

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Application of Midcontinent Grid Solutions Wisconsin,
LLC for Authority to Become an Electric Public Utility

Docket No: 2708-NC-100

**RESPONSE OF MIDCONTINENT GRID SOLUTIONS WISCONSIN, LLC
TO MOTIONS TO INTERVENE AND REQUESTS FOR HEARING
OF WISCONSIN UTILITIES ASSOCIATION, WPPI ENERGY, AND DAIRYLAND
POWER COOPERATIVE**

Pursuant to Wis. Admin. Code §§ PSC 2.23 and 2.05, Midcontinent Grid Solutions Wisconsin, LLC (MGS Wisconsin) hereby responds to the motions to intervene in this docket submitted by Wisconsin Utilities Association (WUA), WPPI Energy (WPPI) and Dairyland Power Cooperative (DPC) (together, Prospective Intervenors).¹ MGS Wisconsin requests that the Commission deny the motions because they are premature and are not yet supported by a sufficient articulation of a legally protected interest. MGS Wisconsin further requests that the Commission issue a notice of proceeding, that it set a deadline for intervention motions, and allow the Administrative Law Judge (ALJ) to address those motions consistent with long-standing Commission practice.

I. The Commission Should Deny the Motions as Premature.

Motions for intervention in this docket are premature. The Commission has yet to issue its notice of proceeding for this docket. Once it does so, MGS Wisconsin anticipates – consistent

¹ On July 23, 2026, WUA filed a Notice of Appearance and Request to Intervene, on July 24, 2026, WPPI filed a Notice of Appearance and Request to Intervene, and on July 30, 2026, DPC filed a Request to Intervene and Notice of Appearance. Notice of Appearance and Request to Intervene of Wisconsin Utilities Association (July 23, 2026) (PSC REF#: 599345) (WUA Intervention); WPPI Energy Request to Intervene and Notice of Appearance (July 24, 2026) (PSC REF#: 599738) (WPPI Intervention); Dairyland Power Cooperative Request to Intervene and Notice of Appearance (July 30, 2026) (PSC REF#: 600933) (DPC Intervention).

with standard Commission practice – that the Commission will include in its notice of proceeding a designation of the case type for this docket and a deadline for any interested parties to file motions to intervene.² MGS Wisconsin therefore asks the Commission to deny the motions, issue the notice of proceeding in this docket as soon as practicable, and set a deadline for interested parties to seek intervention. Once any intervention motions are filed (or renewed), the ALJ can address the merits of those motions.

II. The Prospective Intervenors Have Not Demonstrated a Legally Protected Interest Sufficient to Support Intervention or a Right to Hearing.

If the Commission does not deny the motions on grounds that they are premature, it should deny them on the merits for failing to meet the standard under Wis. Admin. Code § PSC 2.21(1) for intervention as of right. “A person whose substantial interests may be affected by the commission’s action or inaction in a proceeding shall be admitted as an intervenor.” The Prospective Intervenors have failed to articulate a substantial interest in whether MGS Wisconsin should be certified to transact business in this state as a transmission-only public utility.

WUA’s statement of interest focuses primarily on the claim that American Transmission Company, LLC (ATC) has historically been the only transmission company operating in this state.³ But WUA fails to explain how MGS Wisconsin’s development of a new transmission project in this state pursuant to a federally sanctioned bid and award process impacts any of WUA members’ legally protected interests, much less the specific interests that the legislature sought to protect

² See, e.g., *Application of ITC Midwest LLC for Authority to Become an Electric Utility*, Notice of Proceeding, Docket No. 2707-NC-100 (Nov. 4, 2013) (PSC REF#: 192740).

³ WUA Intervention at 2.

with Wis. Stat. § 196.49(1). A desire to preserve the status quo, without identifying a legally protected interest in the status quo, is not a cognizable basis for intervention.

More than one of the Prospective Intervenor claim their interests lie with cost concerns or rate transparency but fail to demonstrate how certification of MGS Wisconsin to provide wholesale interstate transmission service in Wisconsin could compromise those interests.⁴ Like all transmission providers in Wisconsin, MGS Wisconsin's rates for its Project will be governed solely by federal law as administered by the Federal Energy Regulatory Commission through an open access transmission tariff.⁵ Any Wisconsin utilities purchasing wholesale transmission service under the open access tariff would have the same access to rate information that it has today with respect to any other transmission provider. MGS Wisconsin's rates will be publicly available through FERC-jurisdictional tariff and rate filings, just as the transmission rates of Wisconsin's incumbent transmission-owning utilities are today.

WUA also claims that its interests arise from the franchise requirements of Wis. Stat. § 196.50.⁶ However, the Commission has never applied that statute in the context of facilities used solely for the transmission of power in interstate commerce, and it declined to do so when ITC

⁴ See DPC Intervention at 2; WPPI Intervention at 2.

⁵ See 16 U.S.C. §§ 824d, 824e; Order No. 888, *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Servs. by Pub. Utils.; Recovery of Stranded Costs by Pub. Utils. & Transmitting Utils.*, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh 'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh 'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh 'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Pol'y Study Grp. v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

⁶ WUA Intervention at 2–3.

sought its certification as a public utility, even though ITC in its application sought approval under that statute if the Commission deemed such approval necessary.⁷

Finally, Prospective Intervenors offer descriptions of themselves, their respective members, and their own or members' businesses, all of which only establish that the Prospective Intervenors or their members are engaged in utility service in Wisconsin.⁸ While this utility status may drive incumbent commercial interests and attentiveness to this proceeding, it alone does not give rise to the basis for intervention as of right.⁹ It is also worth noting that Prospective Intervenors have not identified any concrete *customer* interests that would be harmed from MGS Wisconsin's certification.

