

1983 Assembly Bill 367

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1983 Wisconsin Act 338

AN ACT to renumber and amend 32.075; and to create 32.075 (1) and (3) of the statutes, relating to return of a public utility's interest in property taken for an abandoned project.

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

SECTION 1. 32.075 of the statutes is renumbered 32.075 (2) and amended to read:

32.075 (2) Whenever the public service commission has made a finding, either with or without hearing, that it is reasonably certain it will be necessary for a public utility, ~~as defined in ch. 196,~~ to acquire lands or interests therein for the purpose of the conveyance of telegraph and telephone messages, or for the production, transformation or transmission of electric energy for the public, or for right-of-way for a gas pipeline, main or service, and that such public utility is unlikely to commence construction of its facilities upon such lands within 2 years of such finding, such public utility may file its petition and proceed with condemnation as prescribed in s. 32.06 and no further determination of necessity shall be required. When the lands to be condemned under this ~~section~~ subsection are needed for rights-of-way for telegraph, telephone or electric lines or pipelines, it shall not be necessary that the particular parcel or parcels of land be described in the commission's finding, but it shall be sufficient that such finding described the end points of any such lines and the general direction or course of the lines between the end points, but when the public utility files its petition under s. 32.06 it shall specifically describe therein the lands to be acquired. Notwithstanding the completion of the condemnation proceedings and the payment of the award made under this chapter, the owner may continue to use the land until such time as the public utility constructs its facilities thereon.

SECTION 2. 32.075 (1) and (3) of the statutes are created to read:

32.075 (1) In this section, "public utility" has the meaning given under s. 196.01 (5).

(3) (a) The public service commission shall notify by certified mail any person whose ownership interest in the property was terminated by condemnation by a public utility under this chapter if all of the following occur:

1. The public utility's legal title was obtained after the effective date of this subsection (1983), solely by a condemnation award under s. 32.06.

2. The public service commission revokes a certificate of public convenience and necessity required under s. 196.491 (3) (a) or finds that a state or federal agency has denied or revoked any license, permit, certificate or other requirement on which completion of the public utility's project for which the land was condemned is contingent or that the public utility has for any other reason abandoned a project for which the condemned property was acquired.

3. The public utility within 365 days after issuance of the public service commission denial, revocation or finding under subd. 2 has not proposed, by application to the commission, an alternative use for the property or the public service commission has denied an alternative use proposed by the public utility.

(b) If the person is a minor or incompetent, the notice under par. (a) shall be to the special guardian appointed for the person. The notice under par. (a) shall state that the person, or, if the person is deceased, the person's heirs, may petition the circuit court of the county in which the property is located, within 90 days after receipt of the notice, for an order to require the public utility to return the interest in the property to the petitioner. The circuit court shall grant the petition and shall make a formal order returning the petitioner's interest in the property. The order shall operate to divest any title of the public utility to the property subject to the petition and to automatically discharge any lis pendens filed in relation to the condemnation of the property.

(c) An order issued under par. (b) shall direct that:

1. The public utility return the petitioner's ownership interest in the property.

2. The public utility remove any lien or other encumbrance that may have accrued or been assessed since acquisition by the public utility.

3. The petitioner pay to the public utility the fair market value of the property returned to the petitioner under the order, which fair market value shall be determined under a method prescribed by the court.

4. The public utility pay its prorated share of any real estate or ad valorem taxes due on the date of the order.

5. If requested by the petitioner, the public utility pay for all costs for return of property to a reasonable topographic configuration or the condition the property was in at the time the public utility first acquired the property, as established by the court and subject to applicable land use restrictions.

6. The public utility remove from the property, at the option of the petitioner but at no expense or inconvenience to the petitioner, all buildings, equipment and other materials placed on the property by the public utility.

(d) In an order issued under par. (b), the court may award the petitioner court costs and reasonable attorney fees and may include in the order any other terms that it deems just and reasonable.

SECTION 3. Cross-reference changes. In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
32.03 (5)(a)	32.075	32.075 (2)
