



# Public Service Commission of WISCONSIN

## Power Plant Review Process

### Introduction

The Public Service Commission (PSC or Commission) is an independent state agency that oversees more than 1,100 Wisconsin public utilities that provide natural gas, electricity, heat, steam, water, and telecommunication services. The Commission is composed of three full-time Commissioners who make decisions on cases brought to the PSC related to utility operations, rates, and construction projects.

The PSC prepared this guide to provide information on the power plant review process. This guide provides a timeline of the review process and opportunities to participate as a member of the public.

### Overview of PSC Construction Authority and Process

Developers, utilities, and transmission companies that want to build new energy generation or transmission construction projects must apply for PSC approval. These entities are considered the project applicant.

There are two kinds of certificates that a project applicant must obtain prior to constructing large electric or natural gas projects. The nature of the proposed project determines which certification a project applicant must receive.

For proposed power plants of 100 or more megawatts (MW), an applicant must apply for a **Certificate of Public Convenience and Necessity (CPCN)** under [Wis. Stat. § 196.491](#). Alternatively, a public utility project applicant may apply for a **Certificate of Authority (CA)**. A CA under [Wis. Stat. § 196.49](#) is required from the PSC if the proposed project's cost is above a certain percentage of the utility's annual revenue.

The PSC conducts a thorough review of the application and builds a project record before the Commission decides to approve, modify, or deny a project. The project record includes the application, testimony, environmental review, public comment, and other items. The PSC also decides on the location of the power plant, location of related items like substations and generator tie-lines, and other construction modifications to respond to input provided in the project record.

The PSC review process varies depending upon the size and complexity of the project but generally takes six months to a year after an application is determined complete. Larger, more complex projects generally require 360 days, which is the maximum timeframe allowed. All cases provide opportunities for public participation.

**Application Filing Requirements** (AFRs) lay out the information required to be submitted in a construction application. AFRs are set for all construction projects. PSC staff review the application to ensure it sufficiently addresses each of the requirements before determining the application complete and beginning the review process.

The details of the filing requirements can be found on the PSC website at <https://psc.wi.gov/Pages/ServiceType/Energy/FilingRequirements.aspx>. PSC staff can request additional information after accepting an application for review by making data requests to the applicant, such as asking for more details about construction methods, potential modifications to the project, or additional evaluation of impacts.

## Public Participation

The PSC has a long tradition of encouraging public participation. All cases provide opportunities for public participation. How an individual or organization participates in a case depends on their interest in the issues and the type of case.

<b>Member of the Public</b>	<b>Intervenor/Party to the Case</b>
<p>Any person or organization can follow the PSC’s review of a project application by tracking or subscribing to the filings in the case. During specified comment periods, they may provide their opinion to the PSC either by :</p> <ul style="list-style-type: none"> <li>• speaking at a public hearing, or</li> <li>• submitting a written comment.</li> </ul> <p>The public hearing comments may include, but are not limited to, a <b>description of impacts and requests for alternatives or modifications</b> that will be reviewed by the Commissioners as part of the record</p>	<p>Any person or organization that meets certain criteria may participate in a case as an intervenor, or “party” to the case. If you have a substantial interest that might be affected by a case, you can request to become a party through intervention. Parties are also eligible to apply to the PSC for <a href="#">compensation</a> for certain costs incurred while participating.</p> <p><b>Being an intervenor involves more work and responsibilities</b>, such as preparing testimony, adhering to specific administrative procedures, and participating at a trial-type hearing (referred to as a party hearing session), which may include questions from other parties to the case.</p>

The **PSC’s Electronic Records Filing (ERF) System** is a publicly available tool that stores all documents for each docket. All cases that come before the Commission have a unique docket number, which helps the PSC communicate about each docket. This also helps the Commission to track and retain the records generated by each docket. ERF is available at <https://apps.psc.wi.gov/ERF/ERF/ERFhome.aspx>.

More information about public participation can be found on the PSC webpage at <https://psc.wi.gov/Pages/CommissionActions/PublicParticipation.aspx>.



Look for this symbol in the sections below to learn about opportunities to participate in the PSC case at every step of the process.

