

1975 Assembly Bill 463

Date published: September 29, 1975

CHAPTER 68, Laws of 1975

AN ACT to amend 32.02 (6) and (10) (b) and 32.06 (7); and to create 30.025, 32.03 (5), 32.07 (1) and (1m), 32.09 (2m), 182.017 (8), 196.491 and 196.85 (1m) of the statutes, relating to long-range planning for and approval of electric generating facilities and high-voltage transmission lines, establishing additional prerequisites to the exercise of condemnation power by certain public utilities and granting rule-making authority.

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

SECTION 1. 30.025 of the statutes is created to read:

30.025 Optional permit procedure for certain electric generating facilities and high-voltage transmission lines. (1) Any electric utility, as defined in s. 196.491 (1), proposing to construct a facility, as defined in s. 196.491 (1), which facility is to be located adjacent to a waterway in such a manner as to require one or more permits to be issued under this chapter and ch. 31 may, in lieu of separate application for permits

under those chapters, submit an engineering plan together with any additional information required by the department. Such plan shall be filed with the department within 20 days after an application for a certificate of public convenience and necessity is filed with the public service commission under s. 196.491 (3). The department may require supplemental information to be furnished thereafter.

(2) Once electric utilities have met the requirements of sub. (1), the department shall schedule the matter for public hearing. Notice of the hearing shall be given to the applicant and shall be published as a class 1 notice under ch. 985. The department may give such further notice as it deems proper, and shall give notice to persons requesting same. One copy of the application shall be available for public inspection at the office of the department, at least one copy in the district office of the department and at least one copy at the main public library of the area affected.

(3) The department shall grant the necessary permits if, after hearing, it finds that the applicant has shown that the proposal:

(a) Complies with environmental statutes administered by the department and rules adopted thereunder, and federal environmental standards which the department has authority to enforce.

(b) Does not unduly affect:

1. Public rights and interests in navigable waterways;
2. The effective flood flow capacity of a stream;
3. The rights of other riparian owners; or
4. Water quality.

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

SECTION 2. 32.02 (6) of the statutes is amended to read:

32.02 (6) Any Wisconsin corporation furnishing gas, electric light or power to the public, for additions or extensions to its plant and for the purpose of conducting tests or studies to determine the suitability of a site for the placement of a facility.

SECTION 3. 32.02 (10) (b) of the statutes is amended to read:

32.02 (10) (b) Generate, transmit and furnish electric energy at wholesale to 3 or more rural electric ~~co-operative~~ cooperative associations furnishing electric energy under the conditions set forth in par. (a), for the construction and location of its lines, ~~or~~ substation or generating plants, ~~or for~~ ponds or reservoirs, ~~or~~ any dam, dam site, flowage rights or undeveloped water power, or for additions or extension of its plant and for the purpose of conducting tests or studies to determine the suitability of a site for the placement of a facility.

SECTION 4. 32.03 (5) of the statutes is created to read:

32.03 (5) (a) If an electric utility is required to obtain a certificate of public convenience and necessity from the public service commission under s. 196.491, no right to acquire real estate or personal property appurtenant thereto or interest therein for such project by condemnation shall accrue or exist under s. 32.02 or 32.075 until such a certificate of public convenience and necessity has been issued.

(b) This subsection does not apply to the condemnation of a limited interest in real property or appurtenant personal property, except structures with foundations, necessary to conduct tests or studies to determine the suitability of a site for the placement of a utility facility, provided that:

1. Such a limited interest does not run for more than 3 years;

2. Activities associated with such tests or studies will be conducted at reasonable hours with minimal disturbance, and the property will be reasonably restored to its former state, upon completion of such tests or studies; and

3. The facility to be placed on such site has been described in an advance plan approved by the public service commission under s. 196.491 (2) (i).

