

SERVICE DATE
Jul 20, 2022

PSC REF#:443146

Public Service Commission of Wisconsin
RECEIVED: 07/20/2022 8:45:00 AM

PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of the City of Madison, Dane County, Wisconsin, as a
Water Public Utility, for Authority to Adjust Water Rates

3280-WR-116

SCHEDULING ORDER

This Order established the issues, schedule and other facilitation matters for this proceeding, pursuant to Wis. Admin. Code § PSC 2.04(1), and upon the stipulated request of parties and Commission staff, as represented by Commission staff.

I. PARTIES:

A. Applicant:

1. Madison Water Utility

B. Intervenors:

1. None

II. ISSUES:

- A.** Should the Commission grant in whole or in part the applicant's request for a water rate increase, and if so, under what terms and conditions?
1. What is the appropriate revenue requirement for water service?
 2. What is the cost of service related to each customer class?
 3. What is the appropriate rate design, including service rules, for each customer class?
 4. Should the Commission approve the applicant's proposed customer assistance program, and if so, with which terms and conditions.

III. SCHEDULE:

- 07/14/2022 1:30 PM Offered Evidence Direct : Commission Staff
- 08/03/2022 1:30 PM Offered Evidence Rebuttal : Applicant
- 08/18/2022 1:30 PM Offered Evidence Surrebuttal : Commission Staff
- 09/06/2022 1:30 PM Offered Evidence Other: Errata Testimony and Replacement Exhibits
- 09/07/2022 10:00 AM Hearing: Public and Party Sessions

Docket 3280-WR-116

- 09/09/2022 4:30 PM Transcript: Draft Transcript
- 09/12/2022 1:30 PM Offered Evidence Other: Exhibits Offered and Received at Hearing
- 09/12/2022 1:30 PM Offered Evidence Other: Revised Testimony
- 09/12/2022 1:30 PM Offered Evidence Other: Witness Verification Affidavits
- 09/13/2022 1:30 PM Brief: Initial Brief
- 09/14/2022 1:30 PM Transcript: Proposed Corrections to Draft Transcript
- 09/16/2022 1:30 PM Transcript: Objections to Proposed Corrections to Draft Transcript

IV. OTHER FACILITATION MATERS:

Other matters required to facilitate this proceeding as they appear in the attached Facilitating Matters Ordered for Contested Case Proceedings and the Facilitating Matters Ordered for Contested Case Proceedings – Zoom Audio-Visual Hearing Supplement are incorporated into this Order. The Zoom Audio-Visual Hearing Supplement will apply only to the Party Hearing Session if this session is conducted with no physical location.



Michael E. Newmark
Administrative Law Judge

MEN:jac DL:01898167

Facilitating Matters Ordered in a Contested Case Proceeding

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	C. Request for ALJ Order
21	D. ALJ Communications and Orders
22	E. Pre-Hearing Procedures
23	1. Discovery
24	2. Hearing Preparation
25	F. Hearing Procedures
26	G. Post-Hearing Procedures
27	H. Post-Decision Procedures

Facilitating Matters Ordered in a Contested Case Proceeding

1 A. General

- 2
- 3 1. The Commission provides the following to inform the public of certain details of practice before the Commission in contested case
- 4 proceedings. The contents of this document become binding procedures for a particular docket when ordered by the presiding
- 5 Administrative Law Judge (ALJ). The presiding ALJ may adopt the contents of this document in whole, or in part, or modify its
- 6 content, 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>). Submit no filings by facsimile. See Wis. Admin. Code § PSC 2.06(1). Submit
- 16 no paper copies. See Wis. Admin. Code § PSC 2.06(2).
- 17 c. If ERF does not accept a document, serve the document and contact the Commission’s Records Management Unit at
- 18 (608) 261-8521 for assistance.
- 19 d. ERF upload requires the assignment of a “Document Type.” Choose the “Document Type” as specified in this document or
- 20 if not specified herein, that best corresponds with the substance of the document from the following:
- 21 1. Application
- 22 2. Brief
- 23 3. Comments
- 24 4. Correspondence
- 25 5. Data Request/Response
- 26 6. Exhibit - Offered
- 27 7. Motion
- 28 8. Petition
- 29 9. Request for Intervenor / Party Status
- 30 10. Testimony - Offered
- 31 e. ERF upload requires the submission of a document “Description.” Use the description specified in this document, or if not
- 32 specified herein, be concise.
- 33 f. Filing constitutes certification of service. See Wis. Admin. Code § PSC 2.06(3)(a).

