PSC REF#:609779

SERVICE DATE
Sep 10, 2026

Public Service Commission of Wisconsin
RECEIVED: 9/10/2026 10:55:00 AM

PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of American Transmission Company LLC, as an Electric Public Utility, for a Certificate of Public Convenience and Necessity to Construct and Operate the Ozaukee Co. Distribution Interconnection Project, Consisting of New 345 kV Transmission Lines, Uprated 345 kV Transmission Lines, Potential New 138 kV Transmission Lines in Calumet, Fond du Lac, Ozaukee, Sheboygan, and Washington Counties, New Substations in the Towns of Sherman and Lima, Sheboygan Co., Town of Jackson, Washington Co., Town of Osceola, Fond du Lac Co., Town of Port Washington, Ozaukee Co., Wisconsin, and Modifications to Existing Substations	137-CE-221

FINAL ORDER

This is the Final Order of the Public Service Commission of Wisconsin (Commission) finding that based on the facts and circumstances as presented in this docket, and as described more fully in this Final Order, it is necessary to revoke the December 15, 2025, Completeness Determination and that the application of American Transmission Company, LLC (ATC or applicant) for a Certificate of Public Convenience and Necessity (CPCN) to construct and operate the Ozaukee County Distribution Interconnection Project (the Project) is incomplete. With this Final Order, the Commission also directs that this docket be closed. Should the applicant choose to refile a new application for the Project, it must do so in a new docket.

Introduction

This decision by the Commission is not a determination on the merits of the Project, nor of whether the Project meets, or does not meet, the statutory requirements for the issuance of a CPCN allowing the applicant to construct and operate the Project. Instead, the Commission chose to take the matter up and consider whether, as described by the Commission's Administrative Law Judge (ALJ), the "nature, volume, and filing pattern of certain Applicant

documents have unreasonably complicated the identification of the current application in this proceeding." (PSC REF#: 596374 at 1.) In this docket the limited statutory time for the Commission to review and render a decision on a CPCN application, pursuant to Wis. Stat. § 196.491(3)(g), and the Commission's obligations under the Wisconsin Environmental Policy Act (WEPA), are in direct conflict with the ever-changing nature of the applicant's application. The Commission is accordingly left with few options to address the unique problems that have been created in this proceeding.

The Commission has previously been presented with requests to reconsider and revoke completeness determinations, but to date has not granted such a request[1]. The question in each of those prior dockets was not whether the Commission had the authority to reconsider a completeness determination; in each instance the Commission has consistently found that it did. Instead, the question always turned on whether, given the circumstances as presented, such a remedy was warranted. Viewing this proceeding in its totality, the Commission finds that this docket presents the exceptional circumstance whereby revoking completeness is both warranted and necessary.

When determining whether to grant a CPCN for a project, the Commission is required to consider a multitude of factors, as set forth by the statutes. The Commission review process also

[1] *See e.g.*, Order, *Application of Madison Gas and Electric Company for a Certificate of Public Convenience and Necessity for Construction of a Large Electric Generating Facility and Associated High Voltage Transmission and Natural Gas Interconnection Facilities Located in Dane County*, Docket 5-CE-121 (Wis. PSC Jun. 30, 2003) (2003 WL 21508775); Order, *Joint Application of Muskego Energy Center, LLC, and American Transmission Company, LLC, for a Certificate of Public Convenience and Necessity to Construct a Large Electric Generating Facility and Associated High Voltage Transmission and Water Facilities Located in Waukesha County*, Docket 5-CE-127 (Wis. PSC Mar. 19, 2003) (2003 WL 1971779); Order, *Application of Wisconsin Electric Power Company; Wisconsin Energy Corporation; and W.E. Power, LLC; for a Certificate of Public Convenience and Necessity for Construction of Three Large Electric Generation Facilities, the Elm Road Generating Station, and Associated High Voltage Transmission Interconnection Facilities to be Located in Milwaukee and Racine Counties*, Docket 5-CE-130 (Wis. PSC Apr. 17, 2003) (PSC REF#: 111662.)

requires that notice be given to interested persons at several stages along the process to apprise them of the various levels of review underway and of opportunities for public participation. This robust and deliberate review process, involving the participation and unique viewpoints of many interested persons, is necessary to compile a comprehensive and accurate record for Commission review and to ensure that the public has confidence that the Commission's actions are the product of a transparent, impartial, fair, and consistent process. The credibility and durability of the Commission's decisions flow directly from the review process undertaken before reaching them.

The Commission finds that the circumstances of this docket have raised serious questions about what project the Commission is being asked to review and whether the ability of interested parties and members of the public to understand the project and participate in an informed and meaningful fashion has been unduly hindered by the actions of the applicant. The Commission is not finding that applications must remain static after a completeness determination and can never change. Many applications do change, and often for the better when applicants work with communities and stakeholders to address concerns and improve projects. However, those modifications must be clearly explained and presented in an orderly manner that does not disrupt the Commission review process. At some point project modifications become so significant, or the process so disorderly, that the Commission must intervene and find that the application is no longer complete. The Commission does not believe it necessary to define exactly where that line is but concludes that it was unquestionably crossed in this docket. Thus, the Commission is left with no choice but to revoke its prior Completeness Determination and find that the application in this docket is incomplete.

