

PUBLIC SERVICE COMMISSION OF WISCONSIN

Memorandum

May 18, 2023

FOR COMMISSION AGENDA

TO: The Commission

FROM: Kristy Nieto, Administrator
Tara N. Bachman, Deputy Administrator
Bert Chee, Public Service Engineer
Division of Energy Regulation and Analysis

Joe Fontaine, Administrator
Tara Kiley, Deputy Administrator
Division of Digital Access, Consumer and Environmental Affairs

RE: In the Matter of Rulemaking to Update Wisconsin Administrative Code Chapter PSC 119 for Interconnecting Distributed Generation Facilities 1-AC-256

Suggested Minute: The Commission (approved/modified and approved/did not approve) a final draft Order Adopting Proposed Rules and the associated report to the Legislature relating to the revisions to Wis. Admin Code ch. PSC 119 and directed Commission staff to make the necessary filings. If neither the Governor's office nor any legislative committee requests changes to the rule, Commission staff is directed to prepare an Order Adopting Final Rules, and the Commission Secretary is directed to sign the Order on behalf of the Commission and to make the required filings without further Commission action

The purpose of this rulemaking is to revise Wis. Admin. Code ch. PSC 119, Rules for Interconnecting Distributed Generation Facilities.

Wisconsin Admin. Code ch. PSC 119 was originally promulgated in 2004, in response to the requirement under Wis. Stat. § 196.496 that the Commission promulgate interconnection rules that establish uniform statewide standards that promote the development of distributed generation facilities, address engineering, reliability and safety concerns, and establish methods for determining charges for interconnection. Distributed generation in Wisconsin has undergone

significant change since 2004: the number of distributed generation installations throughout the state has grown substantially, new technologies have emerged, and updated technical and certification standards have been established.

The Commission initially accepted the Statement of Scope for submission to the Governor's Office on December 17, 2020. ([PSC REF#: 402057.](#)) On February 4, 2021, the Governor's Office approved the Statement of Scope. ([PSC REF#: 404416.](#)) On February 15, 2021, the Legislative Reference Bureau published the Statement of Scope in the Administrative Register as SS 013-21 in Register 782A3. ([PSC REF#: 405318.](#))

On February 19, 2021, the Joint Committee on Review of Administrative Rules (JCRAR) directed the Commission to hold a preliminary hearing under Wis. Stat. § 227.136(1). The Commission held a hearing on March 19, 2021, and the public comment period closed on March 25, 2021. ([PSC REF#: 406270.](#)) No formal comments were submitted at the public hearing. Written comments expressing support for pursuing the rulemaking were submitted by four organizations and one individual.¹ The Commission issued a final approval of the Statement of Scope at its open meeting of April 15, 2021. ([PSC REF#: 409857.](#))

Wisconsin Stat. § 227.13 provides that an agency may appoint a committee of experts, interested persons, or representatives of the public to advise it with respect to any contemplated rulemaking. Pursuant to that statute, the committee would have advisory powers only and would compile draft rules for the Commission's consideration and approval. The approved Statement of Scope for this rulemaking indicated that an advisory committee would be appointed, consistent with the practice used for initial development of Wis. Admin. Code ch. PSC 119 in the rulemaking under docket 1-AC-207. At its open meeting of April 29, 2021 ([PSC REF#:](#)

¹ [PSC REF#: 406867;](#) [PSC REF#: 407155;](#) [PSC REF#: 407168;](#) [PSC REF#: 407328;](#) [PSC REF#: 407477](#)

[410978](#)), the Commission approved an advisory committee roster with representatives from 20 organizations, including public utilities, electric cooperatives, distributed generation installers, customer and renewable energy advocates, and technical experts on distributed generation issues. The composition of the committee was informed by multiple factors, including the composition of membership on the previous Wis. Admin. Code ch. PSC 119 advisory committee; inclusion of organizations and individuals who have historically been active participants in interconnection-related issues, including through the Wisconsin Distributed Resources Collaborative (WIDRC); and a desire for balanced representation of different perspectives on interconnection issues. ([PSC REF#: 410466.](#)) The Commission approved updates to committee membership at its open meetings of July 22, 2021 ([PSC REF#: 417860](#)) and November 18, 2021 ([PSC REF#: 426207](#)).

The advisory committee met on a regular basis from May 2021 through May 2022, and voted to approve more than 25 recommendations for revisions to ch. PSC 119. Commission staff subsequently developed full draft rule language informed by those recommendations and committee discussion, as described later in this memorandum.

The Type III Environmental Review of the proposed rule revisions ([DL: 1897940](#)) concluded that the proposed revisions are not expected to result in any possible significant, adverse environmental or social impacts, making preparation of an environmental assessment or environmental impact statement under Wis. Stat. 1.11 unnecessary.

Commission staff completed an Evaluation of Any Potential Impact of Rulemaking on Housing for the purposes of Wis. Stat. 227.115 ([DL: 1897902](#)) and concluded the rulemaking introduced no substantive policy affecting housing and that further research on impacts was unnecessary.

A request for comment on the economic impact analysis of the proposed rule changes was issued on August 5, 2022 ([PSC REF#: 444789](#)), with an August 19, 2022 deadline for comments.² The Commission received three comments. The Utility Workers Coalition ([PSC REF#: 445354](#)) and the Wisconsin Utilities Association ([PSC REF#: 445594](#)) agreed with the analysis' conclusion that the rulemaking would have minimal or no economic impacts. The Sierra Club ([PSC REF#: 445654](#)) disagreed with that conclusion and stated that multiple rule provisions could increase costs for individuals and businesses, including increased fees for applications and commissioning, the removal of cost caps on study fees charged to applicants, and costs associated with insurance requirements and proposed dispute resolution procedures.

A Notice of Hearing and agency analysis with proposed rule language were approved by the Commission at its October 27, 2022 open meeting. ([PSC REF#: 452400](#).) The Notice of Hearing and agency analysis with proposed rule language were issued on the Commission's website on October 27, 2022 ([PSC REF#: 450574](#), [PSC REF#: 450545](#)) and published in the Wisconsin Administrative Register on November 7, 2022 in Register 803A1.

