

Wisconsin regulatory process for high voltage transmission lines

This fact sheet provides an overview of the regulatory process associated with the major approvals necessary before a high voltage transmission line can be built in Wisconsin. The CapX2020 utilities have prepared similar fact sheets for each jurisdiction involved in the CapX2020 projects. Visit www.capx2020.com for updated project information.

Wisconsin Regulatory Process

The determination of need and routing for approving a transmission line are combined in Wisconsin. The Public Service Commission of Wisconsin (Commission) reviews project applications and, if approved, grants a Certificate of Public Convenience and Necessity (CPCN). When reviewing a transmission project, the Commission considers alternative plans to address the need and alternative locations or routes, as well as need, engineering, economics, safety, reliability, individual hardships and environmental factors. The Commission's decision is based on a hearing record.

The Wisconsin Department of Natural Resources (DNR) Office of Energy is a partner in the Commission review process. Project applications include information needed for the DNR to assess the likelihood that any required DNR permits can be granted. Other state agencies may also participate in the Commission process.

Certificate of Public Convenience and Necessity (CPCN)

Wisconsin Statutes § 1.12 (6), 196.491 and 30.025 and Wisconsin Administrative Code Chapters PSC 2, 4, 111 and 112 govern the CPCN process. A CPCN is required for transmission projects that are:

- 345 kilovolts (kV) or greater; or
- less than 345 kV, but greater than or equal to 100 kV, more than one mile in length and require some new rights-of-way (ROW).

All other transmission line projects must receive a Certificate of Authority (CA) from the Commission if the project's cost is above a certain percent of the utility's annual revenue [Wis. Stat. 196.49 and Wis. Adm. Code PSC 112].

Pre-application route development phase: Route development generally occurs in three stages during which utilities:

- Identify a study area; gather land use and resource information from federal, state and local agencies and governments; prepare maps.
- Identify routing options based on technical considerations; routing criteria and resource mapping.
- Compare and evaluate the routing options; select two or more routes to be included in the CPCN application.

CPCN applications must include at least two viable routes for proposed projects. Prior to filing an application, the applicant may hold public meetings to encourage the public to provide information and comments on the proposed transmission line before making routing decisions.

Pre-application Commission and DNR consultation: The Commission and DNR staff provides guidance regarding the type of information required in the CPCN and DNR permit applications. This can include wetland delineation work and biological surveys as well as information on project need, engineering design and project alternatives.

Wis. Adm. Code 111 defines application requirements. In addition, the Commission, DNR and Department of Agriculture, Trade and Consumer Protection provide filing requirements that are posted on the Commission Web site.

CPCN process: After a utility files a CPCN application, the process specified under Commission regulations begins.

Application filing and completeness review: When an application for a CPCN is filed with the Commission, applications are also filed with the DNR for any permits required for either of the two routes proposed. Commission and DNR staff examines the application during a 30-day completeness review, notifying the applicant by letter whether the application is complete or what further information may be required. Copies of the application are distributed to local libraries and officials and can be viewed on the Commission Web site. All documents and transcripts will be available through the Commission's electronic filing system.

Commission public notification letter: Once an application is filed, the Commission sends a public notification letter to property owners on or near the proposed ROW, local government officials, local libraries, the media, and other agencies and interested parties that the review process is beginning. Comments and questions are solicited.

Intervention: Anyone can attend meeting and hearings, file written comments and present written or oral testimony without being listed as an official intervenor or party to the case. Individuals and groups who want to be more involved in the process may request party status by writing to the Commission administrative law judge before a hearing. Full parties may cross-examine witness and write briefs. Parties have a number of responsibilities that are described on the Commission Web site.

Scoping and public meetings: As part of the environmental review, Commission and DNR staff prepare either a draft Environmental Impact Statement (EIS) or an Environmental

Review (EA) to determine if an EIS is needed. Wis. Adm. Code PSC 4 and the PSC Wisconsin Environmental Policy Act (WEPA) coordinator determine the type of review. Generally, transmission lines 345 kV or greater and at least 10 miles long require an EIS. In order to prepare an EIS, the Commission conducts scoping, which may be achieved through interagency correspondence, workshops, surveys or public meetings in the proposed project area.

Draft Environmental Impact Statement (DEIS): If an EIS is necessary, Commission and DNR staff will utilize information from the application, field review, scoping and other sources to prepare the document. The Commission must issue the DEIS for review with a comment period of at least 10 days.

