

PUBLIC SERVICE COMMISSION OF WISCONSIN

Joint Application of Wisconsin Electric]
 Power Company, as an Electric Public]
 Utility, for Authority to Construct a]
 New Distribution Substation and Related]
 Electric Distribution Facilities in the]
 City of Wauwatosa and American]
 Transmission Company, LLC, as an] 5-CE-139
 Electric Public Utility, for Authority]
 to Construct Related 138 kV Electric]
 Transmission Facilities in the Cities]
 of Milwaukee and Wauwatosa, all in]
 Milwaukee County, Wisconsin (Western]
 Milwaukee County Electric Reliability]
 Project)]

Prehearing Conference

Prehearing Conference Held

Pages

May 9, 2012

1 to 14, Incl.

A P P E A R A N C E S

WISCONSIN ELECTRIC POWER COMPANY

Kate Phillips
231 West Michigan
Milwaukee, WI 53203

AMERICAN TRANSMISSION COMPANY LLC and
ATC MANAGEMENT INC.

Trevor Will
Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202-5306
and by
Charles Cummings (via phone)

CITY OF MILWAUKEE and
ALDERMAN MICHAEL J. MURPHY
Thomas D. Miller (via phone)
200 East Wells Street, Room 800
Milwaukee, WI 53202

CITY OF WAUWATOSA
Margaret I. Hoefler
Stafford Rosenbaum LLP
PO Box 1784
Madison, WI 53701-1784

MILWAUKEE MONTESSORI SCHOOL
Peter L. Gardon
Reinhart Boerner Van Deuren S.C.
PO Box 2018
Madison, WI 53701-2018

PEOPLE FRIENDLY POWER
Elizabeth R. Gonwa
William S. Gonwa
11929 West Underwood Parkway
Wauwatosa, WI 53226

WISCONSIN LUTHERAN COLLEGE
Gary Schmid (via phone)
8800 West Bluemound Road
Milwaukee, WI 53226

FOR THE COMMISSION:

Michael Varda, Assistant General Counsel
Office of General Counsel

A P P E A R A N C E S

OF THE COMMISSION STAFF:

Ali Wali
Marilyn Weiss
Scot Cullen
Jeff Kitsembel
Paul Rahn
Dan Sage
Gas and Energy Division

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PUBLIC SERVICE COMMISSION OF WISCONSIN

Joint Application of Wisconsin Electric]
Power Company, as an Electric Public]
Utility, for Authority to Construct a]
New Distribution Substation and Related]
Electric Distribution Facilities in the]
City of Wauwatosa and American]
Transmission Company, LLC, as an]
Electric Public Utility, for Authority]
to Construct Related 138 kV Electric]
Transmission Facilities in the Cities]
of Milwaukee and Wauwatosa, all in]
Milwaukee County, Wisconsin (Western]
Milwaukee County Electric Reliability]
Project)]

5-CE-139

Prehearing conference was held May 9, 2012, at
1:00 pm in the Public Service Commission Building,
Madison.

Presiding: ADMINISTRATIVE LAW JUDGE NEWMARK

ALJ NEWMARK: Let's get on the record. This is
the prehearing conference in docket 05-CE-139, and we'll

1 call this for short the Western Milwaukee County Electric
2 Reliability Project. That's for short.

3 So at this point we do have many people in the
4 room here. We also have people connected by telephone.
5 We're also webcasting on the Commission's Web site if
6 anyone wants to see us in Madison. Let's do some
7 introductions starting to my right and go around the
8 table.

9 MR. VARDA: Michael Varda, Assistant General
10 Counsel appearing for the Commission. Also present
11 staffers Jeff Kitsembel, Marilyn Weiss, Paul Rahn, Scot
12 Cullen, Ali Wali, Dan Sage and Andrea Rainka.

13 MR. GARDON: Peter Gardon of Reinhart Boerner
14 appearing on behalf of the Milwaukee Montessori School.

15 MS. HOEFER: Margaret Hoefer from Stafford
16 Rosenbaum appearing for City of Wauwatosa.

17 MR. WILL: Trevor Will of Foley and Lardner
18 appearing for applicant, ATC.

19 MS. PHILLIPS: Kate Phillips, We Energies,
20 appearing for applicant We Energies.

21 MS. GONWA: Betty Gonwa from People Friendly Power
22 appearing for People Friendly Power.

23 MR. GONWA: William Gonwa from People Friendly
24 Power appearing for People Friendly Power.

25 ALJ NEWMARK: How about on the phone, can we have

1 Milwaukee County first -- I'm sorry, City of Milwaukee.

2 MR. MILLER: This is Thomas D. Miller, Assistant
3 City Attorney, appearing for the City of Milwaukee and
4 Alderman Michael J. Murphy.