The Commission held a public hearing on November 29, 2022 and received thirty eight written comments from members of the public, Sierra Club, Northern States Power-Wisconsin, and the Wisconsin Utilities Association. Many public comments suggested the proposed fee structure for category 1 and 2 systems could create uncertainty in costs if additional reviews and studies are needed. Public comments also suggested reduction of insurance requirements beyond the flexibility provided in the proposed draft rules. Sierra Club reiterated its dispute of the conclusions of the Economic Impact Analysis, suggested revisions to the dispute resolution process, suggested the Commission gather more evidence for studies and fees, suggested

² Text of the proposed draft rules as available at that time were circulated with the economic analysis.

eliminating insurance requirements, and suggested guidance on the implementation of IEEE 1547-2018. ([PSC REF#: 454431.](#)) Utility comments were generally in support of the proposed draft rules with suggestions to provide further guidance on timelines, suggestions to mitigate impacts of MISO affected system studies, suggestion to reduce privacy concerns in public queues, and suggested modification of capacity definitions. The draft legislative report includes a summary and response to the public comment and responses to the Legislative Council Clearinghouse Report. (DL: [1942117](#), DL: [1942745](#).) The Attorney General consented to the incorporation of federal code regulations in the agency's rules by reference on January 25, 2023. ([PSC REF#: 457189.](#))

If the Order Adopting Proposed Rules and associated legislative report are approved by the Commission, the necessary filings will be made with the Governor's office. ([DL: 1926696](#), DL: [1942117](#).) If the Governor's office approves the rulemaking, the necessary filings will be made with the Legislature. If neither the Governor's office nor any legislative committee requests changes to the rule, Commission staff is directed to prepare an Order Adopting Final Rules, and the Commission Secretary is directed to sign the Order on behalf of the Commission and to make the required filings without further Commission action.

Commission Alternatives

Alternative One: Approve the Order Adopting Proposed Rules and associated legislative report, direct the Commission Secretary to sign the Order on behalf of the Commission, and direct Commission staff to make the necessary filings to finalize the rule process.

Alternative Two: Modify and approve the Order Adopting Proposed Rules and associated legislative report, direct the Commission Secretary to sign the Order on behalf of the

Commission, and direct Commission staff to make the necessary filings to finalize the rule process.

Alternative Three: Do not approve the Order Adopting Proposed Rules and associated legislative report and return to Commission staff for revisions.

KN:BAC:dsa: DL: 01931681

Attachments

Key Background Documents

[Staff Cover Memorandum- Statement of Scope - PSC REF#: 401875](#)
[12/17/2020 Minutes for Commission Open Meeting - PSC REF#: 402057](#)
[Governor Approval Letter - Statement of Scope - PSC REF#: 404416](#)
[Publication of Statement of Scope in Wis. Admin. Register - PSC REF#: 405318](#)
[1-AC-256 - Signed Statement of Scope - PSC REF#: 402383](#)
[Commission Memorandum of Statement of Scope - Second Approval - PSC REF#: 409365](#)
[04/15/2021 Minutes for Commission Open Meeting - PSC REF#: 409857](#)
[1-AC-256 Informational Memorandum Environmental.docx - DL: 1897940](#)
[1-AC-256 Informational Memorandum Housing.docx - DL: 1897902](#)
[1-AC-256 PSC 119 Fiscal Estimate and Economic Impact Analysis.pdf - DL: 1900760](#)
[Request for Comment - Draft Text of the Rule and Economic Impact - PSC REF#: 444789](#)
[UWC and IBEW Utility Local Unions Comment on 1-AC-256 - PSC REF#: 445354](#)
[WUA Comments on docket 1 AC 256 - PSC REF#: 445594](#)
[Sierra Club Comments on 1-AC-256 - PSC REF#: 445654](#)
[Commission Memorandum-Draft Rules - PSC REF#: 450545](#)
[10/27/2022 Minutes for Commission Open Meeting - PSC REF#: 452400](#)
[Proposed Rules and Agency Analysis - PSC REF#: 450539](#)
[Notice of Hearing Signed and Served on 10/27/2022 - PSC REF#: 450574](#)
[Notice of Submittal to Rules Clearinghouse - PSC REF#: 450544](#)
[Legislative Council Clearinghouse Report to Agency - DL: 1931693](#)
[Report to the Legislature.docx - DL: 1942745](#)
[1-AC-256 PERM Final Rule.docx - DL: 1926696](#)
[Attorney General Approval Letter for Incorporation by Reference - PSC REF#: 457189](#)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date August 5, 2022</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Chapter PSC 119: Rules for Interconnecting Distributed Generation Facilities</p>	
<p>4. Subject Revision of Chapter PSC 119 Rules to Update Technical Requirements and Support More Efficient Application Processing</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected None</p>
<p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input checked="" type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule Ch. PSC 119 was originally promulgated in 2004, in response to the requirement established by Wis. Stat. § 196.496 to promulgate interconnection rules that establish uniform statewide standards, promote the development of distributed generation facilities, address engineering, reliability, and safety concerns, and establish methods for determining charges for interconnection.</p> <p>Distributed generation in Wisconsin and other states have undergone significant changes since initial promulgation, including the development of new technologies and new technical standards for existing technologies; and significant increases in the number of distributed generation installations requiring interconnection. The revisions proposed under this rulemaking are intended to address these changes while maintaining the goals in Wis. Stat. § 196.496, by establishing updated technical requirements that align with current industry standards, and modifying administrative requirements related to application processes to support timely application processing while meeting the needs of both applicants and utilities.</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. PSC appointed a rulemaking advisory committee under s. § 227.13, Wis. Stats. The committee included representatives from investor-owned and municipal electric utilities, electric cooperatives, installers of distributed generation technologies (such as solar energy); manufacturers of distributed generation technologies; distributed generation researchers and consultants; and customer advocates. PSC held a preliminary public hearing and solicited comments on the statement of scope after initial issuance in 2021 and received comments from organizations advocating for distributed generation deployment and electric ratepayers.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. Members of the advisory committee included representatives of Madison College and the Midwest Tribal Energy Resource Association.</p>	

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

As a revision to an existing rule, the proposed rule would not modify the foundational implementation and compliance requirements already present in PSC 119. Customers and distributed generation developers and installers would still be required to submit applications for interconnection to the grid; provide required information on their distributed generation facility that affirms their systems meet technical requirements; procure liability insurance protection; and pay fees to cover the costs of application processing and, where applicable, engineering studies and electric system upgrades necessary to connect the applicant's system to the electric grid. Utilities would still be required to review and approve submitted interconnection applications; conduct engineering reviews of proposed interconnections; pursue electric system upgrades approved and paid for by applicants; conduct tests to confirm the safe and appropriate operation of interconnected distributed generation facilities; and respond to applicants in accordance with rule-established timing requirements.

The revisions proposed in this rule are intended to support clearer and more cost-efficient implementation and compliance for applicants, distributed generation developers and installers, and utilities. References to updated technical standards would provide clarity to applicants and utilities on the criteria that will be used for application reviews. Additional requirements for utilities to provide examples of required technical information, regularly post information on application queues that allow applicants to identify the progress of their application within the rule-established review process, and notification of application approvals can help reduce compliance effort and costs for applicants. Updated language related to system testing requirements will help applicants and utilities avoid misinterpretations and reduce the frequency of failed tests that require additional costs for re-testing. Updated insurance and fee payment requirements are intended to affirm more flexibility for customers to comply with general financial requirements. Additional language related to dispute resolution provides clarity on how applicants can pursue complaints and concerns about utility application decisions with the utility and the PSC.

Implementing these new requirements may in some cases require additional effort and compliance costs from applicants and utilities. For example, utilities would need to bear additional costs to post application queue information and examples of technical information, while applicants may require investment of additional time and cost to review, understand, and ensure compliance with updated technical standards. However, requirements are designed to minimize applicable compliance costs- for instance, application queue information would only be required to be posted monthly through website updates and submissions to PSC.

