

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1884/P2dn
RNK:wlj:all

November 20, 2013

Matt Pulda:

This redraft is a significant revision of the previous version of this draft. The revisions incorporate the changes requested and explained in a meeting with David Lovell, Bob Fassbender, and Vincent Mele and in a number of telephone conversations with Vincent Mele. In addition, I have made some revisions that I felt were necessary in order to eliminate redundant language and to make the language more precise consistent with my understanding of the issues. Please review the draft very closely to ensure that these changes meet your intent. Additionally, please note the following:

1. This redraft provides that once the Public Service Commission (PSC) approves a site, location, or route, the Department of Natural Resources (DNR) must treat this approval as a finding that there is no practicable alternative to this site, location, or route. The redraft also provides that if a project is for the modification of an existing utility facility, DNR may not find that there is a practicable alternative outside of the existing utility facility's site, location, route, or right-of-way. What is the effect of these findings? The language seems to imply that DNR is bound by PSC's decision about the project's site, location, or route. If that is the intention of this language, I recommend that the draft be revised to make the language more direct on this issue.
2. Throughout the draft, the language in s. 30.025 refers to a utility project's "location, site, or route." But s. 30.12 (1mn), as created in this draft, refers to a utility "corridor." Is a "corridor" the same as a "route"? If so, the language should be redrafted for consistency.
3. Section 30.12 (1mn), as created in this draft, prohibits an electric public utility or a wholesale electric cooperative from the requirements for a permit under s. 30.12 for certain activities related to the construction of a "facility." Under s. 30.12 (1mn) (a) 2., as created in the draft, "facility" is defined to mean "a facility used to transmit or distribute electricity, gas, water, or telephone service or to collect sewerage." Would an electric public utility or a wholesale electric cooperative typically engage in an activity described in s. 30.12 (1mn) (b) in the draft for a facility that transmits or distributes gas, water, or telephone service or collects sewerage? That is, shouldn't the definition of "facility" in s. 30.12 (1mn) (a) 2. be limited to facilities used to transmit or distribute only electricity?
4. Section 30.12 (1mn), as created in the draft, also seems to afford the permit exemption for an electric public utility that engages in an activity within any utility

corridor. That is, an electric public utility is eligible for the exemption within the corridor of any utility, not just the electric public utility seeking the exemption. Is this result intended?

Please feel free to contact me if you have any questions about this draft.

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