SECTION 5. 32.06 (7) of the statutes is amended to read:

32.06 (7) PETITION FOR CONDEMNATION PROCEEDINGS. If the jurisdictional offer is not accepted within the periods limited in sub. (6) or the owner fails to consummate an acceptance as provided in sub. (6), the condemnor may present a verified petition to the judge of the circuit or county court of the county in which the property to be taken is located, for proceedings to determine the necessity of taking, where such determination is required, and the amount of just compensation. Such petition shall state that the jurisdictional offer required by sub. (3) has been made and rejected; that it is the intention of the condemnor in good faith to use the property or right therein for the specified purpose. It shall name the parties having an interest of record in such property as near as may be and shall name such parties who are minors or persons of unsound mind or unknown. Such petition ~~shall~~ may not disclose the amount of the jurisdictional offer, and if it does so it shall be a nullity. Such petition shall be filed with the clerk of such court. Notice of such petition shall be given as provided in s. 32.05 (4) to all persons having an interest of record in such property, including the special guardian appointed for minors or incompetent persons. A lis pendens shall be filed on the date of filing the petition. The date of filing the lis pendens shall be the "date of evaluation" of the property for the purpose of fixing just compensation, ~~but except: a)~~ if the condemning authority is a redevelopment authority organized under s. 66.431, the "date of evaluation" shall be the date the resolution is adopted by the local legislative body designating the boundaries of the proposed project area under s. 66.431 (6) (b) 1, ~~and b) if the property is to be used in connection with the construction of a facility, as defined under s. 196.491 (1), the "date of evaluation" shall be the date that the first advance plan identifying such property as a site or route under s. 196.491 (2) (a) 3 is filed with the public service commission, or the date which is 2 years prior to the date the certificate of public convenience and necessity is issued for the facility, whichever is earlier.~~ The hearing on the petition ~~shall~~ may not be earlier than 20 days after the date of its filing unless the petitioner has acquired possession of such land pursuant to s. 32.12 (1) in which event this hearing ~~shall~~ is not ~~be~~ necessary. If the petitioner is entitled to condemn the property or any portion thereof the judge shall forthwith assign the matter to the chairman of the county condemnation commissioners for hearing pursuant to s. 32.08. An order by the judge determining that the petitioner does not have the right to condemn or refusing to assign the matter to the chairman of the county condemnation commissioners may be appealed directly to the supreme court.

SECTION 6. 32.07 (1) and (1m) of the statutes are created to read:

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

(1m) When an advance plan submitted under s. 196.491 has been approved by the public service commission, the submitting utility shall determine the necessity of taking limited interests for the purpose of conducting tests or studies under s. 32.02 (6) and (10) (b) in real or personal property described in the plan.

SECTION 7. 32.09 (2m) of the statutes is created to read:

32.09 (2m) In determining just compensation for property sought to be condemned in connection with the construction of facilities, as defined under s. 196.491

(1), any increase in the market value of such property occurring after the date of evaluation but before the date upon which the lis pendens is filed under s. 32.06 (7) shall be considered and allowed to the extent it is caused by factors other than the planned facility.

SECTION 8. 182.017 (8) of the statutes is created to read:

182.017 (8) HIGH-VOLTAGE TRANSMISSION LINES. Any easement for rights-of-way for high-voltage transmission lines as defined under s. 196.491 (1) (f) shall be subject to the conditions and limitations specified in this subsection.

(a) The conveyance under ch. 706 and, if applicable, the petition under s. 32.06 (7), shall describe the interest transferred by specifying, in addition to the length and width of the right-of-way, the number, type and maximum height of all structures to be erected thereon, the minimum height of the transmission lines above the landscape, and the number and maximum voltage of the lines to be constructed and operated thereon.

(b) In determining just compensation for the interest under s. 32.09, damages shall include losses caused by placement of the line and associated facilities near fences or natural barriers such that lands not taken are rendered less readily accessible to vehicles, agricultural implements and aircraft used in crop work, as well as damages resulting from ozone effects and other physical phenomena associated with such lines, including but not limited to interference with telephone, television and radio communication.