Given these relatively limited additional compliance costs, and the compliance and implementation benefits outlined in the previous paragraph, PSC estimates that the benefits and costs will approximately balance one another, and result in zero net economic impact of the rule revision to businesses, local governments, public utilities or individuals involved in the interconnection process.

In addition, updated fee requirements are intended to ensure fee levels reflect actual costs to utilities of application processing and review. This leads to more accurate cost recovery at the individual application level. The fiscal impact to individual applicants will vary based on the capacity of the individual applications. Additionally, these updates may help avoid increasing costs for utility customers as a whole, who would have to bear the costs of any interconnection-related utility work not recovered through fees paid by applicants.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

As a revision to an existing rule, the available alternative would be to continue operating under the existing PSC 119 language. While the existing PSC 119 language does continue to provide a reasonable foundation for addressing

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

interconnection requests and fulfilling the requirements of Wis. Stats. § 196.496, the proposed revisions would have benefits for updating the rule for nearly 20 years of ongoing technology development and supporting more clear and efficient implementation and compliance for both applicants and utilities.

16. Long Range Implications of Implementing the Rule

The number of distributed generation installation facilities installed annually has been increasing throughout the past 20 years, and those increases are expected to continue and potentially accelerate in future years. Updated technical standards and improved application processes should help better position applicants and utilities to efficiently address this continually increasing volume of interconnection activity, ensure safe and reliable installation and ensure equitable cost recovery.

17. Compare With Approaches Being Used by Federal Government

Not applicable- interconnection of distributed generation facilities is regulated at the state level, consistent with the general right of states to regulate the safety and reliability of electric distribution systems.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Minnesota and Iowa have recently promulgated updates to their own interconnection rules, and rule reviews are currently ongoing in Illinois and Michigan. All four states- as well as a number of other states around the country- are taking similar approaches to the rule revisions proposed in Wisconsin, by updating technical standards and making changes to interconnection application processing that can support efficient processing in light of significant growth in distributed generation deployment.

19. Contact Name

Jenna Schmidt

20. Contact Phone Number

608-267-7709

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

N/A

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

N/A

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

N/A

5. Describe the Rule's Enforcement Provisions

N/A

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **22-077**

AN ORDER to renumber PSC 119.04 (5) (a), (b), (c), and (d), (7) (a), (b), and (c), (9), and (10) (a) 1. and 3.; to renumber and amend PSC 119.04 (4), (5), (6), (7), and (7) (d), (8), (10) (a), 2., and (b), (11), and (12); to amend PSC 119.02 (4), (5), (6), (7), (25), (27), (32), (34), (35) (Note), and (36), 119.04 (1), (2), and (3), 119.05 (1), 119.06 Table 1, 119.08 (1), 119.08 Table 1, and (2), 119.10 (2), 119.20 (6) (a) and (b), and (Note), 119.25 (1) and (3), 119.26, 119.27 (1), 119.30, and 119.32; to repeal and recreate PSC 119.40; to create PSC 119.02 (16d), (16h), (16p), (16t), (17m), (19m), (27m), (32) (Note), (32m), (35g), and (35r), 119.025, 119.04 (2m), (3g), (3r), (4) (intro.), (4) (b), (5), (6) (intro.), and (6), 119.05 (1m), 119.08 (4) and (5), 119.13 (title), (1), (2), (3), and (4), 119.20 (15), (16) (intro.), (16) (Note), (a), (b), (c), and (d), relating to rules for interconnecting distributed generation facilities.

Submitted by **PUBLIC SERVICE COMMISSION**

11-02-2022 RECEIVED BY LEGISLATIVE COUNCIL.

11-29-2022 REPORT SENT TO AGENCY.

SG:BL

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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Clearinghouse Assistant Director

CLEARINGHOUSE RULE 22-077

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

1. Statutory Authority

a. SECTION 27 of the proposed rule text includes a requirement that “reasonable efforts are made” not to adversely impact other complete applications when an exception is made under the provision. To ensure compliance with the requirement of uniform standards under s. 196.496 (2), Stats., consider whether another standard might be more appropriate, such as a determination that there is no material adverse impact on processing of other complete applications when an exception is made under the provision. Such revision would avert the ambiguity that may arise regarding an individual utility’s interpretation of “reasonableness” under the provision as currently drafted.

b. More generally, the proposed rule makes numerous references incorporating the service rules of a public utility into the application and approval process for interconnection of a distributed generation facility. While the agency explains that these service rules are subject to agency oversight pursuant to ss. 196.20 and 196.37, Stats., the extent to which such rules vary from one utility to another is unclear. As such, it may be useful for the agency to consider or more clearly explain how the incorporation of service rules comports with the requirement of uniform standards under s. 196.496 (2), Stats., as significant variation between service rules could effectively result in different standards across the state.

2. Form, Style and Placement in Administrative Code

a. In addition to the comments below, the agency should generally review s. 1.07 of the Manual, relating to the appropriate use of definitions. For example, all definitions should be reviewed to avoid incorporation of substantive provisions.

b. The agency should review the proposed rule for compliance with s. 1.04 (4) of the Manual, relating to the proper indication of amendments to existing rule provisions. For example, SECTION 32 should be revised to properly amend the word “upon” and to show stricken material prior to underscored material.

c. Throughout the proposed rule, references to tables should include “PSC” in the table name. For example, in SECTION 44, write “Table PSC 119.05-1” rather than “Table 119.05-1”.

d. Throughout the proposed rule, cross-references should conform to the style described in s. 1.15 of the Manual. [See, e.g., the references in SECTION 42, which should be revised to “sub. (4) (a), (c), or (g)”.]

e. SECTIONS 1 to 4 propose to amend the definitions of the various categories of DG facilities. While these categories are used to describe DG facilities, the definitions provide that the categories themselves are DG facilities (e.g., “‘Category 1’ means a DG *facility*...”). [Emphasis added.] These SECTIONS of the rule could be amended to define “Category 1 facility”, “Category 2 facility”, “Category 3 facility”, and “Category 4 facility”.

f. SECTIONS 2 to 4 each refer to a non-exporting energy storage system, but in a slightly different manner than the similar reference in SECTION 1, resulting in confusion. As such, it appears the provisions would benefit from further revision. Additionally, the requirements of these provisions should be reviewed for consistency with SECTION 9, which appears to define nameplate rating as the default definition of export capacity.

g. SECTION 5 proposes to define “energy storage system” to mean “devices”, rather than “a device”. This definition could be modified to indicate whether an energy storage system must necessarily consist of several devices, or if a single device could constitute a system.

h. SECTIONS 6 through 8 propose definitions of “energy storage system max continuous output (kW in alternating current)”, “energy storage system max usable energy (kWh in alternating current)”, and “Energy storage system peak output (kW in alternating current)”. However, neither these terms, nor variations on these terms, appear in the proposed rulemaking order, or ch. PSC 119, as currently promulgated. The definitions should be omitted or text should be provided within the rulemaking order to make use of these terms. The same consideration could be made with respect to SECTION 10.

