



State of Wisconsin  
1997 - 1998 LEGISLATURE

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## 1997 SENATE BILL 534

March 26, 1998 - Introduced by Senators WELCH, RUDE and FARROW, cosponsored by Representatives HOVEN, GARD, OTT, PLALE, JOHNSRUD and RILEY, by request of Governor Tommy G. Thompson. Referred to Committee on Utility Regulation.

1     **AN ACT to repeal** 32.03 (5) (b) 3., 32.07 (1m), 66.073 (10) (b), 196.491 (1) (a),  
2             196.491 (2) (a) 1. and 2., 196.491 (2) (a) 5. and 6., 196.491 (2) (a) 8., 196.491 (2)  
3             (c) and (d), 196.491 (2) (i) to (m), 196.491 (2m) (title), 196.491 (3) (d) 1., 196.491  
4             (3) (f) and (ff), 196.491 (3) (g) 2., 196.491 (3) (hm), 196.491 (4) (a) (intro.), 196.491  
5             (4) (a) 3. and 196.492; **to renumber** 66.073 (10) (a), 196.377 and 196.491 (4) (a)  
6             1. and 2.; **to renumber and amend** 32.02 (5), 196.39, 196.491 (2) (am), 196.491  
7             (2m), 196.491 (3) (a) and 196.491 (4) (b); **to consolidate, renumber and**  
8             **amend** 196.491 (3) (g) (intro.) and 1.; **to amend** 30.025 (1), 30.025 (4), 30.44  
9             (3m) (title), 30.44 (3m) (a), 30.44 (3m) (b), 30.44 (3m) (d), 30.45 (1r), 32.03 (5)  
10            (a), 32.03 (5) (b) 1., 32.03 (5) (b) 2., 32.06 (7), 32.07 (1), 32.075 (3) (a) 2., 32.09  
11            (2m), 86.16 (1), 182.017 (1), 196.24 (3), 196.491 (title), 196.491 (1) (d), 196.491  
12            (1) (e), 196.491 (1) (g), 196.491 (2) (a) 3., 196.491 (2) (a) 3m., 196.491 (2) (a) 4.,  
13            196.491 (2) (a) 7., 196.491 (2) (b) 8., 196.491 (2) (e), 196.491 (2) (f), 196.491 (2)  
14            (g), 196.491 (3) (b), 196.491 (3) (d) (intro.), 196.491 (3) (d) 2., 196.491 (3) (d) 3.,

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1 196.491 (3) (e), 196.491 (3) (j), 196.491 (3) (k), 196.493 (1), 196.493 (2) (intro.),  
2 196.53, 196.795 (7) (a) 1. b., 196.795 (11) (b) and 289.29 (5); **to repeal and**  
3 **recreate** 196.491 (2) (title), 196.491 (2) (a) (intro.) and 196.491 (2) (b) (intro.);  
4 and **to create** 32.02 (5) (a), 196.03 (5m), 196.377 (title), 196.377 (2), 196.39 (2),  
5 196.485, 196.491 (1) (am), 196.491 (1) (bm), 196.491 (1) (w), 196.491 (2) (a) 3g.,  
6 196.491 (2) (a) 3r., 196.491 (2) (a) 9. to 13., 196.491 (2) (ag), 196.491 (2) (b) 9. and  
7 10., 196.491 (2) (gm), 196.491 (3) (a) 2., 196.491 (3) (a) 3. b., 196.491 (3) (d) 7.,  
8 196.491 (3) (dm), 196.491 (3) (g) 1m., 196.491 (3m), 196.491 (4) (c), 196.491 (5),  
9 196.494 and 196.795 (5) (pm) of the statutes; **relating to:** strategic energy  
10 assessments, certification requirements applicable to certain projects proposed  
11 by public utilities, certificates of public convenience and necessity for certain  
12 electric generating facilities and high-voltage transmission lines, independent  
13 system operator or transmission owner of electric transmission system, certain  
14 out-of-state retail electric sales, ownership and operation of wholesale  
15 merchant plants, service standards for electric generation, transmission or  
16 distribution facilities, regional transmission planning and granting  
17 rule-making authority.

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***Analysis by the Legislative Reference Bureau***

The bill eliminates the requirement under current law for certain public utilities and cooperative associations to submit advance plans for approval by the public service commission (PSC) and requires instead that the public service commission (PSC) prepare a strategic energy assessment. In addition, the bill makes changes to the requirements pertaining to the certificates of public convenience and necessity that a person must obtain in order to construct certain electric generating facilities and transmission lines. The bill also imposes various other requirements regarding each of the following: 1) the electric transmission system; 2) the ownership and operation of certain electric generating facilities that do not provide retail electric service, which the bill defines as “wholesale merchant plants”, by affiliates

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of public utilities; 3) the construction of electric generating capacity by certain public utilities; and 4) various other requirements.

***Strategic energy assessment***

Under current law, certain public utilities and cooperative associations are required to submit biennial advance plans to the PSC that include certain information about their plans to construct the following: 1) "large electric generating facilities", which are defined as facilities with a capacity of between 12 and 300 megawatts; 2) "bulk electric generating facilities", which are defined as facilities with a capacity of 300 megawatts or more; and 3) "high-voltage transmission lines", which are defined as lines that are longer than one mile and that operate at 100 kilovolts or more. After holding a hearing on a plan, the PSC may approve a plan if the PSC finds that that plan will provide a reasonably adequate supply of electrical energy to meet the needs of the public and that the plan satisfies certain other criteria. A public utility or cooperative association must also submit an advance plan to the Lower Wisconsin State Riverway Board (board) if it intends to construct, modify or relocate a high-voltage transmission line in the Lower Wisconsin State Riverway (riverway). The board must approve the plan if it determines that the high-voltage transmission line will not impair, to the extent practicable, the scenic beauty or natural value of the riverway.

This bill eliminates the requirements pertaining to advance plans and requires instead that the PSC prepare a biennial strategic energy assessment that evaluates the adequacy and reliability of the state's current and future energy supply. In addition, the bill requires a person to obtain a permit from the board in order to construct, modify or relocate a high-voltage transmission line in the riverway. The board may not issue the permit unless it makes the same determination as under current law.

The strategic energy assessment must identify and describe large electric generating facilities and high-voltage transmission lines on which public utilities, cooperative associations and certain other persons plan to begin construction within 3 years. In addition, the strategic energy assessment must describe all of the following: 1) any plans for assuring that there is an adequate ability to transfer electric power into the state and the eastern part of the state that is served by the Mid-America Interconnected Network, Inc. (MAIN), which is an electric industry reliability council for a portion of the midwestern United States; 2) the projected demand for electric power; 3) activities to discourage inefficient and excessive power use; 4) existing and planned generating facilities that use renewable energy sources; 5) the extent to which the regional bulk-power market is contributing to the adequacy and reliability of the state's electrical supply; 6) the extent to which effective competition is contributing to a reliable, low-cost and environmentally sound source of electricity; and 7) whether sufficient electric capacity and energy is available at a reasonable price. The PSC must promulgate rules for reporting information that is necessary for the PSC to prepare the strategic energy assessment.

**SENATE BILL 534*****Certificates of public convenience and necessity***

Under current law, a person may not begin constructing a large or bulk electric generating facility or high-voltage transmission line without obtaining a certificate of public convenience and necessity (certificate) from the PSC. A person that is not a public utility or cooperative association is exempt from this requirement if the person reasonably anticipates that the person will consume no less than 70% of the aggregate kilowatt hours output from electric generating facilities in manufacturing processes at the site where the facilities are located. Before filing an application for a certificate for a large or bulk electric generating facility, a person must provide an engineering plan to the department of natural resources (DNR), which must provide the person with a list of DNR permits and approvals that, based on the engineering plan, appear to be required for the facility. In consultation with the PSC, DNR may specify whether any permits or approvals must be obtained before the PSC may issue the certificate.

Also under current law, the PSC must take final action on an application for a certificate, and DNR must take final action on an application for the permits and approvals, within specified deadlines that depend on whether the application concerns a large or bulk electric generating facility or a high-voltage transmission line. After holding a public hearing on an application for a certificate, the PSC must issue the certificate if it makes certain determinations, including the following: 1) the proposed facility or line is necessary to satisfy the reasonable needs of the public; 2) the design and location are in the public interest; 3) the proposed facility or line will not have an undue adverse impact on environmental values; and 4) the proposed facility or line will not unreasonably interfere with orderly land use and development plans. However, the PSC may not issue a certificate until DNR issues the specified permits and approvals.

This bill changes the types of facilities that are subject to the above requirements and changes the procedure for issuing a certificate by the PSC and the permits and approval by DNR. The bill requires a person to obtain a certificate from the PSC before beginning construction of "large electric generating facilities", which the bill defines as facilities with a capacity of 100 megawatts or more. Also, the bill exempts a person from the requirement to obtain a certificate for construction activities related to high-voltage transmission lines that operate at less than 230 kilovolts if the construction activities take place entirely within an existing right-of-way.

The bill requires a person to file an application for a certificate within 6 months before beginning construction. The PSC must notify the applicant about whether an application is complete within 30 days after filing and a person may refile an incomplete application. If the PSC does not determine whether an application is complete within the 30-day deadline, the application is considered to be complete. At the same time that a person applies for a certificate, the person must provide DNR with an engineering plan and, within 30 days after receiving the plan, DNR must provide the person with a list of permits and approvals that appear to be applicable. Within 20 days after DNR provides the list, the person must apply for the permits and approvals. DNR is subject to a similar 30-day deadline in which DNR must

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notify an applicant about whether an application is complete. DNR must complete action on the permits and approvals within 90 days after an application is determined or considered to be complete.

Within 180 days after an application for a certificate is determined or considered to be complete, the PSC must take final action on the application, unless the circuit court for Dane County grants an extension or unless another state is also taking action on the same or a related application. After holding a public hearing, the PSC may issue a certificate only if it makes the same determinations under current law described above. Also, the PSC must determine that the proposed large electric generating facility or high-voltage transmission line will not have a material adverse impact on competition in the relevant wholesale electric service market. Such a determination is not required under current law. Finally, the PSC may not issue a certificate until DNR has issued the permits and approvals identified in the list provided by DNR.

