PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Northern States Power Company–Wisconsin for a Certificate of Public Convenience and Necessity to Construct the Ashland to Ironwood Transmission Line Relocation Project, to be Located in Ashland and Iron Counties, Wisconsin

4220-CE-183

FINAL DECISION

This is the Final Decision in the application filed by Northern States Power Company-Wisconsin (applicant) seeking approval from the Commission for a Certificate of Public Convenience and Necessity (CPCN) allowing the applicant to remove and rebuild two transmission lines between the Gingles Substation in the Town of Ashland, Wisconsin, and the Ironwood Substation in the Town of Ironwood, Michigan. The two transmission lines are designated as W3351, which is an 88 kilovolt (kV) line, and W3316, which is a 115 kV line. Instead of rebuilding the lines along the current corridor, the proposed project would rebuild both lines following the existing corridor of the W3606 and W3607 lines, which are both 34.5 kV lines. Portions of the W3606 and W3607 lines would also be rebuilt as part of the proposed project. The relocation would remove approximately 35 miles of existing transmission lines and rebuild approximately 47 miles of new transmission lines, for an estimated total project cost of approximately $132.1 million.

The application is GRANTED, subject to the conditions in this Final Decision.

Introduction

On May 26, 2021, pursuant to Wis. Stat. § 196.491 and Wis. Admin. Code chs. PSC 4 and 111, the applicant filed with the Commission an application for a CPCN to remove and

rebuild two transmission lines between the Gingles Substation in the Town of Ashland, Wisconsin, and the Ironwood Substation in the Town of Ironwood, Michigan. (PSC REF#: 412031.) The applicant filed a revised application on October 11, 2021 (PSC REF#: 422863), and again, replaced prior filings on October 13, 2021. (PSC REF#: 423058.) The two transmission lines are designated as W3351, which is an 88 kV line, and W3316, which is a 115 kV line. Instead of rebuilding the lines along the current corridor, the proposed project would rebuild both lines following the existing corridor of the W3606 and W3607 lines, which are both 34.5 kV lines. Portions of the W3606 and W3607 lines would also be rebuilt as part of the proposed project. The relocation would remove approximately 35 miles of existing transmission lines and rebuild approximately 47 miles of new transmission lines.

The applicant stated that the need for the proposed project is related to the age, condition, and access issues associated with the existing lines. The applicant noted that W3351 was built in 1952 and is 70 years old, while W3316 was built in 1976 and is 46 years old. Both lines were built on a cross-country route in as direct a path as possible, as opposed to following the right-of-way (ROW) of a roadway, and are substantially located on the Bad River Reservation. The applicant described the poor condition of the existing transmission poles and the difficulty in accessing the equipment for maintenance. The existing transmission lines were built with H-frame-style wooden poles. Transmission line W3351 was built without a shield wire, which makes the line more susceptible to lightning strike damage. Lines W3606 and W3607 are of similar vintages to W3351 and W3316, and are in similarly poor condition.

The Commission found the application in this docket to be complete on June 25, 2021. (PSC REF#: 414297.) Wisconsin Stat. § 196.491(3)(g) requires that the Commission take final

action within 180 days after it finds a CPCN application complete, unless an extension of no more than 180 days is granted by the Chairperson of the Commission. The original 180-day deadline would have expired on December 22, 2021. An extension was requested because the schedule stipulated to by the applicant and Commission staff established deadlines that would result in an order by the Commission being issued after December 22, 2021. The extension was granted on October 14, 2021. (PSC REF#: 423106.) Therefore, the Commission must take final action on or before June 20, 2022, or the application is approved by operation of law. Wis. Stat. § 196.491(3)(g).

The Commission issued a Notice of Proceeding on August 5, 2021. (PSC REF#: 418191.) No requests to intervene were filed in this docket. No Prehearing Conference was held since the applicant and Commission staff stipulated to the schedule and the issues for the docket. On October 7, 2021, the Administrative Law Judge issued a Scheduling Order establishing the issues, schedule, and other facilitating matters for the proceeding. (PSC REF#: 422260.) The parties, for the purposes of review under Wis. Stat. §§ 227.47 and 227.53, are listed in Appendix A of this Final Decision.

The issue for hearing, as stipulated to by the applicant and Commission staff and established in the Scheduling Order, was:

1. Does the project comply with the applicable standards under Wis. Stat. §§ 1.11, 1.12, 196.025, and 196.491, and Wis. Admin. Code chs. PSC 4 and 111?

The proposed project is a Type II action under Wis. Admin. Code § PSC 4.10(2). On October 18, 2021, Commission staff issued a preliminary determination that there would be no significant impacts on the human environment from the project. The environmental assessment (EA) was filed as Commission staff exhibit Ex.-PSC-EA on November 19, 2021. (PSC REF#:

426097.) The EA stated that preparation of an environmental impact statement (EIS) was not necessary under Wis. Stat. § 1.11. An Agricultural Impact Statement (AIS) was required for this project. On November 2, 2021, the AIS program within the Department of Agriculture, Trade and Consumer Protection (DATCP) published AIS #4424 – Ashland-Ironwood Transmission Line Relocation Project for the project (PSC REF#: 424389) as an exhibit to the case record. A draft copy of AIS #4424 was submitted by DATCP to the Commission and is included within Appendix A of the EA for the project.

The Commission held an audiovisual technical hearing with no physical location on December 15, 2021. (PSC REF#: 425041.) At the technical hearing, expert witnesses offered testimony and exhibits on behalf of the applicant and Commission staff. The Commission also held an audiovisual public hearing on December 13, 2021. (PSC REF#: 425041.) At the public hearing, no member of the public testified. The Commission's public hearing process also included the ability for members of the public to submit electronic written comments through the Commission's public internet web site. The Commission conducted its hearings as Class 1 contested case proceedings, pursuant to Wis. Stat. §§ 196.491(3)(b), 227.01(3)(a), and 227.44. On January 6, 2022, the applicant filed a brief in support of the proposed project. (PSC REF#: 428283.) No reply briefs were filed.

The Commission discussed the record in this matter at its open meeting of March 3, 2022.

Findings of Fact

1. The applicant is a Wisconsin public utility engaged in providing electric transmission service in Wisconsin pursuant to Wis. Stat. § 196.01(5)(a). Pursuant to Wis. Stat.

§ 196.491(3), the applicant is subject to the Commission's jurisdiction over its application for a CPCN for the proposed project.