i. In SECTIONS 9 and 10, what are the means by which a limit on capacity lower than nameplate rating may be approved?

j. Considering the effects of SECTIONS 11 and 12, it appears the parenthetical clauses in SECTIONS 6 to 10 and 13 should be omitted. Also, these provisions modify the definitions of “kW” and “MW” to provide that these units reference units in alternating current, unless otherwise specified. However, it appears that neither the proposed rulemaking order, nor ch. PSC 119, as currently promulgated, include an instance where “kW” or “MW” is specified to mean something other than alternating current.

k. SECTION 13 of the proposed rulemaking order uses the slashed alternative “and/or”. If the thought to be expressed involves a choice between one of two alternatives, or both, the proper phrasing to be used is “_____ or _____, or both”. [See s. 1.08 (1) (d), Manual.]

l. SECTION 14 proposes to amend the definition of “point of common coupling”. The second sentence of the proposed definition should be modified as it is currently an incomplete sentence. Additionally, the proposed definition is ambiguous to the extent that it is unclear when the defined term is equivalent to “service point” and when it is not.

m. In SECTION 15, the order of code citations could be swapped to “chs. PSC 114 and SPS 316” in order to match the sequence of references to the national electric codes.

n. As referenced in SECTION 17, the agency should clarify the decision to require “supplements” and the relationship of those supplements to the completeness of an application.

o. In SECTION 39, s. PSC 119.04 (4) (h) (intro.) and 3. result in a confusing interaction between the 10-day deadline of the introductory material and “completion” of a waiver under subd. 3. Is the testing right waived if no action is taken by a public utility within 10 working days? [See, for comparison, the “deemed withdrawn” effect of applicant non-compliance in SECTION 31.] Additionally, in SECTIONS 39 and 40, par. (h) (intro.) and pars. (i) and (j) appear to be in conflict as to who, between an applicant and a utility, must obtain or conduct the referenced testing.

p. In SECTIONS 40 and 42, what is the relationship between an interconnection agreement and an interconnection approval memorandum in s. PSC 119.04 (4) (k) and (6), respectively?

q. The treatment clause for SECTION 55 references creation of pars. (c) and (d), but the provisions do not appear in the rule text. Also, as currently proposed, the text of SECTIONS 54 to 56 may be consolidated into a single SECTION that creates s. PSC 119.20 (15), (16), and (16) (Note).

r. In SECTION 57, the treatment may be consolidated to the amendment of s. PSC 119.25 (1) and (3) (intro.) and (b) 6.

s. SECTION 62 should be reviewed for form and clarity. For example, what is the agency’s intended purpose for the phrase “in compliance with the requirements of this chapter according to the provisions of this section” in s. PSC 119.40 (1)? Additionally, the agency should review s. PSC 119.40 (7) for clarity, and s. PSC 119.40 (3) for form and style, as it appears the paragraphs that subdivide the latter subsection do not follow the typical format in relation to the introductory material. Also, it appears that s. PSC 119.40 (1) refers to the interconnection application process, but subs. (4) and (8) refer to avoidance of disconnection, suggesting a relationship to an existing, previously approved interconnection. The provision could be clarified as to whether it applies to the application and approval process, or to existing connections, or both. Are existing connections governed by the agreement or approval memorandum referenced in SECTIONS 40 and 42?

t. At the end of the proposed rule text, include the statement regarding publication in the Administrative Register, as described in s. 1.03 (4) of the Manual.

4. Adequacy of References to Related Statutes, Rules and Form

In SECTION 31, the reference to “s. PSC 119(6)(a)” is invalid, and should be revised.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Throughout the proposed rule and the existing ch. PSC 119, the agency should review the use of the phrases “DG facility”, “DG project”, and “DG system” to ensure that each phrase refers to a different concept. When referring to a single concept, the proposed rule and existing code should use the same phrase consistently throughout the rule text.

b. In SECTION 14, insert “a” before “DG facility” in the proposed rule text.

c. SECTION 18 proposes to amend s. PSC 119.02 (35) (Note). The text of this note could be amended to eliminate the use of the second-person, for formality.

d. In SECTION 21, the agency states that the defined term “may include” certain elements. In what circumstances are these elements included?

e. In SECTION 27, the proposed rule text states that exceptions may be made if an applicant exceeds any timing requirements identified in s. PSC 119.06. This provision could be further clarified. For example, is exceeding a timing requirement the same as missing a deadline, in this instance? To further clarify the intent of the provision, consider stating more specifically what “exception” would apply if the applicant exceeds a timing requirement. Presumably, this would not allow the applicant to be considered earlier. Does it mean the application may be considered later, because it may be set aside until the missed requirement has been satisfied?

f. SECTION 41 includes the date September 1, 2023. Is this date related to an anticipated effective date of the proposed rule? If so, see s. 1.08 (1) (e) of the Manual for proper drafting style. If not, does the agency intend for this date to be applied retroactively or prospectively depending on the effective date of the proposed rule? Also in this SECTION, the rule text should be revised to avoid the use of parenthetical clauses.

g. In SECTION 47, a table column is created under the heading “Commissioning Fee” and in the third cell down, for category 3, it appears to show \$1,000 with a strike-through, but this should instead be underlined.

h. In SECTION 49, if retained, the imposition of a \$300 fee at the discretion of an individual utility could be revised for clarity to state that a utility “may assess a fee of up to \$300”. However, prior to retaining that type of discretionary fee, the agency should explain how such a fee would comport with the requirement of uniform standards under s. 196.496 (2), Stats.

i. In SECTION 52, a space should be inserted after the comma and before the year “2021” in the date September 28, 2021.

j. Also in SECTION 52, after the date September 28, 2021, the word “listed” appears in the proposed rule text and it appears this should be removed. Or if the word “listed” is intentionally included, the meaning here should be clarified. See, also, SECTION 55, which uses similar phrasing.

k. In SECTION 54, could the agency directly establish “minimum standard technical and communication requirements” rather than deferring the establishment of those requirements to an applicant and a public utility?

l. In SECTION 58, what is the relationship between the two cited standards, UL 1741 and the “applicable codes and standards listed in s. PSC 119.025”? Could the required standards be consolidated directly in a single rule provision?

m. In SECTION 60, could the phrase “site conditions acceptable to both parties” be clarified or further defined?

n. In SECTION 61, how does the term “party responsible for the re-testing” differ from the previous standard of “party requesting such re-testing”? It may be useful for the agency to provide additional detail for the departure from the “requesting party” standard.

PUBLIC SERVICE COMMISSION OF WISCONSIN

In the Matter of the Rulemaking to Update Wisconsin Administrative Code
Chapter PSC 119 for Interconnecting Distributed Generation Facilities

1-AC-256

Clearinghouse Rule No. 22-077

REPORT TO LEGISLATURE

I. Basis and Purpose of the Proposed Rule

The proposed rule updates the existing provisions of Wis. Admin. Code ch. PSC 119 (PSC 119), regarding the interconnection of customer-owned distributed generation facilities with the distribution system of electric public utilities. Updates were informed by the recommendations of a rulemaking advisory committee including representatives from utilities, distributed generation installers, customer and renewable energy advocates, and technical experts on distributed generation issues.

