include no PSC REF #s.
 (“I prepared Ex.-PSC-Smith-1”)

Guidelines for Contested Case Proceedings

1 **17.** Refrain from pinpoint line number citation because refileing of the source document may render the citation stale.

2 **18.** To cite to a CPCN application:

3 **a.** Cite to a page # as:

4 Ex.-[identify the applicant]-Applicant-Application-Vol. # : page#

5 (“Ex.-ATC-Application-Vol. 1:312”)

6 **b.** Cite to a Figure as:

7 Ex.-[identify the applicant]-Application-Vol. # : Appendix _ Figure _

8 (“Ex.-ATC-Application-Vol. 2: Appendix A Figure 1”)

9 **c.** Cite to a Part as:

10 Ex.-[identify the applicant]-Application-Vol. # : Appendix _ Part _

11 (“Ex.-ATC-Application-Vol. 2: Appendix C Part 1”)

12 **d.** Cite to a Table as:

13 Ex.-[identify the applicant]-Application-Vol. # : Appendix _ Table _

14 (“Ex.-ATC-Application-Vol. 2: Appendix B Table 1”)

15 **e.** Cite to an Exhibit as:

16 Ex.-[identify the applicant]-Application-Vol. # : Appendix _ Exhibit _

17 (“Ex.-ATC-Application-Vol. 2: Appendix D Exhibit 2”)

18 **19.** To cite to other types of applications:

19 Cite to Ex.-[identify the applicant]-Application-[applicable page # or section]

20 (“Ex.-ATC-Application-Attachment A:2”)

21 **20.** To cite to a Final EIS:

22 **a.** Cite to a section as:

23 “Ex.-PSC-FEIS-Vol. # § #”

24 (“Ex.-PSC-FEIS-Vol. 1 § 12.1.2”)

25 **b.** Cite to a page # as:

26 “Ex.-PSC-FEIS-Vol. #: page #”

27 (“Ex.-PSC-FEIS-Vol. 1:312”)

28 **21.** To cite to a Final EA:

29 **a.** Cite to a section as:

30 “Ex.-PSC-FEA-Vol. # § #”

31 (“Ex.-PSC-FEA-Vol. 1 § 12.1.2”)

32 **b.** Cite to a page # as:

33 “Ex.-PSC-FEA-Vol. #: page #”

34 (“Ex.-PSC-FEA-Vol. 1:312”)

Guidelines for Contested Case Proceedings

22. To cite to a response to a staff data request offered in a staff data request response exhibit:

- a. “Ex.-PSC-Data Request: Response #”
 (“Ex.-PSC-Data Request: Response 2.02”)

23. To cite to public comments offered in the staff public comment exhibit:

- a. “Ex.-PSC-Public Comment: Witness name”
 (“Ex.-PSC- Public Comment: Smith”)

c. Filing

1. File according to previously established deadlines.
2. Use the ERF Document Type: “Testimony-Offered.”
3. ERF Document Description: Use the page numbering convention, but exclude the page number.
4. If the filing is an errata sheet for testimony already filed, add “e” to the page number.