2. The applicant is proposing to remove and rebuild two transmission lines: the 88 kV W3351 line and the 115 kV W3316 line, between the Gingles Substation in the Town of Ashland, Wisconsin, and the Ironwood Substation in the Town of Ironwood, Michigan, as described in its application, the EA, and as modified by this Final Decision. The total gross estimated project cost is $132 million.

3. Completion of the proposed project at the estimated cost will not substantially impair the efficiency of the applicant's service, will not provide facilities unreasonably in excess of probable future requirements, and when placed in operation, will not add to the cost of service without proportionately increasing the value or available quantity thereof.

4. The facilities approved by this Final Decision are necessary to provide adequate and reliable service to present and future electric customers.

5. The facilities approved by this Final Decision will adequately address the present needs of the applicant's electric system and are necessary to satisfy the reasonable needs of the public for an adequate supply of electrical energy. Wis. Stat. § 196.491(3)(d)2.

6. The proposed transmission line facilities approved by this Final Decision provide usage, service, or increased regional benefits to wholesale and retail customers or members in this state, and the benefits of the facilities are reasonable in relation to their cost.

7. The facility design, location, and route approved by this Final Decision are in the public interest considering alternative sources of supply, alternative locations or routes,

individual hardships, engineering, economic, safety, reliability, and environmental factors. Wis. Stat. § 196.491(3)(d)3.

8. The facilities approved by this Final Decision will not have undue adverse impacts on environmental values including ecological balance, public health and welfare, historic sites, geological formations, aesthetics of land and water, and recreational use. Wis. Stat. § 196.491(3)(d)4.

9. The facilities approved by this Final Decision will not unreasonably interfere with the orderly land use and development plans for the area. Wis. Stat. § 196.491(3)(d)6.

10. The facilities approved by this Final Decision will not have a material adverse impact on competition in the relevant wholesale electric service market. Wis. Stat. § 196.491(3)(d)7.

11. Energy conservation, renewable resources, or other energy priorities listed in Wis. Stat. §§ 1.12 and 196.025, or their combination, are not cost-effective, technically feasible, or environmentally sound alternatives to the proposed project.

12. The approved transmission line route utilizes priority siting corridors listed in Wis. Stat. § 1.12(6) to the greatest extent feasible, consistent with economic and engineering considerations, reliability of the electric system, and protection of the environment.

13. The facilities approved by this Final Decision will affect local farmland. DATCP previously issued a statement indicating that an AIS is required for the proposed project. The AIS was incorporated into the Commission's EA and provided as an Exhibit to the case record.

14. The facilities approved by this Final Decision will affect waterways and wetlands. The proposed project will require permits from the Department of Natural Resources (DNR) for waterway and wetland impacts, construction site erosion control, and stormwater handling.

15. The facilities approved by this Final Decision may affect endangered and threatened species, and the applicant will need to consult with the DNR Bureau of Natural Heritage Conservation to ensure compliance with the state's endangered species law.

16. The facilities approved by this Final Decision do not require the applicant to provide notifications to the Federal Aviation Administration.

17. Critical proposed facilities that could be damaged by flooding are not located in the 100-year flood plain. Consequently, there is no flood risk to the project per 1985 Executive Order 73.

18. The proposed high-voltage transmission line facilities approved by this Final Decision are not located in the Lower Wisconsin State Riverway. Wis. Stat. § 196.491(3)(d)3m.

19. Approval of the project is in the public interest and is required by the public convenience necessity.

Conclusions of Law

1. The Commission has jurisdiction under Wis. Stat. §§ 1.11, 1.12, 44.40, 196.02, 196.025, 196.395, and 196.491, and Wis. Admin. Code chs. PSC 4 and 111, to issue a CPCN authorizing the applicant to remove, rebuild, and place in operation the proposed electric transmission facilities described in this Final Decision and to impose the conditions specified in this Final Decision.

Opinion

The Commission has a responsibility to ensure that Wisconsin receives adequate, reliable, and economical electric service, now and in the future. The applicant's proposed project includes the removal and rebuilding of two transmission lines, the 88 kV W3351 line and the 115 kV W3316 line, between the Gingles Substation in the Town of Ashland, Wisconsin, and the Ironwood Substation in the Town of Ironwood, Michigan. The application contains five route alternatives for the rebuild of lines W3351 and W3316. The project would relocate and rebuild lines W3351 and W3316 along the 34.5 kV W3606 line and 34.5 kV W3607 line corridors. The project would also include a rebuild of lines W3606 and W3607.

The Commission is authorized to review and approve applications to construct large electric transmission projects under the CPCN law. Wis. Stat. § 196.491(3). After reviewing the record compiled in the contested case proceeding, the Commission must determine whether the project serves the public convenience and necessity based on a number of factors relating to the need for and impacts of the project based upon the criteria outlined in the CPCN law and related statutes. Since 1907, the Commission has regulated public utilities to ensure that "reasonably adequate service and facilities" are available to the public at rates that are "reasonable and just." Wis. Stat. § 196.03(1). The Commission's expertise in administering Wis. Stat. § 196.491 to determine what proposed projects are appropriate and in the public interest has long been recognized by Wisconsin courts. *Wisconsin Power & Light Co. v. Pub. Serv. Comm'n of Wisconsin*, 148 Wis. 2d 881, 888, 437 N.W.2d 888, 891 (Ct. App. 1989); *see also Clean Wisconsin, Inc. v. Public Service Commission of Wisconsin*, 2005 WI 93, 282 Wis. 2d 250,

700 N.W.2d 768 (recognizing the Commission's expertise in reviewing proposed construction projects under Wis. Stat. § 196.491).

Determining whether a proposed project is in the public interest often requires a high degree of discretion, judgment, and technical analysis. Such decisions involve intertwined legal, factual, value, and public policy determinations. The Commission, as the finder of fact, is charged with sifting through all of the information and applying the statutory criteria to reach a well-reasoned decision. In doing so, the Commission uses its experience, technical competence and specialized knowledge to determine the credibility of each witness and the persuasiveness of the highly technical evidence presented on each issue. The Commission's proceeding on this CPCN application developed a robust record on all of the issues that the Commission must consider in reviewing a proposed project.