***Electric transmission system***

The bill imposes various requirements regarding the electric transmission system. Under the bill, if a public utility or cooperative association has not, by June 30, 2000, transferred control over its electric transmission facilities to a federally approved independent system operator (ISO), the PSC may order such a utility or cooperative association to apply for federal approval to do any of the following: 1) transfer control over its transmission facilities to an ISO that has federal approval to operate in a region that includes this state; 2) transfer control over its transmission facilities to an ISO that has not yet received federal approval but is intended to operate in such a region; or 3) divest its interest in its transmission facilities to an independent transmission owner (ITO) that satisfies certain requirements. In addition, by June 30, 2000, or a later date determined by the PSC, the PSC is required to order public utilities to separately account for cost of retail electric transmission service and to take all of its retail transmission service from an ISO or ITO.

Subject to the certificate of public convenience and necessity requirements described above, the bill requires an ITO or, when ordered by an ISO, certain public utilities and cooperative associations to construct new electric transmission facilities if the ITO or ISO determines a need for such facilities. The bill also imposes certain requirements on an ITO's or ISO's operation of transmission facilities.

Also under the bill, the PSC must submit a study to the legislature by September 1, 1998, that identifies constraints on the regional electric transmission system that adversely affect the reliability of service provided to customers in this state. Based on the results of the study, the PSC may, no later than December 31, 2004, order public utilities to construct transmission facilities that are necessary to relieve constraints on the transmission system.

***Wholesale merchant plants***

In general, the bill prohibits an affiliate of a public utility from owning or operating a wholesale merchant plant unless the public utility has transferred control over its transmission facilities to an ISO or ITO and the PSC finds that the ownership or operation of the wholesale merchant plant by the affiliate will not have

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a substantially adverse anticompetitive effect on electricity markets. In addition, the PSC is required to review sales to public utilities of electricity that is generated from wholesale merchant plants owned or operated by affiliates. If the PSC finds that such a sale is not in the public interest, the PSC may take remedial action that includes disallowing the public utility's costs related to the sale in a rate-setting proceeding. Also, the bill prohibits any such sale of electricity on an uninterruptible basis that is for a period of 3 years or more. Finally, an affiliate that applies for a certificate of public convenience and necessity for a wholesale merchant plant is exempt from the requirement that the PSC determine that the plant satisfies the reasonable needs of the public.

***Electric generating capacity***

The bill requires nonmunicipal utilities that provide retail electric service in the area served by MAIN to construct an aggregate total of 50 megawatts of new electric capacity that is generated from renewable energy sources by December 31, 2000. Also, the bill requires certain of such utilities that have issued requests for proposals for additional electric generating capacity to enter into contracts for the capacity by July 31, 1998, and the bill shortens the regulatory approval deadlines that would otherwise apply to the additional capacity.

***Other***

The bill imposes various other requirements, including the following:

1. The bill requires the PSC to promulgate rules that require the PSC, in setting rates, to adjust the revenue requirement of a public utility by an amount that reflects the fixed capital costs of electric generating facilities within the state that are incurred to make sales to customers outside the state whom the public utility does not have a duty to serve.

2. The bill requires the PSC to promulgate rules establishing standards for inspecting, maintaining and repairing certain electric generation, transmission and distribution facilities.

3. The bill makes certain changes to the calculation of nonutility assets in a public utility holding company system for purposes of determining whether the total amount of such assets complies with specified limits under current law.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 30.025 (1) of the statutes is amended to read:

2           30.025 (1) Any electric utility, as defined in s. 196.491 (1) (d), proposing to  
3           construct a facility, as defined in s. 196.491 (1) (e), which facility is to be located  
4           adjacent to a waterway in such a manner as to require one or more permits to be

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1 issued under this chapter and ch. 31 may, in lieu of separate application for permits  
2 under those chapters, submit an engineering plan together with any additional  
3 information required by the department. Such plan shall be filed with the  
4 department within 20 days after an application for a certificate of public convenience  
5 and necessity is filed with the public service commission under s. 196.491 (3). The  
6 department may require supplemental information to be furnished thereafter.

7 **SECTION 2.** 30.025 (4) of the statutes is amended to read:

8 30.025 (4) The permit may be issued upon stated conditions deemed necessary  
9 to assure compliance with the criteria designated under sub. (3). The department  
10 shall grant or deny the application within the time limit applicable under s. 196.491  
11 (3) ~~(a)~~ 3. b.

12 **SECTION 3.** 30.44 (3m) (title) of the statutes is amended to read:

13 30.44 (3m) (title) UTILITY FACILITIES; HIGH-VOLTAGE TRANSMISSION LINES.

14 **SECTION 4.** 30.44 (3m) (a) of the statutes is amended to read:

15 30.44 (3m) (a) A person shall apply to and receive a permit from the board  
16 before constructing, modifying or relocating a utility facility or high-voltage  
17 transmission line that is in the riverway.

18 **SECTION 5.** 30.44 (3m) (b) of the statutes is amended to read:

19 30.44 (3m) (b) A person may not be issued a permit for an activity in par. (a)  
20 unless the performance standard in par. (c) is met and, for a high-voltage  
21 transmission line, the board finds that the activity will not impair, to the extent  
22 practicable, the scenic beauty or natural value of the riverway.

23 **SECTION 6.** 30.44 (3m) (d) of the statutes is amended to read:

24 30.44 (3m) (d) The use of an aboveground utility facility shall not be a basis for  
25 the board to determine that all reasonable efforts will not be taken to minimize the

1 visual impact. The board may not require a high-voltage transmission line to be  
2 placed underground in order to make the finding specified in par. (b).

3 **SECTION 7.** 30.45 (1r) of the statutes is amended to read:

4 30.45 (1r) No person may construct, modify or relocate a high-voltage  
5 transmission line unless it has been approved under s. 30.44 (3m) or 196.491 (3) (d)  
6 3m. or 196.492.

7 **SECTION 8.** 32.02 (5) of the statutes is renumbered 32.02 (5) (b) and amended  
8 to read:

9 32.02 (5) (b) Any Wisconsin corporation engaged in the business of  
10 transmitting or furnishing heat, power or electric light for the public or any foreign  
11 transmission provider for the construction and location of its lines or for ponds or  
12 reservoirs or any dam, dam site, flowage rights or undeveloped water power.

13 **SECTION 9.** 32.02 (5) (a) of the statutes is created to read:

14 32.02 (5) (a) "Foreign transmission provider" means a foreign corporation that  
15 satisfies each of the following:

16 1. The foreign corporation is an independent system operator, as defined in s.  
17 196.485 (1) (d), or an independent transmission owner, as defined in s. 196.485 (1)  
18 (dm), that is approved by the applicable federal agency, as defined in s. 196.485 (1)  
19 (c).

20 2. The foreign corporation controls transmission facilities, as defined in s.  
21 196.485 (1) (h), in this and another state.

22 **SECTION 10.** 32.03 (5) (a) of the statutes is amended to read:

23 32.03 (5) (a) If an electric utility is required to obtain a certificate of public  
24 convenience and necessity from the public service commission under s. 196.491 (3),  
25 no right to acquire real estate or personal property appurtenant thereto or interest



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1 therein for such project by condemnation shall accrue or exist under s. 32.02 or  
2 32.075 (2) until such a certificate of public convenience and necessity has been  
3 issued.

4 **SECTION 11.** 32.03 (5) (b) 1. of the statutes is amended to read:

5 32.03 (5) (b) 1. Such a limited interest does not run for more than 3 years; and

6 **SECTION 12.** 32.03 (5) (b) 2. of the statutes is amended to read:

7 32.03 (5) (b) 2. Activities associated with such tests or studies will be conducted  
8 at reasonable hours with minimal disturbance, and the property will be reasonably  
9 restored to its former state, upon completion of such tests or studies; ~~and.~~

10 **SECTION 13.** 32.03 (5) (b) 3. of the statutes is repealed.

11 **SECTION 14.** 32.06 (7) of the statutes is amended to read:

12 32.06 (7) PETITION FOR CONDEMNATION PROCEEDINGS. If the jurisdictional offer  
13 is not accepted within the periods limited in sub. (6) or the owner fails to consummate  
14 an acceptance as provided in sub. (6), the condemnor may present a verified petition  
15 to the circuit court for the county in which the property to be taken is located, for  
16 proceedings to determine the necessity of taking, where such determination is  
17 required, and the amount of just compensation. The petition shall state that the  
18 jurisdictional offer required by sub. (3) has been made and rejected; that it is the  
19 intention of the condemnor in good faith to use the property or right therein for the  
20 specified purpose. It shall name the parties having an interest of record in the  
21 property as near as may be and shall name the parties who are minors or persons of  
22 unsound mind or unknown. The petition may not disclose the amount of the  
23 jurisdictional offer, and if it does so it is a nullity. The petition shall be filed with the  
24 clerk of the court. Notice of the petition shall be given as provided in s. 32.05 (4) to  
25 all persons having an interest of record in the property, including the special

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1 guardian appointed for minors or incompetent persons. A lis pendens shall be filed  
2 on the date of filing the petition. The date of filing the lis pendens is the “date of  
3 evaluation” of the property for the purpose of fixing just compensation, except that  
4 if the property is to be used in connection with the construction of a facility, as defined  
5 under s. 196.491 (1), the “date of evaluation” is the date that ~~the first advance plan~~  
6 ~~identifying the property as a site or route under s. 196.491 (2) (a) 3. is filed with the~~  
7 ~~public service commission, or the date which is 2 years prior to the date on which the~~  
8 ~~certificate of public convenience and necessity is issued for the facility, whichever is~~  
9 ~~earlier.~~ The hearing on the petition may not be earlier than 20 days after the date  
10 of its filing unless the petitioner acquired possession of the land under s. 32.12 (1)  
11 in which event this hearing is not necessary. If the petitioner is entitled to condemn  
12 the property or any portion of it, the judge immediately shall assign the matter to the  
13 chairperson of the county condemnation commissioners for hearing under s. 32.08.  
14 An order by the judge determining that the petitioner does not have the right to  
15 condemn or refusing to assign the matter to the chairperson of the county  
16 condemnation commissioners may be appealed directly to the court of appeals.