	Initial Filing	1 st Revision	2 nd Revision
Public only	Direct-PSC-Smith	Direct-PSC-Smith-r	Direct-PSC-Smith-r2
Confidential	Direct-PSC-Smith-c	Direct-PSC-Smith-cr	Direct-PSC-Smith-cr2
Redacted	Direct-PSC-Smith-p	Direct-PSC-Smith-pr	Direct-PSC-Smith-pr2
Errata	Direct-PSC-Smith-pe	Direct-PSC-Smith-pre	Direct-PSC-Smith-pr2e
	1 st Supplemental Filing	1 st Revision	2 nd Revision
Public only	Direct-PSC-Smith-s	Direct-PSC-Smith-sr	Direct-PSC-Smith-sr2
Confidential	Direct-PSC-Smith-sc	Direct-PSC-Smith-scr	Direct-PSC-Smith-scr2
Redacted	Direct-PSC-Smith-sp	Direct-PSC-Smith-spr	Direct-PSC-Smith-spr2
Errata	Direct-PSC-Smith-spe	Direct-PSC-Smith-spre	Direct-PSC-Smith-spr2e
	2nd Supplemental Filing	1 st Revision	2 nd Revision
Public only	Direct-PSC-Smith-s2	Direct-PSC-Smith-s2r	Direct-PSC-Smith-s2r2
Confidential	Direct-PSC-Smith-sc2e	Direct-PSC-Smith-s2cre	Direct-PSC-Smith-s2cr2
Redacted	Direct-PSC-Smith-sp2	Direct-PSC-Smith-s2pr	Direct-PSC-Smith-s2pr2
Errata	Direct-PSC-Smith-sp2e	Direct-PSC-Smith-s2pre	Direct-PSC-Smith-s2pr2e

4. Exhibits

a. Contents

1. Only documentary evidence expressly offered for and duly received on the record as an exhibit will come before the Commission.

Guidelines for Contested Case Proceedings

- 1 **2.** Offer documentary evidence by filing:
 - 2 **a.** All documents, except for those already filed as exhibits in this docket.
 - 3 **b.** Introduce the documents in written testimony, affidavit, or at hearing.
 - 4 **c.** If only the portion of the document relates to the purpose of its introduction, offer only the title page and that part of the
5 document.
- 6 **3.** To offer any document already filed on ERF in this docket requires refileing the document as an exhibit.
- 7 **4.** To offer any evidence already filed on ERF in another docket requires refileing, as an exhibit, the final version previously
8 verified by the original sponsor.
- 9 **5.** Any change to an exhibit requires refileing a complete replacement version.
- 10 **6.** Offer no supplemental exhibits. Mark an exhibit offered with supplemental testimony, as a new exhibit.
- 11 **7.** To offer a docket application for the record:
 - 12 **a.** Submit a draft exhibit to the Commission docket coordinator that lists all documents with PSC REF#s and live ERF links
13 to all the documents filed on ERF that make up the application.
 - 14 **b.** The live link for any document filed confidentially shall point to the confidential version of the filing.
 - 15 **c.** File the draft exhibit no later than two weeks prior to the first deadline to file pre-hearing testimony.
 - 16 **d.** File the version approved by Commission staff no later than one week prior to the first deadline to file pre-hearing
17 testimony.
 - 18 **e.** Mark the exhibit “Ex.-[Applicant identifier]-Application.”
19 (“Ex. ATC-Application”)
- 20 **8.** In a CA or CPCN proceeding, Commission staff shall file an exhibit that identifies all responses to staff data requests.
 - 21 **a.** Mark the exhibit as “Ex.-PSC-Staff Data Request-Response.”
- 22 **9.** Commission staff shall file an exhibit that constitutes a Final Environmental Impact Statement/Final Environmental
23 Assessment.
 - 24 **a.** Mark as “Ex.-PSC-FEIS”/“Ex.-PSC-FEA.”
- 25 **10.** Commission staff shall file an exhibit that lists all public comments received:
 - 26 **a.** Mark as “Ex.-PSC-Public Comment”
- 27 **11.** The filer of any application, staff data request response, or FEIS/FEA exhibit shall refile the exhibit to keep it updated and
28 complete.
- 29
- 30 **b. Format**
 - 31 **1.** Separate exhibits from any:
 - 32 **a.** Testimony.
 - 33 **b.** Cover letter.
 - 34 **c.** Request for an order.