5 ALJ NEWMARK: And the Wisconsin Lutheran College.

6 MR. SCHMID: My name is Gary Schmid on behalf of
7 the Wisconsin Lutheran College.

8 ALJ NEWMARK: Mr. Cummings, would you like to make
9 an appearance?

10 MR. CUMMINGS: Sure. Charles Cummings
11 representing ATC.

12 ALJ NEWMARK: All right. Excellent. Okay.

13 Has everyone gotten a copy of the prehearing
14 conference memo?

15 Okay. All right. So we have just about everybody
16 on the list for applicants and intervenors. I was not
17 aware of the College's intervention when this went out so
18 I think they're the only party that's omitted on that
19 list.

20 MR. VARDA: So far as we know.

21 ALJ NEWMARK: With the addition of the Wisconsin
22 Lutheran College, any objection to this list of
23 intervenors from applicants?

24 MR. WILL: I don't have an objection, but I just
25 have a comment or a question. I noticed People Friendly

1 Power, the Gonwas' application to intervene was in the
2 alternative, and ATC certainly wants them to be able to
3 participate but just wanted to clarify whether they're
4 here as individuals or whether they're here representing
5 the organization, and if it's the organization, I think
6 in the past usually the Commission asked for some
7 information about the organization.

8 ALJ NEWMARK: I think it is phrased if we don't
9 grant party status to the organization then the
10 individuals would be applying. Is that -- am I
11 understanding correct?

12 MR. GONWA: Correct.

13 ALJ NEWMARK: Okay. I don't know. I think their
14 intervention request was adequate. Let me see -- yes,
15 they did have a pretty detailed statement of interest
16 here.

17 I think that's adequate to state their intention
18 here and also as members of the group, People Friendly
19 Power, the Gonwas would be parties if the group wouldn't
20 be granted status. So I'm comfortable just letting them
21 in. I don't have a need to have them explain anything.
22 Is there something specific you're interested in?

23 MR. WILL: Just wondered the size of the group. I
24 suppose we can ask that in a data request if we need to.

25 ALJ NEWMARK: Okay. Well, I see --

1 MR. WILL: I want --

2 ALJ NEWMARK: -- for these members they should
3 have enough membership to apply.

4 MR. WILL: I want to make it clear we encourage
5 them to participate. We're glad they're here. I would
6 just like to figure out the precise representation -- who
7 they're representing in the proceeding.

8 ALJ NEWMARK: As long as they're representing the
9 people they have stated here they would have status so
10 for these purposes I think we have enough information.

11 So any other questions? Objections?

12 No? Okay. Let's then accept the interventions.
13 There are six intervenors. We will add the College to
14 the list, and so that's all the parties we have.

15 We can move to issues. We do have a proposed
16 issue with a sub-issue regarding the Montessori School.
17 Is there any comments on the issues list?

18 Yes, go ahead.

19 MR. GONWA: I would like to add other routes that
20 may be proposed. We are planning to propose other
21 routes.

22 ALJ NEWMARK: That haven't been yet proposed.

23 MR. GONWA: Haven't yet been submitted, haven't
24 been submitted yet.

25 ALJ NEWMARK: Okay. Well, we can modify the

1 sub-issue to say -- well, they're not necessarily
2 underground routes, right?

3 MR. GONWA: No, not necessarily.

4 ALJ NEWMARK: Let's do a second sub-issue to
5 specify there may be other alternative routes to
6 consider. That's usually par for the course here, but if
7 you know ahead of time that's your intention, we will add
8 it to this issue as sub-issue 2.

9 Anything else?

10 MR. MILLER: Judge, this is Tom Miller.

11 ALJ NEWMARK: Yes.

12 MR. MILLER: So could I just get clarification on
13 that, the second -- there would be a new sub-issue that
14 would just entail consideration of other routes that may
15 be proposed?

16 ALJ NEWMARK: That should do, yes.

17 MR. MILLER: Okay.

18 ALJ NEWMARK: Something to that extent. I don't
19 know about the exact wording. I think that would be the
20 point of it.