17 **SECTION 15.** 32.07 (1) of the statutes is amended to read:

18 32.07 (1) A certificate of public convenience and necessity issued under s.  
19 196.491 (3) shall constitute the determination of the necessity of the taking for any  
20 lands or interests described in the certificate.

21 **SECTION 16.** 32.07 (1m) of the statutes is repealed.

22 **SECTION 17.** 32.075 (3) (a) 2. of the statutes is amended to read:

23 32.075 (3) (a) 2. The public service commission revokes a certificate of public  
24 convenience and necessity required under s. 196.491 (3) (a) 1, or finds that a state  
25 or federal agency has denied or revoked any license, permit, certificate or other

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1 requirement on which completion of the public utility's project for which the land was  
2 condemned is contingent or that the public utility has for any other reason  
3 abandoned a project for which the condemned property was acquired.

4 **SECTION 18.** 32.09 (2m) of the statutes is amended to read:

5 32.09 (2m) In determining just compensation for property sought to be  
6 condemned in connection with the construction of facilities, as defined under s.  
7 196.491 (1) (e), any increase in the market value of such property occurring after the  
8 date of evaluation but before the date upon which the lis pendens is filed under s.  
9 32.06 (7) shall be considered and allowed to the extent it is caused by factors other  
10 than the planned facility.

11 **SECTION 19.** 66.073 (10) (a) of the statutes is renumbered 66.073 (10).

12 **SECTION 20.** 66.073 (10) (b) of the statutes is repealed.

13 **SECTION 21.** 86.16 (1) of the statutes is amended to read:

14 86.16 (1) Any person, firm or corporation, including any foreign corporation  
15 authorized to transact business in this state may, subject to ss. 30.44 (3m), 30.45, and  
16 196.491 (3) (d) 3m. ~~and 196.492~~, with the written consent of the department with  
17 respect to state trunk highways, and with the written consent of local authorities  
18 with respect to highways under their jurisdiction, including connecting highways,  
19 construct and operate telegraph, telephone or electric lines, or pipes or pipelines for  
20 the purpose of transmitting messages, water, heat, light or power along, across or  
21 within the limits of the highway.

22 **SECTION 22.** 182.017 (1) of the statutes is amended to read:

23 182.017 (1) **RIGHT-OF-WAY FOR.** Any domestic corporation organized to furnish  
24 telegraph or telecommunications service or transmit heat, power or electric current  
25 to the public or for public purposes, ~~and any~~ an independent system operator, as

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1 defined in s. 196.485 (1) (d), an independent transmission owner, as defined in s.  
2 196.485 (1) (dm), or a cooperative association organized under ch. 185 to furnish  
3 telegraph or telecommunications service or transmit heat, power or electric current  
4 to its members, may, subject to ss. 30.44 (3m), 30.45, 86.16, and 196.491 (3) (d) 3m.  
5 and 196.492 and to reasonable regulations made by any city, village or town through  
6 which its transmission lines or systems may pass, construct and maintain such lines  
7 or systems with all necessary appurtenances in, across or beneath any public  
8 highway or bridge or any stream or body of water, or upon any lands of any owner  
9 consenting thereto, and for such purpose may acquire lands or the necessary  
10 easements; and may connect and operate its lines or system with other lines or  
11 systems devoted to like business, within or without this state, and charge reasonable  
12 rates for the transmission and delivery of messages or the furnishing of heat, power  
13 or electric light.

14 **SECTION 23.** 196.03 (5m) of the statutes is created to read:

15 196.03 **(5m)** The commission shall promulgate rules establishing  
16 requirements and procedures for the commission, in setting rates for retail electric  
17 service, to provide for appropriate adjustments, if any, to the revenue requirement  
18 of a public utility by an amount that reflects, as determined by the commission, the  
19 fixed capital costs, if any, of generating facilities within the state that are incurred  
20 to make any sale to a customer outside this state that the public utility does not have  
21 a duty to serve.

22 **SECTION 24.** 196.24 (3) of the statutes is amended to read:

23 196.24 **(3)** The commission may conduct any number of investigations  
24 contemporaneously through different agents, and may delegate to any agent the  
25 authority to take testimony bearing upon any investigation or at any hearing. The

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1 decision of the commission shall comply with s. 227.46 and shall be based upon its  
2 records and upon the evidence before it, except that, notwithstanding s. 227.46 (4),  
3 a decision maker may hear a case or read or review the record of a case if the record  
4 includes a synopsis or summary of the testimony and other evidence presented at the  
5 hearing that is prepared by the commission staff. Parties shall have an opportunity  
6 to demonstrate to a decision maker that a synopsis or summary prepared under this  
7 subsection is not sufficiently complete or accurate to fairly reflect the relevant and  
8 material testimony or other evidence presented at a hearing.

9 **SECTION 25.** 196.377 (title) of the statutes is created to read:

10 **196.377 (title) Renewable energy sources.**

11 **SECTION 26.** 196.377 of the statutes is renumbered 196.377 (1).

12 **SECTION 27.** 196.377 (2) of the statutes is created to read:

13 196.377 (2) EASTERN WISCONSIN UTILITIES. (a) In this subsection:

14 1. "Eastern Wisconsin utility" means a public utility, other than a municipal  
15 utility that, on the effective date of this subdivision .... [revisor inserts date], provided  
16 retail electric service to customers in the geographic area of the state that was served  
17 by the reliability council on that date.

18 2. "Municipality" means a city, town or village.

19 3. "Municipal utility" means a public utility that is a municipality or that is  
20 wholly owned or operated by a municipality.

21 4. "Reliability council" means the Mid-America Interconnected Network, Inc.,  
22 reliability council of the North American Electric Reliability Council.

23 (b) Except as provided in par. (d), no later than December 31, 2000, each eastern  
24 Wisconsin utility shall construct or procure, on a competitive basis, the construction  
25 of an aggregate total of 50 megawatts of new electric capacity in this state that is,

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1 to the satisfaction of the commission, generated from renewable energy sources.  
2 Each eastern Wisconsin utility shall construct or procure the construction of a share  
3 of the aggregate total required under this paragraph that corresponds to the utility's  
4 share, as determined by the commission, of the aggregate demand for electricity that  
5 is supplied by the utilities in this state.

6 (c) An eastern Wisconsin utility may procure the construction required under  
7 par. (a) by issuing requests for proposals no later than September 30, 1998.

8 (d) The commission may allow an eastern Wisconsin utility to comply with the  
9 requirements under par. (b) by a date that is later than December 31, 2000, if the  
10 commission determines that the later date is necessary due to circumstances beyond  
11 the utility's control.

12 (e) Any new electric capacity that is generated from a wind power project for  
13 which an eastern Wisconsin utility has received a proposal before the effective date  
14 of this paragraph .... [revisor inserts date], may be counted in determining whether  
15 the utility has satisfied the requirements under par. (b).

16 (f) The commission shall allow an eastern Wisconsin utility to recover in its  
17 retail electric rates any costs that are prudently incurred by the utility in complying  
18 with the requirements under par. (b).

19 **SECTION 28.** 196.39 of the statutes is renumbered 196.39 (1) and amended to  
20 read:

21 196.39 (1) The commission at any time, ~~on its own motion or upon motion of~~  
22 ~~an interested party, and~~ upon notice to the public utility and after opportunity to be  
23 heard, may rescind, alter or amend any order fixing rates, tolls, charges or schedules,  
24 or any other order made by the commission, and may reopen any case following the  
25 issuance of an order in the case, for any reason.

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1           **(3)** Any order rescinding, altering, amending or reopening a prior order shall  
2 have the same effect as an original order.

3           **(4)** Within 30 days after service of an order, the commission may correct an  
4 error or omission in the order related to transcription, typing or calculation without  
5 hearing if the correction does not alter the intended effect of the order.

6           **SECTION 29.** 196.39 (2) of the statutes is created to read:

7           196.39 (2) An interested party may request the reopening of a case under s.  
8 227.49.

9           **SECTION 30.** 196.485 of the statutes is created to read:

10           **196.485 Independent system operator. (1) DEFINITIONS.** In this section:

11           (a) "Affiliated interest of a person" means any of the following:

12           1. Any person owning or holding directly or indirectly 5% or more of the voting  
13 securities of the person.

14           2. Any person in any chain of successive ownership of 5% or more of voting  
15 securities of the person.

16           3. Any corporation 5% or more of whose voting securities is owned by any  
17 person owning 5% or more of the voting securities of the person or by any person in  
18 any chain of successive ownership of 5% or more of the voting securities of the person.

19           4. Any person who is an officer or director of the person or of any corporation  
20 in any chain of successive ownership of 5% or more of the voting securities of the  
21 person.

22           5. Any corporation operating a servicing organization for furnishing  
23 supervisory, construction, engineering, accounting, legal or similar services to the  
24 person, which corporation has one or more officers or one or more directors in  
25 common with the person, and any other corporation which has directors in common

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1 with the person if the number of directors of the corporation is more than one-third  
2 of the total number of the person's directors.

3 6. Any subsidiary of the person.

4 (b) "Cooperative" means a cooperative association organized under ch. 185.

5 (c) "Federal agency" means, with respect to a transmission utility that is a  
6 cooperative, the rural utilities service and, with respect to a transmission utility that  
7 is a public utility, the federal energy regulatory commission.

8 (d) "Independent system operator" means an independent system operator that  
9 requires the approval of a federal agency to operate transmission facilities in this  
10 state or a region.

11 (dm) "Independent transmission owner" means a person that satisfies each of  
12 the following:

13 1. The person does not own electric generation facilities or does not sell electric  
14 generation capacity or energy in a market within the geographic area that, on  
15 December 31, 1997, was served by the Mid-America Interconnected Network, Inc.,  
16 Mid-Continent Area Power Pool, East Central Area Reliability Coordination  
17 Agreement or Southwest Power Pool reliability council of the North American  
18 Electric Reliability Council.

19 3. The person is not an affiliated interest of a person specified in subd. 1.

20 (e) "Region" means an interstate geographic area that includes any portion of  
21 this state.