Background

The applicant first filed an application for a CPCN on September 30, 2025, to construct the Project. At that time, and pursuant to the Commission's Application Filing Requirements (AFR), the applicant submitted a transmittal letter indicating that all documents comprising its application had been submitted. (PSC REF#: 563512.) Despite this transmittal letter, the applicant filed or re-filed an additional 66 documents between September 30, 2025, and October 28, 2025, the date on which the Commission initially deemed the application incomplete. (PSC REF#: 566084.) The October 28, 2025, incompleteness letter included 58 questions identifying areas where additional information was needed for Commission staff review. *Id.*

The applicant began refiling application documents shortly thereafter, starting on November 3, 2025, and continuing until November 14, 2025, when the applicant submitted a cover letter indicating that it had responded to all of the incompleteness items and was providing a revised application[2]. (PSC REF#: 567812.) On December 15, 2025, the Commission deemed the application complete pursuant to Wis. Stat. § 196.491(3)(a)2. (PSC REF#: 570607.) The very next day, the applicant submitted its direct testimony for the docket and part one of the Appendix F, Exhibit 9, Avian Mitigation Plan, which was not provided previously. On December 18, 2025, the applicant filed a request for a prehearing conference and a proposed schedule that would have held a technical hearing session on April 1, 2026. (PSC REF#: 571021.)

The Commission issued a Notice of Proceeding on January 29, 2026. (PSC REF#: 575334.) A prehearing conference was held on March 20, 2026, and the ALJ established the

[2] Additional application materials continued to be filed, or revised, on November 17 and 26, 2025.

parties, schedule, and issues for the proceeding. (PSC REF#: 586684.) Pursuant to that schedule, direct testimony from the applicant and intervenors aligned with the project was due May 1, 2026, and the direct testimony from Commission staff and other intervening parties was due July 17, 2026. A technical hearing was scheduled to begin on August 25, 2026.

Following the Commission's December 15, 2025, Completeness Determination, the applicant filed, or refiled, an additional 564 different application documents. Furthermore, despite the May 1st deadline for direct testimony, the applicant filed supplemental direct testimony for four witnesses on June 18, 2026, and additional supplemental direct testimony on July 13, 2026, presenting route modifications, new temporary bypass lines needed for construction, changes to the uprate scope of the project, new electromagnetic field (EMF) study results, and revised cost and present value of revenue requirement (PVRR) estimates. In an effort to understand the project, stay abreast of the applicant's changes, and perform their necessary analysis, Commission staff asked a total of 483 data request questions across 16 rounds of data requests. Many of these data requests were required to reconcile conflicting information or errors in the application materials or to attempt to understand unexplained changes in refiled documents[3].

[3] For example, in data requests issued by Commission staff on December 23, 2025, just a week after the completeness determination, Commission staff identified errors in ATC's materials (PSCW-EEH-2.9), inconsistencies in the information presented (PSCW-MGH 2.45), and missing sections or documents (PSCW-HJF-2.73, WDNR-MGH-2.87, WDNR-MGH 2.88, and WDNR-MHG-2.130). (PSC REF#: 571501.) Similar errors were identified in Commission staff's June 11, 2026 data request, which continues to note issues in ATC's filings, such as that "[t]he response to WDNR-MGH-8.2, received in Response to Data Request-PSC-Martinson-8, is not complete" (WDNR-MGH-13.4) and "[t]he response to WDNR-MGH-8.5, received in Response to Data Request-PSC-Martinson-8, incorrectly calculates the total number of temporary clear span bridges (TCSBs) and the number of existing culverts/bridges for the North Alternative Route" (WDNR-MGH-13.6). (PSC REF#: 593843.) The most recent, July 31, 2026, staff data request continued to note conflicting information between ATC's July 10, 2026, redlined application narrative and prior data request responses (PSCW-HJF-17.2). (PSC REF#: 601077.)

The evolving state of the application and accompanying record was noticed by the ALJ who, pursuant to Wis. Admin. Code § 2.04(1) and Wis. Stat. § 227.46(1)(e), has been granted the authority to regulate the course of the proceeding. On July 1, 2026, the ALJ issued an Order to Clarify and Refile Certain Applicant Documents (ALJ Order). (PSC REF#: 596374.) In the ALJ Order, it was stated that "[i]t has come to the attention of this Tribunal that the nature, volume, and filing pattern of certain Applicant documents have unreasonably complicated the identification of the current application in this proceeding." *Id.* As described above, the ALJ also observed that "[s]ince December 15, 2025, ATC has filed 564 application documents and 168 staff data request responses" that represent a "plethora of changes, modifications, and updates to an application that ATC previously represented to the Commission as complete." *Id.* For this reason, the ALJ stated that:

> The existing presentation of the application imposes an unreasonable burden on Commission staff and Intervenors and represents at a minimum an impediment to their preparation of offered evidence, including Commission staff's review of the project's environmental impacts, and a barrier to their participation at hearing. Moreover, the current state of the application confuses the particulars of the proposed project in a manner and to a degree that generates concern with respect to the current applicability of the previous completeness determination. Changes to the application that render inapplicable the previous completeness determination may jeopardize the continuation of the proceeding.

Id. The ALJ Order, "[a]s an attempt to remedy the above-described deficiencies in the application," required ATC, by July 10, 2026, to: create a redlined version of its application showing all changes made over the course of the proceeding and describing the reasons for each change; create a redlined version of each application appendix ATC has changed showing all changes made and explaining the reasons for each change; create a redlined version of each data request response ATC has revised showing both the changes made and explaining the reason for the changes; and file a current, clean version of the application exhibit. *Id.*

On July 2, 2026, ATC filed a request to reconsider the ALJ Order. (PSC REF#: 596619.) In that pleading, ATC argued that the Order should be "amended to remove the requirements that ATC provide redlined versions of all application appendices and responses to data requests, the suggestion that completeness can be reconsidered, and the language suggesting that Staff and Intervenors are unable to participate in this docket." *Id.* ATC argued that "80 percent" of the documents filed, or re-filed since December 15, 2025, are "filings that PSC staff have asked for" and the remaining "20 percent" have been done "to keep the Project consistent with the Commission's own guidance." *Id.* at 2. Further, ATC complained of the unreasonable burden placed on it by the ALJ Order in that it "would require innumerable man hours and, in some cases would be impossible" to "[retrace] each of [its] changes." *Id.* at 20. Responses to ATC's request for reconsideration were filed by intervenors Restoring Lands, Inc. (Restoring Lands) (PSC REF#: 596774), Responsible Energy Alliance (REA) (PSC REF#: 596846), and Commission staff (PSC REF#: 596923). ATC filed a reply in support of its request. (PSC REF#: 596914.) The ALJ declined to reconsider the ALJ Order.