Updates are intended to account for the significant changes in distributed generation technology and operations since the current rules were promulgated in 2004. Specific updates include referencing new technical standards and codes; adding and refining rule definitions to reference considerations raised by new and updated technologies related to distributed generation that have emerged in recent years; and clarifying language related to testing and communication requirements to reflect present practices and requirements.

Updates are also intended to refine rule provisions related to the application process and information sharing. The volume of interconnection requests has substantially increased since the initial rules were promulgated and may continue to increase in future years. To ensure administrative requirements, remain fair and timely, and balance the interests of customers, installers and utilities, in the face of increased application volume, the proposed rule updates seek to clarify and update application process requirements and also update corresponding application forms. The proposed rule updates, including the revised application process, are designed to support more-effective information collection; update timing deadlines and decision criteria for application processing; update application-related fee levels and clarify requirements for fee administration; require utilities to provide more information on application requirements, processing of submitted applications, and grid conditions relevant to interconnections; and establish a more clearly defined dispute resolution process.

II. Summary of Public Comments

The Commission issued a draft economic impact analysis (EIA) and received three sets of comments. The joint set of comments from International Brotherhood of Electrical Workers (IBEW), Utility Local Unions, and Utility Workers Coalition (UWC) and the comments from the Wisconsin Utilities Association (WUA) did not indicate any issues or concerns. Sierra Club requested additional economic impact analysis, expressing concerns about the impact of fees on customers and companies installing distributed generation. The Commission concluded that the draft EIA already considered impacts on customers and distributed generation companies as well as other parties such as utilities and utility ratepayers and determined that no changes were necessary for the EIA.

The Joint Committee for the Review of Administrative Rules (JCRAR) requested that the Commission hold a preliminary hearing on the statement of scope. The Commission held a virtual hearing on March 19, 2021. No formal comments were submitted at the hearing. The Commission received five written comments in support of the proposed rulemaking.

On November 29, 2022, the Commission held a virtual public hearing to solicit public input on the draft rules. The Commission received thirty-eight written comments from members of the public, Sierra Club, Northern States Power-Wisconsin (NSPW), and the Wisconsin Utilities Association (WUA). Utility comments were generally in support of the proposed draft rules with suggestions to provide further guidance on timelines, suggestions to mitigate impacts of MISO affected system studies, suggestion to reduce privacy concerns from reporting on queues, and suggested modification of capacity definitions. Sierra Club disagreed with the conclusions in the Economic Impact Analysis and made several other suggestions. Public comments suggested reduction of insurance requirements beyond the increased flexibility provided in the proposed draft rules. The suggestions made in the comments were in nearly all cases discussed by the Advisory Committee over the course of the year it met, and therefore considered in developing the committee's recommendations. The Advisory Committee's final recommendations to the Commission represent proposed changes to the rules that are designed to balance the interests of the utilities, distributed generation installers, customer and renewable energy advocates, and other interested parties. At the Commission meeting on June 8, 2023, the Commission determined that rule language should be added to address certain public comments from WUA, NSPW, Sierra Club, and members of the public, including references to the impact of Midwest Independent System Operator (MISO) affected system studies on review timeframes, national security exceptions related to reporting on queues, and to require annual reporting if utilities assess engineering review and distribution study fees for certain interconnection applicants. These changes are further described in Section III.

III. Modifications Made

As described in Section VI., the Commission made changes to the final rule language and treatment of the rule sections based on feedback from Legislative Council. In instances in which the Commission did not agree with Legislative Council's feedback or Legislative Council requested additional clarity, the Commission provided explanations in Section VI. The Commission also made changes to address certain public comments. In PSC 119.04(7), the Commission added language allowing for an extension of distribution system study timelines if additional studies are required by the Midwest Independent System Operator (MISO). The Commission also added language to PSC 119.04(5) to allow for applications to be removed from monthly reporting due to national security concerns. This is to account for installations that may be located at military bases or other premises where national security concerns may be present. Finally, the Commission added language to require public utilities to report on engineering review and distribution study fees charged to interconnection applicants, if the public utility assesses these fees for Category 1 and 2 DG facilities.

IV. Appearances at the Public Hearing

There were no appearances or oral comments at the public hearing.

V. Changes to Rule Analysis and Fiscal Estimate

No changes were made to the rule analysis or fiscal estimate.

VI. Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse submitted comments on November 29, 2022. The comments pertained to: statutory authority; form, style, and placement in administrative code; adequacy of references to related statutes, rules and form; and clarity, grammar, punctuation, and use of plain language. Changes to the proposed rule were made to address recommendations by the Legislative Council Rules Clearinghouse. The Commission provided an explanation in instances in which the Commission did not take one of Legislative Council's recommendations or Legislative Council asked for additional clarification to explain rule language.

Comments related to Statutory Authority

Comment 1a. - *SECTION 27 of the proposed rule text includes a requirement that “reasonable efforts are made” not to adversely impact other complete applications when an exception is made under the provision. To ensure compliance with the requirement of uniform standards under s. 196.496 (2), Stats., consider whether another standard might be more appropriate, such as a determination that there is no material adverse impact on processing of other complete applications when an exception is made under the provision. Such revision would avert the ambiguity that may arise regarding an individual utility’s interpretation of “reasonableness” under the provision as currently drafted.*

Response: Agree. The Commission revised the language as recommended by the Legislative Council to ensure compliance with s. 196.496 (2), Stats.

Comment 1b. - *More generally, the proposed rule makes numerous references incorporating the service rules of a public utility into the application and approval process for interconnection of a distributed generation facility. While the agency explains that these service rules are subject to agency oversight pursuant to ss. 196.20 and 196.37, Stats., the extent to which such rules vary from one utility to another is unclear. As such, it may be useful for the agency to consider or more clearly explain how the incorporation of service rules comports with the requirement of uniform standards under s. 196.496 (2), Stats., as significant variation between service rules could effectively result in different standards across the state.*

Response: Explanation. There are variations in service rules across the state and between different utilities as each utility has differing design criteria at the point of interconnection. Local jurisdictions have varying requirements for in-home electrical configurations with which DG facilities need to interact. Therefore, it is difficult to prescribe standard service rules that would meet these varying requirements. For example, a utility may have service rules dictating the maximum allowable distance from the electric service circuit breaker box to the utility meter. Other utilities may have different distances or may not have a requirement at all. These variations relate to requirements set forth by local jurisdictions, which are managed in the utility service rules appropriately and may impact the safe interconnection of a DG facility.