Guidelines for Contested Case Proceedings

2. Use a cover page.
3. Allow space at the top right corner of the cover page for the PSC REF# stamp.
4. Mark the exhibit at the center bottom of the cover page according to the marking convention:
 - a. “Ex.-[identify the party]-[identify the witness]-[exhibit #]”
 - b. If the exhibit is offered under a request for confidential handling, add “c” to the marking
 - c. If the exhibit offered is a redacted public version of a document filed under a request for confidential handling, add “p” to the marking.
 - d. If the exhibit offered corrects a round of testimony already filed, add “r” to the marking.
 - e. If the exhibit offered is a subsequent refiling add a number the marking that indicates the version of the filing

	Initial Filing	1 st Revision	2 nd Revision
Public only	Ex.-PSC-Smith-1	Ex.-PSC-Smith-1r	Ex.-PSC-Smith-1r2
Confidential	Ex.-PSC-Smith-1c	Ex.-PSC-Smith -1cr	Ex.-PSC-Smith-1cr2
Redacted	Ex.-PSC-Smith-1p	Ex.-PSC-Smith 1pr	Ex.-PSC-Smith-1pcr2

c. Filing

1. File according to previously established deadlines.
2. Use the ERF Document Type: “Exhibit-Offered.”
3. ERF Document Description: Use the exhibit marking.
4. File all updates to the following exhibits as if it was an initial filing:
 - a. Application.
 - b. Staff data request response.
 - c. FEIS
 - d. FEA

5. Requests for an Order/Briefs

a. Contents

1. For any post-hearing brief on the merits:
 - a. Cite to the record all noted evidence and assertions of fact.
 - b. Cite to no evidence or assertion of fact outside the record.

b. Format

1. Include no cover page.
2. Allow space at the top right corner of the first page for the PSC REF# stamp.

Guidelines for Contested Case Proceedings

1 3. Use 12 point double-spaced type and one-inch margins.

2 4. Limit the number of pages as follows:

3 a. Initial post-hearing brief on the merits - 30 pages.

4 b. All other briefs - 15 pages.

5
6 **c. Filing**

7 1. File any request for an order using the "Motion" document type even if a brief is attached.

8 2. File any brief, response, or reply to a request for an order using the "Motion" document type.

9 3. File any initial post-hearing brief on the merits using the "Brief" document type.

10 4. File any reply post-hearing brief on the merits using the "Reply Brief" document type.

11
12 **d. Corrections**

13 1. Any change to a request or brief requires refileing a complete replacement version. Indicate a brief is a replacement by
14 adding "(revised)" to the title and ERF Document Description.

15 ("Request for Leave (revised)")

16
17 **6. Paper copies**

18 a. A party shall provide 5 paper sets of all written testimony and 1 paper set of all exhibits it offered for, and the Commission
19 received into, the record.

20 b. A party shall submit the paper copies to the Commission Records Management Unit.

21 c. A party shall time the submission of paper copies as follows:

22 1. For testimony and exhibits either: (1) offered before and received at the party hearing session; or (2) authorized to be
23 filed by 1:30 p.m. 3 days after the last day of the party hearing session, provide paper copies within 6 days after the last
24 day of the party hearing session.

25 2. For testimony and exhibits authorized to be filed later than 1:30 p.m. 3 days after the last day of the party hearing session,
26 provide paper copies within 3 days after the filing appears on ERF.

27 d. A party shall organize a set of paper copies as follows:

28 1. Use 8.5" x 11" paper.

29 2. Punch each page to fit a standard three-ring binder.

30 3. Include no binder.

31 4. Use 5-tab sized divider tabs.

32 5. For testimony, separate each filing with a divider tab and collate the filings first by round of testimony, and then by
33 witness.

Guidelines for Contested Case Proceedings

1 a. Divider tabs shall identify, in typeface, the following:

2 “[round of testimony]-[party]-[witness]”

3 “Direct-PSC-Smith”

4 6. For exhibits, separate each exhibit with a divider tab and collate first by witness, and then by exhibit number.

5 a. Divider tabs, shall identify, in typeface, the following:

6 “Ex.-[party]-[witness]-[exhibit #]”

7 “Ex.-PSC-Smith-1”

8 e. Every paper copy shall exactly duplicate its corresponding ERF filing, including any color rendering.