On July 10, 2026, the applicant filed a cover letter (PSC REF#: 597274), an updated application narrative (PSC REF#: 597275 redline, PSC REF#: 597276 clean), a redlined version of the application exhibit (PSC REF#: 597277), and a collection of revised data request responses (PSC REF#: 597278.) Even after these filings, the applicant filed yet more supplemental direct testimony on July 13, 2026. (PSC REF#: 597431.)

Subsequent to the applicant's July 10th filings, on July 15, 2026, the ALJ issued an Order to Modify the Schedule (PSC REF#: 597885), in which it was noted that:

> Even though the requirements of the July 1 Order remain effective, the Applicant filed application documents as if this Tribunal had adopted the modifications

> proposed in [its request to reconsider the ALJ Order]. The Applicant's non-compliance with the requirements of the July 1 Order renders unremedied the procedural issues recognized in the July 1 Order issues that this Tribunal previously provided the Applicant an opportunity to correct.

(PSC REF#: 597885 at 3.) The ALJ noted specific examples of continuing deficiencies in the applicant's filings. As highlighted by the ALJ, "[t]he problem this proceeding presents is the Applicant's lack of completeness and clarity with respect to tracking the extraordinary number of application revisions and additions and to adequately explain the reasons for those changes in a manner that a reader can easily access, track, and understand." *Id.* at 5. Application materials that clearly articulate the project under consideration "are inherent to fair play and transparency required by the contested case process." *Id.* The ALJ further cited the applicant's objection to compliance with the ALJ Order on the basis of it being unreasonably burdensome, noting that "the Applicant's refusal to effect the remedy provided in the July 1 Order shifts that burden of discerning the application revisions back to the Intervenors, Commission staff and members of the public." *Id.* The ALJ's July 15th order extended the deadline for Commission staff and Intervenor direct from July 17, 2026, to July 24, 2026. ATC filed a letter response to the ALJ's order modifying the docket schedule. (PSC REF#: 598284.)

On July 13, 2026, REA filed an Expedited Motion to Revoke Completeness Determination (REA Motion). (PSC REF#: 597393.) REA restated the procedural issues cited in the ALJ's orders. REA also argued against certain routing choices, stating that the application failed to explain how the Project would comply with the transmission siting priorities of Wis. Stat. § 1.12(6). REA maintained that the Commission has both the authority to, and a responsibility to, reconsider its prior Completeness Determination. REA cited *City of Oak Creek ex rel. Water & Sewer Util. Comm'n v. Pub. Serv. Comm'n of Wisconsin*, 2006 WI App 83, ¶ 27,

292 Wis. 2d 119, 716 N.W.2d 152 and *Clean Wisconsin, Inc. v. Pub. Serv. Comm'n of Wisconsin*, 2005 WI 93, ¶ 57, 282 Wis. 2d 250, 700 N.W.2d 768 as legal support for its request.

On July 14, 2026, Intervenors Thomas and Mary Uttech (the Uttechs) filed a response to the REA Motion. (PSC REF#: 597547.) The Uttechs supported the relief requested in the REA Motion because of the changes in the application. The Uttechs noted that,

> "[w]hen one compares the allegedly complete Application Narrative submitted on November 14, 2025 (PSC REF#: 567811) to that red-lined copy submitted by ATC on July 10, 2026 (PSC REF#: 597275) which shows the significant number of changes, there is no way to conclude anything other than that the July 10, 2026 version is far different than the November 14, 2025 version and, as a result, the November 14, 2025 version was **not** complete."

(*Id.* at 2-3.) The Uttechs argued that the completeness "determination established an important baseline that kicked off commission review, including environmental review under state law," however, "that baseline is no longer accurate and, in fact, no longer exists." *Id*. at 3. The Uttechs pointed to the strict statutory timeline for Commission review of CPCN applications and argued that "[t]he purposes of those strict timelines are completely defeated if an applicant can simply repeatedly amend and update a purportedly complete application during that entire review period, as is happening here." *Id.* at 4. Further, the Uttechs explained that "[t]he Uttechs, other intervenors, [C]ommission staff and the public at large are all prejudiced by these constant changes" and due process requires that they "are entitled to a review process that follows the statutory timelines to review a truly complete application, not the ever changing piecemeal application that we have in this proceeding." *Id.* at 5.

Intervenors Kenneth and Erica Liss (the Lisses) also filed a response in support of the REA motion on July 14, 2026. (PSC REF#: 597640.) The Lisses note that "the application has undergone no fewer than 11 rounds of edits and updates over the past 6 months" and that "the

record before the Commission is filled with prior versions and outdated information that is difficult for Commission staff, Intervenors, and the general public to sift through." *Id.* at 2.