Comments related to Form, Style and Placement in the Administrative Code

Comment 2a. - *In addition to the comments below, the agency should generally review s. 1.07 of the Manual, relating to the appropriate use of definitions. For example, all definitions should be reviewed to avoid incorporation of substantive provisions.*

Response: Disagree. The definitions for categories seek to describe the nature of the DG facility being referenced. Determination of a category as a procedure would prove burdensome and confusing. The identification of the category that defines a DG facility is foundational to understanding which requirements and prohibitions in the rules apply. Another similar example of where physical electrical equipment is defined using capacities is the definition for large electric generating facilities in s. 196.491 (g).

Comment 2b. - *The agency should review the proposed rule for compliance with s. 1.04 (4) of the Manual, relating to the proper indication of amendments to existing rule provisions. For example, SECTION 32 should be revised to properly amend the word “upon” and to show stricken material prior to underscored material.*

Response: Agree. The Commission has revised Section 32 (now Section 31 with renumbering) and reviewed the entire rule to ensure compliance with s. 1.04 (4) of the Manual, relating to the proper indication of amendments to existing rule provisions.

Comment 2c. - Throughout the proposed rule, references to tables should include “PSC” in the table name. For example, in SECTION 44, write “Table PSC 119.05-1” rather than “Table 119.05-1”.

Response: Agree. The Commission has revised Sections 44 and 46 (now Section 43 and 45 with numbering) to “Table PSC” then the corresponding administrative code number as recommended by Legislative Council.

Comment 2d. – Throughout the proposed rule, cross-references should conform to the style described in s. 1.15 of the Manual. [See, e.g., the references in SECTION 42, which should be revised to “sub. (4) (a), (c), or (g)”.]

Response: Agree. The Commission has revised Section 42 (now Section 41 with renumbering) and reviewed and revised the entire rule to conform with s. 1.15 of the Manual.

Comment 2e. – SECTIONS 1 to 4 propose to amend the definitions of the various categories of DG facilities. While these categories are used to describe DG facilities, the definitions provide that the categories themselves are DG facilities (e.g., “‘Category 1’ means a DG **facility**...”). [Emphasis added.] These SECTIONS of the rule could be amended to define “Category 1 facility”, “Category 2 facility”, “Category 3 facility”, and “Category 4 facility”.

Response: Disagree. The use of a category as a descriptor of a DG facility is common practice in the existing rules, and throughout the state and the industry. Other states have similar definitions which use either categories or levels to describe the type or size of distributed generation facilities. The Commission has changed references to a Category “DG Project” to “facility” to match the terminology of facility.

Comment 2f. – SECTIONS 2 to 4 each refer to a non-exporting energy storage system, but in a slightly different manner than the similar reference in SECTION 1, resulting in confusion. As such, it appears the provisions would benefit from further revision. Additionally, the requirements of these provisions should be reviewed for consistency with SECTION 9, which appears to define nameplate rating as the default definition of export capacity.

Response: Partially Agree and Explanation. The Commission has removed “paired” from the definition of “Category 1” in Section 1 so that this Section is consistent with Sections 2 to 4 and Section 9. Section 9 is not in conflict with Sections 1, 2, and 3 as the export capacity describes either the full nameplate capacity or a lower amount if there are components that reduce the capacity. Sections 1, 2, and 3 reference which capacity should be used depending on the size of the non-exporting component of the system. As such, each definition for capacities feed into the definitions for categories appropriately. The appearance of the nameplate as the default definition for any capacity is correct as it is inclusive of all systems, whether or not that system includes components that may or may not have the ability to reduce or limit the capacity of the system to export to the distribution system.

Comment 2g. – SECTION 5 proposes to define “energy storage system” to mean “devices”, rather than “a device”. This definition could be modified to indicate whether an energy storage system must necessarily consist of several devices, or if a single device could constitute a system.

Response: Agree. The Commission has revised Section 5 to clarify that energy storage system consists of “a device” or “devices.”

Comment 2h. – SECTIONS 6 through 8 propose definitions of “energy storage system max continuous output (kW in alternating current)”, “energy storage system max usable energy (kWh in alternating current)”, and “Energy storage system peak output (kW in alternating current)”. However, neither these terms, nor variations on these terms, appear in the proposed rulemaking order, or ch. PSC 119, as currently promulgated. The definitions should be omitted or text should be provided within the rulemaking order to make use of these terms. The same consideration could be made with respect to SECTION 10.

Response: Partially Agree and Explanation. The Commission has removed Section 10 from the rule language. The defined terms in Sections 6 through 8 apply to the standard application form that is being updated with the proposed rule. The defined terms provide clarity and information regarding the interconnection process to assist the customer and utility in understanding how to complete the form. Therefore, the Commission has updated PSC 119.02 (16h), (16p), and (16t) to include a Note under each defined term that “the defined term should be used when completing the standard application form.”

Comment 2i. – In SECTIONS 9 and 10, what are the means by which a limit on capacity lower than nameplate rating may be approved?

Response: Explanation. The terms used in these sections are commonly understood in the industry and are derived from the IREC 2019 Model Interconnection Procedures, which is the basis and standard for many state interconnection rules and informs other aspects of the proposed rules for Wisconsin.

Comment 2j. – Considering the effects of SECTIONS 11 and 12, it appears the parenthetical clauses in SECTIONS 6 to 10 and 13 should be omitted. Also, these provisions modify the definitions of “kW” and “MW” to provide that these units reference units in alternating current, unless otherwise specified. However, it appears that neither the proposed rulemaking order, nor ch. PSC 119, as currently promulgated, include an instance where “kW” or “MW” is specified to mean something other than alternating current.

Response: Agree and Explanation. The Commission has revised Sections 6, 7, 8, 9, and 13 (now Section 12 with renumbering) to omit the parenthetical clauses as recommended by Legislative Council. As noted in the response to 2h., the Commission has removed Section 10 from the rule language. The inclusion of the parenthetical clauses related to specifying each definition as units in alternating current as the definitions were being developed was helpful in development to technical experts. Additionally, the use of establishing the units served to reduce confusion with the energy component of some system capacities which might be measured in “kWh”. Ultimately the definitions can still be appropriately interpreted without specifying the units since the wording is correct in differentiating power and energy.

Comment 2k. – SECTION 13 of the proposed rulemaking order uses the slashed alternative “and/or”. If the thought to be expressed involves a choice between one of two alternatives, or both, the proper phrasing to be used is “_____ or _____, or both”. [See s. 1.08 (1) (d), Manual.]

Response: Agree. The Commission has revised Section 13 (now Section 12 with renumbering) from “and/or” to “or” and “or both” to indicate a choice between the two alternatives as recommended by Legislative Council.

Comment 2l. – SECTION 14 proposes to amend the definition of “point of common coupling”. The second sentence of the proposed definition should be modified as it is currently an incomplete sentence. Additionally, the proposed definition is ambiguous to the extent that it is unclear when the defined term is equivalent to “service point” and when it is not.

Response: Agree. The Commission has revised the incomplete sentence in Section 14 (now Section 13 with renumbering). The sentence seeks to add clarity by referencing the practice for uniform or standard installations. There are many possible exceptions which would not be possible to comprehensively describe. The definition aligns with the definition found in IEEE 1547-2018, which also references how the point of common coupling is determined using definitions from the National Electrical Code and National Electrical Safety Code.