9 f. Except for confidential versions, every paper copy shall display the same PSC REF# as its corresponding ERF filing.

10 g. For any filing made under a request for confidential handling, only submit on paper the confidential version of the filing. Do
11 not submit a paper copy of the redacted version of the filing.

12 13 **C. Motion Practice**

14
15 For all requests for an order, including objections, made prior to a Commission decision on the subject matter of the request:

16 1. Direct the request to the Administrative Law Judge.

17 2. File the request, unless timely made at a hearing.

18 3. When filing the request, use the “Motion” document type.

19 4. The following schedule shall apply to any filed requests:

20 a. Respond by 1:30 p.m. 3 days after the filing of the request.

21 b. Reply by 1:30 p.m. 2 days after the filing of the response.

22 5. File a response or reply using the “Motion” document type.

23 6. Any request that contains a representation or certification of the consent of the parties and Commission staff shall take effect
24 immediately upon filing, but shall receive reconsideration if so ordered within 3 days after filing of the request.

25 7. Any request to which a response is authorized, but not received, shall take effect immediately after the response deadline, but
26 shall receive reconsideration if so ordered within 3 days after the response deadline.

27 8. Any requests for an order not included anywhere in this document shall follow the process under Wis. Admin. Code PSC § 2.23.

28 29 **D. ALJ Communications and Orders**

30
31 1. Send no e-mails to the Administrative Law Judge unless otherwise herin.

32 2. Written orders of the Administrative Law Judge shall be served by e-mail.

Guidelines for Contested Case Proceedings

- 1 **3.** In computing any period of time that follows the issuance of an order of the Administrative Law Judge, the date of the ERF
2 filing date stamp is the date of mailing. *See Wis. Admin. Code § PSC 2.05(2).*
3

4 **E. Pre-Hearing Procedures**

5 **1. Discovery**

- 6 **a.** File any response to a party discovery request or Commission staff data request as information becomes available.
7 i. For any request made prior to the deadline to file rebuttal testimony, respond in full no later than 21 days after service
8 of the request, with an exception of 30 days allowed for just cause.
9 ii. For any request made after the deadline to file rebuttal testimony, respond in full no later than 7 days after service of
10 the request.
11 **b.** Serve all, party discovery requests and notices to object, with the Commission staff docket coordinator, and the Commission
12 staff attorney assigned to the docket.
13 **c.** File no party discovery requests, or notices to object.
14 **d.** Notify a requester of the intent to answer a discovery request or data request solely by objection, or by objection and partial
15 response, notwithstanding the objection.
16 i. For any notice related to a discovery request or data request made prior to the deadline to file rebuttal testimony, notify
17 the requester, by 1:30 p.m., 5 days after receipt of the discovery request or data request.
18 ii. For any notice related to a discovery request or data request made after the deadline to file rebuttal testimony, notify the
19 requester, by 1:30 p.m., 3 days after receipt of the discovery request or data request.
20 **e.** File any request to compel a response to a discovery request or data request.
21 i. For any request related to a discovery request or data request made prior to the deadline to file rebuttal testimony, file
22 the request by 1:30 p.m., 5 days after receipt of a notice to answer solely by objection, or by objection and partial
23 response, notwithstanding the objection.
24 ii. For any request related to a discovery request or data request made after the deadline to file rebuttal testimony, file the
25 request by 1:30 p.m., 3 days after receipt of a notice to answer solely by objection, or by objection and partial response,
26 notwithstanding the objection.
27 **f.** File any request for protective order to a discovery request or data request.
28

29 **2. Hearing Preparation**

- 30 **a.** Offer any written testimony and exhibits by filing by the deadline established by order.
31 **b.** To request to change the schedule in this proceeding, file a request to the schedule for good cause.
32 **c.** Follow all format requirements for written testimony and exhibits provided herein.
33