Facilitating Matters Ordered in a Contested Case Proceeding

- 1 g. Parties and Commission staff serve by e-mail. Use password protection when serving a document that contains information
2 filed under a request for confidential handling. If size, or format prevents e-mail service, serve by physical delivery on
3 storage media.
- 4 h. Parties and Commission staff shall inform each other of any e-mail address, and one physical address to which the
5 requirements of service shall apply.
- 6 i. Serve the Commission docket coordinator any, but, unless otherwise required, file no party to all-party correspondence.
- 7 j. In computing any period of time that follows service, the day of e-mailing is the day of mailing. *See* Wis. Admin. Code
8 § PSC 2.05(2). This applies regardless of any dated signature or ERF filing date stamp.
9

10 2. Confidentiality

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

Facilitating Matters Ordered in a Contested Case Proceeding

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 this document.

b. Format

1. Separate the testimony from any:
 - a. Exhibit being offered in that testimony.
 - b. Cover letter.
 - c. Request for an order.
2. Include no cover page.

Facilitating Matters Ordered in a Contested Case Proceeding

- 1 3. Allow space at the top right corner for the PSC REF# stamp.
- 2 4. Structure testimony in question and answer format.
- 3 5. Page numbers for each filing shall begin at “1” and continue in numerical order for that filing.
- 4 6. Use line numbers starting at “1” on the first line of each page.
- 5 7. Center page numbers at the bottom of every page.
- 6 8. Number each page according to the following convention:
- 7 “[identify the round of testimony]-[identify the party]-[identify the witness]-[page #]”
- 8 9. If the filing is filed under a request for confidential handling, add “c” to the page number.
- 9 10. If the filing is a redacted public version of a document filed under a request for confidential handling, add “p” to the page
- 10 number.
- 11 11. If the testimony offered in the filing supplements a round of testimony already filed, add “s” to the page number.
- 12 12. If the testimony offered corrects a round of testimony already filed, add “r” to the page number.
- 13 13. If the testimony offered is a subsequent refile add a number the 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-pr2-1
	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
	2nd 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
- 15 14. Include no live Internet hyperlinks.
- 16 15. Cite to any existing pre-hearing testimony in this docket by the assigned page or exhibit number. Include no
- 17 PSC REF #s.
- 18 (“As mentioned in Direct-PSC-Smith-15”)
- 19 16. Cite to any existing offered exhibit in this docket by the exhibit number. Include no PSC REF #s.
- 20 (“I prepared Ex.-PSC-Smith-1”)
- 21 17. Refrain from pinpoint line number citation because refile of the source document may render the citation stale.

Facilitating Matters Ordered in a Contested Case Proceeding

18. To cite to an Application:

a. Cite to all documents offered as the Application; the Application in chief, and all Appendices as:

Ex.-[identify the applicant]-Application

("Ex.-ATC-Application")

b. Cite to a full document contained in the Application exhibit as:

Ex.-[identify the applicant]-Application: [Document designation]

Document designation can be; the Application in chief; Appendix #; Exhibit#; etc...

("Ex.-ATC-Application: Application")

("Ex.-ATC-Application: Appendix A")

c. Cite to a portion of a document contained in the Application exhibit as:

Ex.-[identify the applicant]-Application-[Document designation]: [Portion designation]

Portion designation can be a: page #; figure #; map #; table #; chart #; part #; exhibit #; etc...

("Ex.-ATC-Application-Application: 25")

("Ex.-ATC-Application-Appendix A: Figure 1")

19. To cite to a Final EIS:

a. Cite to all documents offered as Final EIS as:

"Ex.-PSC-FEIS"

b. Cite to a full document contained in Ex.-PSC-FEIS as:

Ex.-PSC-FEIS: [Document designation]

Document designation can be; FEIS; Volume #; Appendix #; etc...