On July 15, 2026, Intervenor Restoring Lands also filed a response agreeing "that revocation of the completeness determination in this matter would be appropriate for the same reasons articulated in [Restoring Lands'] Response to the Expedited Request of Applicant for Reconsideration of the July 1, 2026 Order." (PSC REF#: 597672.) Restoring Lands separately pointed out that,

> ATC's reply in support of its request for reconsideration (PSC REF#: 596914) lacked an understanding of the problem it has created, suggesting everything is going as it should in the docket. That assertion is clearly not true, and were it allowed to stand, Restoring Lands is concerned that ATC and future applicants may repeat ATC's practices here, especially in the fast-moving data center infrastructure rush that is sweeping Wisconsin and other states. Similarly problematic is ATC's solution that everyone else simply do more work—such as Commission and DNR staff preparing a supplemental Environmental Impact Statement ("EIS")--to compensate for ATC's voluminous and untimely filings. While a supplemental EIS may be appropriate in some circumstances, that is not the case here, where there are testimony, public comment, and hearing deadlines that all assume a completed EIS by a date certain. This could have been avoided if ATC's application had actually been complete and any new information more limited.

Id. at 2. Restoring Lands also highlighted that the ATC responses to the ALJ Order, rather than remedying the issues highlighted by the ALJ, simply perpetuated them. Restoring Lands pointed out that "rather than including additional information not previously presented in the actual narrative as instructed, ATC cites to data request responses for 'additional information,' leading the reader back to the docket in search of the information," that "ATC filed the redlined application exhibit with annotations merely noting which appendices have been updated or changed but not what has been changed," and that "[t]he application also continues to include errors." *Id.* at 3. Restoring Lands argued that these practices have had the effect of "making it

difficult for intervenors, commission staff, and the public to follow the actual impacts of the Project." *Id.*

ATC filed a response to the REA Motion on July 16, 2026, arguing that none of the pleadings filed by Intervenors cites any law and that "revoking completeness 'is not procedurally available' here." (PSC REF#: 597960.) ATC argued that the Commission has previously recognized this procedural unavailability in docket 9811-CE-100 (Koshkonong).[4] ATC also believed REA's reliance on *Clean Wisconsin* to be misplaced because "[t]hat decision addressed whether a completeness determination is subject to judicial review" not "whether the Commission may, by motion or on its own initiative, withdraw a completeness determination several months after making it." *Id.* at 4. ATC stated that "*Clean Wisconsin* supports ATC's position, which is that it is perfectly appropriate for the Commission to deem an application complete and yet continue to request and receive additional information, without that ongoing exchange calling completeness into question." *Id.* at 5. ATC further argued that there is no legal or factual support for the relief requested by the Uttechs, Lisses, or Restoring Lands. *Id.* at 5-10. ATC pointed out that the REA argument about route selection "has nothing to do with

[4] While not quoted in full in the ATC response, the specific finding of the Commission in its Final Decision stated:

> In their August 2021 motion, intervenors requested that the Commission "deem the determination of completeness to have been improvidently granted and deny the CPCN application" because the project should be considered not as it is proposed in the application—as a merchant plant—but rather as it is "intended to be." As discussed above, the relief requested is not procedurally available and the issues around developers' and utilities' use of this method have been thoroughly addressed and explicitly rejected by the Commission in previous dockets. Although the Commission finds that the intervenors' February 2022 Motion to Dismiss is likewise not contemplated by the statutes and code establishing CPCN procedure, the nature of the argument requires some response in order to inform the parties in this and future cases of the Commission's analysis and position.

(PSC REF#: 437761 at 15-16.) The Koshkonong Final Decision did not address to what degree an applicant can make changes to its project post-completeness or whether revocation of completeness would be appropriate in that instance. The 2022 Motion to Dismiss cited in the Final Decision passage above was an attempt to invalidate the application on constitutional grounds and had nothing to do with completeness.

completeness" and "is purely a merits question." *Id.* at 5. ATC also claimed, without elaboration, that "[e]ven if the Commission were to withdraw its completeness determination after the 30-day statutory deadline, completeness would be granted by operation of law." *Id.* at 4.

REA filed a reply in support of its motion on July 20, 2026. (PSC REF#: 598395.) REA responded to the ATC assertion that the REA Motion is singularly about routing, stating that "REA's motion was *not at all* about [routing] rather, REA's Motion was about the fact that ATC's application cannot possibly be statutorily complete" because of the issues REA identified with the transmission siting law, "among other things." *Id*. at 2. REA continued to focus on issues with the routing of the greenfield segments but also stated that a "third reason that ATC's application should be deemed incomplete is that it has changed so much that it is no longer sufficiently similar to the initial application to be considered the same application." *Id.* at 3. REA responded to ATC's claims that the Commission lacks the authority to reconsider completeness by stating that "[t]here is significant jurisprudential support for the proposition that Wisconsin courts generally have the power to reconsider their own non-final orders" and that "ATC's motion does not include any legal analysis of why the PSC would not have the ability to reconsider its own non-final completeness determination given the PSC's extremely broad statutory grant of power. Wis. Stat. §§ 196.02(1), 196.02(3)." *Id.* at 5-6.

Commission staff continued its review of the application, to the best of its abilities; issued the Environmental Impact Statement (EIS) (PSC REF#: 598232); and filed direct testimony in accordance with the docket deadlines. The EIS was filed on July 17, 2026, in order to comply with the timing requirements of Wis. Admin. Code § PSC 4.30(5)(d)1, which requires

the EIS to be available at least 30 days prior to the public hearing – those hearings that were scheduled for August 18th and 19th. In the executive summary of the EIS, Commission staff noted some of the difficulties of the environmental review process in this docket:

> As is reflected throughout this EIS, additional staff analysis and clarification of several environmental impact areas and components of the project are ongoing. Project design changes were presented in recently submitted supplemental direct testimony and revised application materials from the applicant and there remain inconsistencies in submitted application materials and data request responses in several areas. As is noted in multiple applicable areas of this EIS, there are outstanding data request items still being requested of the applicant for these reasons. Despite areas of ongoing analysis, this EIS is being provided to comply with the timing requirements of Wis. Admin. Code § PSC 4.30(5)(d)1. and this EIS addresses the impacts as known to staff at this time.
>
> One of the more notable recently submitted design changes to the proposed project is the addition of three temporary bypass lines for construction purposes adjacent to the proposed routes. This EIS incorporates as much of the detailed impact information related to those temporary bypass lines as possible although, due to the data requests still outstanding with the applicant, detailed narrative descriptions of the routes and reasons for the routes may not be provided as thoroughly as would be typical. Further, it is not clear whether landowners newly impacted by these bypass lines received notification of the changes and those landowners may not have been able to participate in the earlier stages of the environmental review process.