# Power Plant Review Process

## 1. Pre-Application

Before filing an application with the PSC, a project applicant that wants to build a new construction project might host a public information meeting. These types of public information meetings provide an opportunity for the public to share information and comments on the proposed project to help with developing the proposed and alternative project locations or other project information. The PSC encourages this type of public engagement and early communication with local communities.



You can attend these meetings to learn about the preliminary design of a proposed project and give input directly to the applicant.

## 2. Application

A project applicant files an application with the PSC. After the application is filed, the PSC will open a docket for the construction case.

Generally, an application includes information about the need, cost, size, and location of the proposed project. An application for a power plant project that requires a CPCN must provide details of more than one possible project location. Applicants must identify a proposed location that may be considered their preferred location option, as well as one or more alternative locations. Applications must also include detailed engineering plans, plant costs (public utilities only), and a review of potential environmental and community impacts.

The PSC application review process is conducted jointly with the Department of Natural Resources (DNR) and includes analyzing the proposed and alternative locations for potential impacts to forests, waterways, community resources, aesthetics, farm operations, archeological/historical sites, protected species, and more.



You can find the application on the PSC's Electronic Records Filing System.

## 3. Public Notification and PSC Scoping Meetings

Once an application meets the application filing requirements, the PSC will deem the application complete and will notify the public that the review process has begun. The PSC notifies the public that the review process has begun by sending an environmental scoping notification letter. This letter is sent to all property owners near the proposed project locations, as well as to local government officials, libraries, media, and other agencies and interested persons. This notification briefly describes the project, includes a map, identifies the level of environmental review the project requires, lists locations where copies of the application are available for review, describes the process and timeframe for providing public comments, and includes PSC contact information.

Public comments submitted during the notification period do not become part of the official record the commissioners review; rather, these comments are used by PSC staff to identify potential impacts of the proposed project that may be described in the

environmental review. There may be another public comment period later in the review process, described in a Notice of Hearing, and comments submitted during that period become part of the official record that the commissioners review.

The PSC may hold an environmental scoping meeting in the project area after notifying the public about the project. An environmental scoping meeting is not a hearing – it is an informal event that gives the public a chance to learn about the proposed project and PSC’s review process, ask questions, and talk directly with PSC staff, the utility, and the DNR.



The Public Notification Letter will provide information about participating at this step of the review process, including important deadlines and ways to share input. The public is encouraged to provide information by submitting comments to the PSC about local resources and issues that should be considered during project review. Public meetings may be held one or more times during the project review process.

#### 4. Environmental Review

##### Key Environmental Review Terms:

- **Environmental Impact Statement (EIS):** An EIS is an extensive document that analyzes the project’s cost, need, alternatives, fuel, technology, air and water discharges, solid and hazardous waste issues, land resources, and community impacts. An EIS also describes reasonable methods of avoiding or minimizing adverse environmental effects.
- **Environmental Assessment (EA):** An EA is a more concise document that reviews and describes the environmental impacts relevant to a project to allow for a reasonable judgement on whether an EIS is required.

The PSC reviews all power plant project applications for environmental impacts, electrical performance, need, and cost/benefit. There are three levels of environmental review categorized by [Wis. Admin. Code ch. PSC 4.10](#) (PSC 4). The size and complexity of the project determines the type of review that is conducted, as shown in Tables 1 through 3 of chapter PSC 4. The different types of environmental review include:

- **Type 3** projects are not expected to result in a potential for significant environmental impacts on the natural and human environment. These projects receive an environmental review by PSC and DNR staff considering common environmental impacts. An example of a Type 3 project may include constructing a wind-powered electric generation facility with a capacity less than 10 MW.
- **Type 2** projects are those for which an EA is prepared to determine if the potential environmental impacts would significantly affect the natural and human environment. After the EA is completed, PSC staff make a determination that either the environmental review is sufficient or that the project warrants preparation of an EIS. An example of a Type 2 project may include constructing a natural gas-powered generation facility at an existing site where a previous power plant was already located.