22 (f) "Rural utilities service" means the agency in the federal department of  
23 agriculture that is the successor to the rural electrification administration.

24 (fm) "Subsidiary" means any person, 5% or more of the securities of which are  
25 directly or indirectly owned by another person.



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1 (g) "Transmission area" means the area of the state that, on January 1, 1997,  
2 was served by the Mid-America Interconnected Network, Inc., reliability council of  
3 the North American Electric Reliability Council.

4 (h) "Transmission facility" means any pipe, pipeline, duct, wire, line, conduit,  
5 pole, tower, equipment or other structure used for the transmission of electric power  
6 as determined by the public service commission on the basis of factors for identifying  
7 a transmission facility that are specified in the orders of the federal energy  
8 regulatory commission under 16 USC 824d and 824e.

9 (i) "Transmission utility" means a cooperative or public utility that owns a  
10 transmission facility in this state and that provides transmission service in this  
11 state.

12 **(2) COMMISSION POWERS AND DUTIES.** (a) By June 30, 2000, if a transmission  
13 utility has not transferred control over its transmission facilities to an independent  
14 system operator that is approved by the applicable federal agency or divested, with  
15 approval of the applicable federal agency and the commission, its interest in its  
16 transmission facilities to an independent transmission owner, the commission shall,  
17 subject to par. (am), order the transmission utility to apply to the applicable federal  
18 agency to do one of the following:

19 1. Transfer control of the transmission utility's transmission facilities to an  
20 independent system operator that has received the approval of the federal agency to  
21 operate in a region.

22 2. If the federal agency has not approved an independent system operator  
23 specified in subd. 1., transfer control over the transmission utility's transmission  
24 facilities to an independent system operator that is intended to operate in a region.

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1           3. If the transmission utility does not, or is not able to, to the satisfaction of the  
2 commission, transfer its transmission facilities to an independent system operator  
3 specified in subd. 2., divest the transmission utility's interest in its transmission  
4 facilities to an independent transmission owner.

5           (am) The commission may waive the requirement to issue an order against a  
6 transmission utility under par. (a) if each of the following is satisfied:

7           1. The transmission utility has filed an application with the applicable federal  
8 agency for approval to transfer control of its transmission facilities to an independent  
9 system operator or to divest its interest in its transmission facilities to an  
10 independent transmission owner.

11           2. The commission finds that the waiver is reasonably expected to result in a  
12 more expeditious transfer of control to an independent system operator or  
13 divestment of interest to an independent transmission owner than would result  
14 under an order issued under par. (a). In making a finding under this subdivision, the  
15 commission shall consider the need for a reasonably prompt transition period for the  
16 transfer of control or divestment of interest that ensures, to the maximum extent  
17 practicable, the continued reliability of the electric transmission system in this state.

18           (b) By June 30, 2000, the commission shall, except as provided in par. (bm),  
19 order each transmission utility in this state that is a public utility to identify and  
20 separately account for the cost of retail transmission service and to take all retail  
21 transmission service from an independent system operator or independent  
22 transmission owner.

23           (bm) The commission may issue an order under par. (b) after June 30, 2000, if  
24 the commission determines that a later date is necessary due to circumstances

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1 beyond the control of a transmission utility, including regulatory delays at the  
2 commission or applicable federal agency.

3 (c) The commission has jurisdiction to do all things necessary and convenient  
4 to enforce the requirements of this section.

5 **(3) INDEPENDENT SYSTEM OPERATOR AND INDEPENDENT TRANSMISSION OWNER**  
6 **DUTIES.** (a) If an independent system operator that has control over transmission  
7 facilities in this state determines that there is a need for additional transmission  
8 facilities in this state, the independent system operator shall order any transmission  
9 utility that has transferred control over transmission facilities to the independent  
10 system operator to, subject to the requirements of ss. 196.49 and 196.491 (3), expand  
11 the portion of the electric transmission system that is in this state and under the  
12 control of the independent system operator or construct additional transmission  
13 facilities in that portion of the transmission system. An independent system  
14 operator may issue an order under this paragraph only if a transmission utility that  
15 is subject to the order is reasonably compensated for the costs incurred in complying  
16 with the order.

17 (bm) If each of the transmission utilities in the transmission area that are  
18 public utilities have not transferred control over their transmission facilities to the  
19 same independent system operator, the independent system operator that controls  
20 transmission facilities in the transmission area shall ensure that, by itself or  
21 pursuant to a long-term agreement with another independent system operator, the  
22 transmission facilities in the transmission area are planned, constructed, operated,  
23 maintained and controlled as a single transmission system.

24 (b) If an independent transmission owner determines that there is a need for  
25 additional transmission facilities in a portion of the electric transmission system of

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1 this state that consists of transmission facilities the interest in which has been  
2 divested to the independent transmission owner by a transmission utility, the  
3 independent transmission owner shall, subject to the requirements of ss. 196.49 and  
4 196.491 (3), expand that portion of the electric transmission system or construct  
5 additional transmission facilities in that portion.

6 (c) An independent transmission owner or an independent system operator  
7 shall operate transmission facilities over which it has control in a manner that does  
8 each of the following:

9 1. To the maximum extent practicable, eliminates advantages in electric  
10 generation, wholesale and retail markets that are otherwise related to ownership,  
11 control or operation of transmission facilities over which it has control.

12 2. Satisfies the reasonable needs of transmission users in this state for reliable,  
13 low-cost and competitively priced electric service.

14 **(4) TRANSMISSION UTILITIES.** (a) A transmission utility may not transfer control  
15 over, or divest its interest in, its transmission facilities to an independent system  
16 operator or independent transmission owner unless, to the satisfaction of the  
17 commission, each of the following requirements is satisfied:

18 1. The independent system operator or independent transmission owner is the  
19 sole provider of all transmission service to all users of its transmission system in this  
20 state, including the provision of retail transmission service to users that are public  
21 utilities.

22 2. The independent system operator or independent transmission owner has  
23 authority over transmission facilities that is sufficient for the independent system  
24 operator or independent transmission owner to ensure the reliability of its  
25 transmission system.

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1           3. The independent system operator or independent transmission owner has  
2 sufficient authority to carry out the duties specified in sub. (3).

3           (b) A transmission utility that transfers control over its transmission facilities  
4 to an independent system operator shall, subject to the approval of the applicable  
5 federal agency, provide reasonable and cost-effective construction, operation and  
6 maintenance services to the independent system operator that are required for  
7 operation of the transmission facilities.

8           **SECTION 31.** 196.491 (title) of the statutes is amended to read:

9           **196.491** (title) ~~Advance planning of electric~~ **Strategic energy**  
10 **assessment; electric generating facilities and transmission lines.**

11           **SECTION 32.** 196.491 (1) (a) of the statutes is repealed.

12           **SECTION 33.** 196.491 (1) (am) of the statutes is created to read:

13           196.491 (1) (am) “Affiliated interest” has the meaning given in s. 196.52 (1).

14           **SECTION 34.** 196.491 (1) (bm) of the statutes is created to read:

15           196.491 (1) (bm) “Cooperative association” means a cooperative association  
16 organized under ch. 185 for the purpose of generating, distributing or furnishing  
17 electric energy at retail or wholesale to its members only.

18           **SECTION 35.** 196.491 (1) (d) of the statutes is amended to read:

19           196.491 (1) (d) “Electric utility” means any public utility, as defined in s.  
20 196.01, which is involved in the generation, distribution and sale of electric energy,  
21 and any corporation, company, individual or association, and any cooperative  
22 association ~~organized under ch. 185 for the purpose of generating, distributing or~~  
23 ~~furnishing electric energy at retail or wholesale to its members only,~~ which owns or  
24 operates, or plans within the next ~~10~~ 3 years to construct, own or operate, ~~bulk~~

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1 ~~electric generating facilities, large electric generating facilities or high-voltage~~  
2 ~~transmission lines in the state.~~

3 **SECTION 36.** 196.491 (1) (e) of the statutes is amended to read:

4 196.491 (1) (e) “Facility” means ~~a bulk electric generating facility,~~ a large  
5 electric generating facility or a high-voltage transmission line.

6 **SECTION 37.** 196.491 (1) (g) of the statutes is amended to read:

7 196.491 (1) (g) “Large electric generating facility” means electric generating  
8 equipment and associated facilities designed for nominal operation at a capacity of  
9 ~~between 12,000 and 300,000 kilowatts~~ 100 megawatts or more.

10 **SECTION 38.** 196.491 (1) (w) of the statutes is created to read:

11 196.491 (1) (w) “Wholesale merchant plant” means electric generating  
12 equipment and associated facilities located in this state that do not provide service  
13 to any retail customer and that are owned and operated by any of the following:

14 1. Subject to the approval of the commission under sub. (3m) (a), an affiliated  
15 interest of a public utility.

16 2. A person that is not a public utility.

17 **SECTION 39.** 196.491 (2) (title) of the statutes is repealed and recreated to read:

18 196.491 (2) (title) STRATEGIC ENERGY ASSESSMENT.

19 **SECTION 40.** 196.491 (2) (a) (intro.) of the statutes is repealed and recreated to  
20 read:

21 196.491 (2) (a) (intro.) The commission shall prepare a biennial strategic  
22 energy assessment that evaluates the adequacy and reliability of the state’s current  
23 and future electrical supply. The strategic energy assessment shall do all of the  
24 following:

25 **SECTION 41.** 196.491 (2) (a) 1. and 2. of the statutes are repealed.

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1           **SECTION 42.** 196.491 (2) (a) 3. of the statutes is amended to read:

2           196.491 (2) (a) 3. Identify ~~the location of proposed and alternative specific sites~~  
3           ~~for all bulk electric generating facilities and all~~ and describe large electric generating  
4           ~~facilities over 200,000 kilowatts for which a certificate of public convenience and~~  
5           ~~necessity has not been applied for under sub. (3) but the commencement of whose~~  
6           ~~construction is planned within 3 years, or such longer period as the commission~~  
7           ~~deems necessary and indicate the impacts of the proposed and alternative~~  
8           ~~generating facilities on the environment and the means by which potential adverse~~  
9           ~~effects on such values will be avoided or minimized; on which an electric utility plans~~  
10          ~~to commence construction within 3 years.~~

11          **SECTION 43.** 196.491 (2) (a) 3g. of the statutes is created to read:

12          196.491 (2) (a) 3g. Assess the adequacy and reliability of purchased generation  
13          capacity and energy to serve the needs of the public.

