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## Chapter PSC 3

### INTERVENOR COMPENSATION

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**Note:** Chapter PSC 3 as it existed on May 31, 1995 was repealed and a new chapter PSC 3 was created effective June 1, 1995.

#### **PSC 3.01 Definitions.** In this chapter:

(1) "Commission" means the public service commission of Wisconsin.

(2) "Recipient" means a person whose application for intervenor compensation has been granted by the commission regardless of whether the commission has made any payment to the person.

**History:** Cr. Register, May, 1995, No. 473, eff. 6-1-95.

**PSC 3.02 Eligibility.** (1) To be eligible for compensation under this chapter, a person who seeks compensation in order to intervene in a commission proceeding shall be all of the following:

(a) A customer of the utility which is the subject of the proceeding; or someone who may be materially affected by the outcome of the proceeding.

(b) Someone for whom intervention in the proceeding would cause significant financial hardship without compensation from the commission.

(c) Someone who represents an interest material to the proceeding which but for an award of compensation would not be adequately represented.

(d) Someone whose interest must be represented for a fair determination in the proceeding.

(e) Someone who has been granted party status and who will participate in the proceeding as a party.

(2) In determining whether an applicant for compensation meets the criteria of sub. (1) (c) and (d), the commission shall consider information presented by its own staff and by other persons who indicate they will be presenting information in the proceeding.

**Note:** See s. 196.31 (1) (b), Stats., about how a person can apply for intervenor compensation after participating in a commission proceeding.

**History:** Cr. Register, May, 1995, No. 473, eff. 6-1-95; CR 00-187: am. (1) (b) and (c) Register June 2002 No. 558, eff. 7-1-02.

**PSC 3.03 Applications for compensation.** (1) Any person may apply to the commission for intervenor compensation under this chapter. Applications for intervenor compensation relating to a particular proceeding shall be received by the commission not more than 15 days after the prehearing conference, or if there is no prehearing conference, 30 days before the hearing. The commission may extend these time limits for good cause shown or on its own motion.

(2) The application for compensation shall be on a form supplied by the commission upon request and shall contain the following information:

(a) The applicant's name and address. For an organization, the names, addresses and titles of the members of the governing body, and a description of the organization's general purposes, size and structure are required.

(b) The proceeding for which the compensation is requested.

(c) Specific information about the purpose of the intervention, including a discussion of the issues the applicant plans to address

and how they affect the applicant's interest in the proceeding. An explanation is required of the ideas or viewpoints the applicant believes are substantive, novel or significant, and why their presentation contributes to a full and fair determination of the issues involved in the proceeding.

(d) A statement of the amount of funds requested, including an itemized statement of the services and expenses to be covered by the requested funds.

(e) Financial status of the applicant, including:

1. A revenue and expense summary by program activity, including fund raising, education, research, and lobbying, for the previous and current fiscal years.

2. A list of current assets and liabilities, including any uncommitted funds.

3. The applicant's official budget for the current fiscal year and a showing of which part of the intervenor's budget will cover expenses related to the proceeding for which compensation has been requested. An explanation why more of the applicant's funds cannot be devoted to the proceeding is required in order to show that participation would cause a significant financial hardship to the applicant.

4. The value of non-cash contributions, if any, made by the applicant to further the goals of the intervention.

5. For an organization with gross annual revenues of at least \$30,000, a description of duties of paid and unpaid staff in relation to program activities of the organization. The commission shall adjust this dollar figure biennially by the Consumer Price Index, as defined in s. 16.004 (8) (e) 1., Stats., in 1995 or thereafter, to account for inflation or deflation. The commission shall include a statement showing the current dollar figure with its application forms.

(f) A demonstration that the applicant has the ability to represent the interests it espouses, through the expertise of its consultant, its attorney, or itself, in the matter at issue in the proceeding.

(g) A list of the other formal commission proceedings in which the applicant plans to participate in the current fiscal year, including the source of funds which will support participation in each proceeding.

(3) The applicant shall file an original and 5 copies of the application with the commission and shall serve one copy on each utility involved in the proceeding.

**Note:** The application for compensation [Form PSC DAS-212 (9-91)] is available from the division of administrative services at the commission.