21 MR. MILLER: Thanks.

22 ALJ NEWMARK: Anything else?

23 Okay. I was just curious about the Montessori
24 School's proposed underground alternative. I wanted to
25 make sure -- that's already been discussed in at least

1 one filing that I have seen, at least an alternative has
2 been discussed. I want to make sure that's the
3 particular one where that's at issue in terms of the
4 issues list. For example, there was a letter from the
5 school to ATC, it's on ERF and dated May 8, and it looks
6 like it's showing pictures of the route. I just want to
7 make sure that's the route we're talking about.

8 MR. VARDA: Yes, that is.

9 ALJ NEWMARK: All right. Then we have the
10 proposed schedule up to -- okay, we do have a hearing
11 date on here. Questions about the schedule or any
12 comments?

13 MR. WILL: Fine for ATC.

14 ALJ NEWMARK: Okay.

15 MR. VARDA: Staff wishes to make a comment about
16 the contingency No. 2 that in the event We Energies is
17 not able to get access to county land for a substation
18 location planning and this brings us -- this inability to
19 get access brings us to, say, within three weeks of the
20 submission of the first direct testimony, staff would be
21 looking to have a further prehearing conference to review
22 procedural options and the further timing of the docket.
23 That seems to be a critical element to having a usable
24 direct testimony going into the record and proceed on the
25 merits of the issue. If that is still a difficult issue

1 and not resolved, this whole schedule is going to be
2 subject to a revisiting.

3 ALJ NEWMARK: Okay, and Note 1, staff is proposing
4 a 270-day schedule. That's out of the 360 days that
5 would be granted I suppose if there is an extension.

6 MR. VARDA: Yes.

7 ALJ NEWMARK: So at what point do we know that
8 -- we don't know if we can work it into a 360-day
9 schedule either, do we?

10 MR. VARDA: Well, you're looking at 60 plus
11 another 30, so you've got 90 days to try to make the
12 maximum schedule. Keep our fingers crossed at this
13 point. If there is a real stalemate, the party
14 applicants are going to be looking at what to do with
15 this case to see how to handle it effectively.

16 ALJ NEWMARK: Okay. All right. With those
17 caveats, any other comments on the schedule?

18 MR. GARDON: Your Honor, this schedule is
19 acceptable to the Montessori School. The only question I
20 have is, what is the likelihood that this schedule will
21 actually be the one that we end up using? In other
22 words, is there a real concern about the WEPCO access to
23 the land or are we expecting that it's actually going to
24 get resolved so it's likely this schedule is the one that
25 is going to be used?

1 MR. VARDA: I would defer the question to
2 Ms. Phillips to give us a status report on that. The
3 location of the substation really affects everybody and
4 affects their testimony.

5 MS. PHILLIPS: Yes, this is Kate Phillips from We
6 Energies. There was a discussion last week with the
7 staff. I did not participate in that discussion, but we
8 have communicated to the Commission staff that right now
9 we're at an impasse with the county on getting access to
10 that property to do some environmental testing. It's a
11 parcel of property which we have an option on. It's an
12 option we wish to exercise, but we're having some
13 difficulty getting access to that. We haven't made any
14 inroad since that discussion last week, but we're still
15 in negotiations with the County and we're talking to
16 them. We're hopeful we can move forward, but I don't
17 have a date in mind right now, unfortunately, as to when
18 that will occur. Certainly, we will communicate to
19 staff and Mr. Varda will know what is going on.

20 I think Mr. Varda's comments with regard to the
21 schedule is fair, and WEPCO is fine with that approach.

22 ALJ NEWMARK: All right. Anything else?

23 Okay, and finally we have other matters for
24 facilitating the hearing. That's one of the reasons I
25 give this out in advance. People can take a peek at it

1 and then can ask for any clarifications. If you have
2 seen this before, many of you have, it has changed in
3 terms of format and some of the content. You'll be
4 looking for things in different places than they used to
5 be, and it looks like -- it looks like we would have
6 enough time to file an objection. According to this
7 schedule, there would be enough time to file an objection
8 -- well, no, let's not do that. We'll leave objections
9 to surrebuttal, that will be something that can be raised
10 at the first day of the party hearing session.
11 Depending on that window of time, we could require a
12 filing. It wouldn't be enough in this case.

13 Anything else about the format and the filing
14 requirements?

15 MR. WILL: Can we have a cutoff for discovery?

16 ALJ NEWMARK: There is one in here -- oh, no.
17 Cutoff, general cutoff?

18 MR. WILL: Right, all discovery served before such
19 and such a date.

20 ALJ NEWMARK: Well, let's refrain from that at
21 least until we know we're moving ahead with this
22 schedule, but I don't usually order one. I think at some
23 point it becomes useless because of the timing. Hearings
24 are over by the time a request is due, but I don't
25 generally include a deadline for requests. If there is

1 some sort of burdensome request that doesn't look like it
2 would make the hearing, then you can let me know. We can
3 handle it that way.