14          **SECTION 44.** 196.491 (2) (a) 3m. of the statutes is amended to read:

15          196.491 (2) (a) 3m. Identify ~~the location of tentative and alternative routes for~~  
16          and describe high-voltage transmission lines on which an electric utility plans to  
17          commence construction is intended to be commenced in the succeeding 18 months  
18          ~~and indicate the effects of such transmission lines on the environment and the means~~  
19          ~~by which potential adverse effects will be avoided or minimized; within 3 years.~~

20          **SECTION 45.** 196.491 (2) (a) 3r. of the statutes is created to read:

21          196.491 (2) (a) 3r. Identify and describe any plans for assuring that there is an  
22          adequate ability to transfer electric power into the state and the transmission area,  
23          as defined in s. 196.485 (1) (g), in a reliable manner.

24          **SECTION 46.** 196.491 (2) (a) 4. of the statutes is amended to read:

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1           196.491 (2) (a) 4. ~~Indicate in detail~~ Identify and describe the projected demand  
2 for electric energy and the basis for determining the projected demand;

3           **SECTION 47.** 196.491 (2) (a) 5. and 6. of the statutes are repealed.

4           **SECTION 48.** 196.491 (2) (a) 7. of the statutes is amended to read:

5           196.491 (2) (a) 7. Identify and describe ~~existing and planned programs and~~  
6 ~~policies~~ activities to discourage inefficient and excessive power use; ~~and.~~

7           **SECTION 49.** 196.491 (2) (a) 8. of the statutes is repealed.

8           **SECTION 50.** 196.491 (2) (a) 9. to 13. of the statutes are created to read:

9           196.491 (2) (a) 9. Identify and describe existing and planned generating  
10 facilities that use renewable sources of energy.

11           10. Consider the public interest in economic development, public health and  
12 safety, protection of the environment and diversification of sources of energy  
13 supplies.

14           11. Assess the extent to which the regional bulk-power market is contributing  
15 to the adequacy and reliability of the state's electrical supply.

16           12. Assess the extent to which effective competition is contributing to a reliable,  
17 low-cost and environmentally sound source of electricity for the public.

18           13. Assess whether sufficient electric capacity and energy will be available to  
19 the public at a reasonable price.

20           **SECTION 51.** 196.491 (2) (ag) of the statutes is created to read:

21           196.491 (2) (ag) The commission shall promulgate rules that establish  
22 procedures and requirements for reporting information that is necessary for the  
23 commission to prepare strategic energy assessments under par. (a).

24           **SECTION 52.** 196.491 (2) (am) of the statutes is renumbered 196.491 (2r) and  
25 amended to read:



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1           196.491 (2r) (title) LOCAL ORDINANCES. No local ordinance may prohibit or  
2       restrict testing activities undertaken by a an electric utility for purposes of preparing  
3       advance plans or determining the suitability of a site for the placement of a facility.  
4       Any local unit of government objecting to such testing may petition the commission  
5       to impose reasonable restrictions on such activity.

6           **SECTION 53.** 196.491 (2) (b) (intro.) of the statutes is repealed and recreated to  
7       read:

8           196.491 (2) (b) (intro.) On or before July 1 biennially, the commission shall  
9       issue a draft of the biennial strategic energy assessment that it prepares under par.  
10      (a) to each of the following:

11          **SECTION 54.** 196.491 (2) (b) 8. of the statutes is amended to read:

12          196.491 (2) (b) 8. The lower Wisconsin state riverway board if the ~~plan~~ draft  
13      includes an assessment of the construction, modification or relocation of a  
14      high-voltage transmission line, as defined in s. 30.40 (3r), that is located in the lower  
15      Wisconsin riverway as defined in s. 30.40 (15).

16          **SECTION 55.** 196.491 (2) (b) 9. and 10. of the statutes are created to read:

17          196.491 (2) (b) 9. Each person that is required to report information to the  
18      commission under the rules promulgated under par. (ag).

19          10. The clerk of each city, village, town and county that, as determined by the  
20      commission, is affected by the assessment.

21          **SECTION 56.** 196.491 (2) (c) and (d) of the statutes are repealed.

22          **SECTION 57.** 196.491 (2) (e) of the statutes is amended to read:

23          196.491 (2) (e) Any state agency, as defined in s. 16.375 (1), county,  
24      municipality, town or person may submit written comments ~~on any plan~~ to the

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1 commission on a strategic energy assessment within 180 90 days after the plan is  
2 filed copies of the draft are issued under par. (b).

3 **SECTION 58.** 196.491 (2) (f) of the statutes is amended to read:

4 196.491 (2) (f) ~~Because the planning process for facilities siting otherwise~~  
5 ~~incorporates consideration and analysis of environmental impact, s. Section 1.11 (2)~~  
6 (c) shall not apply to advance plans a strategic energy assessment prepared under  
7 par. (a) but the commission shall prepare a single environmental assessment on all  
8 ~~plans submitted for approval under par. (a) the strategic energy assessment,~~ which  
9 shall include a discussion of generic issues ~~related thereto.~~ Such and environmental  
10 impacts. The commission shall make the environmental assessment shall be made  
11 available to the public at least 30 days prior to the hearing under par. (g). The  
12 ~~assessment on the plans is different from an environmental impact statement on a~~  
13 ~~particular facility in that it need not identify the environmental effects of proposed~~  
14 ~~sites for facilities in the plan with the same degree of detail as is required when a~~  
15 ~~particular facility is considered for a certificate of public convenience and necessity~~  
16 ~~under sub. (3). The assessment need not repeat information included in an~~  
17 ~~assessment prepared for a plan submitted under par. (a) on a prior reporting date and~~  
18 ~~with respect to which no material additional data is required or as to which there has~~  
19 ~~been no material change in circumstances. Applicable portions of such assessment~~  
20 ~~may be included by reference in any environmental impact statement prepared by~~  
21 ~~the commission, including a statement prepared in connection with the~~  
22 ~~consideration of an application for a certificate of public convenience and necessity~~  
23 ~~under sub. (3).~~

24 **SECTION 59.** 196.491 (2) (g) of the statutes, as affected by 1997 Wisconsin Act  
25 35, is amended to read:

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1           196.491 (2) (g) ~~Within 180~~ No sooner than 30 and no later than 90 days after  
2     ~~the plan is filed~~ copies of the draft are issued under par. (b), the commission shall hold  
3     a hearing ~~thereon~~ on the draft which may not be a hearing under s. 227.42 or 227.44.  
4     The hearing shall be held in an administrative district, established by executive  
5     order 22, issued August 24, 1970, which the commission determines will be  
6     significantly affected by facilities ~~proposed in the plan to be constructed in the~~  
7     following on which an electric utility plans to commence construction within 3 years.  
8     The commission may thereafter adjourn the hearing to other locations or may  
9     conduct the hearing by interactive video conference or other electronic method.  
10    Notice of such hearing shall be given by class 1 notice, under ch. 985, published in  
11    the official state newspaper and such other regional papers of general circulation as  
12    may be designated by the commission. At such hearing the commission shall briefly  
13    describe the ~~plan~~ strategic energy assessment and give all interested persons an  
14    opportunity, subject to reasonable limitations on the presentation of repetitious  
15    material, to express their views on any aspect of the plan. ~~The presentation of such~~  
16    ~~views need not be under oath nor subject to cross-examination.~~ ~~The commission~~  
17    ~~shall advise all persons present of their right to express their views orally or in~~  
18    ~~writing, under oath or otherwise, and of the legal effect of each such form of testimony~~  
19    strategic energy assessment. A record of unsworn testimony the hearing shall be  
20    made and considered by the commission as comments on the ~~plan~~ strategic energy  
21    assessment under par. (e). ~~Persons presenting such views shall not be parties. The~~  
22    ~~utility, any state agency, county, municipality, town, or any person whose substantial~~  
23    ~~rights may be adversely affected by the testing for or construction of facilities~~  
24    ~~described in an advance plan, shall, upon filing written notice setting forth its~~

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1 interest at least 10 days in advance, be afforded all the rights of a party in a contested  
2 case.

3 **SECTION 60.** 196.491 (2) (gm) of the statutes is created to read:

4 196.491 (2) (gm) Based on comments received on a draft, the commission shall  
5 prepare a final strategic energy assessment within 90 days after a hearing under par.  
6 (g). The commission shall provide copies of the final strategic energy assessment to  
7 any state agency, county, municipality, town or other person who submitted  
8 comments on the draft under par. (e) and to the persons specified in par. (b).

9 **SECTION 61.** 196.491 (2) (i) to (m) of the statutes are repealed.

10 **SECTION 62.** 196.491 (2m) (title) of the statutes is repealed.