(PSC REF#: 598232 at xiii, 17 of 427.) Commission, Department of Natural Resources (DNR), and Department of Agriculture, Trade and Consumer Protection (DATCP) staff submitted direct testimony on July 24, 2026. The testimony of several witnesses noted areas of ongoing evaluation or unknowns due to recent changes from the applicant[5]. The direct testimony of

[5] *See e.g.* Direct-PSC-Hermanstorfer-8 (PSC REF#: 599885) ("At the time of writing, I do not have a complete understanding of the impacts to airports and airstrips because I feel I need to re-check the content provided by the applicant in light of recent data request responses."); Direct-PSC-Rippke-12 (PSC REF#: 599884) ("[. . .] an explanation for these changes was requested from the applicant as there were changes to segment lengths and ROW widths that were not discussed in Direct-ATC-Vosters-s. The applicant has not yet filed a response."); Direct-PSC-Craft-19 (PSC REF#: 599883) ("The applicant submitted recent project revisions on June 18, 2026, introducing temporary bypass lines that may affect one archaeological site. Commission staff are still reviewing the new project data for these recent changes and have requested further clarification."); Direct-PSC-Trcka-8 (PSC REF#: 599876) ("Given the timing of Direct-ATC-Vosters-s, filed on June 18, 2026, it is not clear whether the number of residences

Commission staff witness Adam Ingwell also noted some of the unique challenges of this docket and how that compared to past dockets where portions of projects were revised mid-proceeding. (PSC REF#: 599874.)

On July 29, 2026, REA filed a Petition to Revoke the Completeness Determination. (PSC REF#: 600710.) Stylized as a petition[6] rather than a motion, REA renewed its prior claims, and made additional argument based upon statements in the testimony received in the docket.

On July 30, 2026, the Commission issued a Notice and Request for Comment, indicating that it intended to discuss the REA motion and was soliciting comments from the applicant, parties and members of the public on whether the December 15, 2025 completeness determination should be revoked and rescinded. (PSC REF#: 600913.) The Commission received 2,768 comments from members of the public, interest groups, and parties to this proceeding. Amongst the parties, comments were received from the applicant (PSC REF#: 604575), Citizens Utility Board (CUB) (PSC REF#: 604806), Oracle America Inc. (Oracle)

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within 300 ft of project transmission lines for greenfield sections, provided in the June 9th revised response to Ex.-PSC-DRR: JFT-9.2, are still accurate or if those numbers are impacted by the additional route modifications proposed by the applicant."); Direct-PSC-Francart-11 (PSC REF#: 599870) ("Further, some changes were made to segment mileages in Table 5.3 in the July 10, 2026, update to Ex.-ATC Application: Application narrative that cite the most recent Ex.-ATC-Application: Appendix B, Table 1, but associated road paralleling, corridor sharing, and greenfield mileages were not also updated to reflect these changes. The narrative does not clearly explain the nature of these changes."); Direct-DATCP-Biefeld-17 (PSC REF#: 599634) ("AIS 4675 (Ex.-DATCP AIS) is based on project notifications DATCP received from the applicant between October 2025 and January 2026. As described in supplemental direct testimony filings posted on June 18, 2026 from ATC witnesses Warwick (Direct-ATC-Warwick-s2) and Vosters (Direct-ATC-Vosters-s), the applicant has proposed new project modifications that have increased adverse impacts on agricultural land and farm operations . . . I anticipate the re-notification to be received by July 31, 2026 to determine if an amendment is needed for AIS 4675 in order to accurately document agricultural impacts associated with ATC's proposed project."); Direct-DNR-Haller-4 (PSC REF#: 599299) ("Due to the timing of the June 2026 supplemental testimony and filings from the Applicant, I did not have sufficient time to review those respective materials, evaluate whether impacts to wetlands can be avoided or minimized, coordinate with other DNR or PSC staff on the materials, or incorporate the materials into my testimony (with the exception of the DNR Tables 1 and 2).")

[6] As noted in Section I.A.7.g of the Facilitating Matters Ordered in a Contested Case Proceeding (FMO), "'petition' means a written request to the Commission, other than an application or complaint, to open a docket or take other action. Wis. Admin. Code § PSC 2.02(12)."

(PSC REF#: 604742), Restoring Lands (PSC REF#: 604618), Vantage Data Centers Management Company LLC (Vantage) (PSC REF#: 604497), and Wisconsin Electric Power Company (WEPCO) (PSC REF#: 604782.)

The Commission discussed the matter at its August 6, 2026, open meeting. (PSC REF#: 606107.)

Opinion

Legal Authority

CPCN Process

Pursuant to Wis. Stat. § 196.491(3)(a)1., no person may begin construction of a high-voltage transmission line or large electric generating facility unless that person has applied for and received a CPCN from the Commission. Upon receipt of a CPCN application, Wis. Stat. § 196.491(3)(a)2. requires the Commission to determine whether the application is complete within 30 days and to notify the applicant of the determination. If the application is deemed incomplete by the Commission, the applicant may supplement and refile its application, which triggers a new 30-day review period for the Commission to determine whether the refiled application is complete. If the Commission fails to determine whether an application is complete within 30 days of when it is filed, or refiled, the application is deemed complete by operation of law.