("Ex.-PSC-FEIS: FEIS")

("Ex.-PSC-FEIS: Appendix A")

c. Cite to a portion of a document contained in Ex.-PSC-FEIS as:

Ex.-PSC-FEIS-[Document designation]: [Portion designation]

Portion designation can be a: page #; figure #; map #; table #; chart #; part #; exhibit #; etc...

("Ex.-PSC-FEIS-FEIS: 25")

("Ex.-PSC-FEIS-Appendix A: Figure 1")

20. To cite to an EA:

a. Cite to all documents offered as the EA as:

"Ex.-PSC-EA"

b. Cite to a full document contained in Ex.-PSC-EA as:

Ex.-PSC-EA-[Document designation]

Document designation can be; EA; Volume #; Appendix #; etc...

("Ex.-PSC-EA: EA")

Facilitating Matters Ordered in a Contested Case Proceeding

(“Ex.-PSC-EA: Appendix A”)

- c. Cite to a portion of a document contained in Ex.-PSC-EA as:
 Ex.-PSC-EA-[Document designation]: [Portion designation]
 Portion designation can be a: page #; figure #; map #; table #; chart #; part #; exhibit #; etc...
 (“Ex.-PSC-EA-EA: 25”)
 (“Ex.-PSC-EA-Appendix A: Figure 1)

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

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

22. 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 (See table below):
 - a. Use the page numbering convention, but exclude the page number.
 - b. For supplemental, revised and errata filings, add the designations as indicated in the table below.

	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-e	Direct-PSC-Smith-re	Direct-PSC-Smith-r2e
	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-se	Direct-PSC-Smith-sre	Direct-PSC-Smith-sr2e
	2 nd 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-s2e	Direct-PSC-Smith-s2re	Direct-PSC-Smith-s2r2e

Facilitating Matters Ordered in a Contested Case Proceeding

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

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.
2. Offer documentary evidence by filing:
 - a. All documents, except for those already filed as exhibits in this docket.
 - b. Introduce the documents in written testimony, affidavit, or at hearing.
 - 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 document.
3. To offer any document already filed on ERF in this docket requires refileing the document as an exhibit.
4. To offer any evidence already filed on ERF in another docket requires refileing, as an exhibit, the final version previously verified by the original sponsor.
5. Any change to an exhibit requires refileing a complete replacement version.
6. Offer no supplemental exhibits. Mark an exhibit offered with supplemental testimony, as a new exhibit.
7. To offer a docket application for the record:
 - a. Submit a draft exhibit to the Commission docket coordinator that lists all documents with PSC REF#s and live ERF links to all the documents filed on ERF that make up the application.
 - b. The live link for any document filed confidentially shall point to the confidential version of the filing.
 - c. File the draft exhibit no later than two weeks prior to the first deadline to file pre-hearing testimony.
 - d. File the version approved by Commission staff no later than one week prior to the first deadline to file pre-hearing testimony.
 - e. Mark the exhibit “Ex.-[Applicant identifier]-Application.” (“Ex. ATC-Application”)
8. In a CA or CPCN proceeding, Commission staff shall file an exhibit that identifies all responses to staff data requests.
 - a. Mark the exhibit as “Ex.-PSC-Staff Data Request Response.”
9. Commission staff shall file an exhibit that constitutes a Final Environmental Impact Statement/Final Environmental Assessment.
 - a. Mark as “Ex.-PSC-FEIS”/“Ex.-PSC-EA.”
10. Commission staff shall file an exhibit that lists all public comments received:
 - a. Mark as “Ex.-PSC-Public Comment”
11. The filer of any application, staff data request response, or FEIS/EA exhibit shall refile the exhibit to keep it updated and complete.

Facilitating Matters Ordered in a Contested Case Proceeding

b. Format

1. Separate exhibits from any:
 - a. Testimony.
 - b. Cover letter.
 - c. Request for an order.
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 to 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-1pr2

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 any update to the following exhibits as if it was an initial filing:
 - a. Application.
 - b. Staff data request response.
 - c. FEIS
 - d. EA

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.

Facilitating Matters Ordered in a Contested Case Proceeding

1 b. Cite to no evidence or assertion of fact outside the record.