11 **SECTION 63.** 196.491 (2m) of the statutes is renumbered 196.491 (3) (a) 3. a. and  
12 amended to read:

13 196.491 (3) (a) 3. a. ~~At least 120 days prior to the filing of an application for a~~  
14 ~~certificate of public convenience and necessity under sub. (3) for a bulk or large~~  
15 ~~electric generating facility, the applicant shall notify the department and the~~  
16 ~~commission of its intention to make such application and At the same time that a~~  
17 ~~person files an application under subd. 1., the person shall~~ provide the department  
18 with an engineering plan showing the location of the facility, a description of the  
19 facility, including the major components thereof ~~having of the facility that have~~ a  
20 significant air, water or solid waste pollution potential, and a description of the  
21 anticipated effects of such ~~the~~ facility on air and water quality. Within ~~60~~ 30 days  
22 ~~thereafter~~ after a person provides an engineering plan, the department shall provide  
23 the ~~applicant~~ person with a listing of each department permit or approval which, on  
24 the basis of the information contained in the engineering plan, appears to be required  
25 for the construction or operation of the facility. ~~The department shall, in consultation~~

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1 ~~with the commission, also designate which permits and approvals, or portions~~  
2 ~~thereof, must be obtained prior to the issuance of the certificate of public convenience~~  
3 ~~and necessity. Such designation shall be based on a finding by the department that~~  
4 ~~the granting or denial of the same could significantly affect overall facility design or~~  
5 ~~location. At any time prior to the issuance of the certificate of public convenience and~~  
6 ~~necessity, the department may, in consultation with the commission, waive the~~  
7 ~~necessity of obtaining any such permit or approval in advance of such certificate.~~

8 **SECTION 64.** 196.491 (3) (a) of the statutes is renumbered 196.491 (3) (a) 1. and  
9 amended to read:

10 196.491 (3) (a) 1. No person may commence the construction of a facility unless  
11 such the person has applied for and received a certificate of public convenience and  
12 necessity from the commission as provided in this section. An application in the form  
13 and containing the information required by commission rules for such certificate  
14 shall be filed with the commission not less than 18 months prior to the  
15 commencement of construction of a bulk electric generating facility, and not less than  
16 6 months prior to the commencement of construction of a large electric generating  
17 facility or a high-voltage transmission line. Within 10 days after filing the  
18 application, the commission shall send a copy of the application to the clerk of each  
19 municipality and town in which the proposed facility is to be located and to the main  
20 public library in each such county. The applicant shall apply for any permits or  
21 approvals required by the department prior to the issuance of a certificate of public  
22 convenience and necessity within 20 days after the application to the commission.  
23 An applicant shall make a preliminary application for all other permits and  
24 approvals specified under sub. (2m). Such preliminary application shall be sufficient  
25 if it identifies the permits and approvals applied for and contains so much of the

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1 ~~information required for each such permit or approval as is then available to the~~  
2 ~~applicant. Thereafter the applicant shall supply necessary additional engineering~~  
3 ~~and design information as it becomes available.~~

4 **SECTION 65.** 196.491 (3) (a) 2. of the statutes is created to read:

5 196.491 (3) (a) 2. The commission shall determine whether an application filed  
6 under subd. 1. is complete and, no later than 30 days after the application is filed,  
7 notify the applicant about the determination. If the commission determines that the  
8 application is incomplete, the notice shall state the reason for the determination. An  
9 applicant may supplement and refile an application that the commission has  
10 determined to be incomplete. There is no limit on the number of times that an  
11 applicant may refile an application under this subdivision. If the commission fails  
12 to determine whether an application is complete within 30 days after the application  
13 is filed, the application shall be considered to be complete.

14 **SECTION 66.** 196.491 (3) (a) 3. b. of the statutes is created to read:

15 196.491 (3) (a) 3. b. Within 20 days after the department provides a listing  
16 specified in subd. 3. a. to a person, the person shall apply for the permits and  
17 approvals identified in the listing. The department shall determine whether an  
18 application under this subd. 3. b. is complete and, no later than 30 days after the  
19 application is filed, notify the applicant about the determination. If the department  
20 determines that the application is incomplete, the notice shall state the reason for  
21 the determination. An applicant may supplement and refile an application that the  
22 department has determined to be incomplete. There is no limit on the number of  
23 times that an applicant may refile an application under this subd. 3. b. If the  
24 department fails to determine whether an application is complete within 30 days  
25 after the application is filed, the application shall be considered to be complete. The

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1 department shall complete action on an application under this subd. 3. b. within 90  
2 days after the date on which the application is determined or considered to be  
3 complete. If the department fails to take final action within the 90-day period, the  
4 department is considered to have issued the permits and approvals identified in the  
5 listing.

6 **SECTION 67.** 196.491 (3) (b) of the statutes is amended to read:

7 196.491 (3) (b) The commission shall hold a public hearing on ~~the~~ an  
8 application that is determined or considered to be complete in the area affected  
9 pursuant to s. 227.44. A class 1 notice, under ch. 985, shall be given at least 30 days  
10 prior to the hearing.

11 **SECTION 68.** 196.491 (3) (d) (intro.) of the statutes is amended to read:

12 196.491 (3) (d) (intro.) Except as provided under par. (e) and s. 196.493, the  
13 commission shall approve an application for a certificate of public convenience and  
14 necessity ~~shall be approved~~ only if the commission determines that all of the  
15 following:

16 **SECTION 69.** 196.491 (3) (d) 1. of the statutes is repealed.

17 **SECTION 70.** 196.491 (3) (d) 2. of the statutes is amended to read:

18 196.491 (3) (d) 2. The proposed facility ~~is necessary to satisfy~~ satisfies the  
19 reasonable needs of the public for an adequate supply of electric energy. This  
20 subdivision does not apply to a wholesale merchant plant.

21 **SECTION 71.** 196.491 (3) (d) 3. of the statutes is amended to read:

22 196.491 (3) (d) 3. The design and location or route is in the public interest  
23 considering alternative sources of supply, alternative locations or routes, individual  
24 hardships, engineering, economic, safety, reliability and environmental factors,  
25 except that the commission may not consider alternative sources of supply or

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1 engineering or economic factors if the application is for a wholesale merchant plant.

2 In its consideration of environmental factors, the commission may not determine  
3 that the design and location or route is not in the public interest because of the impact  
4 of air pollution if the proposed facility will meet the requirements of ch. 285.

5 **SECTION 72.** 196.491 (3) (d) 7. of the statutes is created to read:

6 196.491 (3) (d) 7. The proposed facility will not have a material adverse impact  
7 on competition in the relevant wholesale electric service market.

8 **SECTION 72m.** 196.491 (3) (dm) of the statutes is created to read:

9 196.491 (3) (dm) In making a determination required under par. (d), the  
10 commission may not consider a factual conclusion in a strategic energy assessment  
11 unless the conclusion is independently corroborated in the hearing under par. (b).

12 **SECTION 73.** 196.491 (3) (e) of the statutes is amended to read:

13 196.491 (3) (e) If the application does not meet the criteria under par. (d), the  
14 commission shall reject the application or approve the application with such  
15 modifications as are necessary for an affirmative finding under par. (d). The  
16 commission may not issue a certificate of public convenience and necessity until the  
17 department has issued all permits and approvals ~~designated under sub. (2m)~~ as  
18 necessary prior to the issuance of the certificate of public convenience and necessity  
19 identified in the listing specified in par. (a) 3. a.

20 **SECTION 74.** 196.491 (3) (f) and (ff) of the statutes are repealed.

21 **SECTION 75.** 196.491 (3) (g) (intro.) and 1. of the statutes are consolidated,  
22 renumbered 196.491 (3) (g) 1. and amended to read:

23 196.491 (3) (g) 1. The commission shall take final action on ~~the~~ an application  
24 within: ~~1. 180 days after the~~ application under this subsection for large electric  
25 generating facilities or high-voltage transmission lines is determined or considered



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1 to be complete under par. (a) 2. If the commission fails to take final action within the  
2 180-day period, the commission is considered to have issued a certificate of public  
3 convenience and necessity with respect to the application, unless the commission,  
4 within the 180-day period, petitions the circuit court for Dane County for an  
5 extension of time for taking final action on the application and the court grants an  
6 extension. Upon a showing of good cause, the court may extend the 180-day period  
7 for no more than an additional 180 days . If the commission fails to take final action  
8 within the extended period, the commission is considered to have issued a certificate  
9 of public convenience and necessity with respect to the application.

10 **SECTION 76.** 196.491 (3) (g) 1m. of the statutes is created to read:

11 196.491 (3) (g) 1m. Subdivision 1. does not apply to an application for a  
12 certificate of public convenience and necessity if another state is also taking action  
13 on the same or a related application.

14 **SECTION 77.** 196.491 (3) (g) 2. of the statutes is repealed.

15 **SECTION 78.** 196.491 (3) (hm) of the statutes is repealed:

16 **SECTION 79.** 196.491 (3) (j) of the statutes is amended to read:

17 196.491 (3) (j) Any person whose substantial rights may be adversely affected  
18 or any county, municipality or town having jurisdiction over land affected by an  
19 ~~advance plan or a~~ certificate of public convenience and necessity may petition for  
20 judicial review, under ch. 227, of any decision of the commission regarding the  
21 ~~advance plan or the certificate.~~

22 **SECTION 80.** 196.491 (3) (k) of the statutes is amended to read:

23 196.491 (3) (k) No person may purchase, or acquire an option to purchase, any  
24 interest in real property knowing that such property is being purchased to be used  
25 for the construction of a high-voltage transmission line unless the person gives

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1 written notice to the prospective seller of the size, maximum voltage and structure  
2 type of any transmission line planned to be constructed thereon and the electric  
3 utility by whom it will be operated. Contracts made in violation of this paragraph  
4 are subject to rescission by the seller at any time prior to the issuance of a certificate  
5 of public convenience and necessity for the facility high-voltage transmission line by  
6 the commission.

7 **SECTION 81.** 196.491 (3m) of the statutes is created to read:

8 196.491 (3m) WHOLESALE MERCHANT PLANTS. (a) *Commission approval*  
9 *required.* Except as provided in par. (e), an affiliated interest of a public utility may  
10 not own, control or operate a wholesale merchant plant without the approval of the  
11 commission. The commission shall grant its approval only if each of the following is  
12 satisfied:

13 1. The public utility has transferred control over its transmission facilities, as  
14 defined in s. 196.485 (1) (h), to an independent system operator, as defined in s.  
15 196.485 (1) (d), that is approved by the federal energy regulatory commission or the  
16 public utility has divested its interest in the transmission facilities to an  
17 independent transmission owner, as defined in s. 196.485 (1) (dm).

18 2. The commission finds that the ownership, control or operation will not have  
19 a substantial anticompetitive effect on electricity markets for any classes of  
20 customers.

21 (b) *Duty to promulgate rules.* 1. The commission shall promulgate rules that  
22 establish requirements and procedures for an affiliated interest to apply for an  
23 approval under par. (a). The rules shall do each of the following:

24 a. Describe the showing that an applicant is required to make for the  
25 commission to grant an approval under par. (a).