Agricultural Impact Statement (AIS): Section 32.035 of the Wisconsin Statutes, pertaining to eminent domain (the right to condemn property), requires the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) to prepare an AIS for projects. This is required when the acquisition of farmland is subject to condemnation as described in state law, even if the applicant does not believe condemnation will occur. The purpose of the AIS is to assess the impact on individual farm operations when a proposed land acquisition involves the potential for condemnation under Wisconsin eminent domain statutes. For transmission line projects, if more than five acres will be taken from any farm operation, an AIS is required. Projects requiring five or fewer acres from each farm operator may, as the DATCP's discretion, have an AIS prepared. The DATCP has 60 days to prepare an AIS from the date all information is received. The applicant cannot negotiate with landowners until 30 days after an AIS is published. When an AIS is required for a project that requires Commission approval, the process is coordinated with the Commission in order to adequately inform the Commission's decision.

Final Environmental Impact Statement (FEIS): Once comments on a DEIS are received, Commission and DNR staff prepare an FEIS. The FEIS may vary from the DEIS in scope, based on comments received on the DEIS or other pertinent information. The Commission must distribute copies of the FEIS and announce its availability at least 30 days prior to holding a public hearing on the project.

Commission hearing: All projects that require a CPCN require a public hearing. A Notice of Hearing is sent to everyone on the Commission project mailing list, and hearings are held in the area of the proposed transmission line project. A Commission administrative law judge runs the hearings. If someone from the public wants to testify at the hearing, legal counsel is not required. Those who want to testify fill out appearance slips and are called on by the administrative law judge when it is their turn. Comments can also be written or submitted on the Commission Web site. The Commission makes decisions based on the hearing record.

Commission decision and route selection: The Commission makes the final decision on proposed transmission lines after reviewing testimony from the applicant, DNR staff, full parties, Commission staff and the public. The Commission discusses the transcripts, exhibits, briefs and the issues raised at the hearings in meetings open for public observation but not for public comment. The decision includes whether the line will be built, how it is designed and where it will be located. The Commission then issues an order.

Wis. Stats. 1.12 (6) outline the following order of priorities for the Commission to consider for new transmission line routes:

1. Existing utility corridors (such as transmission lines, electric distribution lines or natural gas pipelines).
2. Highway and railroad corridors.
3. Recreational trails.
4. New corridors or paths representing new ROW.

The Commission selects the route when it grants the CPCN. The final decision may be the applicant's preferred route, a combination of reasonable routes or a variation of a route suggested by the public.

DNR permitting: The CPCN review and determination is a joint process between the Commission and the DNR. Any specific DNR permits required (i.e. for wetlands, waterways or storm drainage management) are usually identified in the pre-consultation process. The applicant must file for those permits at the same time a CPCN application is filed. DNR staff work with the Commission from the pre-consultation phase through the decision-making process. DNR permits for the project, if approved, are issued within 30 days from the date a CPCN is issued.

Concurrent permitting in other states: Regulatory bodies in neighboring states oversee similar permitting processes.

Minnesota Public Utilities Commission

- Certificate of Need
- Route Permit

North Dakota Public Service Commission

- Certificate of Public Convenience and Necessity
- Certificate of Corridor Compatibility
- Transmission Facility Permit

South Dakota Public Utilities Commission

- Facilities Permit

Federal environmental review: Before federal agencies grant loans or issue permits for transmission lines, the agencies must comply with requirement of the National Environmental Policy Act. Depending on the circumstances and the application of federal regulations, an EA or EIS may be prepared. Federal environmental review is usually done concurrently or jointly with state environmental review.

Stay informed

The best way to participate is to stay informed. Follow progress on the individual agency Web sites and on the CapX2020 Web site at www.capx2020.com.

Public Service Commission of Wisconsin (PSCW): To view CapX2020 filings, go to the PSCW's Web site at www.psc.wi.gov. Search for docket 5-CE-136 under "link directly to a case" on the homepage. The Commission can be contacted at (608) 266-5481 or via the web.

Minnesota Public Utilities Commission (MN PUC): To view CapX2020 filings, go to the MN PUC's Web site at www.puc.state.mn.us. Click on "eDockets & eFilings;" then click on "search documents" and search for docket 06-1115.