4 MR. WILL: Okay. Otherwise de facto cutoff is 14
5 days before the hearing I guess.

6 ALJ NEWMARK: Right. I think requests can still
7 come in but -- and in terms of continuing requests, I
8 don't know if that's ever come up before. I am sure you
9 want to continue updating a response as information comes
10 in until just becomes impossible to make it to the
11 record. So I guess until the record is closed we will
12 continue to update your responses.

13 MR. WILL: Do I read this correctly the only
14 discovery responses filed on the ERF system are responses
15 to staff data requests?

16 ALJ NEWMARK: Let's double-check and make sure.
17 That changes depending on the case.

18 Right. I think the process in this case would be
19 if the Commission staff once receiving a party discovery
20 request would then request the response be served on it
21 if it's interested in getting that response.

22 Anything else?

23 MR. VARDA: Your Honor, staff has brought a matter
24 to my attention. Any due date for the filing of requests
25 for intervenor compensation? I don't see one offhand in

1 the prehearing conference memorandum. Perhaps that
2 should be established as an administrative convenience.

3 ALJ NEWMARK: According to PSC 2, after the
4 prehearing conference there is 14 days to file.

5 MR. VARDA: Okay.

6 ALJ NEWMARK: So that you know for the new
7 intervenors here there is an opportunity to obtain
8 funding for intervention. You would have to file -- you
9 would have to follow PSC -- our Administrative Code
10 Chapter 2, and at this point because we're holding a
11 prehearing conference, the deadline would be 14 days from
12 today.

13 Anything else?

14 No? All right. I did want to stress there is --
15 part of these procedures there is something I have been
16 trying to implement, and it's something that doesn't
17 necessarily happen completely all the time. I just
18 wanted to raise the process where, as we know, written
19 testimony would -- the scope of written testimony is
20 going to narrow from direct, rebuttal to surrebuttal to
21 only address the prior filing, the immediately prior
22 filing.

23 But in terms of when people get on the stand
24 they're allowed to supplement their testimony and we have
25 been pretty liberal about having people add information

1 on the stand, and there is good reason for that where
2 information needs to be updated and in matters like that,
3 but we would like to try to streamline the oral testimony
4 in a way that if ever possible -- the witness can refer
5 back to his or her prior testimony without repeating it
6 on the stand. Just keep that in mind. The person is
7 asked a question and basically their answer is I haven't
8 changed my response, it's exactly the same as my direct,
9 please instruct them to say that rather than going
10 verbatim repeating their direct testimony on the stand.
11 It becomes a burdensome read. So where we can catch that
12 we're going to try to do that and it may not be as
13 relevant in this case, but if there are -- if there are
14 industry standards or documents that are common
15 knowledge, acceptable to all parties, or let's say
16 methodologies that are acceptable to all parties, if
17 there is a possibility of instead of describing the
18 entire methodology in a witness's testimony if they can
19 refer to an authoritative document about that method or
20 give us some sort of shorthand instead of describing the
21 entire process that all the experts should be aware of
22 and Commission staff can inform the Commission about once
23 the reference is made on the record. So, again, it's not
24 exactly too easy or clear at this point, but I think when
25 the situation arises you will see it and hopefully it

1 will be easy enough to catch just so we can make the
2 record a little less bulky than we have seen it before.
3 So I appreciate that.

4 Any other questions? Comments?

5 No? All right. Well, then we will adjourn, and I
6 guess we do have one other issue which is just the
7 location of the hearing but we will be doing it in the
8 project area. If people have ideas where there is a good
9 meeting place, please let Mr. Varda know where a good
10 location would be available. We appreciate that. We
11 will take your comments on it.

12 So thanks. We're adjourned.

13 (Prehearing conference closed)

14

15

16

17

18

19

20

21

22

23

24 aff

25 May 22, 2012

PUBLIC SERVICE COMMISSION OF WISCONSIN

Docket No. 5-CE-139

Prehearing Conference

I, Adela F. Felic, hereby certify that, as an official reporter for the Public Service Commission of Wisconsin, I took down the proceedings had before the Commission in the foregoing matter on the 9th day of May, 2012, and that the attached is a true and correct transcription of the said notes and of the whole thereof.

Adela F. Felic

Reporter
PUBLIC SERVICE COMMISSION OF WISCONSIN