Project Description, Purpose, and Cost

The applicant proposed to relocate and rebuild two existing transmission lines, the 88 kV W3351 line and the 115 kV W3316 line, that run between the Gingles Substation southeast of Ashland, Wisconsin, and the Ironwood Substation in Ironwood, Michigan. Each line is approximately 35 miles long and is currently located within the reservation of the Bad River Band of Lake Superior Chippewa Indians (Bad River Band).

The applicant stated that line W3351 would be built to future 115 kV capability but operated at its current 88 kV for the foreseeable future. Line W3316 would be built to future 161 kV capability but operated at its current 115 kV for the foreseeable future. The applicant also stated that the proposed route alternatives offer improved accessibility and land rights.

The application contains five route alternatives, identified in the application as route options A, B, C, D, and E. (PSC REF#: 422863.) All of the route options contemplate relocating and rebuilding lines W3351 and W3316 along the 34.5 kV W3606 line and 34.5 kV W3607 line corridors. The project would also rebuild lines W3606 and W3607, due to their poor condition, and relocate a portion of line W3606. Lines W3606 and W3607 would be rebuilt to future 69 kV capability; however, they will be operated at their existing voltage of 34.5 kV for the foreseeable future. All five route options would: (1) relocate and remove approximately 27 miles of the existing W3351 transmission line and approximately 32 miles of the existing W3316 transmission line; (2) rebuild, in the existing corridor, approximately 2 miles of the W3351 transmission line between structure 315 on the west side of Hurley and structure 336 at the Ironwood Substation; and (3) relocate approximately 3.4 miles of the W3606 line , as well as remove the old line, between structure 441 near Golf Course Road and structure 495 in the City of Mellon For Routes A, B, or C, approximately .5 miles of line W306 would be rebuilt between structures 496 and 503 in the City of Mellon.

The application stated that the project does not include any substation facility changes. However, because the lengths of the lines will change, the impedance of the transmission lines will be different. To address this, relay updates will be required at the Gingles, Hurley, Bay Front, and Norrie Substations in order to protect the system from faults. These changes will all take place in the control houses of the affected substations. As such, the footprint and physical look of these substations will not change.

Project Need

The Commission's assessment of need requires that the Commission find that the project, if constructed, will satisfy the reasonable needs of the public for an adequate supply of electric energy. The Commission may reject the project if it finds that it would substantially impair the efficiency of utility service, would provide facilities unreasonably in excess of probable future requirements, or would add to the cost of service without proportionately increasing the value or available quantity of service.

The applicant stated the project is needed to ensure reliable electric service to the Bayfield, Ashland, and Ironwood areas. The reliability concerns would arise due to the advanced age and poor condition of the existing facilities; the difficult terrain that hinders access to the facilities which are located remote from roads; and limited land rights. According to the application, the project will address these reliability issues and provide load serving capability to meet demand for several decades.

Line W3351 is nearly 70 years old. The structures are H-frame, wood poles. While the current standard is for all new lines to be built with shield wire(s) to protect the structures and equipment from lightning strikes, W3351 does not have any shield wires. As a result, the pole tops, cross arms, and insulators have sustained a significant amount of lightning damage. The majority of the poles are either trussed or deteriorating from natural weathering or animal damage. At the time the application was filed, 258 of the 336 structures of W3351 have recordable pole defects. Furthermore, this line has had low wire-to-ground clearance issues that have had to be mitigated by installing steel phase raisers in the last three years. Even with this

mitigation effort, the line capacity has had to be de-rated from a limit of 56 megavolt-ampere (MVA) down to 50 MVA.

Line W3316 is 45 years old. The structures are H-frame, wood poles and include dual shield wires. The W3316 line has sustained less lightning damage than the W3351 line due to the presence of the shield wires, but the poles have sustained lightning damage to insulators and cross arms. They also have wear from weather and animals, with 214 of the 270 structures having reportable pole defects. While this number of defective poles is high, most defects are of moderate to low severity and are expected for a line of this vintage in this location. The applicant estimated that within the next eight to ten years W3316 will require a partial refurbishment to replace poles, cross arms, and insulators that have reached their end of life. This refurbishment would extend W3316's service life by approximately 15 years until the early to mid-2040s when a complete rebuild would be necessary.

Line W3606 is 42 years old. The structures are single, triangular configured, wood poles with a shield wire. Testing in 2020 showed that the wood poles are beginning to deteriorate more rapidly, with a 6 percent failure rate. The applicant stated that a failure rate of 2-3 percent is considered average.

Line W3607 is 72 years old. These structures are also single, triangular configured, wood poles without a shield wire. This line has already been identified for complete reconstruction, with 9.6 miles having been replaced in 2013. Approximately 17 miles of the original 1949 vintage line remain.

The applicant stated that the existing lines are located, in substantial part, in areas away from roads and other means of access. Their remoteness, and the route's difficult terrain,

complicate maintenance of the line and delay repairs. As a result, the applicant has had to use non-standard maintenance and vegetation management techniques. Further, the applicant also has limited land rights for W3351 and W3316, which cross the Bad River Band Reservation. The easement for W3351 has expired and the applicant is negotiating land rights with the Bad River Band for both lines. The applicant must also comply with the Bad River Band's requirements for conducting maintenance work on the lines. This results in unpredictable access, timing, and additional obligations regarding invasive species monitoring as well as equipment and vehicle inspections for each entry on the reservation.

The applicant stated that this project will allow it to address the condition issues attributed to W3351 and alleviate the access and land rights issues. The project will also allow the lines to be rebuilt to current standards, which will increase reliability of the lines.

The applicant provided a Transmission Planning Study as Appendix D of its application and provided the power flow models associated with the study. (PSC REF#: 423281.) Commission staff reviewed the planning study and re-ran the contingencies in the model for each of the options the applicant presented in the PowerWorld Simulator 22 software. In its power flow analysis, Commission staff modeled the same contingencies identified in the planning study that stress the regional system, and performed loading sensitivities to validate the findings of the applicant's study. Commission staff did not find any notable discrepancies that dispute the findings of the applicant's planning study. (PSC REF#: 427583.)

Based upon the record developed in this proceeding, the Commission finds that the project is needed to satisfy the reasonable needs of the public for an adequate supply of energy.

