



1995 ASSEMBLY BILL 912

February 21, 1996 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Environment and Utilities.

1 **AN ACT to amend** 196.01 (5), 196.213 (2), 196.26 (1), 196.37 (1), 196.491 (2) (i)
2 (intro.), 1. and 2., 196.50 (1) (a), 196.604 and 196.858 (2) of the statutes;
3 **relating to:** an indeterminate permit to operate a public utility; investigation
4 by the public service commission of the reasonableness of public utility rates;
5 updating the definition of complaint; deleting the requirement that a small
6 telecommunications utility submit a list of its published consumers to the
7 public service commission when proposing a rate increase; updating the
8 definition of public utility; the advance planning of electric generating facilities
9 and transmission lines; rebates, concessions and discrimination by public
10 utilities; and the assessment by the public service commission against the local
11 exchange and interexchange telecommunications utilities (suggested as
12 remedial legislation by the public service commission).

Analysis by the Legislative Reference Bureau

This bill makes a number of changes regarding the public service commission (PSC), including the following:

1. Under current law, the definition of "public utility" excludes a company that owns, operates, manages or controls a telecommunications utility, unless the company furnishes, directly to the public, certain utility services, including telephone and telegraph service. This bill amends this provision to replace the reference to telephone and telegraph service with a reference to telecommunications

service. The bill also changes a reference from “telephone service” to “telecommunications service” in the provisions dealing with consumer complaints.

2. Under current law, small telecommunications utilities must file a notice with the PSC before a proposed rate increase is effective. Current law requires that this notice include a list of the utilities’ published consumers. The bill deletes this requirement.

3. This bill makes clear that an advance plan for an electric generating facility and transmission lines must be approved by the PSC if the PSC determines that the plan will provide for a reasonably adequate supply of electrical energy to meet the needs of the public during the planning period, is in the public interest, is coordinated with plans and policies of other agencies and provides for programs that discourage inefficient and excessive power use.

4. Under current law, the PSC is required to assess a sum against local exchange and interexchange telecommunications utilities that is a proportion of their gross operating revenues during the last calendar year. This bill requires that these gross operating revenues be those derived from intrastate operations.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the public service commission and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 196.01 (5) of the statutes is amended to read:

2 196.01 (5) “Public utility” means every corporation, company, individual,
3 association, their lessees, trustees or receivers appointed by any court, and every
4 sanitary district, town, village or city that may own, operate, manage or control any
5 toll bridge or all or any part of a plant or equipment, within the state, for the
6 production, transmission, delivery or furnishing of heat, light, water or power either
7 directly or indirectly to or for the public. “Public utility” does not include a
8 cooperative association organized under ch. 185 for the purpose of producing or
9 furnishing heat, light, power or water to its members only. “Public utility” includes

1 any person engaged in the transmission or delivery of natural gas for compensation
2 within this state by means of pipes or mains and any person, except a governmental
3 unit, who furnishes services by means of a sewerage system either directly or
4 indirectly to or for the public. "Public utility" includes a telecommunications utility.
5 "Public utility" does not include a holding company, as defined in s. 196.795 (1) (h),
6 unless the holding company furnishes, directly to the public, telecommunications or
7 sewer service, heat, light, water or power or, by means of pipes or mains, natural gas.
8 "Public utility" does not include any company, as defined in s. 196.795 (1) (f), which
9 owns, operates, manages or controls a telecommunications utility unless the
10 company furnishes, directly to the public, ~~telephone, telegraph~~ telecommunications
11 or sewer service, heat, light, water or power or, by means of pipes or mains, natural
12 gas. "Public utility" does not include a cellular mobile radio telecommunications
13 utility.

NOTE: This amendment revises the definition of "public utility" by deleting the word "telephone" and inserting the updated term "telecommunications". It also eliminates the reference to "telegraph" service, which has been deregulated.

14 **SECTION 2.** 196.213 (2) of the statutes is amended to read:

15 196.213 (2) Unless subject to ss. 196.28 and 196.37 as they apply to any rate,
16 toll or charge and to ss. 196.02 (2), 196.09 (2) to (7), 196.11 (2), 196.20 and 196.26, at
17 least 60 days and not more than 100 days before the effective date of a rate increase
18 proposed by a small telecommunications utility, the small telecommunications
19 utility shall notify each of its consumers and the commission of the proposed rate
20 increase. Notice to the commission shall include ~~a list of the small~~
21 ~~telecommunications utility's published consumers~~ and a summary of the
22 justification for the proposed rate increase. Notice by the small telecommunications
23 utility to all consumers shall be by mail and shall include a schedule of the proposed

1 rates, tolls and charges, the effective date of the rates, tolls and charges and the
2 procedure necessary for consumers to petition the commission to determine rates,
3 tolls or charges in lieu of the proposed rates, tolls or charges, including but not
4 limited to a notice that the deadline for commission receipt of petitions is 60 days
5 after a small telecommunications utility mails notice of a proposed rate increase to
6 consumers. The proposed notice to consumers shall be submitted to the commission
7 for approval. The commission may reject the proposed notice if the notice is
8 misleading. If the commission does not act on the proposed notice within 10 days
9 after receiving it, the notice is considered approved. If a small telecommunications
10 utility inserts the procedures to petition the commission in the telephone directory
11 published by the utility, the directory shall describe the petitioning procedures under
12 s. 196.215 (3) (a) and (cm). A reference in an approved notice to the location of the
13 procedure described in the directory shall be adequate notice of the procedure to
14 consumers billed for local telecommunications service access lines.