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1           am. Establish screening tests and safe harbors for proposed wholesale  
2 merchant plant projects, including projects in which an affiliated interest is a passive  
3 investor and over which the affiliated interest is not able to exercise control or  
4 influence and projects in which an affiliated interest's ownership interest is less than  
5 5%.

6           b. Describe the analytical process that the commission shall use in determining  
7 whether to make a finding under par. (a) 2. and describe the factors specified in subd.  
8 3.

9           c. Allow an interested person to request a hearing on an application under s.  
10 227.42.

11           2. The analytical process specified in subd. 1. b. shall, to the extent practicable,  
12 be consistent with the analytical process described in the enforcement policy of the  
13 federal department of justice and the federal trade commission regarding horizontal  
14 acquisitions and mergers that are subject to 15 USC 1, 18 or 45.

15           3. The commission shall use the following factors in determining whether to  
16 make a finding under par. (a) 2.:

17           a. The degree of market concentration resulting from the affiliated interest's  
18 proposed ownership, operation or control.

19           b. The extent of control that the affiliated interest proposes to exercise over the  
20 wholesale merchant plant.

21           d. Any other factor that the commission determines is necessary to determine  
22 whether to make a finding under par. (a) 2.

23           (c) *Sales by affiliated interests.* 1. In this paragraph:

24           a. "Electric sale" means a sale of electricity that is generated at a wholesale  
25 merchant plant that is owned, operated or controlled by an affiliated interest.

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1           b. “Firm sale” means an electric sale in which electricity is intended to be  
2 available to a purchaser at all times during a specified period on an uninterruptible  
3 basis.

4           2. The commission shall review any electric sale by an affiliated interest to a  
5 public utility with which the affiliated interest is affiliated. If the commission finds  
6 that an electric sale is not in the public interest, the commission shall do any of the  
7 following:

8           a. Disallow the public utility’s costs related to the sale in a rate-setting  
9 proceeding.

10          b. Order the public utility to provide a refund, in an amount determined by the  
11 commission, to its customers.

12          c. Order the public utility or affiliated interest to take any action that the  
13 commission determines is in the public interest, except that the commission may not  
14 order the public utility or affiliated interest to void the sale.

15          3. An affiliated interest may not make any firm sale to a public utility with  
16 which the affiliated interest is affiliated if the firm sale satisfies any of the following:

17           a. The period of the firm sale is 3 years or more.

18           b. The period of the firm sale is less than 3 years and either the public utility  
19 or the affiliated interest has an option to extend the period to 3 years or more.

20           (d) *Retail sales outside this state.* The commission may not promulgate rules  
21 or issue orders that prohibit owners or operators of wholesale merchant plants from  
22 providing electric service to retail customers in another state.

23           (e) *Exemption.* An approval under par. (a) is not required for an affiliated  
24 interest to own, operate or control a wholesale merchant plant in Grant County if the

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1 affiliated interest owned, operated or controlled the wholesale merchant plant before  
2 January 1, 1998.

3 **SECTION 82.** 196.491 (4) (a) (intro.) of the statutes, as created by 1997 Wisconsin  
4 Act 27, is repealed.

5 **SECTION 83.** 196.491 (4) (a) 1. and 2. of the statutes, as created by 1997  
6 Wisconsin Act 27, are renumbered 196.491 (4) (b) 1. and 2.

7 **SECTION 84.** 196.491 (4) (a) 3. of the statutes, as created by 1997 Wisconsin Act  
8 27, is repealed.

9 **SECTION 85.** 196.491 (4) (b) of the statutes, as created by 1997 Wisconsin Act  
10 27, is renumbered 196.491 (4) (b) (intro.) and amended to read:

11 196.491 (4) (b) (intro.) Subsection (3) does not apply to a person that constructs  
12 electric generating equipment and associated facilities if the person satisfies the  
13 ~~requirements specified in par. (a) 1. and 2.~~ each of the following:

14 **SECTION 86.** 196.491 (4) (c) of the statutes is created to read:

15 196.491 (4) (c) A certificate under sub. (3) is not required for a person to  
16 construct a high-voltage transmission line designed for operation at a nominal  
17 voltage of less than 230 kilovolts if all related construction activity takes place  
18 entirely within the area of an existing electric transmission line right-of-way.

19 **SECTION 87.** 196.491 (5) of the statutes is created to read:

20 196.491 (5) SERVICE STANDARDS FOR ELECTRIC GENERATION, TRANSMISSION AND  
21 DISTRIBUTION FACILITIES. The commission shall promulgate rules that establish all of  
22 the following:

23 (a) Standards for inspecting, maintaining and repairing each of the following:

24 1. Electric generation facilities in this state that are owned by public utilities  
25 or provide service to public utilities under contracts with terms of 5 years or more.

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1           2. Electric transmission or distribution facilities in this state that are owned  
2 by public utilities.

3           (b) Standards that the commission determines are necessary for the safe and  
4 reliable operation of each of the following:

5           1. Electric generation facilities in this state that are owned by public utilities  
6 or provide service to public utilities under contracts with terms of 5 years or more.

7           2. Electric transmission or distribution facilities in this state that are owned  
8 by public utilities.

9           **SECTION 88.** 196.492 of the statutes is repealed.

10          **SECTION 89.** 196.493 (1) of the statutes is amended to read:

11          196.493 (1) DEFINITION. In this section, “nuclear power plant” means a  
12 nuclear-fired large electric generating facility as defined under s. 196.491 (1) (g) ~~or~~  
13 ~~a nuclear-fired bulk electric generating facility as defined under s. 196.491 (1) (a).~~

14          **SECTION 90.** 196.493 (2) (intro.) of the statutes is amended to read:

15          196.493 (2) LIMITS ON CERTIFICATION. (intro.) The commission may not certify  
16 under s. 196.49 (3) (b) or 196.491 (3) any nuclear power plant ~~and may not approve~~  
17 ~~under s. 196.491 (2) any plan which includes a nuclear power plant unless the~~  
18 commission finds that:

19          **SECTION 91.** 196.494 of the statutes is created to read:

20          **196.494 Regional transmission planning. (1)** In this section:

21          (a) “Electric utility” means a public utility, other than a municipal utility, as  
22 defined in s. 196.377 (2) (a) 3., that provides retail electric service to customers in this  
23 state.

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1 (b) "Transmission facility" means any pipe, pipeline, duct, wire, line, conduit,  
2 pole, tower, equipment or other structure used for the transmission of electric power  
3 as determined by the commission.

4 (2) The commission shall conduct a study on identifying and relieving any  
5 constraint on an intrastate or interstate electric transmission system that adversely  
6 affects the reliability of transmission service provided to electric customers in this  
7 state and shall, no later than September 1, 1998, submit a report on the results of  
8 the study to the legislature in the manner provided under s. 13.172 (2).

9 (3) No later than December 31, 2004, the commission may, under this  
10 subsection, issue an order requiring an electric utility to construct or procure, on a  
11 competitive basis, the construction of transmission facilities specified by the  
12 commission in its order if the commission determines that, based on the results of  
13 the study under sub. (2), such construction is necessary to relieve a constraint on a  
14 transmission system and the construction will materially benefit the customers of  
15 the electric utility or other electric utilities or of an independent system operator, as  
16 defined in s. 196.485 (1) (d), or independent transmission owner, as defined in s.  
17 196.485 (1) (dm).

18 (4) The commission shall allow an electric utility to recover in its retail electric  
19 rates any costs that are prudently incurred by the utility in complying with an order  
20 under sub. (3).

21 **SECTION 92.** 196.53 of the statutes is amended to read:

22 **196.53 Franchise, foreign corporation not to have.** No license, permit or  
23 franchise to own, operate, manage or control any plant or equipment for the  
24 production, transmission, delivery or furnishing of heat, light, water or power may  
25 be granted or transferred to a foreign corporation. This section does not apply to an

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1 independent system operator, as defined in s. 196.485 (1) (d), or an independent  
2 transmission owner, as defined in s. 196.485 (1) (dm), that is approved by the  
3 applicable federal agency, as defined in s. 196.485 (1) (c), and that controls  
4 transmission facilities, as defined in s. 196.485 (1) (h), in this and another state.

5 **SECTION 93.** 196.795 (5) (pm) of the statutes is created to read:

6 196.795 (5) (pm) 1. In this paragraph:

7 a. "Foreign affiliate" means a person that is engaged in the production,  
8 transmission, delivery or furnishing of heat, light, power or natural gas either  
9 directly or indirectly to or for use of the public in another state, that is incorporated  
10 under the laws of another state, that is an affiliated interest, as defined in s. 196.52  
11 (1), of a public utility and that is operated on an integrated system basis, as  
12 determined by the commission, with the public utility.

13 b. "Reliability council area" means the geographic area that, on December 31,  
14 1997, was served by the Mid-America Interconnected Network, Inc., Mid-Continent  
15 Area Power Pool, East Central Area Reliability Coordination Agreement or  
16 Southwest Power Pool reliability council of the North American Electric Reliability  
17 Council.

18 c. "Wholesale merchant plant" means electric generating equipment and  
19 associated facilities that are located in the reliability council area and that do not  
20 provide retail service to customers in this state, but does not include any equipment  
21 or facilities that were subject to regulation as public utility assets under the laws of  
22 this or another state on December 31, 1997.

23 2. The assets of an eligible wholesale merchant plant shall not be included in  
24 the sum of the assets of a public utility affiliate under par. (p) 1. a., b. or c. and shall  
25 not be included in a nonutility affiliate's total assets under par. (p) 2. a.



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1           3. The assets of a foreign affiliate shall be included in the sum of the assets of  
2 a public utility affiliate under par. (p) 1. a., b. or c. and shall not be included in a  
3 nonutility affiliate's total assets under par. (p) 2. a.

4           **SECTION 94.** 196.795 (7) (a) 1. b. of the statutes is amended to read:

5           196.795 (7) (a) 1. b. Any public utility or member of a cooperative association  
6 organized under ch. 185 which ~~files or has filed a plan under~~ reports or has reported  
7 information to the commission under the rules promulgated under s. 196.491 (2) (ag).