Energy Priorities Law

When reviewing a CPCN application, the Commission considers Wis. Stat. §§ 1.12 and 196.025(1), known as the Energy Priorities Law (EPL), which establish the preferred means of meeting Wisconsin's energy demands. The EPL creates the following priorities:

> 1.12 State energy policy. (4) PRIORITIES. In meeting energy demands, the policy of the state is that, to the extent cost effective and technically feasible, options be considered based on the following priorities, in the order listed:
> (a) Energy conservation and efficiency.
> (b) Noncombustible renewable energy resources.
> (c) Combustible renewable energy resources.
> (cm) Advanced nuclear energy using a reactor design or amended reactor design approved after December 31, 2010, by the U.S. Nuclear Regulatory Commission.
> (d) Nonrenewable combustible energy resources, in the order listed:
> 1. Natural gas.
> 2. Oil or coal with a sulphur content of less than 1%.
> 3. All other carbon based fuels.

In addition, Wis. Stat. § 196.025(1) declares that the Commission shall implement these priorities in making all energy-related decisions to the extent they are cost-effective, technically feasible, and environmentally sound.

The applicants do not dispute that the EPL applies in this case, and as discussed below, there is ample evidence to show the proposed project satisfies the requirements of the EPL.

Alternatives

The applicant studied other transmission system alternatives. Non-transmission options, a no-build alternative, and energy conservation and efficiency projects were also evaluated. The applicant stated that it determined that the transmission project is the solution that addresses the system needs.

Transmission System Alternatives

The applicant stated that the project has three drivers—poor condition, poor access, and limited land rights. The review of the transmission alternatives focused on options that would solve all of these issues.

One of the alternatives to the project reviewed by the applicant would rebuild 54 miles of line W3351 and 47 miles of line W3316, operate line W3351 at 115 kV and line W3316 at its current voltage of 115 kV, expand the 115 kV substation at Bay Front and terminate the W3351 line in the expanded yard, and rebuild the Saxon Pump Substation and the 7-mile tap to it, to operate at 115 kV. This alternative would also rebuild 21 miles of line W3606 and 26 miles of line W3607.

The second alternative to the project reviewed by the applicant would rebuild 47 miles of line W3351 and 47 miles of line W3316, operate line W3351 at its current voltage of 88 kV and line W3316 at 161 kV, expand the Gingles Substation and move line W3316 to the new expanded 161 kV yard, convert the proposed Hurley-to-Norrie 115 kV line to 161 kV and use it as an extension to Norrie, and build a new 161 kV yard at the Norrie Substation. This alternative would also rebuild 21 miles of line W3606 and 26 miles of line W3607.

The project would cost approximately $15 million less than either alternative and requires less facilities.

Non-transmission Options

Non-transmission alternatives were looked at for this application. Because the applicant has a goal of 80 percent carbon reduction from 2005 levels by 2030 and 100 percent reduction by 2050, carbon-based resources were not studied.

Noncombustible renewable energy sources were examined by the applicant as an option for a non-transmission alternative. To solve the issues experienced by the existence of line W3351 and line W3316, lines W3351 and W3316 would need to be retired to address the land rights issue. This would result in no transmission lines connecting Ashland and Ironwood, and system resiliency would be substantially diminished, resulting in a system which would be much less reliable and more susceptible to forced load outages.

The applicant likewise determined that a combustible renewable energy generator would not meet the three reliability needs.

No-build Options

The applicant stated the no-build option is the existing system base case in the Transmission Planning Study. The no-build option will leave the line in its current state. If this project is not completed, lines W3351 and W3316 will continue to deteriorate and the constrained access, and limited land rights issues would persist, reducing reliability in the project area.

Energy Conservation and Efficiency, and Load Response

The applicant stated that the project is driven by age, condition, access, and land rights, and as a result energy efficiency and load reduction are not feasible options.

For the purposes of this proceeding, the Commission deems reasonable the applicant's consideration of system alternatives as discussed in this Final Decision. The Commission further finds that the applicant's basis for choosing the project over other transmission system alternatives is reasonable.

Material Adverse Impact on the Wholesale Electric Market

In making its decision, the Commission must consider whether the proposed project will have a material adverse impact on competition in the relevant wholesale electric service market under Wis. Stat. § 196.491(3)(d)7. It was uncontested that the proposed transmission line and substation interconnections will not have a material adverse impact on competition in the relevant wholesale market.

The Commission finds that the addition of the proposed project will not have a material adverse impact on competition in the relevant wholesale electric service market because it will allow connection of new customer load to the existing electric transmission system.

Routing

Transmission Line Route Alternatives

The applicant proposed five route alternatives, route options A through E.

As described in the application filed with the Commission, route option A generally follows the existing 100-foot wide ROW along the line W3606 and line W3607 corridors between Structure W3316-42 (Ashland) and Structure W3316-255 (Hurley) with new ROW corridors along roads such as Van De Bruggen Road (Marengo), County Road C (Highbridge), Golf Course Road (Mellen), Kokogen Road (Gile), and Odanah Road (Hurley). New ROW corridors along Van De Bruggen Road would be built with double-circuit 161/69 kV, County Highway C would be built with double-circuit 115/69 kV pole structures, Golf Course Road would be built with two paralleling lines of double-circuit 115/69 kV and single-circuit 161 kV, Kokogan Road would be built with single-circuit 161 kV, and Odanah Road would be built with single-circuit 161 kV with distribution underbuilt.

Route option B follows the existing 100-foot wide ROW along the line W3606 and line W3607 corridors between Structure W3316-42 (Ashland) and Structure W3316-255 (Hurley) with new ROW areas such as along State Highways 13 and 77 south side and Van De Bruggen Road (Marengo). New ROW corridors along State Highway 13 would be built with single-circuit 161 kV, State Highway 77 south side would be built with double-circuit 161/69 kV, and Van De Bruggen Road would be built with double-circuit 161/115 kV.

Route option C uses new ROW along the existing 100-foot wide ROW along line W3606 and line W3607 corridor, as much as possible. It has different configurations than route A around Marengo, Highbridge, Gile, and Hurley, including new ROW areas such as Lohman Road and Poor Farm Road (both near Highbridge), Golf Course Road (Mellen), and State Highway 13 north of Mellen. New ROW corridors along Lohman Road and Poor Farm Road would be built with double-circuit 115/69 kV, Golf Course Road would be built with single-circuit 161 kV, and State Highway 13 near Mellen would be built with double-circuit 115/69 kV.