2 **b. Format**

- 3 1. Include no cover page.
- 4 2. Allow space at the top right corner of the first page for the PSC REF# stamp.
- 5 3. Use 12 point double-spaced type and one-inch margins.
- 6 4. Limit the number of pages as follows:
- 7 a. Initial post-hearing brief on the merits - 30 pages.
- 8 b. All other briefs - 15 pages.

9

10 **c. Filing**

- 11 1. File any request for an order using the “Motion” document type even if a brief is attached.
- 12 2. File any brief, response, or reply to a request for an order using the “Motion” document type.
- 13 3. File any initial post-hearing brief on the merits using the "Brief" document type.
- 14 4. File any reply post-hearing brief on the merits using the "Reply Brief" document type.

15

16 **d. Corrections**

- 17 1. Any change to a request or brief requires refileing a complete replacement version. Indicate a brief is a replacement by
- 18 adding “(revised)” to the title and ERF Document Description.
- 19 (“Request for Leave (revised)”)

20

21 **C. Request for ALJ Order**

22

23 For all requests for an order of the ALJ, including requests under Wis. Admin. Code § PSC 2.21(4):

- 24 1. Direct the request to the ALJ.
- 25 2. File the request, unless timely made at a hearing.
- 26 3. When filing the request, use the “Motion” document type.
- 27 4. The following schedule shall apply to any filed requests:
- 28 a. Respond by 1:30 p.m. 3 days after the filing of the request.
- 29 b. Reply by 1:30 p.m. 2 days after the filing of the response.
- 30 5. File a response or reply using the “Motion” document type.
- 31 6. Any request that contains a representation or certification of the consent of the parties and Commission staff shall take effect
- 32 immediately upon filing, but shall receive reconsideration if so ordered within 3 days after filing of the request.
- 33 7. Any request to which a response is authorized, but not received, shall take effect immediately after the response deadline, but
- 34 shall receive reconsideration if so ordered within 3 days after the response deadline.

Facilitating Matters Ordered in a Contested Case Proceeding

- 1 8. The ALJ may issue an order by email to the Service List scheduling either a hearing limited to the request, or an ALJ moderated
2 status conference on the request. The order may also suspend or modify briefing on the request. The conference will be open to
3 the public, subject to confidentiality protections. Only parties subject to the request shall have the right to participate.
- 4 9. Wis. Admin. Code § PSC 2.21(3), governs the procedure for requesting timely intervention, unless modified in the notice that
5 opens the docket.

6 7 **D. ALJ Communications and Orders**

- 8
- 9 1. Send no e-mails to the ALJ unless otherwise indicated by this document, or at the ALJ's specific request.
- 10 2. Written orders of the ALJ shall be served by e-mail.
- 11 3. In computing any period of time that follows the issuance of an order of the ALJ, the date of the ERF filing date stamp is the
12 date of mailing. *See* Wis. Admin. Code § PSC 2.05(2).

13 14 **E. Pre-Hearing Procedures**

15 16 **1. Discovery**

- 17 a. File any response to a party discovery request or Commission staff data request as information becomes available.
 - 18 1. For any request made prior to the deadline to file rebuttal testimony, respond in full no later than 21 days after service of
19 the request, with an exception of 30 days allowed for just cause.
 - 20 2. For any request made after the deadline to file rebuttal testimony, respond in full no later than 7 days after service of the
21 request.
- 22 b. Serve all, party discovery requests and notices to object, with the Commission staff docket coordinator, and the Commission
23 staff attorney assigned to the docket.
- 24 c. File no party discovery requests, or notices to object.
- 25 d. Notify a requester of the intent to answer a discovery request or data request solely by objection, or by objection and partial
26 response, notwithstanding the objection.
 - 27 1. For any notice related to a discovery request or data request made prior to the deadline to file rebuttal testimony, notify
28 the requester, by 1:30 p.m., 5 days after receipt of the discovery request or data request.
 - 29 2. For any notice related to a discovery request or data request made after the deadline to file rebuttal testimony, notify the
30 requester, by 1:30 p.m., 3 days after receipt of the discovery request or data request.
- 31 e. File, under § C., any request to compel a response to a discovery request or data request.
 - 32 1. For any request related to a discovery request or data request made prior to the deadline to file rebuttal testimony, file the
33 request by 1:30 p.m., 5 days after receipt of a notice to answer solely by objection, or by objection and partial response,
34 notwithstanding the objection.