**Note:** The treatment of ch. PSC 3 first applies to intervenor compensation applications the commission receives on June 1, 1995.

**History:** Cr. Register, May, 1995, No. 473, eff. 6-1-95.

**PSC 3.04 Compensable costs.** (1) Compensation shall not exceed the actual and reasonable expenses authorized by the commission and incurred as a result of the applicant's participation as a party in a commission proceeding.

(2) Expenses compensable under this chapter include:

(a) Attorney fees.

(b) Expert witness fees.

(c) Cost of clerical services.

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- (d) Preparation of studies, displays, and exhibits.
- (e) Travel and subsistence costs.
- (f) Other costs associated with the intervention and actually incurred.

**(3)** Compensation paid to the staff of a group or organization shall be limited to the rate of reimbursement normally paid by the applicant for comparable staff services, and shall not exceed the rates authorized for employees of the commission. Compensation of an applicant's contractor may be paid at prevailing market rates for the kind and quality of service. Compensation for travel, subsistence, and miscellaneous expenses shall not exceed the rates authorized for commission employees.

**History:** Cr. Register, May, 1995, No. 473, eff. 6-1-95; CR 00-187: am. (1) Register June 2002 No. 558, eff. 7-1-02.

**PSC 3.05 Processing of applications. (1)** Within 15 days of submission, if practicable, the commission employee assigned to process the application shall submit it and other relevant material to the commission. The employee may include a recommendation as to whether, and to what extent, the applicant should be compensated.

**(2)** The assigned employee may request additional information necessary to process the application and may call a conference among applicants to promote and coordinate joint presentations, if similar interests exist. The commission may require cooperative efforts as a condition of compensation.

**(3)** The assigned employee may recommend approval of all or part of an application for compensation only if he or she finds that the applicant has met the eligibility requirements of s. PSC 3.02 and the application has met the requirements of s. PSC 3.03.

**(4)** The assigned employee may prepare a written recommendation that compensation should be granted in a given amount or denied. The recommendation shall be forwarded to the commission for its approval or modification. The commission shall mail its decision to the applicant and the utility which is the subject of the proceeding.

**(5)** Staff may approve compensation requests for \$500 or less and requests to transfer funds from one accounting category to another.

**(6)** The commission may, on request or on its own motion, reconsider a decision regarding any application for compensation.

**History:** Cr. Register, May, 1995, No. 473, eff. 6-1-95.

**PSC 3.06 Supplementary compensation.** A recipient may apply to the commission for supplementary compensation if, for valid reason, it underestimated the costs of participation or if additional funds would substantially improve the recipient's ability to contribute to the proceeding.

**History:** Cr. Register, May, 1995, No. 473, eff. 6-1-95.

**PSC 3.07 Payments to recipients. (1)** A recipient shall submit a claim for payment to the commission within 90 days of the recipient's completion of participation in the proceeding. The claim shall be accompanied by a supporting affidavit attesting to its correctness and shall include bills, receipts or itemized statements of expenses incurred for each item of expense exceeding \$15. To the extent practicable, the commission shall authorize payment within 30 days of receipt of the claim. The commission may make partial payments as a recipient's work progresses.

**(2)** Payment may be denied and is subject to refund if the recipient does not provide the representation of interests for which its application was approved.

**History:** Cr. Register, May, 1995, No. 473, eff. 6-1-95.

**PSC 3.08 Audits.** The public commission shall be granted access, for the purpose of audit and examination, to any books, documents, papers and records of a recipient that support a claim for compensation. A recipient shall retain all relevant records supporting a claim for 3 years after receipt of compensation. The auditor of an organization receiving \$30,000 or more of intervenor funding in one calendar year shall certify that the organization's internal control systems assure the funds are spent in compliance with the intent of the award and with this chapter.

**History:** Cr. Register, May, 1995, No. 473, eff. 6-1-95.

**PSC 3.09 Discretionary authority.** The awarding of compensation under this chapter is solely at the discretion of the commission. This chapter does not create any right or cause of action under state law.

**History:** Cr. Register, May, 1995, No. 473, eff. 6-1-95.