Route option D is a blended option of route options A and C with local modifications north of Highbridge, northeast of Mellen, and in Upson. It follows the existing 100-foot wide ROW along the line W3606 and line W3607 corridors with different configurations than routes A and C around Highbridge, Mellen, Upson, Gile, and Hurley including new ROW areas. The new ROW corridors along Van De Bruggen Road would be built with double-circuit 161/69 kV, whereas County Highway C, Delafield Road, and Seaquist Road would be built with double-circuit 115/69 kV, Golf Course Road would be built with single-circuit 161 kV, State Highway 13 would be built with double-circuit 115/69 kV, and greenfield areas north and east of

the Mellen city limits would have two paralleling lines of single-circuit 161 kV and double-circuit 115/69 kV. Sessions Avenue in Upson would be single-circuit 69 kV with distribution underbuild.

Route option E is similar to route option D except it is offset from the existing line W3606 corridor to avoid any transmission line ROW overlap with railroad ROW. New ROW areas include Van De Bruggen Road (Marengo), County Highway C, Lohman Road, Poor Farm Road (all near Highbridge), Golf Course Road (Mellen), State Highway 13 north of Mellen, greenfield areas north and east of Mellen city limits near a future Enbridge pipeline and existing Northern Natural Gas pipeline, northeast of the East Mellen Substation to State Highway 77, and Odanah Road along an abandoned 34.5 kV corridor.

Authorized Project Route

The Commission authorizes Route E, at a total estimated cost of $132 million. The Commission finds that Route E is the appropriate route for the project based on the fact that Route E includes the fewest transmission line circuit miles, the fewest non-forested wetland impacts, the second fewest impacts to homes within 300 feet, and the second fewest temporary clear span bridge crossings. Further, Route E addresses stakeholder concerns regarding Routes A, B, C and D, such as the City of Mellen's concerns relating to other route options routing through the City limits, landowner concerns with certain route options, especially those that run along County Highway C, and Enbridge's concerns relating to the need for cathodic protection associated with some routes other than Route E. While Route E does impact agricultural lands, the Commission finds that such impacts alone do not warrant selecting a different route because Route E better

addresses numerous other concerns which, along with agricultural impacts must be weighed and balanced by the Commission in making its siting determinations.

Environmental Review

The project was reviewed by the Commission for environmental impacts, including the effects on aesthetics and landowners, changes in land use, wildlife including rare or endangered species, water resources, historic or cultural resources, as well as a variety of other topics. Sources of information were comprised of the application and data request response materials provided by the applicant, including reports, photographs, maps, and planning documents. Additionally, Commission staff reviewed information, data, and maps available from several government sources. Commission staff read the comments provided by the public and utilized them to help define the scope of the EA. DNR staff authored portions of the EA relating to impacts to wetlands and waterways, endangered species, and other DNR responsibilities. Based on the analysis, the main effects associated with constructing the project include:

- Temporary effects during construction;
- Clearing of trees along many portions of the proposed routes in order to accommodate new facilities;
- Changes to aesthetics, land use, animals, and habitat;
- Impacts to wetlands and waterways;
- Potential impacts to the Bad River Band;
- Potential effects on archaeological sites and historic structures; and
- Potential impacts to landowners along a new route.

The project will have a number of temporary effects during construction including increased noise, dust, and traffic from construction vehicles. Following construction, the project will impact the aesthetics of the areas where the new route will be built. However, in many locations existing easements are present and the route will therefore only further widen those spaces instead of presenting completely new aesthetic impacts. Land where the project will be located may be limited in other potential uses for at least the duration of the project life and potentially even following possible future decommissioning. Animals and habitat will also be impacted by the project due to widening easements and clearing vegetation. Removing vegetation and widening easements will further decrease potential animal habitat and increase fragmentation or gaps between forest ecosystems.

Effects on Agricultural Land

Agricultural land cover within the project area includes active fields, pastures, recently fallow fields (old-field), and specialty crops (i.e., tree farms). Approximately 40 acres of cropland will be present within new ROW that will be used for the approved project route, in addition to specialty agricultural land comprising predominately of privately owned and managed tree plantations. DATCP published AIS #4424 on October 14, 2021, which provided a set of recommendations for Commission consideration. DATCP identified proposed route option E as the most impactful to agricultural lands of all the route options, but, for the reasons noted above, on balance, those impacts are less than the cumulative other impacts and landowner concerns than the other route alternatives presented that must be considered by the Commission.

As part of the AIS and testimony, and as a suggestion to help mitigate any ongoing effects of project construction on existing and adjacent agricultural fields, DATCP witness Zachariah

Zopp asked that the Commission require the applicants to consult with the Ashland and Iron County Conservationists regarding the adequacy of restoration activities of the project, to help ensure that the restoration efforts minimize drainage problems, soil erosion, and soil compaction on the remaining agricultural lands as well as adjacent properties to the project. The Commission finds it unnecessary to require this as a condition of approval of this project.

Effects on Rare and Endangered Species

The applicant completed a proposed Endangered Resources (ER) Review that uses the Natural Heritage Inventory (NHI) Portal to retrieve information from the NHI Database, which contains known occurrences of state- and federally-listed endangered, threatened, and special concern species, natural communities, and animal concentration sites. The project area evaluation consists of both the specific route and a buffer of 1.0 mile for terrestrial and wetland species and a 2.0-mile buffer for aquatic species. The ER Review documents what may be present, and how to avoid and minimize impacts to those endangered resources. Based on this analysis, the ER Review was revised and certified and DNR provided required and recommended actions for all the species listed. The Commission finds it reasonable that the applicant conduct an updated ER Review closer to the start date of construction (no more than one year prior to construction start).

As any of the route options would be constructed along existing utility ROW, there will be a significant amount of tree clearing associated with this project. In the ER Review for this project, there were several requirements and recommendations provided to the applicants relating to actions it can take to minimize or avoid impacts to bird and bat species, as a result of the necessary tree clearing. The approved project runs through known migratory bird concentration

areas and is immediately adjacent to a known bird rookery. There are also state- and federally threatened bat species that may be impacted by project activities as well as two hibernaculum where this species is known to be present.

Due to the potential project impacts to animal species, the Commission finds it reasonable to require that the applicant conduct surveys for the four special concern bird species and the migratory-bird concentration area, and follow the timing restrictions, to the extent practicable, for tree clearing along the ordered route for the two bat species and for any special concern bird species and/or migratory-bird concentration areas if determined to be present following the surveys.