Once an application is found complete by the Commission, the Commission must take final action on the application within 180 days or a CPCN is considered to have issued by operation of law. Wis. Stat. § 196.491(3)(g). The Chairperson of the Commission may grant a one-time 180-day extension of this time limit based upon good cause. *Id*. Accordingly, the

maximum amount of time the Commission has to review an application that has been deemed complete is 360 days. This streamlined review process was created by the passage of 1997 Wisconsin Act 204, which created both the obligation for applicants to present a complete application and the provision whereby a CPCN issues by operation of law if the Commission does not take final action within the specified review period.

After an application is deemed complete, Wis. Stat. § 196.491(3)(a)2. requires that a copy of the complete application be provided to the clerk of each municipality or town where the project is proposed to be located and to the main public library for the area. This provision to ensure that affected individuals have notice of the proposed project details is also reflected in Wis. Admin. Code § PSC 111.51(4).

The Commission must also comply with the environmental review procedures of the Wisconsin Environmental Policy Act (WEPA). Wis. Stat. § 1.11(2) and 196.025(2). The Commission's environmental review process is set forth in Wis. Admin. Code Ch. PSC 4. The Project in this proceeding is a Type I action, pursuant to Wis. Admin. Code § PSC 4.10(1), and requires the preparation of an Environmental Impact Statement (EIS). The EIS procedures of Wis. Admin. Code § PSC 4.30 require opportunities for participation by affected individuals and members of the public at multiple junctures, both in the initial scoping process and through the opportunity to review and comment on the draft EIS. The Commission rules satisfy the Commission's statutory obligation to ensure "[a]dequate opportunities for interested persons to be heard on environmental impact statements, including adequate time for the preparation and submission of comments." Wis. Stat. § 196.025(2)(b).

As stated in the Commission's Notice of Proceeding (PSC REF#: 575334), review of an application for a CPCN is conducted as a Class 1 proceeding as defined in Wis. Stat. § 227.01(3)(a). In a contested case proceeding, Wis. Stat. Ch. 227, also provides parties with basic due process rights and the opportunity to be heard. The Commission is also required to hold a public hearing in the area affected, pursuant to Wis. Stat. § 196.491(3)(b).

Before it can grant a CPCN, the Commission is required to make a number of findings as set forth in Wis. Stat. § 196.491(3)(d). Among other things, the Commission must find: that the proposed facility satisfies the reasonable needs of the public for an adequate supply of electric energy; that the design and location or route is in the public interest considering alternative sources of supply, alternative locations or routes, individual hardships, engineering, economic, safety, reliability, and environmental factors; that the high-voltage transmission line provides usage, service, or increased regional reliability benefits to customers and that the benefits are reasonable in relation to the cost; that the proposed facility will not have undue adverse impact on other environmental values; that the proposed facility complies with the criteria under Wis. Stat. § 196.49(3)(b); and that the proposed facility will not unreasonably interfere with the orderly land use and development plans for the area involved. The Commission's determination on each of these statutorily required issues must be based upon substantial evidence in the record. *See* Wis. Stat. § 227.57(6).

Reconsideration

The Legislature has vested the Commission with the broad power to "supervise and regulate every public utility in this state and do all things necessary and convenient to its jurisdiction." Wis. Stat. § 196.02(1). It has also given the Commission the authority to issue

CPCNs and make initial completeness determinations. Wis. Stat. § 196.491. As stated by the Wisconsin Court of Appeals in *City of Oak Creek ex rel. Water & Sewer Util. Comm'n v. Pub. Serv. Comm'n of Wisconsin*, 2006 WI App 83, 292 Wis. 2d 119, 716 N.W.2d 152, "an administrative agency has the power to reconsider its own decisions since the power to decide carries with it the power to reconsider." *Id.* at ¶ 27 quoting *State Public Intervenor v. DNR,* 177 Wis.2d 666, 675–76, 503 N.W.2d 305 (Ct.App.1993), *rev'd on other grounds by* 184 Wis.2d 407, 515 N.W.2d 897 (1994). This power to reconsider is expressly provided by statute in Wis. Stat. § 196.39(1), which states:

> The [C]ommission at any time, upon notice to the public utility and after opportunity to be heard, may rescind, alter or amend any order fixing rates, tolls, charges or schedules, or any other order made by the commission, and may reopen any case following the issuance of an order in the case, for any reason.

Unlike Wis. Stat. § 196.39(2), which allows interested parties to request the reopening of a case, the ability to reconsider under § 196.39(1) is solely at the Commission's discretion. As noted previously, the Commission has historically found that Wis. Stat. § 196.39(1) extends to completeness determinations[7], for which it has the power to both decide and the power to reconsider.

Discussion

As a threshold issue, the Commission first must address whether it has the authority to reconsider and revoke a completeness determination, previously made under Wis. Stat. § 196.491(3)(a)2. The applicant argued that the Commission lacks the authority to reconsider and revoke a completeness determination. (PSC REF#: 604575 at 21.) The applicant focused exclusively on a few sentences from a single Commission Final Decision in docket 9811-CE-100

[7] *See* footnote 1.

(Koshkonong). The Commission is not persuaded by the applicant's argument and finds both that the Koshkonong issue is distinguishable from the issue presented in this proceeding and that, contrary to the applicant's claims, the Commission has historically found that it does possess the authority to reconsider and revoke a determination of completeness.