Facilitating Matters Ordered in a Contested Case Proceeding

- 1 2. For any request related to a discovery request or data request made after the deadline to file rebuttal testimony, file the
2 request by 1:30 p.m., 3 days after receipt of a notice to answer solely by objection, or by objection and partial response,
3 notwithstanding the objection.
4 f. File, under § C., any request for protective order to a discovery request or data request.
5

2. Hearing Preparation

- 6 a. Offer any written testimony and exhibits by filing by the deadline established by order.
7 b. To request to change the schedule in this proceeding file, under § C., a request to change the schedule for good cause.
8 c. Follow all format requirements for written testimony and exhibits provided herein.
9 d. Request leave to file supplemental written testimony or exhibits. File the supplement concurrently, but separate from the
10 request.
11 e. To object to pre-hearing testimony and exhibits, file a request for an order under § C, by the deadline of the next round of
12 filing.
13 f. Any party who compels a witness to appear at hearing shall create a volume of written testimony for that witness in the form
14 of either a deposition or interrogatory. File the volume of written testimony for any witness being compelled to appear, and
15 corresponding exhibits, by the deadline to file rebuttal testimony.
16 g. Parties shall not participate in the public comment process except that the applicant shall make an adequate number of
17 personnel with knowledge of the issues in this docket available at each public hearing session to answer questions from
18 members of the public.
19 h. Attempt to obtain consent under Wis. Stat. § 807.13 in sufficient time to plan an in-person witness appearance, if necessary.
20 i. File all corrections to pre-hearing testimony (errata) and exhibits (replacement) by one day prior to the party hearing session.
21 Timely filed corrections require no request or pre-approval from the ALJ, but such corrections are subject to objection at
22 hearing.
23 j. E-mail the ALJ and copy the parties and Commission staff by 1:30 p.m. 1 day prior to the first day of the party hearing session
24 to:
25 1. Request to take a witness at a specific prearranged time.
26 2. Identify the witnesses that a party or Commission staff intends to cross-examine. This does not waive the right to
27 cross-examine other witnesses.
28 3. Identify any need to conduct a portion of the hearing *in camera*.
29 4. Identify any witness appearing by telephone.
30 5. Request the scheduling of additional hearing time.
31
32
33
34

Facilitating Matters Ordered in a Contested Case Proceeding

1 F. Hearing Procedures

- 2
- 3 1. Before the call of witnesses, the ALJ may:
 - 4 a. Hear any corrections to the Pre-Hearing Written Testimony and Exhibit List.
 - 5 b. Hear any remaining corrections to pre-hearing written testimony and exhibits.
 - 6 c. Rule on pending and allowable objections.
 - 7 d. Hear oral arguments in lieu of briefs with respect to any pending request for an order for which the deadline to file briefs
 - 8 would not expire prior to, or on, that day.
 - 9 e. Receive into the record all items on the previously issued Pre-Hearing Written Testimony and Exhibit List, subject to any
 - 10 verification by the witness, pending or allowable objections, and corrections to the list.
- 11 2. The sponsor of any pre-hearing testimony or exhibit not received into the record may make such filings an offer of proof.
- 12 3. The sponsor of any oral testimony not received into the record may make a brief oral offer of proof.
- 13 4. The order of appearances and cross-examination by parties shall follow the order of parties as provided in the list above.
- 14 Commission staff shall follow all parties. Each party and Commission staff may arrange the order of its witnesses.
- 15 5. A rebuttable presumption of good cause under Wis. Stat. § 807.13 exists to allow witnesses to appear by telephone.
- 16 6. Prior to cross-examination, any witness may offer brief oral testimony that responds only to the last round of pre-hearing
- 17 testimony or any subsequent testimony of another witness received at the hearing. Use best efforts in this matter to avoid undue
- 18 surprise or prejudice.
- 19 7. Limit cross-examination of a witness by the length and scope required to reasonably investigate matters with respect to the
- 20 testimony of that witness. To investigate beyond these parameters requires the party to have followed the applicable pre-hearing
- 21 process for compelling the witness to appear at hearing for direct examination.
- 22 8. Provide an adequate number of copies of any document referred to during the hearing, but not previously filed.
- 23 9. The Commission intends to webcast all hearings held in Madison. Therefore, the Commission will make no phone lines
- 24 available to monitor a hearing.
- 25