NOTE: This amendment deletes the requirement found in current law that, when notifying the public service commission of a proposed rate increase, a small telecommunications utility submit a list of its published consumers. Directories of these consumers are already on file with the public service commission.

15 **SECTION 3.** 196.26 (1) of the statutes is amended to read:

16 196.26 (1) COMPLAINT. In this section “complaint” means a complaint filed with
17 the commission that any rate, toll, charge or schedule, joint rate, regulation,
18 measurement, act or practice relating to the provision of heat, light, water, power or
19 ~~telephone~~ telecommunications service is unreasonable, inadequate, unjustly
20 discriminatory or cannot be obtained.

NOTE: This amendment revises the definition of “complaint” by deleting the word “telephone” and inserting the updated term “telecommunications”.

21 **SECTION 4.** 196.37 (1) of the statutes is amended to read:

1 196.37 (1) If, after an investigation under this chapter ~~and~~ or ch. 197, the
2 commission finds rates, tolls, charges, schedules or joint rates to be unjust,
3 unreasonable, insufficient or unjustly discriminatory or preferential or otherwise
4 unreasonable or unlawful, the commission shall determine and order reasonable
5 rates, tolls, charges, schedules or joint rates to be imposed, observed and followed in
6 the future.

NOTE: This amendment clarifies that the public service commission, when it conducts rate investigations regarding the reasonableness of public utility rates, does so under either ch. 196 or 197, and not under both chapters.

7 **SECTION 5.** 196.491 (2) (i) (intro.), 1. and 2. of the statutes are amended to read:

8 196.491 (2) (i) (intro.) Except as provided under s. 196.493, a plan shall be
9 approved if, upon the record of the hearing and the written comments submitted
10 under pars. (c) and (e), the commission determines that the plan meets all of the
11 following conditions:

12 1. Will provide for a reasonably adequate supply of electrical energy to meet the
13 needs of the public during the planning period;.

14 2. Is in the public interest when considering engineering, economic, health,
15 safety, reliability, efficiency and environmental factors and alternate methods of
16 generation or sources of supply; ~~and.~~

NOTE: This SECTION amends the punctuation of the 4 criteria set forth in s. 196.491 (2) (i) so that the public service commission (PSC) must approve an advance plan for electric generating facilities and transmission lines, if the plan satisfies all 4 criteria, to conform the text to the legislative intent to require satisfaction of all 4 criteria. As initially enacted, the punctuation lent itself to an interpretation that the PSC must approve the advance plan if the criteria in s. 196.491 (2) (i) 1 to 3., stats., are satisfied or if the criterion in s. 196.491 (2) (i) 4., stats., is satisfied.

17 **SECTION 6.** 196.50 (1) (a) of the statutes is amended to read:

18 196.50 (1) (a) The commission may not grant any person a license, permit or
19 franchise to own, operate, manage or control any plant or equipment for the

1 production, transmission, delivery or furnishing of heat, light, water or power in the
2 municipality, if there is in operation under an indeterminate permit a public utility
3 engaged in similar service in the municipality ~~under an indeterminate permit~~,
4 unless the person seeking the license, permit or franchise secures from the
5 commission a declaration, after a public hearing of any interested party, that public
6 convenience and necessity require the delivery of service by the applicant.

NOTE: This amendment deletes the 2nd mention of the phrase “under an indeterminate permit” from s. 196.50 (1) (a), where it is mentioned twice and the 2nd mention is redundant. This statute prohibits the public service commission from issuing a license, permit or franchise for a public utility if a public utility currently provides similar service under an indeterminate permit, unless the person seeking the license, permit or franchise receives a certificate of necessity from the commission.

7 **SECTION 7.** 196.604 of the statutes is amended to read:

8 **196.604 Rebates, concessions and discriminations unlawful.** No person
9 may knowingly solicit, accept or receive any rebate, concession or discrimination
10 from a public utility for any service in or affecting or relating to the production,
11 transmission, delivery or furnishing of heat, light, water or power or the conveying
12 of ~~telephone~~ telecommunications messages within this state or for any connected
13 service whereby the service is rendered or is to be rendered free or at a rate less than
14 the rate named in the schedules and tariffs in force, or whereby any other service or
15 advantage is received. Any person violating this section shall be fined not less than
16 \$50 nor more than \$5,000 for each offense.

NOTE: This amendment deletes the word “telephone” and inserts the updated term “telecommunications” into the statute relating to unlawful rebates, concessions and discriminations from public utilities.

17 **SECTION 8.** 196.858 (2) of the statutes is amended to read:

18 196.858 (2) The commission shall assess a sum equal to the annual total to local
19 exchange and interexchange telecommunications utilities in proportion to their
20 gross operating revenues derived from intrastate operations during the last calendar

1 year. If total expenditures for telephone relay service exceeded the payment made
2 under this section in the prior year, the commission shall charge the remainder to
3 assessed telecommunications utilities in proportion to their gross operating
4 revenues derived from intrastate operations during the last calendar year. A
5 telecommunications utility shall pay the assessment within 30 days after the bill has
6 been mailed to the assessed telecommunication utility. The bill constitutes notice of
7 the assessment and demand of payment. Payments shall be credited to the
8 appropriation under s. 20.505 (4) (is).

NOTE: This SECTION reconciles the language in the message relay services billing statute with the text of the principal provision authorizing the public service commission (PSC) to assess proportional billing for the PSC costs. The bill limits the gross operating revenue used to allocate the collection of revenue for the message relay service to revenue derived from intrastate operations only. The amendment implements the legislative intent to mirror the existing proportional cost law and avoids an interpretation of the message relay billing language which could cause a significantly disproportional share of the PSC costs to be imposed on utilities with extensive interstate operations.

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(END)