Comment 2m. – *In SECTION 15, the order of code citations could be swapped to “chs. PSC 114 and SPS 316” in order to match the sequence of references to the national electric codes.*

Response: Agree. The Commission has swapped the order of “chs. PSC 114 and SPS 316” to match the sequence of references to the national electric codes as recommended by Legislative Council.

Comment 2n. – *As referenced in SECTION 17, the agency should clarify the decision to require “supplements” and the relationship of those supplements to the completeness of an application.*

Response: Explanation. The standard application form explains when supplements are appropriate as they are labeled and related to technology type. The technology types include, energy storage system, solar photovoltaic, wind turbine, and generator. The supplements are required when a given technology type is being applied for as part of the distributed generation facility.

Comment 2o. – *In SECTION 39, s. PSC 119.04 (4) (h) (intro.) and 3. result in a confusing interaction between the 10-day deadline of the introductory material and “completion” of a waiver under subd. 3. Is the testing right waived if no action is taken by a public utility within 10 working days? [See, for comparison, the “deemed withdrawn” effect of applicant non-compliance in SECTION 31.] Additionally, in SECTIONS 39 and 40, par. (h) (intro.) and pars. (i) and (j) appear to be in conflict as to who, between an applicant and a utility, must obtain or conduct the referenced testing.*

Response: Explanation. The deadline does not provide that the utility waives its right to test by default. If the utility fails to meet its deadline this may result in a regulatory response or review of a customer complaint. The rules do not prescribe which entity conducts the testing as it may involve roles performed by either party or both parties depending on which of the routes in subd. 1 through 3 are selected.

Comment 2p. – *In SECTIONS 40 and 42, what is the relationship between an interconnection agreement and an interconnection approval memorandum in s. PSC 119.04 (4) (k) and (6), respectively?*

Response: Explanation. The interconnection approval memorandum serves as advanced notification of an anticipated interconnection agreement and provides applicants an advantage as they develop projects. The memorandum affirms that the application is approved and conceptually agreed upon by both the applicant and utility and acknowledges that the physical interconnection is planned to occur in the future. This affirmation provides applicants the ability to commit to constructing the facilities given a long potential time span, particularly on many larger projects, between when contracts may be signed and when final interconnection agreements may become available.

Comment 2q. – *The treatment clause for SECTION 55 references creation of pars. (c) and (d), but the provisions do not appear in the rule text. Also, as currently proposed, the text of SECTIONS 54 to 56 may be consolidated into a single SECTION that creates s. PSC 119.20 (15), (16), and (16) (Note).*

Response: Agree. The Commission has revised Section 55 (now Section 54 with renumbering) to remove references to pars (c) and (d) in the treatment clause and has also consolidated Sections 54 to 56 (now Section 53) into a single section that creates s. PSC 119.20 (15), (16), and (16) (Note).

Comment 2r. – *In SECTION 57, the treatment may be consolidated to the amendment of s. PSC 119.25 (1) and (3) (intro.) and (b) 6.*

Response: Agree. The Commission has revised the treatment clause in Section 57 (now Section 54 with renumbering) to consolidate the amendment of s. PSC 119.25 (1) and (3) (intro.) and (b) 6.

Comment 2s. – *SECTION 62 should be reviewed for form and clarity. For example, what is the agency’s intended purpose for the phrase “in compliance with the requirements of this chapter according to the provisions of this section” in s. PSC 119.40 (1)? Additionally, the agency should review s. PSC 119.40 (7) for clarity, and s. PSC 119.40 (3) for form and style, as it appears the paragraphs that subdivide the latter subsection do not follow the typical format in relation to the introductory material. Also, it appears that s. PSC 119.40 (1) refers to the interconnection application process, but subs. (4) and (8) refer to avoidance of disconnection, suggesting a relationship to an existing, previously approved interconnection. The provision could be clarified as to whether it applies to the application and approval process, or to existing connections, or both. Are existing connections governed by the agreement or approval memorandum referenced in SECTIONS 40 and 42?*

Response: Agree and Explanation. The Commission has revised language in s. PSC 119.40 (1) to clarify that the dispute process applies to disputes related to ch. PSC 119, including but not limited to, the application and approval process for interconnection under s. PSC 119.04 and to disconnections for current interconnections under s. PSC 119.09. Wis. Admin. Code § PSC 119.40 (7) uses the standard dispute language as other PSC chapters which reference a dispute process, including chs. PSC 113, 135, and 185. The Commission reorganized and revised s. PSC 119.40 (3) for form, style, and clarity, and it now has similar form and style to the other chs. PSC 113, 135, and 185. The dispute procedures would govern all disputes related to the interconnection rules in ch. PSC 119, although disputes related to interconnections completed before the enactment of revised rules would be assessed under the previous rules in place at the time of the interconnection. At this time there are no existing approval memorandums which would be subject to these requirements as that would be a new provision created by these proposed draft rules.

Comment 2t. – *At the end of the proposed rule text, include the statement regarding publication in the Administrative Register, as described in s. 1.03 (4) of the Manual.*

Response: Agree. The Commission has added the statement regarding publication in the Administrative Register, as described in s. 1.03 (4) of the Manual at the end of the rule in Section 61 (now Section 60 with renumbering).

Comments related to Adequacy of References to Related Statutes, Rules and Form

Comment 4. – *In SECTION 31, the reference to “s. PSC 119(6)(a)” is invalid, and should be revised.*

Response: Agree. The Commission has revised the reference in Section 31 (now Section 30 with renumbering) to s. PSC 119.04 (4) (a) or par. (a) as it is written in Section 30. The previous reference to s. PSC 119 (6) (a) was incorrect and missing the section number.

Comments related to Clarity, Grammar, Punctuation and Use of Plain Language

Comment 5.a. – *Throughout the proposed rule and the existing ch. PSC 119, the agency should review the use of the phrases “DG facility”, “DG project”, and “DG system” to ensure that each phrase refers to a different concept. When referring to a single concept, the proposed rule and existing code should use the same phrase consistently throughout the rule text.*

Response: Agree. The Commission has reviewed the proposed rule and revised the language to replace “DG project”, “project”, or “DG application” with either “facility” or “DG facility” so that the same phrase is used consistently throughout the rule text.

Comment 5.b. – *In SECTION 14, insert “a” before “DG facility” in the proposed rule text.*

Response: Agree. The Commission has revised Section 14 (now Section 13 with renumbering) to insert “a” before “DG facility.”

Comment 5.c. – *SECTION 18 proposes to amend s. PSC 119.02 (35) (Note). The text of this note could be amended to eliminate the use of the second-person, for formality.*

Response: Agree. The Commission has revised Section 18 (now Section 17 with renumbering) to eliminate the use of the second-person by replacing “your” with “the” in front of “local electric utility” for formality.