In Koshkonong, "two motions were filed purporting to seek some sort of denial or dismissal of the application." (PSC REF#: 437761 at 14.) In the first motion (the August motion), intervenors "asserted that the applicant's CPCN application should be denied because of the applicant's use of concurrent construction proceedings in this docket, and the utilities' buy/sell applications related to the project in a separate docket." *Id.* As a result, the August motion "requested that the Commission 'deem the determination of completeness to have been improvidently granted and deny the CPCN application' because the project should be considered not as it is proposed in the application—as a merchant plant—but rather as it is 'intended to be.'" *Id.* at 15. The second motion (the February motion), which was titled a motion to dismiss, "argued that because the solar lease agreement between the applicant and the private owners of the land upon which the project will be sited exceeds fifteen years in duration, it is unconstitutional, and therefore the Commission may not grant a CPCN for its construction." *Id.* Thus, while the August motion referred to completeness, both motions were fundamentally attempts to have the Commission summarily dismiss or deny the project all together. When the Commission stated that "[t]here is no provision in the Wisconsin Statutes or Administrative Code which creates a path for the summary dismissal of a CPCN application that has been deemed complete" and "the relief requested is not procedurally available," it was referring to its

ability to grant summary dismissal or denial, not to its authority to reconsider and revoke a prior completeness determination. *Id.*

The circumstances of this proceeding, and the Commission's decision to exercise its discretion and reconsider its prior completeness determination, are easily distinguishable from Koshkonong. The Commission is not summarily dismissing or denying the applicant's project based on a constitutional claim or legal argument about who is properly the correct party to seek a CPCN. In fact, the Commission is expressly inviting the applicant to refile a new application for the Project in a new docket should the applicant choose to do so. Unlike Koshkonong, in this docket because of the nature, volume, and filing pattern of document and project revisions made by the applicant, the Commission is finding that it must revisit its prior completeness determination and find that the application at this juncture is incomplete. This finding does not dismiss or deny a CPCN for the Project. It resets the application process to allow the applicant to file a new application reflecting the current state of the project it seeks approval to build; ensures adequate time for review by intervenors, Commission staff, and members of the public; and restores order to what has otherwise become a disorderly review process.

As discussed previously in footnote 1, the Commission has previously been presented with other requests to reconsider completeness. In each instance, the Commission has consistently found that Wis. Stat. § 196.39(1) vests it with the discretionary authority to rescind, alter, or amend a prior completeness determination. There exists no right for a party to seek such reconsideration; rather, the Commission has the sole discretion to determine whether and when to exercise its authority. The Commission's choice to exercise its discretion in this proceeding is consistent with how the Commission has previously viewed its authority to reconsider a

determination of completeness. This choice is also in alignment with *City of Oak Creek*, which held that "an administrative agency has the power to reconsider its own decisions since the power to decide carries with it the power to reconsider." *City of Oak Creek,* 2006 WI App 83, ¶ 27. Therefore, the Commission finds that it possesses the authority to reconsider and revoke a prior completeness determination.

Having concluded that the Commission does have the authority to reconsider and revoke the completeness determination in this proceeding, the Commission next must turn its attention to whether such an action is warranted in this case. In prior instances where the Commission was asked to reconsider and rescind a completeness determination, the complaints were always that the application lacked information on a particular topic, such as site alternatives, permits, financial arrangements, and water use information. The issue the Commission decides here is not whether the applicant's initial application was lacking in information, but rather whether the cumulative effect of the applicant's subsequent filings, revisions, and modifications has transformed the project such that it is meaningfully different from the project contained in the initial application. An accompanying concern the Commission also considers is whether the CPCN and environmental review processes have been materially hindered by the applicant's actions and the moving target nature of the application.

The applicant "agrees in principle that completeness is not a license to swap in a materially different project and still obtain a certificate on the original schedule." (PSC REF#: 604575 at 31.) Further, the applicant acknowledges that when a project is changed from what is originally proposed in the application that was deemed complete, those changes to the facilities proposed "were never served on the communities where they would sit, never heard in the areas

they would affect, and could not support the findings that § 196.491(3)(d) requires for their design, routes, and impacts." *Id.* at 32. However, the applicant concludes that because the Commission is powerless to reconsider its completeness determination, the only available remedy is to allow the proceeding to continue to the end and to deny the project. The Commission is not persuaded by this argument. The Commission finds that it does have the authority to reconsider and revoke a completeness determination in order to address all of the harms the applicant correctly identified can occur when projects and application materials are substantially revised after the initial application. Further, the Commission rejects the applicant's assertion that it must allow a proceeding to continue to conclusion and deny the application at that juncture. Such an approach would be incredibly inefficient and would unduly burden intervenors, Commission staff, and members of the public by requiring them to participate in a proceeding that may have no chance of resulting in approval of an application. Reconsidering and revoking completeness is a more efficient and equitable means of addressing a materially altered project that preserves the integrity of the review process and interests of the applicant, intervenors, Commission staff, and members of the public. The Commission finds that this docket presents a situation whereby that remedy is both warranted and necessary.

Despite the applicant's characterization of its project changes as being merely "refinement," the circumstances of this docket present something highly unusual and unlike prior dockets the Commission has seen where portions of projects were altered during the pendency of the proceedings. As Commission staff witness Ingwell testified, "[t]he sheer volume of documents and revisions, without adequate explanation, likely makes it more challenging than typical for a member of the public to find specific information about the project someone may be

seeking using our electronic system." (PSC REF#: 599874 at 6.) Witness Ingwell further observed differences with past dockets where modifications were made: "[T]he majority of the project and environmental impact data changes in [this] application have required Commission staff to follow up with [the] applicant on the limited information provided in their filings," whereas previous applicants reached "out proactively to explain what, why, and how the project was changing and solicit[ed] staff input on how best to clearly present the changes in the case record so that other parties and members of the public can also understand the nature of the changes." *Id.* at 6-7. The applicant also added temporary bypass lines to the project very late in the proceeding, which it stated were necessary for construction. Witness Ingwell noted that even though these lines are temporary, they still present "a real impact to landowners that was not known at the earlier stages of project review and therefore they would not be able to comment or analyze the project in a similar manner to other members of the public during those earlier stages of [the environmental review process]." *Id.* at 7. The Commission shares these concerns and finds that the circumstances of this docket are not merely project "refinement" but instead reflect a project that the applicant appears to be designing as it goes and that has not adequately been explained and communicated to affected persons or those with a substantial interest in the outcome.