The Commission also finds it reasonable that the applicant and its selected contractor be required to participate in a pre-construction meeting with DNR and Commission staff to discuss construction plans and/or final site designs, permits and associated requirements, and best management practices (BMP). Materials must be provided to DNR and Commission staff 14 days prior to the meeting date to allow time for review.

Independent Environmental Monitor

While construction conditions specified in the Commission's order and the DNR permit can avoid, minimize, and mitigate the potential adverse impacts of an approved project, the Commission has found it useful in some dockets to require an applicant to also employ an independent environmental monitor (IEM) and/or an independent agricultural monitor (IAM). These independent construction monitors could be used to assist the regulatory agencies in ensuring compliance with regulatory requirements.

Docket 4220-CE-183

The Commission has ordered independent monitors in recent high-voltage transmission line projects. For Badger-Coulee (docket 5-CE-142), North Appleton-Morgan (docket 137-CE-166), and Cardinal-Hickory Creek (docket 5-CE-146), the Commission ordered a combined-role IEM and IAM into one position under the IEM title. The decision whether to require independent monitors is typically made by the Commission after considering the scope of the project, the diversity of landscapes through which the transmission line would be constructed, and the presence of sensitive natural resources. The approved route will clear approximately 486 acres of tree vegetation, including some forested wetland clearing. This clearing could impact both bird and bat species habitats, and a migratory-bird concentration site.

In this docket, DATCP witness Mr. Zopp suggested that the Commission may wish to require the applicant to hire, in consultation with and with the approval of the Commission, DATCP, and DNR, an IEM for the construction phase of the project (excluding removal of lines W3316, W3351, and W3606), and to require all reports generated by the IEM to be shared with the Commission, DATCP, and DNR. (PSC REF#: 424388.) DATCP witness Mr. Zopp also proposed that if the Commission were to select route option E, which may have comparatively greater impacts to croplands and pastures than other proposed alternatives do, the Commission may find it reasonable to require the applicant to also hire an IAM for the construction phase of the project, and to require the IAM to complete DATCP's standard Agricultural Monitoring Form for Transmission Line Projects (ARM-LWR-543). The applicant testified that it does not object to the suggested order conditions relating to the IEM/IAM suggested by DATCP witness Mr. Zopp. (PSC REF#: 427391.)

The Commission finds it reasonable to require that the applicant hire, in consultation with and with the approval of the Commission, DATCP, and DNR, a combined IEM/IAM for the construction phase of the project, and all reports generated by the IEM/IAM shall be shared with the Commission, DATCP, and DNR. The combined IEM/IAM shall also complete DATCP's standard ARM-LWR-543.

Commissioner Nowak dissents on the hiring of an IAM, and would have directed only the hiring of an IEM.

Effects on Archaeological and Historic Resources

Wisconsin Stat. § 44.40 requires that each state agency consider whether any proposed action of the state agency will affect any historic property and provides that a state agency may deny or impose conditions on a permit, license, or authorization in order to reduce any adverse effect on historic property. It also gives the State Historic Preservation Officer (SHPO) authority to negotiate with an agency to reduce effects on historic property.

On the final route selected in this proceeding, there are eight archaeological sites and seven historic buildings within the area of potential effect that could be impacted by construction of the project. The area of potential effect includes a 400-foot wide corridor of an approved route, as well as along currently identified potential access roads or routes for the project. The archaeological sites comprise Euro-American farmstead ruins, cabin ruins, and other similar artifacts. The historic buildings consist of two churches, two houses, a railroad depot, a school, and a barn. These sites and buildings have not been assessed for their historical significance and potential eligibility for listing in state or national registers of historic places. If a historic property is found to be located within an area of potential effect of the proposed activity, the

PSC-SHPO Programmatic Agreement requires that the Commission assess the project's potential to affect any historic properties, and, as necessary, to coordinate a review of the proposed activity with the Wisconsin Historical Society (WHS). In previous similar circumstances, the Commission has found it reasonable to order applicants to complete field surveys to determine the significance of sites identified under Wis. Stat. § 44.40, and to avoid and protect sites of potential significance. (Docket 5-CE-146.)

The Commission finds it reasonable to require the applicant to perform field surveys to determine the historical significance of these sites and buildings within the area of potential effect in the ROW for the approved route. For any sites or buildings that are found to have historical significance as a result of the surveys and after review by the Commission's historic preservation officer, the applicant should work with Commission staff and WHS to perform mitigation measures.

Effects on Waterways

The project crosses numerous waterways, as described in WDNR Table 2. (Ex.-Applicant-Application-Appendix B: Updated Table 9, Wetland and Waterway Inventory.) The project will require a Wis. Stat. ch. 30 permit to allow the applicant to place temporary clear span bridges (TCSB) over public waterways. The design, construction, and use must comply with the requirements in Wis. Stat. § 30.123 and Wis. Admin. Code § NR 320. Based on WDNR Table 1 (Ex.-Applicant-Application-Appendix B: Updated Table 8, Updated Wetland and Waterway Impacts), regulated waterway impacts on the approved route would use 130 TCSBs.

The impacts of TCSB placement and removal should be minimal if constructed properly. Potential impacts are expected to be short term, and include disturbance to the bank of the

waterway, cutting of riparian vegetation, disruption to the invertebrates, fish, and wildlife associated with the waterway, and public access limitations. Impacts would be minimized by avoiding direct disturbance of the bed and banks of the waterway, scheduling construction to avoid disrupting sensitive species, and limiting the amount of time necessary to complete construction. Additionally, most construction-related disturbances would be minimized by implementing appropriate sediment and erosion control BMPs during construction, and appropriate site restoration measures after construction.

Effects on Wetlands

Based on WDNR Table 1 (Ex.-Applicant-Application-Appendix B: Updated Table 8, Updated Wetland and Waterway Impacts), regulated wetland impacts on the approved route include: temporary wetland fill of 92.74 acres due to the placement of construction matting for vehicle access and staging; permanent wetland fill of 0.18 acres due to the installation of pole structures; and wetland conversion of 192.16 acres. For laydown yards, temporary wetland fill is anticipated to be 34.00 acres due to the placement of construction matting for vehicle access and staging. For helicopter landing zones, temporary wetland fill is anticipated to be 48.16 acres due to the placement of construction matting for vehicle access and staging.

