



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2011 Wisconsin Act 155
[2011 Senate Bill 428]

**Miscellaneous Statutes
Administered By or Affecting the
Public Service Commission**

2011 Wisconsin Act 155 revises various statutes relating to or administered by the Public Service Commission (PSC).

RENEWABLE PORTFOLIO STANDARD; RENEWABLE ENERGY CREDITS

Under *prior law*, an electric provider could create renewable energy credits (RECs) for use under the renewable portfolio standard (RPS) based on various forms of nonelectric renewable energy used by itself or by its customers or members. *The Act* provides that the customers or members of an electric provider, in addition to the electric provider itself, may create RECs from the use of such nonelectric forms of renewable energy. It also adds wind energy and hydroelectric energy to the forms of energy to which this applies.

In addition, the Act makes other minor, largely technical changes to the wording of the RPS statute.

CERTIFICATE OF APPROVAL FOR UTILITY CONSTRUCTION

Applicability

Public utilities are required to obtain PSC approval prior to starting construction of new facilities or any repair, renovation, or extension of existing facilities. This approval is termed a certificate of approval, or “CA.” PSC rules set thresholds for determining the projects to which this requirement applies, based on project cost. *The Act* revises the thresholds, specifying them in the statutes.

PSC Action Deadlines; Presumptive Approval

The Act sets deadlines for the PSC to take final action on an application for a CA and specifies that, if the PSC fails to meet the deadline, it is considered to have approved the application.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

TRANSACTIONS BETWEEN AFFILIATES

Public utilities must obtain prior PSC approval for certain transactions with their nonutility affiliates.

Applicability

Under *prior law*, a public utility was not required to obtain prior PSC approval of a contract or arrangement with its affiliate if the amount of consideration was not more than \$25,000 or 5% of the equity of the public utility, whichever was less. *The Act* revises this to a single threshold of \$250,000. It directs the PSC to annually adjust this amount based on the Consumer Price Index, beginning in 2014.

PSC Action Deadlines; Presumptive Approval

The Act sets deadlines for the PSC to take final action on an application for PSC approval of a contract or arrangement between a public utility and its affiliate and specifies that, if the PSC fails to meet the deadline, it is considered to have approved the application.

“Firm Sales” of Electricity

A “firm sale” of electricity is a sale in which electricity is intended to be available to a purchaser at all times during a specified period on an uninterruptible basis. In general, an electric generator may not make a long-term (three years or more) firm sale to a public utility with which it is affiliated.

The Act creates an exception to this prohibition for a firm sale from a wholesale merchant plant located in Adams or Juneau County to a public utility, if the wholesale merchant plant is owned by an affiliate of the public utility and was owned, operated, or controlled by that affiliate before January 1, 2012.

PUBLIC SERVICE COMMISSION

Orders; Limit on Conditions

The Act specifies that the PSC may not, as a condition of any order, require a public utility to lobby on a legislative issue or to take a specific position on a legislative issue.

Commissioners; Limits on Activities

Prior law specified that no member of the PSC may serve on or under any committee of a political party. *The Act* specifies that, in addition to this prohibition, no commissioner may:

1. Be a candidate for public office in any election.
2. Directly or indirectly solicit or receive any contribution for any political purpose from any person within or outside the state.
3. Act as an officer or manager for any candidate, political party, or committee organized to promote the candidacy of any person for any public office.

Notice Requirements; Other Ministerial Functions

The Act revises requirements relating to how the PSC makes certain notices to the public and how the effective date of certain PSC actions is determined.

INTERFERENCE WITH OR DAMAGE TO UTILITY TRANSMISSION FACILITIES

Current law provides penalties for causing damage to the transmission facilities of electric and telecommunications utilities. *The Act* does the following:

1. Applies these provisions to the transmission facilities of cooperatives, as well as public utilities.
2. Revises the existing penalties and creates a new penalty for a person who intentionally makes a physical electrical connection with any wire, cable, conductor, ground, equipment, facility, or other affected property of an electric or telecommunications public utility or cooperative.
3. Creates an exception to the prohibitions for a person acting with permission of the owner of the facilities.
4. Moves these provisions from ch. 134, Stats., *Miscellaneous Trade Regulations*, to ch. 941, Stats., *Crimes – Public Health and Safety*, and modernizes their language.

DISCONTINUATION OF SERVICE

In general, a public utility, other than a telecommunications utility, may not abandon or discontinue any line or extension, or service on any line or extension, without prior PSC approval. *The Act* provides that this requirement does not apply to the removal, at the request of the customer, of the customer's electric service drop or electric or steam service lateral, including any primary voltage or steam lateral that is used exclusively to serve the customer requesting the removal.

Effective date: April 10, 2012.

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April 5, 2012

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