8           **SECTION 94m.** 196.795 (11) (b) of the statutes is amended to read:

9           196.795 (11) (b) This section shall be deemed to legalize and confirm the  
10 formation, prior to November 28, 1985, of any holding company, which is not itself  
11 a public utility, and shall be deemed to legalize and confirm the operations and  
12 issuances of securities of the holding company, except that nothing in this section  
13 shall be deemed to prevent the commission from imposing reasonable terms,  
14 limitations or conditions on any holding company which are consistent with the  
15 requirements of sub. (5) (pm) or which are consistent with and necessary to satisfy  
16 the requirements of sub. (5) (b) to (o) and (q) to (s) or which relate to future  
17 investments by the holding company unless the holding company owns, operates,  
18 manages or controls a telecommunications utility and does not also own, operate,  
19 manage or control a public utility which is not a telecommunications utility.

20           **SECTION 95.** 289.29 (5) of the statutes is amended to read:

21           289.29 (5) ISSUANCE OF FINAL DETERMINATION OF FEASIBILITY IN CERTAIN  
22 SITUATIONS INVOLVING UTILITIES AND MINING. If a determination of feasibility is  
23 ~~required under s. 196.491 (2m)~~ identified in the listing specified in s. 196.491 (3) (a)  
24 3. a., the issuance of a final determination of feasibility is subject to the time ~~limits~~  
25 limit under s. 196.491 (3) ~~(f) and (ff)~~ (a) 3. b. If a determination of feasibility is

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1 required under s. 293.43, the issuance of a final determination of feasibility is subject  
2 to the time limits under s. 293.45 (2) or 293.49, whichever is applicable.

**SECTION 96. Nonstatutory provisions.**

4 (1) REQUESTS FOR PROPOSALS FOR ELECTRIC GENERATION CAPACITY.

5 (a) In this subsection:

6 1. "Certificate" means a certificate issued by the commission under section  
7 196.49 of the statutes or under section 196.491 (3) of the statutes, as affected by this  
8 act.

9 2. "Commission" means the public service commission.

10 3. "Contractor" means a person specified in paragraph (b) 3. that enters into  
11 a contract with an eastern Wisconsin utility for the construction of electric  
12 generation capacity.

13 4. "Department" means the department of natural resources.

14 5. "Eastern Wisconsin utility" has the meaning given in section 196.377 (2) (a)  
15 1. of the statutes, as created by this act.

16 6. "Reliability council" has the meaning given in section 196.377 (2) (a) 4. of the  
17 statutes, as created by this act.

18 (b) By July 31, 1998, or a later date approved by the commission, each eastern  
19 Wisconsin utility that, before the effective date of this paragraph, has issued a  
20 request for proposals soliciting bids for contracts for the construction of new electric  
21 generation capacity shall do each of the following:

22 1. Complete its evaluation of the bids that were submitted in response to the  
23 request for proposals.

24 2. Select the bids for which it intends to award the contracts.

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1           3. Enter into contracts with the persons who submitted the bids specified in  
2 subdivision 2. for the construction of the new electric generation capacity.

3           (c) Notwithstanding section 196.491 (3) (a) 1. of the statutes, as affected by this  
4 act, no later than August 31, 1998, each eastern Wisconsin utility specified in  
5 paragraph (b) (intro.) shall apply to the commission for any certificate that is  
6 required for construction of new electric generation capacity under the contracts into  
7 which it enters under paragraph (b) 3. and, if required under section 196.491 (3) (a)  
8 3. a. of the statutes, as affected by this act, submit an engineering plan to the  
9 department as specified in section 196.491 (3) (a) 3. a. of the statutes, as affected by  
10 this act.

11           (d) Notwithstanding section 196.491 (3) (a) 3. a. and b. of the statutes, as  
12 affected by this act, if an eastern Wisconsin utility specified in paragraph (b) (intro.)  
13 submits an engineering plan to the department under paragraph (c), the eastern  
14 Wisconsin utility and the department shall satisfy each of the following:

15           1. Within 15 days after the eastern Wisconsin utility provides the engineering  
16 plan, the department shall provide the eastern Wisconsin utility with a listing of  
17 each department permit or approval which, on the basis of the information contained  
18 in the engineering plan, appears to be required for the construction or operation of  
19 the facility.

20           2. Within 10 days after the department provides a listing specified in  
21 subdivision 1., the eastern Wisconsin utility shall apply for the permits and  
22 approvals identified in the listing.

23           3. The department shall determine whether an application under subdivision  
24 2. is complete and, no later than 15 days after the application is filed, notify the  
25 applicant about the determination. If the department determines that the

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1 application is incomplete, the notice shall state the reason for the determination. An  
2 eastern Wisconsin utility may supplement and refile an application that the  
3 department has determined to be incomplete. There is no limit on the number of  
4 times that an applicant may refile an application under this subdivision. If the  
5 department fails to determine whether an application is complete within 15 days  
6 after the application is filed, the application shall be considered to be complete.

7 4. The department shall complete action on an application submitted under  
8 subdivision 2. or refiled under subdivision 3. within 45 days after the date on which  
9 the application is determined or considered to be complete under subdivision 3.

10 (e) Notwithstanding section 196.491 (3) (a) 2., (b) and (g) 1. and 2. of the  
11 statutes, as affected by this act, the commission and an eastern Wisconsin utility  
12 specified in paragraph (b) (intro.) that applies for a certificate under section 196.491  
13 (3) of the statutes, as affected by this act, shall satisfy each of the following:

14 1. The commission shall determine whether the application is complete and,  
15 no later than 15 days after the application is filed, notify the applicant about the  
16 determination. If the commission determines that the application is incomplete, the  
17 notice shall state the reason for the determination. An eastern Wisconsin utility may  
18 supplement and refile an application that the commission has determined to be  
19 incomplete. There is no limit on the number of times that an eastern Wisconsin  
20 utility may refile an application under this subdivision. If the commission fails to  
21 determine whether an application is complete within 15 days after the application  
22 is filed, the application shall be considered to be complete.

23 2. The commission shall hold a public hearing on an application that is  
24 determined or considered to be complete under subdivision 1. in the area affected

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1 pursuant to section 227.44 of the statutes and, at least 15 days prior to the hearing,  
2 shall give a class 1 notice regarding the hearing under chapter 985 of the statutes.

3 3. The commission shall take final action on the application within 90 days  
4 after the application is determined or considered to be complete under subdivision

5 1. If the commission fails to take final action within the 90-day period, the  
6 commission is considered to have issued a certificate with respect to the application.

7 (2) SUBMISSION OF PROPOSED RULES.

8 (a) The public service commission shall submit in proposed form the rules  
9 required under section 196.03 (5m) of the statutes, as created by this act, to the  
10 legislative council staff under section 227.15 (1) of the statutes no later than the first  
11 day of the 6th month beginning after the effective date of this paragraph.

12 (b) The public service commission shall submit in proposed form the rules  
13 required under section 196.491 (3m) (b) of the statutes, as created by this act, to the  
14 legislative council staff under section 227.15 (1) of the statutes no later than the first  
15 day of the 6th month beginning after the effective date of this paragraph.

16 (3) EXEMPTION FROM EMERGENCY RULE PROCEDURES.

17 (a) Using the procedure under section 227.24 of the statutes, the public service  
18 commission may promulgate rules required under section 196.03 (5m) of the  
19 statutes, as created by this act, for the period before the effective date of permanent  
20 rules promulgated under section 196.491 (3m) (b) of the statutes, as created by this  
21 act, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the  
22 statutes. Notwithstanding section 227.24 (1) (a) and (2) (b) of the statutes, the public  
23 service commission need not provide evidence of the necessity of preservation of the  
24 public peace, health, safety or welfare in promulgating rules under this paragraph.

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1 (b) Using the procedure under section 227.24 of the statutes, the public service  
2 commission may promulgate rules required under section 196.491 (3m) (b) of the  
3 statutes, as created by this act, for the period before the effective date of permanent  
4 rules promulgated under section 196.491 (3m) (b) of the statutes, as created by this  
5 act, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the  
6 statutes. Notwithstanding section 227.24 (1) (a) and (2) (b) of the statutes, the public  
7 service commission need not provide evidence of the necessity of preservation of the  
8 public peace, health, safety or welfare in promulgating rules under this paragraph.

**SECTION 97. Initial applicability.**

9  
10 (1) The treatment of section 30.025 (1) and (4) of the statutes first applies to  
11 engineering plans submitted in lieu of separate permit applications on the effective  
12 date of this subsection.

13 (2) The treatment of sections 30.44 (3m) (a), (b) and (d), 30.45 (1r), 86.16 (1) and  
14 182.017 (1) of the statutes first applies to applications for permits that are filed on  
15 the effective date of this subsection.

16 (3) The treatment of sections 32.02 (5) (a), 32.06 (7) and 32.09 (2m) of the  
17 statutes and the renumbering and amendment of section 32.02 (5) of the statutes  
18 first apply to petitions for condemnation proceedings that are filed on the effective  
19 date of this subsection.

20 (4) The treatment of section 196.24 (3) of the statutes first applies to records  
21 of cases that are read or reviewed on the effective date of this subsection.

22 (5) The treatment of section 196.39 (2) of the statutes and the renumbering and  
23 amendment of section 196.39 of the statutes first apply to orders issued and cases  
24 initiated on the effective date of this subsection.

**SENATE BILL 534**

1           (6) The treatment of sections 196.491 (1) (a), (am), (bm), (d), (e), (g) and (w),  
2           (2m), (3) (a) 2. and 3. b., (b), (d) (intro.), 1., 2., 3. and 7., (dm), (e), (f), (ff), (g) (intro.),  
3           1., 1m. and 2., (hm), (j) and (k) and (4) (a) (intro.), 1., 2. and 3., (b) and (c) and 196.493  
4           (1) and (2) (intro.) of the statutes and the renumbering and amendment of section  
5           196.491 (3) (a) of the statutes first apply to applications for certificates of public  
6           convenience and necessity that are filed on the effective date of this subsection.

7           (7) The treatment of section 289.29 (5) of the statutes first applies to feasibility  
8           reports that are submitted on the effective date of this subsection.

9           **SECTION 98. Effective date.**

10           (1) This act takes effect on September 1, 1998.

11

(END)