(c) In constructing and maintaining high-voltage transmission lines on the property covered by the easement the utility shall:

1. If excavation is necessary, ensure that the top soil is stripped, piled and replaced upon completion of the operation.
2. Restore to its original condition any slope, terrace, or waterway which is disturbed by the construction or maintenance.
3. Insofar as is practicable and when the landowner requests, schedule any construction work in an area used for agricultural production at times when the ground is frozen in order to prevent or reduce soil compaction.
4. Clear all debris and remove all stones and rocks resulting from construction activity upon completion of construction.
5. Satisfactorily repair to its original condition any fence damaged as a result of construction or maintenance operations. If cutting a fence is necessary, a temporary gate shall be installed. Any such gate shall be left in place at the landowner's request.
6. Repair any drainage tile line within the easement damaged by such construction or maintenance.
7. Pay for any crop damage caused by such construction or maintenance.
8. Supply and install any necessary grounding of a landowner's fences, machinery or buildings.

(d) The utility shall control weeds and brush around the transmission line facilities. No herbicidal chemicals may be used for weed and brush control without the express written consent of the landowner. If weed and brush control is undertaken by the landowner under an agreement with the utility, he shall receive from the utility a reasonable amount for such services.

(e) The landowner shall be afforded a reasonable time prior to commencement of construction to harvest any trees located within the easement boundaries, and if he fails to do so, he shall nevertheless retain title to all trees cut by the utility.

(f) The landowner shall not be responsible for any injury to persons or property caused by the design, construction or upkeep of the high-voltage transmission lines or towers.

(g) The utility shall employ all reasonable measures to ensure that the landowner's television and radio reception is not adversely affected by the high-voltage transmission lines.

(h) The utility may not use any lands beyond the boundaries of the easement for any purpose, including ingress to and egress from the right-of-way, without the written consent of the landowner.

(i) The rights conferred under pars. (c) to (h) may be specifically waived by the landowner in an easement conveyance which contains such paragraphs verbatim.

SECTION 9. 196.491 of the statutes is created to read:

196.491 Bulk electric generating facilities, large electric generating facilities and high-voltage transmission lines. (1) DEFINITIONS. In this section:

(a) "Bulk electric generating facility" means electric generating equipment and associated facilities designed for nominal operation at a capacity of 300,000 kilowatts or more.

(b) "Commencement of construction" means site clearing, excavation, placement of facilities or any other substantial action adversely affecting the natural environment of the site, but does not mean borings necessary to determine foundation conditions or other preconstruction monitoring to establish background information related to site or environmental suitability.

(c) "Department" means the department of natural resources.

(d) "Electric utility" means any public utility, as defined in s. 196.01, which is involved in the generation, distribution and sale of electric energy, and any corporation, company, individual or association, and any cooperative association organized under ch. 185 for the purpose of generating, distributing or furnishing electric energy at retail or wholesale to its members only, which owns or operates, or plans within the next 10 years to construct, own or operate, bulk electric generating facilities, large electric generating facilities or high-voltage transmission lines in the state.

(e) "Facility" means a bulk electric generating facility, a large electric generating facility or a high-voltage transmission line.

(f) "High-voltage transmission line" means a conductor of electric energy exceeding one mile in length designed for operation at a nominal voltage of 100 kilovolts or more, together with associated facilities. "High-voltage transmission line" does not include transmission line relocations which the commission determines are necessary to facilitate highway or airport projects.

(g) "Large electric generating facility" means electric generating equipment and associated facilities designed for nominal operation at a capacity of between 12,000 and 300,000 kilowatts.

(2) ADVANCE PLANNING. (a) On or before July 1 of each even-numbered year, or such other biennial period as the commission may approve, each electric utility shall file its plan with the commission and with those persons or agencies listed in par. (b). Such plans may be appropriate portions of a single regional plan or may be prepared jointly by 2 or more utilities, and shall:

1. Describe the general location, size and type of facilities which are expected to be owned or operated in whole or in part by such utility and the construction of which is expected to commence during the ensuing 10 years, or such longer period as the commission deems necessary, and shall identify all existing facilities intended to be removed from service during such period or upon completion of such construction;

2. Identify practical alternates to the general location, fuel type and method of generation of the proposed electric generating facilities, and set forth in detail the reasons for selecting the proposed general location, fuel type and method of generation;

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

3m. Identify the location of tentative and alternative routes for high-voltage transmission lines on which construction is intended to be commenced in the succeeding 18 months and indicate the effects of such transmission lines on the environment and the means by which potential adverse effects will be avoided or minimized;