26 G. Post-Hearing Procedures

- 27
- 28 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.
- 29 3 days after the last day of the party hearing session.
- 30 2. File documentary evidence not previously filed but identified at the party hearing session and for which offer into the record is
- 31 delayed until after the party hearing session by 1:30 p.m. 3 days after the last day of the party hearing session.
- 32 3. File the affidavit of any witness attesting to the truthfulness and accuracy of that witness's written testimony and exhibits offered
- 33 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
- 34 using "Testimony-Offered" ERF document description.

Facilitating Matters Ordered in a Contested Case Proceeding

- 1 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
2 after the last day of the party hearing session.
- 3 5. To object to the filings listed above, file a request for an order under § C.
- 4 6. The opportunity to offer hearing transcript corrections is as follows:
 - 5 a. By the established transcript turnaround time, the court reporter shall serve a draft transcript.
 - 6 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
7 draft transcript.
 - 8 c. File using the "Offered Testimony" ERF Document Type.
 - 9 d. An errata may correct a misstatement when necessary to convey the truth, and if the change causes no prejudice.
 - 10 e. Propose a clarification to eliminate confusion, without prejudicially changing meaning.
 - 11 f. File any objection to a proposed transcript correction by 1:30 p.m. 2 days after the filing of the proposed correction.
 - 12 g. Any timely filed objection shall stand unless overruled by the ALJ within 3 days after filing of the objection.
 - 13 h. Commission staff shall serve, and send to the court reporter, all corrections timely filed, unopposed and allowed over
14 objection.
 - 15 i. The court reporter shall create the official version of the transcript by making the corrections provided by Commission staff.
16 The court reporter shall serve the official transcript only to Commission staff.
 - 17 j. Commission staff shall file all official transcript volumes and serve only the official version of any *in camera* hearing
18 transcript volume.
- 19 6. Maintain a claim to confidential handling under Wis. Admin. Code § PSC 2.12 of an *in camera* hearing transcript by filing by
20 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),
21 attached before a copy of the transcript, shaded in light gray, all text to which the request applies. Simultaneously, but
22 separately, file a redacted copy of the official version of the *in camera* transcript consistent with Wis. Admin. Code § PSC
23 2.12(4). Omit from the transcript any affirmation of the veracity of the official volume included in the original by the court
24 reporter. File both documents using "Testimony-Offered" ERF document description. The redacted volume exists only for
25 Commission staff to evaluate the claim and for public convenience. The redacted volume provides no authoritative record of the
26 proceedings. In the case of any discrepancy between the original volume and the redacted volume, the original volume shall
27 control.
- 28 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.
29 2 days after service of the transcript of the public hearing session.
- 30 8. Request leave to present additional evidence by showing 1) the additional evidence is material; and 2) good reason exists for
31 failure to present the evidence according to the schedule. Simultaneously, but separately, file the evidence at issue verified by
32 affidavit.
- 33 9. Request to take official notice under Wis. Stat. § 227.45(3). Simultaneously, but separately, file the evidence at issue verified by
34 affidavit.

Facilitating Matters Ordered in a Contested Case Proceeding

- 1 **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
2 file.
- 3 **11.** File any request or objection described in this section as a request for an order under § C. Depending on the timing of the
4 proceeding, a ruling on such a request may either issue from the ALJ, or be forwarded to the Commission prior to an ALJ ruling.
- 5 **12.** Respond to a notice by the Commission of its decision to avail itself of any evidence in its possession under Wis.
6 Stat. § 227.45(2) by 1:30 p.m. 3 days after the notice issues. Simultaneously, but separately, file any rebuttal or countervailing
7 evidence verified by affidavit. Reply by 1:30 p.m. 2 days after the filing of the response.
- 8 **13.** Any request or objection described in this section does not stay any Commission open meeting discussion with respect to the
9 existing record or the issuance of a final decision by the Commission. Either Commission action effects a denial of the request
10 unless otherwise indicated by the Commission.