Guidelines for Contested Case Proceedings

- d. Request leave to file supplemental written testimony or exhibits. File the supplement concurrently, but separate from the request.
- e. Object to pre-hearing testimony and exhibits by the deadline of the next round of filing.
- f. 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. File the volume of written testimony for any witness being compelled to appear, and corresponding exhibits, by the deadline to file rebuttal testimony.
- g. The applicant 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.
- h. 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.
- i. Attempt to obtain consent under Wis. Stat. § 807.13 in sufficient time to plan an in-person witness appearance, if necessary.
- j. File all corrections to pre-hearing testimony (errata) and exhibits (replacement) by one day prior to the party hearing session. Timely filed corrections require no request or pre-approval from the Administrative Law Judge, but such corrections are subject to objection at hearing.
- k. E-mail the Administrative Law Judge and copy the parties and Commission staff by 1:30 p.m. 1 day prior to the first day of the party hearing session to:
 1. Request to take a witness at a specific prearranged time.
 2. Identify the witnesses that a party or Commission staff intends to cross-examine. This does not waive the right to cross-examine other witnesses.
 3. Identify any need to conduct a portion of the hearing *in camera*.
 4. Identify any witness appearing by telephone.
 5. Request the scheduling of additional hearing time.

F. Hearing Procedures

1. Before the call of witnesses, the Administrative Law Judge may:
 - a. Hear any corrections to the Pre-Hearing Written Testimony and Exhibit List.
 - b. Hear any remaining corrections to pre-hearing written testimony and exhibits.
 - c. Rule on pending and allowable objections.
 - d. Hear oral arguments in lieu of briefs with respect to any pending motion for which the deadline to file briefs would not expire prior to, or on, that day.
 - e. Receive into the record all items on the previously issued Pre-Hearing Written Testimony and Exhibit List, subject to any verification by the witness, pending or allowable objections, and corrections to the list.

Guidelines for Contested Case Proceedings

2. The sponsor of any pre-hearing testimony or exhibit not received into the record may make such filings an offer of proof.
3. The sponsor of any oral testimony not received into the record may make a brief oral offer of proof.
4. 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.
5. A rebuttable presumption of good cause under Wis. Stat. § 807.13 exists to allow witnesses to appear by telephone.
6. Prior to cross-examination, any witness may offer brief oral testimony that responds only to the last round of pre-hearing testimony or any subsequent testimony of another witness received at the hearing. Use best efforts in this matter to avoid undue surprise or prejudice.
7. 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 for direct examination.
8. Provide an adequate number of copies of any document referred to during the hearing, but not previously filed.
9. The Commission intends to webcast all hearings held in Madison. Therefore, the Commission will make no phone lines available to monitor a hearing.

G. Post-Hearing Procedures

1. File any document not filed prior to the party hearing session but offered and received at the party hearing session by 1:30 p.m. 3 days after the last day of the party hearing session.
2. File documentary evidence not previously filed but identified at the party hearing session and for which offer into the record is delayed until after the party hearing session by 1:30 p.m. 3 days after the last day of the party hearing session.
3. File the affidavit of any witness attesting to the truthfulness and accuracy of that witness's written testimony and exhibits offered into the record in the absence of a live oath or affirmation by 1:30 p.m. 3 days after the last day of the party hearing session. File using "Testimony-Offered" ERF document description.
4. File a complete replacement version of any written testimony or exhibit corrected by errata or at the hearing by 1:30 p.m. 3 days after the last day of the party hearing session.
5. Object to the filings listed above as provided in these Guidelines.
6. The opportunity to offer hearing transcript corrections is as follows:
 - a. By the established transcript turnaround time, the court reporter shall serve a draft transcript.
 - b. File any proposed corrections to the draft transcript in the form of an errata sheet by 1:30 p.m. 3 days after service of the draft transcript.
 - c. File using the "Offered Testimony" ERF Document Type.
 - d. An errata may correct a misstatement when necessary to convey the truth, and if the change causes no prejudice.
 - e. Propose a clarification to eliminate confusion, without prejudicially changing meaning.