4. Indicate in detail the projected demand for electric energy and the basis for determining the projected demand;

5. Describe the utility's relationship to other utilities and regional associations, power pools and networks;

6. Identify and describe all major research projects and programs which will continue or commence in the succeeding 3 years and set forth the reasons for selecting specific areas for research;

7. Identify and describe existing and planned programs and policies to discourage inefficient and excessive power use; and

8. Provide any other information required by the commission.

(am) No local ordinance may prohibit or restrict testing activities undertaken by a utility for purposes of preparing advance plans or determining the suitability of a site for the placement of a facility. Any local unit of government objecting to such testing may petition the commission to impose reasonable restrictions on such activity.

(b) A copy of each advance plan shall, at the time it is filed with the commission, also be filed with each of the following:

1. Department of administration.
2. Department of business development.
3. Department of health and social services.
4. Department of justice.
5. Department of local affairs and development.
6. Department of natural resources.
7. Department of transportation.

8. The director or chairman of each regional planning commission constituted under s. 66.945 which has jurisdiction over any area where a facility is proposed to be located or which requests a copy of such plan.

(c) Those agencies receiving copies under par. (b) shall review the plans and submit their comments to the commission within 180 days after their receipt of the plans. Comments shall include:

1. A description of any statutory permits or approvals required by the agency.
2. A description of the types and forms of information required for adequate review of an application for each permit or approval.

3. A detailed discussion as to the areas in which the plans coordinate with the agency's plans, policies, functions and programs and the areas in which the plans conflict and the significance of such conflicts.

4. To the extent practicable and consistent with its program responsibilities, a discussion of the environmental impacts of the plan.

(d) The commission shall, within 10 days after the plan is filed, send a copy of such plan, or the applicable portion thereof, to the county planner, or, if none exists, to the county clerk of each county affected by the plan, to the main public library of each such county, and to any other county planner, county clerk or public library which requests copies of such plans or portions of plans. The commission shall send a copy of the applicable portion of the plan to the clerk of each municipality and town in which a bulk or large electric generating facility is proposed to be located, and shall notify each public library in such municipality or town that copies of the plan are available upon request.

(e) Any county, municipality, town or person may submit written comments on any plan to the commission within 180 days after the plan is filed.

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

(g) Within 180 days after the plan is filed, the commission shall hold a hearing thereon. The hearing shall be held in an administrative district, established by executive order 22, issued August 24, 1970, which the commission determines will be significantly affected by facilities proposed in the plan to be constructed in the following 3 years. The commission may thereafter adjourn the hearing to other locations. Notice of such hearing shall be given by class 1 notice, under ch. 985, published in the official state newspaper and such other regional papers of general circulation as may be designated by the commission. At such hearing the commission shall briefly describe the plan and give all interested persons an opportunity, subject to reasonable limitations on the presentation of repetitious material, to express their views on any aspect of the plan. The presentation of such views need not be under oath nor subject to cross-examination. The commission shall advise all persons present of their right to express their views orally or in writing, under oath or otherwise, and of the legal effect of each such form of testimony. A written record of unsworn testimony shall be made and considered by the commission as comments on the plan under par.

(e). Persons presenting such views shall not be parties. The utility, any state agency, county, municipality, town, or any person whose substantial rights may be adversely affected by the testing for or construction of facilities described in an advance plan,

shall, upon filing written notice setting forth its interest at least 10 days in advance, be afforded all the rights of a party in a contested case.

(i) A plan shall be approved if, upon the record of the hearing and the written comments submitted under pars. (c) and (e), the commission determines that the plan:

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

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

3. Is reasonably coordinated with long-range plans and policies of other agencies or that a reasonable effort has been made to coordinate with such plans and policies.

4. Provides for programs which discourage inefficient and excessive power use.

(j) If any portion of the plan does not meet the criteria under par. (i), the commission shall disapprove the plan or portion thereof, or approve them, subject to such modifications as may be necessary to meet those criteria.

(jm) The commission shall either approve or disapprove each plan within 18 months after it is filed.