- **Type 1** projects are those for which an EIS must be prepared. An EIS is a detailed assessment of how the proposed project could significantly affect the natural and human environment. The EIS document includes all relevant knowledge and information about the expected environmental effects acquired by reviewing the project application and peer-reviewed literature, visiting the project area, regulatory staff experience with similar projects, consulting with other agencies, and soliciting public comments. Projects for which an EIS is prepared always require a public hearing in the project area. The PSC makes every attempt to host the hearing at a location, or locations, in close proximity to the project, while considering the technical capabilities and capacity of meeting spaces. An example of a Type 1 project may include constructing a new natural gas-powered electric generation facility at a new site where a power plant had not been located before.



As part of a project review the PSC may need to produce an EA or an EIS. There will be different opportunities for the public to comment depending on the type of environmental review.

For projects that require an EA, PSC staff complete their environmental analysis and produce a preliminary determination letter summarizing the impacts and notifying the public of the decision on whether or not to do an EIS. The EA can be made available for you to review if requested at this time, and a 15-day comment period is opened to submit comments on the PSC's decision.

If the project requires the preparation of an EIS, PSC staff first complete a draft EIS issued for public comment, followed by a final EIS. You can request a copy of the draft EIS from the PSC, review the document at a local library or municipal office, or download it from the PSC website.


The applicant and the public will have at least 45 days to comment on the draft EIS. Within that 45-day comment period, the PSC may hold a draft EIS comment meeting. The final EIS is prepared considering the comments and concerns raised by the public during the draft EIS comment period.

As a result of this process PSC staff may propose changes in project design or site location to protect the environment or an affected community.

## PSC Hearings

All projects that require a CPCN or have an EIS require a public hearing. A **Notice of Hearing** is issued when hearings have been scheduled for a case. The Notice of Hearing also specifies the time period for which public comments "for the record" will be accepted. The Notice of Hearing is mailed to everyone on the PSC project mailing list and posted on the PSC's Events Calendar (<https://apps.psc.wi.gov/APPS/calendar/external>).

There are two types of hearings held by the PSC, a public hearing and a party hearing. At the party hearing, PSC staff and parties provide expert testimony and exhibits.

 The purpose of the public hearing is for individuals to testify by sharing their views and concerns about the projects. Public testimony may be provided in person at the hearing or through written comments. Written comments may be submitted to the PSC by mail or electronically through the PSC’s online comment system.


Public comments and testimony that are most useful to the PSC are those which are specific in nature and based on personal knowledge or experience. Useful comments may also include reasonable alternatives to the proposed routes or ways to reduce or eliminate specific impacts.

All hearing testimony and written comments during this time are recorded and made part of the project record, which the Commissioners review to make their decision on the project. Once a hearing is completed and the public comment period ends, the record is closed, and no new information may be added.

Although projects that require a CA do not automatically include a public hearing, the public may still have opportunity to submit comments at various points during the review process. The public can also request a hearing for a CA project, and the PSC will decide whether a hearing would be useful in making its decision. For more information, please see the PSC publication, **“What to Expect at a PSC Public Hearing”** at <https://psc.wi.gov/Documents/WhattoExpectataPublicHearing.pdf>.

## PSC Decision

The PSC is responsible for making the final decision regarding a proposed power plant. The three Commissioners independently review the entire record of evidence prior to making a decision, including all testimony received, the application, public hearing comments, and the environmental review. The Commissioners then discuss the record and any issues raised and make their decision in an Open Meeting.

 The agenda for Open Meetings can be found on the PSC’s Events Calendar along with the location of the meeting and a link to stream the meeting live. The public may observe the Open Meeting in person or via the streaming link. Public comments are not accepted at the Open Meeting.

At Open Meetings, power plant proposals are either approved, denied, or modified. The Commissioners decide whether a power plant should be built, any modifications to its layout or construction methods, and where it will be located. The PSC’s decision is provided in a detailed written document to the project applicant, known as a Final Decision. The Final Decision imposes conditions that the applicant must adhere to when constructing the project. In arriving at its decision on the project, the PSC considers the evidence in the record in conjunction with applicable Wisconsin laws and administrative rules.

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