Prospective Intervenors claim they have a right to intervention under Wis. Stat. § 227.01(3) (the definition of contested case) and Wis. Stat. § 227.44 (providing that parties in a contested case receive reasonable notice of hearing). However, those sections do not apply at this procedural stage. Rather, these sections govern intervening parties' rights *after* the Commission has issued a notice of proceeding and made determinations about the case type and process. Prospective Intervenors do not mention the statute that introduces what is best described as a residual right to a hearing in administrative proceedings, Wis. Stat. § 227.42, and it is noteworthy that Prospective Intervenors have not established their right to a hearing under that statute either. To establish a hearing right under that statute, Prospective Intervenors would have to show: (a) either the immediate or future harm to a substantial interest through the Commission's action or inaction,

⁷ *Application of ITC Midwest LLC for Authority to Become an Electric Utility*, Comprehensive Application at 31–32, Docket No. 2707-NC-100 (Aug. 19, 2013) (PSC REF#: 189706) (contemplating that Wis. Stat. § 196.50 would not apply to ITC Midwest but requesting approval); *Application of ITC Midwest LLC for Authority to Become an Electric Utility* Final Decision and Certificate of Authority, Docket No. 2707-NC-100 (May 8, 2014) (PSC REF#: 204180) (not applying Wis. Stat. § 196.50 to ITC Midwest).

⁸ See generally WUA Intervention; WPPI Intervention; DPC Intervention.

⁹ *Verified Petition of Superior Water, Light and Power Company for a Declaratory Ruling or, in the alternative, for Approvals of a Holding Company Takeover*, Order on Requests to Intervene – Second, Docket No. 5820-DR-100 (Dec. 3, 2024) (PSC REF#: 525602).

(b) there is a dispute of material fact, (c) their asserted injury is of a different kind or degree from injury to the general public, and (d) establish that there is no evidence of legislative intent that their interest is not to be protected. *See* Wis. Stat. § 227.42(1)(a)-(d). Aside from their discussion of interest as discussed above, Prospective Intervenors make no attempt to address the requirements in (b)-(d) and therefore have not shown a right to hearing under Wis. Stat. Ch. 227.

Accordingly, because the Prospective Intervenors have failed to identify a substantial interest affected by this proceeding, failed to establish any residual right to hearing under Wis. Stat. § 227.42, and rely on statutory provisions that are not yet applicable, the Commission should deny the motions to intervene, issue a notice of proceeding, establish a deadline for interventions, and allow the ALJ to rule on those interventions as is Commission practice.

III. If the Commission Designates this Docket a Contested Case, it Should Instruct the ALJ to Determine at the Outset Whether there are Genuine Issues of Disputed Material Fact to be Addressed by Hearing, Or Whether the Issues are Limited to Matters of Law to be Resolved on Briefs.

MGS Wisconsin is mindful that the Commission has broad discretion on whether to hold a hearing in this docket. The sole transmission-only entity (other than ATC, and its parent, ATC Management Inc.) that has sought certification to transact public utility business in this state is ITC Midwest, which sought and obtained a certification to become a “public utility” under Wis. Stat. § 196.01(5)(a), an “independent transmission owner” under Wis. Stat. § 196.485(1)(dm), and a “foreign transmission provider” under Wis. Stat. § 32.02(5).¹⁰ The Commission’s Notice of Proceeding in that docket designated the proceeding as a Class I contested case.¹¹ Subsequently an evidentiary hearing was held where only ITC Midwest and Commission Staff offered

¹⁰ *Application of ITC Midwest LLC for Authority to Become an Electric Utility* Final Decision and Certificate of Authority, Docket No. 2707-NC-100 (May 8, 2014) (PSC REF#: 204180).

¹¹ *Application of ITC Midwest LLC for Authority to Become an Electric Utility*, Notice of Proceeding, Docket No. 2707-NC-100 (Nov. 4, 2013) (PSC REF#:192740).

testimony, followed by briefing and Commission decision. The evidentiary record in that case focused narrowly on a select few issues raised by Commission Staff.

To the extent that the Commission or the ALJ deems the interests claimed by Proposed Intervenors to be sufficient to support intervention, MGS Wisconsin notes that those issues do not rise to the level of genuine disputes of material fact. Rather, as described by Proposed Intervenors, their interests appear to center on a debate about the applicability of the definition of “transmission company” to MGS Wisconsin and whether certification is required under Wis. Stat. § 196.50. Accordingly, in the interest of efficiency and an orderly but fair administrative process, MGS Wisconsin asks that the Commission, if it designates this docket as a contested case, instruct the ALJ to determine whether the issues identified for hearing are to be resolved by the Commission on the basis of comments or briefs rather than an evidentiary hearing that would necessarily require a significantly greater expenditure of time and resources.

IV. Conclusion

For the foregoing reasons, MGS Wisconsin respectfully requests that the Commission deny the pending motions to intervene, issue a Notice of Proceeding establishing the applicable case type and intervention procedures, and – if the docket is designated as a contested case – direct the ALJ to determine at the outset whether any genuine disputes of material fact warrant an evidentiary hearing or whether the issues may be resolved through briefing and argument.

Respectfully submitted this 5th day of August, 2026.

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