(k) Any portion of the plan that is not approved, may be resubmitted by the utility after entry of the order of disapproval, and, if resubmitted, shall be reviewed under this section in the same manner as a new advance plan, except that the commission may reduce the time for comments thereon to not less than 30 days.

(km) A utility may file an amendment to a previously approved plan with the commission at any time. The commission may grant review and approval under pars. (b) to (L), and may reduce the time for comments thereon to not less than 30 days.

(L) Once a plan has been approved, the commission may limit the scope of the issues before it upon review of a subsequent plan to those directly related to material changes.

(m) Any major contract relating to a facility for which a certificate of public convenience and necessity has not been applied for under sub. (3), other than a contract relating to acquisition of real property, shall be reported in writing to the commission, indicating the general nature and amount of that commitment, within 30 days after it has been entered into.

(2m) At least 120 days prior to the filing of an application for a certificate of public convenience and necessity under sub. (3) for a bulk or large electric generating facility, the applicant shall notify the department and the commission of its intention to make such application and provide the department with an engineering plan showing the location of the facility, a description of the facility, including the major components thereof having a significant air, water or solid waste pollution potential, and a description of the anticipated effects of such facility on air and water quality. Within 60 days thereafter, the department shall provide the applicant with a listing of each department permit or approval which, on the basis of the information contained in the engineering plan, appears to be required for the construction or operation of the facility. The department shall, in consultation with the commission, also designate which permits and approvals, or portions thereof, must be obtained prior to the issuance of the certificate of public convenience and necessity. Such designation shall be based on a finding by the department that the granting or denial of the same could significantly affect overall facility design or location. At any time prior to the issuance of the certificate of public convenience and necessity, the department may, in

consultation with the commission, waive the necessity of obtaining any such permit or approval in advance of such certificate.

(3) CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY. (a) No person may commence the construction of a facility unless such person has applied for and received a certificate of public convenience and necessity from the commission as provided in this section. An application in the form and containing the information required by commission rules for such certificate shall be filed with the commission not less than 18 months prior to the commencement of construction of a bulk electric generating facility, and not less than 6 months prior to the commencement of construction of a large electric generating facility or a high-voltage transmission line. Within 10 days after filing the application, the commission shall send a copy of the application to the clerk of each municipality and town in which the proposed facility is to be located and to the main public library in each such county. The applicant shall apply for any permits or approvals required by the department prior to the issuance of a certificate of public convenience and necessity within 20 days after the application to the commission. An applicant shall make a preliminary application for all other permits and approvals specified under sub. (2m). Such preliminary application shall be sufficient if it identifies the permits and approvals applied for and contains so much of the information required for each such permit or approval as is then available to the applicant. Thereafter the applicant shall supply necessary additional engineering and design information as it becomes available.

(b) The commission shall hold a public hearing on the application in the area affected pursuant to s. 227.07. A class 1 notice, under ch. 985, shall be given at least 30 days prior to the hearing.

(d) The application for a certificate of public convenience and necessity shall be approved if the commission determines that:

1. The proposed facility is in substantial compliance with the most recent advance plan filed under sub. (2) and approved by the commission under sub. (2) (i), except the commission may waive the requirement of this subdivision for large electric generating facilities or high-voltage transmission lines if it finds that the need for the facilities or lines could not have been reasonably foreseen by the utility at the time of the filing of its most recent advance plan approved by the commission.

2. The proposed facility is necessary to satisfy the reasonable needs of the public for an adequate supply of electric energy.

3. The design and location or route is in the public interest considering alternative sources of supply, alternative locations or routes, individual hardships, engineering, economic, safety, reliability, and environmental factors.

4. The proposed facility will not have undue adverse impact on other environmental values such as, but not limited to, ecological balance, public health and welfare, historic sites, geological formations, the aesthetics of land and water and recreational use.

5. The proposed facility complies with the criteria under s. 196.49 (4) if the application is by a public utility as defined in s. 196.01.

6. The proposed facility will not unreasonably interfere with the orderly land use and development plans for the area involved.

(e) If the application does not meet the criteria under par. (d), the commission shall reject the application or approve the application with such modifications as are necessary for an affirmative finding under par. (d). The commission may not issue a certificate of public convenience and necessity until the department has issued all permits and approvals designated under sub. (2m) as necessary prior to the issuance of the certificate of public convenience and necessity.