Comment 5.d. – *In SECTION 21, the agency states that the defined term “may include” certain elements. In what circumstances are these elements included?*

Response: Explanation. The definition deliberately keeps general the circumstances of when certain elements are included, as there are technical considerations that guide whether and when each are needed on a given project. The definition provides clarification of what may be inclusive of telemetry. There is not an industry standard definition for which systems are included in telemetry in relation to distributed generation facilities and describing all elements that may be included would be overly burdensome.

Comment 5.e. – *In SECTION 27, the proposed rule text states that exceptions may be made if an applicant exceeds any timing requirements identified in s. PSC 119.06. This provision could be further clarified. For example, is exceeding a timing requirement the same as missing a deadline, in this instance? To further clarify the intent of the provision, consider stating more specifically what “exception” would apply if the applicant exceeds a timing requirement. Presumably, this would not allow the applicant to be considered earlier. Does it mean the application may be considered later, because it may be set aside until the missed requirement has been satisfied?*

Response: Explanation. The earliest an applicant may be considered is based on the order in which the application is deemed complete, which would be congruent with keeping a spot in a queue. The exception clause provides for extenuating circumstances in which an applicant can seek to maintain a queue position if a deadline is expected to be missed.

Comment 5.f. – *SECTION 41 includes the date September 1, 2023. Is this date related to an anticipated effective date of the proposed rule? If so, see s. 1.08 (1) (e) of the Manual for proper drafting style. If not, does the agency intend for this date to be applied retroactively or prospectively depending on the effective date of the proposed rule? Also in this SECTION, the rule text should be revised to avoid the use of parenthetical clauses.*

Response: Agree. The Commission revised Section 41 (now Section 40) to state “after the effective date of this paragraph....[LRB inserts date:]” The intent is for all interconnection applications to be in the application queue for approval by the utility upon the effective date of the proposed rule. LRB will add the effective date of the rule once the rule is published and promulgated.

Comment 5.g. – *In SECTION 47, a table column is created under the heading “Commissioning Fee” and in the third cell down, for category 3, it appears to show \$1,000 with a strike-through, but this should instead be underlined.*

Response: Agree. The Commission has made the recommended changes and underlined \$1,000 in the table column for Category 3 in Section 47 (now Section 46 with renumbering).

Comment 5.h. – *In SECTION 49, if retained, the imposition of a \$300 fee at the discretion of an individual utility could be revised for clarity to state that a utility “may assess a fee of up to \$300”. However, prior to retaining that type of discretionary fee, the agency should explain how such a fee would comport with the requirement of uniform standards under s. 196.496 (2), Stats.*

Response: Agree and Explanation. The Commission has revised Section 49 (now Section 48 with renumbering) to state that the utility “may” assess a fee “up to \$300.” The discretion for the utility to assess a fee for the pre-application report aligns with s. 196.496 (2), Stats., as this fee addresses application processing costs borne by utilities. The fee aligns with national standards such as the IREC 2019 Model Interconnection Procedures. Some variation between utilities regarding application processing costs is made allowable through the discretionary fee while a uniform maximum is imposed.

Comment 5.i. – *In SECTION 52, a space should be inserted after the comma and before the year “2021” in the date September 28, 2021.*

Response: Agree. The Commission has inserted a space after the comma and before the year “2021” in the date of September 28, 2021 in Section 52 (now Section 51 with renumbering).

Comment 5.j. – *Also in SECTION 52, after the date September 28, 2021, the word “listed” appears in the proposed rule text and it appears this should be removed. Or if the word “listed” is intentionally included, the meaning here should be clarified. See, also, SECTION 55, which uses similar phrasing.*

Response: Agree and Explanation. The Commission has revised Section 52 to remove the word “certified.” The word “listed” in Section 52 (now Section 51 with renumbering) and Section 54 (formerly Section 55) conforms with industry standards which state that equipment is listed by a nationally recognized testing laboratory, or in this case more specifically the Underwriters Laboratories. This phrasing is used to describe the process in which equipment is certified, hence why the term “certified” was originally in the proposed draft rules but recognized to be redundant and removed.

Comment 5.k. – *In SECTION 54, could the agency directly establish “minimum standard technical and communication requirements” rather than deferring the establishment of those requirements to an applicant and a public utility?*

Response: Explanation. The agency cannot establish the minimum technical requirements as they would need to be established on a case-by-case basis for each DG facility. The communication requirements for different DG facility can range widely from no requirements at all up to very sophisticated system requirements. The

industry standards related to communications protocols are in IEEE 1547-2018 which is incorporated by reference in the proposed draft rules, but there are not industry standards related to the communication medium that may or may not be needed to interconnect certain DG facilities.

Comment 5.l. – In SECTION 58, what is the relationship between the two cited standards, UL 1741 and the “applicable codes and standards listed in s. PSC 119.025”? Could the required standards be consolidated directly in a single rule provision?

Response: Explanation. Section 58 (now Section 55 with renumbering) specifically references UL 1741 as the applicable standards but also references applicable codes to include electrical codes and local building codes as they may apply.

Comment 5.m. – In SECTION 60, could the phrase “site conditions acceptable to both parties” be clarified or further defined?

Response: Explanation. This phrase cannot be further defined as it is intentionally designed to allow for variations in weather conditions at the time of the testing. There is also consideration for variation in the operational status of equipment and its availability to perform certain functions at the time of testing.

Comment 5.n. – In SECTION 61, how does the term “party responsible for the re-testing” differ from the previous standard of “party requesting such re-testing”? It may be useful for the agency to provide additional detail for the departure from the “requesting party” standard.

Response: Explanation. The utility may require re-testing for failure of the applicant to represent aspects of their facility correctly through the interconnection application process. Therefore, the responsible party may or may not be the party requesting the re-testing depending on the situation. The phrasing in this section was developed to encompass the variety of possible re-testing scenarios that may arise throughout the interconnection process.

VII. Final Regulatory Flexibility Analysis

The proposed rule changes are not expected result in significant economic impact on small businesses. The definition of “small business” in Wisconsin Stat. § 227.114 (1) states that to be considered a small business, the business must not be dominant in its field. Since utilities are monopolies in their service territories, they are dominant in their fields and are not small businesses. The Commission’s fiscal estimate and economic impact analysis also determined that the proposed rules will not have an economic impact on small businesses. The Commission sought input from all utilities, electric cooperatives, installers of distributed generation technology, manufacturers of distributed generation technologies, customer advocates, Wisconsin Utilities Association, Utility Workers’ Coalition, and National Federation of Independent Businesses.

VIII. Response to Small Business Regulatory Review Board Report

The Small Business Regulatory Review Board did not prepare a report on this rule proposal.

IX. Wisconsin Environmental Policy Act and Housing Analysis

The Commission evaluated whether the rules would have an environmental impact and concluded that the rules do not result in any possible significant, adverse environmental or social impacts. Therefore, preparation of an

environmental assessment or environmental impact statement under Wisconsin Stat. § 1.11 was not necessary. The Commission completed an evaluation of the potential impact on housing under Wisconsin Stat. § 227.115 and concluded the rules do not impact housing.