Guidelines for Contested Case Proceedings

- 1 **f.** File any objection to a proposed transcript correction by 1:30 p.m. 2 days after the filing of the proposed correction.
- 2 **g.** Any timely filed objection shall stand unless overruled by the Administrative Law Judge within 3 days after filing of the
- 3 objection.
- 4 **h.** Commission staff shall serve, and send to the court reporter, all corrections timely filed, unopposed and allowed over
- 5 objection.
- 6 **i.** The court reporter shall create the official version of the transcript by making the corrections provided by Commission staff.
- 7 The court reporter shall serve the official transcript only to Commission staff.
- 8 **j.** Commission staff shall file all official transcript volumes and serve only the official version of any *in camera* hearing
- 9 transcript volume.
- 10 **6.** Maintain a claim to confidential handling under Wis. Admin. Code § PSC 2.12 of an *in camera* hearing transcript by filing by
- 11 1:30 p.m. 5 days after service of the official version of the transcript, a request as described in Wis. Admin. Code § PSC 2.12(3),
- 12 attached before a copy of the transcript, shaded in light gray, all text to which the request applies. Simultaneously, but
- 13 separately, file a redacted copy of the official version of the *in camera* transcript consistent with Wis. Admin. Code § PSC
- 14 2.12(4). Omit from the transcript any affirmation of the veracity of the official volume included in the original by the court
- 15 reporter. File both documents using "Testimony-Offered" ERF document description. The redacted volume exists only for
- 16 Commission staff to evaluate the claim and for public convenience. The redacted volume provides no authoritative record of the
- 17 proceedings. In the case of any discrepancy between the original volume and the redacted volume, the original volume shall
- 18 control.
- 19 **7.** Object to or request to offer rebuttal or countervailing evidence for any evidence offered by a member of the public by 1:30 p.m.
- 20 2 days after service of the transcript of the public hearing session.
- 21 **8.** Request leave to present additional evidence by showing 1) the additional evidence is material; and 2) good reason exists for
- 22 failure to present the evidence according to the schedule. Simultaneously, but separately, file the evidence at issue verified by
- 23 affidavit.
- 24 **9.** Request to take official notice under Wis. Stat. § 227.45(3). Simultaneously, but separately, file the evidence at issue verified by
- 25 affidavit.
- 26 **10.** A non-party shall offer a brief on the merits by filing simultaneously with, but separately from the brief, a request for leave to
- 27 file.
- 28 **11.** Respond to a notice by the Commission of its decision to avail itself of any evidence in its possession under Wis.
- 29 Stat. § 227.45(2) by 1:30 p.m. 3 days after the notice issues. Simultaneously, but separately, file any rebuttal or countervailing
- 30 evidence verified by affidavit. Reply by 1:30 p.m. 2 days after the filing of the response.
- 31 **12.** A request for an order filed after the hearing does not stay any Commission open meeting discussion with respect to the existing
- 32 record or the issuance of a final decision by the Commission. Either Commission action effects a denial of the request unless
- 33 otherwise indicated by the Commission.
- 34

Guidelines for Contested Case Proceedings

1 **H. Post-Decision Procedures**

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1. File any for request rehearing or reopening under Wis. Stat. §§ 196.39 or 227.49.

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a. File a request using the “Petition” document type.

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b. Respond by 1:30 p.m. 5 days after the filing of the request.

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c. File a response using the “Petition” document type.

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d. File no reply from the requester.

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2. The record on review under Wis. Stat. § 227.55 shall contain any offer of proof. But, no offer of proof shall enter the evidentiary record unless the Commission or a court overturns the ruling to exclude the evidence and provides an opportunity for cross-examination or the offer of countervailing evidence.

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