The degree and nature of impacts to wetlands depend on factors such as the type of wetland, quality of the wetland, ground conditions at the time of construction, and the type and duration of construction activities. Short-term wetland impacts can become long-term impacts if the construction phase is not well-managed, or if restoration techniques are not properly applied. Construction through wetlands can involve the following impacts to wetlands: compaction of soils and potential alteration of the hydrology; alterations of microtopography within the

wetland; changes to plant composition including the introduction of invasive species; conversion of forested wetland to herbaceous wetland; loss of habitat; and fragmentation of wetland types.

Wetland impacts would be minimized by more general minimization techniques, such as using construction matting and/or low weight bearing and/or tracked machinery to spread the distribution of equipment weight when crossing wetland; crossing wetlands during frozen ground conditions; implementing appropriate sediment and erosion control BMPs during construction; limiting tree clearing in wetlands; cleaning of construction equipment and mats after working in areas infested by invasive species; and implementing appropriate site restoration measures after construction.

The applicant stated wetland impacts would be minimized by conducting construction activities during dry or frozen conditions, using construction equipment with low ground pressure tires or tracks, using construction matting, distributing axle loads over a greater surface area to reduce bearing pressure on soils, implementing BMPs near wetlands to minimize erosion, using existing easements or road ROWs, and developing a wetland matting restoration plan for construction matting that is placed for more than 60 days between May 15th and November15th.

Effects on the Bad River Band of Lake Superior Chippewa Indians

The project is expected to also impact Tribal lands. The applicant's decommissioning plan would involve two methods to remove the existing lines and structures from the Reservation, as described in Appendix L of the application.[1] The first method would use helicopters to fly ground crews to transmission line pole locations. The poles would then be cut and a helicopter would carry the poles to laydown yards. The second method would be

[1] *Appendix L, W3351, W3316 & W3606 Removal Plan*. Hooper Corporation. Accessed at: PSC REF#: 412134.

conventional removal by land, where access routes would be cleared and constructed so that bucket trucks, cranes, flat-bed trucks, and other heavy machinery could move to the pole locations. Crews would disconnect and lower conductors to the ground, dismantle existing wood poles, and cut wood structures at grade. Disassembled structures would be hauled from the ROW and the disturbed areas would be restored. Access routes and laydown areas for equipment and crews would likely require some degree of vegetation clearing and potentially wetland fill. Additionally, pole bases that remain in-ground could limit future land use, potentially leach chemicals into the surrounding soil, and may affect full restoration of the land.

Outside of the Reservation boundary, construction of the new transmission lines could also cause environmental impacts to the Tribe. The new project routes would have many waterway crossings, and these waters all flow downstream as part of the Bad River Watershed Sub-basin through the Reservation to reach Lake Superior. The Tribe has developed its own water quality standards and has stated that these apply both within the Reservation and for waters flowing into the Reservation.

Federal, State, and Local Permits

The applicant will obtain all necessary federal, state, and local permits for a construction spread prior to commencing construction of the project on that construction spread.

Land Use and Development Plans

Wisconsin Stat. § 196.491(3)(d)6. requires the Commission to determine that a proposed project requiring a CPCN not unreasonably interfere with orderly land use and development plans for the area involved. The Commission recognizes that the proposed project, as with any major construction project, will create impacts on the land use and development plans of affected

areas, but finds that the proposed project, constructed on the authorized route, will minimize these impacts and will not unreasonably interfere with the orderly land use and development plans of the project area.

Public Health and Welfare

As the Wisconsin Supreme Court has declared, issuing a CPCN is a legislative determination involving public policy and statecraft. *Clean Wisconsin, Inc. v. Pub. Serv. Comm'n of Wisconsin*, 2005 WI 93, ¶ 35, 282 Wis. 2d 250, 700 N.W.2d 768; *Town of Holland v. Pub. Serv. Comm'n of Wisconsin*, 2018 WI App 38, ¶ 27, 913 N.W.2d 914, 923. Wisconsin Stat. § 196.491 assigns to the Commission the role of weighing and balancing many conflicting factors. Applying Wisconsin's Siting Priority Laws requires a similar weighing and balancing. In order to choose a transmission line route that is reasonable and in the public interest, the Commission must not only apply the priority list in Wis. Stat. § 1.12(6), but also must examine the conditions written into that law and consider the purpose of the legislation.

These statutes require that when the Commission reviews a CPCN transmission line application, it must consider the reasonable needs of the public for an adequate supply of electric energy, alternative routes, individual hardships, engineering, economics, safety, reliability, a host of environmental factors, the use of existing ROW, corridor sharing, the effect on electric rates, any interference with orderly local land use and development plans, and potential impacts to wholesale electric competition. Ultimately, the Commission must determine whether granting or denying an applicant's request for a CPCN will promote the public health and welfare. After weighing all of these factors and all of the conditions it is imposing, the Commission finds that issuing a CPCN for this project promotes the public health and welfare and is in the public interest.

Compliance with the Wisconsin Environmental Policy Act

This is a Type II action under Wis. Admin. Code § PSC 4.10(2). An EA was prepared to determine if an EIS is necessary under Wis. Stat. § 1.11. It has been determined that no significant environmental impacts on the human environment are likely to occur as a result of this project. Therefore, preparation of an EIS is not required.

Project Cost and Construction Schedule

The applicant estimates the gross project cost for the project, as modified by this Final Decision, to be approximately $132 million. The applicant's estimated cost does not include modifications to the proposed project identified during the Commission's review and required by this Final Decision. The estimated costs are based on 2021 dollars and include transmission line, substation modifications, pre-certification, contingency, operation and maintenance, and Allowance for Funds Used During Construction (AFUDC) expenses.

The estimated total gross project cost[2] is detailed as follows:

Project Cost	**Route Option E**	
Transmission Lines		
Material	$32,000,000	
Labor	$51,000,000	
Other	$35,000,000	
Transmission Lines Subtotal		**$118,000,000**
Substations		
Labor	$100,000	
Substations Subtotal		**$100,000**
Other Project Costs		
Pre-Certification Costs	$3,000,000	
Contingency	$9,000,000	
AFUDC	$2,000,000	
Total Project Costs		**$132,100,000**

[2] The estimated project costs do not include AFUDC.

Construction is expected to begin in the second quarter of 2024, with completion by 2026. Removal of the existing lines is expected to occur in 2027 and 2028. Of the total estimated $132,100,000 project cost, $130,070,000 is estimated for the Wisconsin portion of the project and $2,030,000 is estimated for the Michigan portion of the project.