H. Post-Decision Procedures

- 12 **1.** File any for request rehearing or reopening under Wis. Stat. §§ 196.39 or 227.49.
 - 13 **a.** File a request using the “Petition” document type.
 - 14 **b.** Respond by 1:30 p.m. 5 days after the filing of the request.
 - 15 **c.** File a response using the “Petition” document type.
 - 16 **d.** File no reply from the requester.
- 17 **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
18 record unless the Commission or a court overturns the ruling to exclude the evidence and provides an opportunity for
19 cross-examination or the offer of countervailing evidence.
20
21

Facilitating Matters Ordered in a Contested Case Proceeding – Zoom Audio-Visual Hearing Supplement

1 The following items apply to the conduct of the party hearing session in this proceeding as a supplement to the Facilitating Matters Ordered
2 in a Contested Case Proceeding.

3 **I. Attending:**

4 All party attorneys and witnesses and participating Commission staff shall attend the hearing using the Zoom conferencing platform.
5 (<https://zoom.us>).

6 Zoom allows invitees to attend in a two-way audio-visual connection over the internet, and a two-way audio-only connection over the
7 telephone.

8 Attorneys shall attend using the two-way audio-visual connection over the internet with webcam and microphone sharing on at all times,
9 unless otherwise directed by the ALJ.

10 When called to testify, and until excused, each witness shall attend using the two-way audio-visual connection over the internet with
11 webcam and microphone sharing on at all times, unless otherwise directed by the ALJ.

12 Each party is responsible for each of its witnesses making a timely appearance when called to testify.

13 The court reporter shall attend using the two-way audio-visual connection over the internet, with microphone sharing on at all times and
14 webcam sharing on at the court reporter’s discretion.

15 Non-participating Commission staff, party representatives, and any witness when not testifying, may attend the hearing using:

- 16 • The two-way audio-visual connection over the internet, with webcam and microphone sharing off at all times
- 17 • The two-way audio-only connection over the telephone with telephone muted at all times
- 18 • Listening to the live-stream audio on the Commission’s website.

19 A witness may only use the two-way audio-only connection over the telephone to testify, as a backup, if the two-way audio-visual
20 connection over the internet fails to operate adequately.

21 Before testifying, any witness using the Zoom telephone connection or listing the webcast shall close those connections prior to connecting
22 to the two-way audio-visual connection over the internet to testify.

23 The Zoom chat function will not be available during the hearing.

Facilitating Matters Ordered in a Contested Case Proceeding – Zoom Audio-Visual Hearing Supplement

1 **II. Joining:**

- 2 The Commission will send parties an invitation to the party hearing session by email to the Service List. The invitation will include a link,
3 Meeting ID, and Passcode to the two-way audio-visual connection over the internet, and the phone number, Meeting ID, and Passcode for
4 the two-way audio-only connection over the telephone.
- 5 Each party shall provide its attorneys and witnesses the connection information.
- 6 A party is responsible for each of its witnesses making a timely appearance when called to testify.
- 7 All attorneys shall, and any other invitee, may join Zoom no later than 5 minutes before the scheduled start time.
- 8 Upon joining the two-way audio-visual connection over the internet, each invitee shall enter their full name when prompted (this name will
9 be shared on screen), and share their webcam and microphone.
- 10 Attempts to join Zoom made before the host arrives may be placed be placed in the “waiting room” pending the host’s arrival.
- 11 Before the hearing begins, the host will test all connections.
- 12 Upon a successful test, the host may turn sharing off for each witness’s webcam and microphone.
- 13 For any witness, who joins the hearing after the hearing begins; the host will test the connection of when the witness is called to testify.
- 14 When called to testify, the host will ensure the witness has turned the webcam and microphone sharing on.
- 15 When excused, the witness may “leave the meeting”, or remain to observe the session with webcam and microphone sharing off.

Facilitating Matters Ordered in a Contested Case Proceeding – Zoom Audio-Visual Hearing Supplement

1 **III. Preparing:**

2 Each party shall use best efforts to ensure its attorneys and witnesses have the proper equipment, internet service and technical assistance
3 necessary to attend with adequate quality and reliability.