The Commission also observes that the applicant was afforded an opportunity to redress some of the issues identified in this proceeding through the July 1, 2026, ALJ Order but, unlike past applicants who have provided information to remedy deficiencies in a timely manner, the applicant in this proceeding refused to comply with the order and instead argued that it would be an unreasonable burden and "would require innumerable man hours and, in some cases would be

impossible" to "[retrace] each of [its] changes" to application documents. (PSC REF#: 596619 at 20.) As noted by the ALJ in the subsequent July 15, 2026, order, "the Applicant's refusal to effect the remedy provided in the July 1 Order shifts that burden of discerning the application revisions back to the Intervenors, Commission staff and members of the public." (PSC REF#: 597885 at 5.) The Commission finds that because the revisions and modifications to application documents in this proceeding are so voluminous that even the applicant cannot retrace the changes and explain them, those alterations cannot be viewed as mere "refinement" but instead reflect a substantially changed project, and one that has changed such that it is no longer clear which version of the application the Commission is considering. As a result, the Commission concludes that the prior completeness determination must be revoked.

The circumstances of this proceeding also create substantial conflicts with the orderly review process set forth in the statutes and Commission administrative rules. Pursuant to Wis. Stat. § 196.491(3)(g), the Commission has a maximum of 360 days to review a CPCN application and render a decision or the application is deemed complete by operation of law. In this proceeding, it is not clear what project would be approved by operation of law were the Commission to not act in the statutory time frame. The applicant has stated that the late added temporary bypass lines are required to safely construct the project and to prevent significant widespread electric outages. Because the application that was originally deemed complete did not contain these bypass lines, the project that would be approved by operation of law would not be constructable. This conflict highlights the problems of this proceeding and underscores why the Commission believes the project to have changed materially from what was originally presented and deemed complete.

The substantially revised application materials also conflict with the Commission's responsibility to ensure the public has notice of the proposed project. Within 10 days of an application being deemed complete, Wis. Stat. § 196.491(3)(a)2. requires that the Commission send a copy of the complete application to the clerk of each municipality and town in which the project is to be located and the main public libraries in the area. This requirement is also reflected in Wis. Admin. Code § PSC 11.51(4). The copy of the December 15, 2025 "complete application" provided to clerks and libraries failed to reflect the hundreds of application document revisions and material changes to the project made by the applicant since that time.

The environmental review process pursuant to Wis. Stat. §§ 1.11 and 196.025(2) has also been impacted by the applicant's project changes. The Project in this proceeding is a Type I action, pursuant to Wis. Admin. Code § PSC 4.10(1), and required the preparation of an EIS. As part of the EIS process, the Commission is required to undertake a number of steps and involve the public at multiple points in the environmental review process. First, the Commission engages in scoping and "shall request any person it believes is interested in a proposed action to participate in scoping the proposed action." Wis. Admin. Code § PSC 4.30(2). After Commission and DNR staff have jointly reviewed the project, the Commission must publish a draft EIS (DEIS) and provide the public at least 45 days to comment on the DEIS. Wis. Admin. Code § PSC 4.30(4)(e)1. Following the DEIS comment period, the Commission prepares a final EIS (FEIS), which must be distributed to the public at least 30 days prior to the public hearing. Wis. Admin. Code § 4.30(5)(d)1. If the Commission becomes aware of substantial changes to the proposed action that would affect the quality of the human environment to a significant extent not already considered in the DEIS, it is required to prepare a supplemental EIS (SEIS).

Wis. Admin. Code § PSC 4.35(2)(a)1. If the new information is brought forward after the Commission has already prepared a FEIS, the Commission is required to prepare both a supplemental DEIS and a supplemental FEIS and follow the comment periods and timing requirements for each. Wis. Admin. Code § PSC 4.35(2)(c). The Commission finds that the time and steps required to prepare a SEIS for the temporary bypass lines that were added to the project very late in the review process would unreasonably interfere with the competing procedural requirements of Wis. Stat. § 196.491 and risk the application being approved by operation of law even as the Commission is unable to complete the required review in the allotted time period. The Commission believes that its decision to reconsider and revoke its completeness determination is the most reasonable way of reconciling this conflict while preserving fidelity to both statutes.

The Commission finds that based on the totality of the project and application modifications and revisions; the actions of the applicant; the resulting implications for the statutory review process; and the undue burden placed on intervenors, Commission staff, and members of the public the only reasonable path forward is to revoke the December 15, 2025 completeness determination. The Commission finds that the plethora of revised and refiled application documents and of project modifications, both explained and unexplained, reflect an application that at this point can only be described as incomplete. As a result, by this Final Order the Commission is closing this docket, thereby imposing a temporal break between the disorderly and problematic nature of this proceeding and any subsequent review should the applicant choose to pursue a CPCN for the Project. If the applicant chooses to refile a new application for

the Project it must do so in a new docket and must clearly explain the Project that it intends to construct.

ORDER

1. The December 15, 2025, Completeness Determination in this docket is revoked.
2. The application in this docket is incomplete.
3. The applicant may refile a new application for the Project but must do so in a new docket. This docket is ordered closed.
4. This Final Order takes effect one day after the date of service.
5. Jurisdiction is retained.

Dated at Madison, Wisconsin, the 10th day of September, 2026.

By the Commission:

Cru Stubley
Secretary to the Commission

CS:EW: DL:02161432

See attached Notice of Rights

Docket 137-CE-221

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.[8] 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

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