Certificate

The Commission grants the applicant a CPCN for the removal and rebuild of two transmission lines, designated as W3351 and W3316, between the Gingles Substation in the Town of Ashland, Wisconsin and the Ironwood Substation in the Town of Ironwood, Michigan, using route option E as described in the Ex.-PSC-EA and Ex.-ATC-Application, and as conditioned and modified by this Final Decision, at a total estimated cost of $132 million.

Order

1. The applicant is authorized to construct the proposed transmission facility, as described in the application and data request responses, and as modified by the Final Decision.

2. Should the scope, design, or location of the project change significantly, the applicant shall notify the Commission within 30 days of becoming aware of possible changes. The applicant shall obtain approval from the Commission before proceeding with any substantial change in the scope, design, size, and location of the approved project.

3. If the applicant cancels the project or enters into any arrangement with another party regarding ownership or operation of the proposed facilities, the applicant shall provide prior notice to the Commission.

4. All commitments made by the applicant in its application, subsequent filings, and the provisions of this Final Decision shall apply to the applicant, any agents, contractors, successors, assigns, corporate affiliates, and any future owners or operators of the project.

5. The applicant shall obtain all necessary federal, state, and local permits for a construction spread prior to commencement of construction, as defined by Wis. Stat. § 196.491(1)(b), on that construction spread. For the purposes of this order condition, "construction spread" means any subpart or segment of the project established by the applicant for the purposes of managing construction of the project.

6. The applicant shall conduct an updated ER Review closer to the start date of construction (no more than one year prior to construction start).

7. The applicant and its selected contractor shall participate in a pre-construction meeting with DNR and Commission staff to discuss construction plans and/or final site designs, permits, and associated requirements, and BMPs. Materials must be provided to DNR and Commission staff 14 days prior to the meeting date to allow time for review.

8. The applicant shall mitigate impacts to line-of-sight communications and to landowners that can show disruption to broadcast communications post-construction.

9. The applicant may propose minor adjustments in the approved route for the protection of environmental resources, landowner requests, or technical design changes that arise during final stages of engineering, but any changes in alignment from the approved centerline may not affect resources not discussed in the EA, nor may they affect new landowners who have not been given proper notice and hearing opportunity. The applicant shall consult with Commission staff regarding whether the change rises to the level where Commission review and

approval is appropriate. For each proposed adjustment for which Commission review is appropriate, the applicant shall submit for Commission staff review and approval a letter describing: the nature of the requested change; the reason for the requested change; the incremental difference in any environmental impacts; communications with all potentially affected landowners regarding the change; documentation of discussions with other agencies regarding the change; and a map showing the approved route and the proposed modification, property boundaries, and relevant natural features such as woodlands, wetlands, waterways, and/or other sensitive areas. Approval of the requests is delegated to the Administrator of the Division of Energy Regulation and Analysis with advice and consent from the Administrator of the Division of Digital Access, Consumer, and Environmental Affairs.

10. Beginning with the quarter ending on June 30, 2022, and within 30 days of the end of each quarter thereafter and continuing until the authorized facilities are fully operational, the applicant shall submit quarterly progress reports to the Commission that include all of the following:

a. The date that construction commences;

b. Major construction and environmental milestones, including permits obtained, by agency, subject, and date;

c. Summaries of the status of construction, the anticipated in-service date, and the overall percent of physical completion; and

d. The date that the facilities are placed in service.

11. The CPCN is valid only if construction commences no later than one year after the latest of the following dates:

a. The date the Final Decision is served;

b. The date when the applicant has received every federal and state permit, approval, and license that is required prior to commencement of construction by construction spread under the CPCN;

c. The date when the deadlines expire for requesting administrative review or reconsideration of the CPCN and of the permits, approvals, and licenses described in par. (b.);

d. The date when the applicant receives the Final Decision, after exhaustion of judicial review, in every proceeding for judicial review concerning the CPCN and the permits, approvals, and licenses described in par. (b.).

12. If the applicant has not begun on-site physical construction of the authorized project within one year of the time period specified by this Final Decision, the Certificate authorizing the approved project for which construction has not commenced shall become void unless the applicant:

a. files a written request for an extension of time with the Commission before the effective date on which the Certificate becomes void; and

b. is granted an extension by the Commission.

13. If the applicant has not begun on-site physical construction of the authorized project and has not filed a written request for an extension before the date that this Certificate becomes void, the applicant shall inform the Commission of those facts within 20 days after the date on which the Certificate becomes void.

14. The applicant shall submit to the Commission the final actual costs, segregated by major accounts, within one year after the in-service date. For those accounts or categories where

actual costs deviate significantly from those authorized, the applicant shall itemize and explain the reasons for such deviations in the final cost report.

15. The applicant shall conduct surveys for the four special concern bird species and the migratory-bird concentration area, and shall follow the timing restrictions, to the extent practicable, for tree clearing along the ordered route for the two bat species and for any special concern bird species and/or migratory-bird concentration areas if determined to be present following the surveys.

16. The applicant is required to perform field surveys to determine the historical significance of previously identified archaeological sites and historic buildings within the area of potential effect in the ROW for the approved route, and, for any sites or buildings that are found to have historical significance, are required to work with Commission staff and WHS to perform mitigation measures.

17. The applicant shall hire, in consultation with and with the approval of the Commission, DATCP, and DNR, a combined IEM/IAM for the construction phase of the project, and all reports generated by the IEM/IAM shall be shared with the Commission, DATCP, and DNR. The combined IEM/IAM shall also complete DATCP's standard ARM-LWR-543.

18. The Final Decision takes effect one day after the date of service.

19. Jurisdiction is retained.

Dated at Madison, Wisconsin, the 15th day of April, 2022.

By the Commission:

Cru Stubley
Secretary to the Commission

CS:JAK:jlt:DL:01857746

Attachments

See attached Notice of Rights

Docket 4220-CE-183

PUBLIC SERVICE COMMISSION OF WISCONSIN
4822 Madison Yards Way
P.O. Box 7854
Madison, Wisconsin 53707-7854

NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE PARTY TO BE NAMED AS RESPONDENT

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

PETITION FOR REHEARING

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

PETITION FOR JUDICIAL REVIEW

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.[3] The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2013

[3] *See Currier v. Wisconsin Dep't of Revenue,* 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.

APPENDIX A

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Docket 4220-CE-183

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