4 For more details and further links on how to get started using Zoom see, Getting Started at [https://support.zoom.us/hc/en-](https://support.zoom.us/hc/en-us/articles/201362283-Testing-computer-or-device-audio)
5 [us/articles/201362283-Testing-computer-or-device-audio](https://support.zoom.us/hc/en-us/articles/201362283-Testing-computer-or-device-audio).

6 Each attorney and witness shall:

- 7 • Attend from a location that is quiet, adequately lit, free from distractions, and where their joined device can be plugged into
8 electricity.
- 9 • Test their microphone and audio output to ensure it is working properly.
- 10 • Test their webcam to ensure it captures your face, and an appropriate background.
- 11 • Dress in business casual attire.

12

13 For support on joining and participating in a Zoom see, Joining a Meeting at [https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-](https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-meeting)
14 [meeting](https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-meeting)

Facilitating Matters Ordered in a Contested Case Proceeding – Zoom Audio-Visual Hearing Supplement

1 **IV. Conducting:**

2 Conduct at the audio-visual party hearing session will remain as close to an in-person party hearing session as possible. The following items
3 modify the Commission’s usual practice to accommodate the special circumstances an audio-visual hearing creates.

4 Parties and witnesses are expected to have all offered evidence and exhibits in-hand and accessible for their use at the hearing. The ALJ will
5 share the Offered Evidence List, by email to the Service List and through posting to the Commission’s Electronic Records Filing System.

6 For any document not on the Offered Evidence List a party or Commission staff wishes to use at hearing, the user shall share that document
7 via email to parties, Commission staff, and the ALJ no later than one day before the party hearing session at 1:30 p.m.

8 The ALJ will present documents, to all participants using the two-way audio-visual connection over the internet, as a screen share.

9 Attorneys should be able to see and hear each other, and the ALJ at all times. Refer to troubleshooting section if you are experiencing
10 connection problems.

11 For anyone using the two-way audio-visual connection over the internet upon speaking, the image of the speaker will appear outlined in
12 green and the person’s name will appear at the top of the screen.

13 For anyone using the two-way audio-only connection over the telephone, upon speaking, the speaker’s name will appear at the top of the
14 screen.

15 To the maximum extent possible, any connection problems, or distractions will be corrected “off the record.”

16 Unless otherwise directly by the ALJ, for situations such as, appearances, cross-examination, and responses to objections, etc..., the order of
17 speakers shall follow the order of parties as listed in the Offered Evidence List. The ALJ shall prompt each speaker by naming the party and
18 wait for the speaker’s statement.

19 While on the record, an attorney or witness, using the two-way audio-visual connection over the internet may interject by raising their hand
20 in a way that it can be seen on camera. Wait for the ALJ to acknowledge you verbally before speaking. This does not apply to attorney
21 objections.

22 Any objection made during the hearing will automatically take the hearing “off the record.” The hearing will go “back on the record,” only
23 upon the ALJ’s direction.

24 During short recess periods, the ALJ will set all microphone sharing off. Webcam sharing shall remain on, but a participant may physically
25 cover their webcam for the duration of the recess.

26 Before the start of any confidential session, Commission staff will mute the public access connections and the ALJ will order all Zoom
27 participants not authorized to receive confidential information to disconnect. These participants may reconnect at the start of the next public
28 session and may monitor the start of the next public session over the public access connections. Parties and Commission staff shall review
29 the Zoom participant list to ensure no one unauthorized to receive confidential information remains joined.

Facilitating Matters Ordered in a Contested Case Proceeding – Zoom Audio-Visual Hearing Supplement

1 Troubleshooting:

2 • Any attorney or witness who experiences audio or visual connection problems during the hearing should immediately “leave the
3 meeting” and attempt to re-join using the two-way audio-visual connection over the internet. Leaving the hearing, will prompt the ALJ
4 to go “off the record” until the person reestablishes a connection. If any attorney or witness cannot reconnect the two-way audio-visual
5 connection over the internet, that person shall join using the Zoom telephone connection.

6
7 • When disconnected, for assistance in being reconnected, or to relay a message to the hearing contact:

8
9 Cru Stublely
10 Paralegal
11 Public Service Commission of Wisconsin
12 608-266-3493