(f) The department shall complete action on all necessary permits and approvals required before issuance of a certificate of public convenience and necessity within:

1. 150 days after application under this subsection for large electric generating facilities or high-voltage transmission lines.
2. 480 days after application under this subsection for bulk electric generating stations.

(ff) The department shall complete action on each permit and approval for which preliminary application has been made under par. (a) within 90 days after the applicant has supplied all information required by the rules of the department.

(g) The commission shall take final action on the application within:

1. 180 days after application under this subsection for large electric generating facilities or high-voltage transmission lines.
2. 540 days after application under this subsection for bulk electric generating stations.

(h) The commission may waive compliance with any requirement of this section to the extent necessary to restore service which has been substantially interrupted by a natural catastrophe, accident, sabotage or act of God.

(hm) The commission and the department shall schedule as many hearings under this subsection as practicable at a time and place reasonably convenient to the majority of persons in the area of the facility.

(i) If installation or utilization of a facility for which a certificate of convenience and necessity has been granted is precluded or inhibited by a local ordinance, the installation and utilization of the facility may nevertheless proceed.

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

(k) No person may purchase or acquire an option to purchase, any interest in real property knowing that such property is being purchased to be used for the construction of a high-voltage transmission line unless he gives written notice to the prospective seller of the size, maximum voltage and structure type of any transmission line planned to be constructed thereon and the electric utility by whom it will be operated. Contracts made in violation of this paragraph are subject to rescission by the seller at any time prior to the issuance of a certificate of public convenience and necessity for the facility by the commission.

SECTION 10. 196.85 (1m) of the statutes is created to read:

196.85 (1m) For the purpose of direct assessment under sub. (1) of expenses incurred by the commission in connection with its activities under s. 196.491, the term "public utility" includes electric utilities as defined in s. 196.491 (1) (d).

SECTION 11. **Implementation.** To provide for an orderly implementation of the procedures outlined in this act, the following transitional schedules shall be in effect:

(1) Not more than 180 days after the effective date of this act, the public service commission shall adopt rules prescribing the form of and the specific information to be contained in, each advance plan or joint advance plan required to be submitted under section 196.491 (2) of the statutes as created by this act and the form of and information required in applications for certificates under section 196.491 (3) of the statutes as created by this act. Until rules are adopted prescribing the form of and

information required in applications for certificates under section 196.491 (3), the commission shall determine the information required on a case by case basis.

(2) The first advance plans required under section 196.491 of the statutes as created by this act shall be submitted on July 1, 1976, or 60 days after the effective date of the rules adopted under subsection (1), which ever is later.

(3) Section 196.491 (3) of the statutes shall be effective immediately, except:

(a) That section 196.491 (3) (d) 1 of the statutes, as created by this act, does not take effect for certificate applications filed by an electric utility before the date upon which its initial advance plan is approved;

(b) That section 196.491 (3) of the statutes, as created by this act, does not apply to the construction of facilities for which application for a certificate of authority under section 196.49 of the statutes has been made by one or more of the proposed owners prior to the effective date of this act, except that section 196.491 (3) (d) 2 to 6 of the statutes, as created by this act, shall apply to those facilities which require a certificate under section 196.49, 1973 stats.;

(c) Prior to approval of its first advance plan required under section 196.491 (2) of the statutes, as created by this act, the submitting utility shall determine the necessity of taking limited interest for testing purposes under section 32.02 (6) and (10) (b) of the statutes, as affected by this act.

(d) That section 196.491 (3) of the statutes, as created by this act, does not apply to the construction of high-voltage transmission lines which is commenced within 18 months after the effective date of this act and for which a certificate of authority under section 196.49 is not presently required.

(3m) Section 196.491 (2) (jm) of the statutes, as created by this act, shall not apply to the plans of any utility until the public service commission has approved that utility's initial plan under this act.

(4) In its consideration of applications specified under subsection (3) (a) or (b), the public service commission may deny the certificate if it finds that the application was submitted at an unreasonably early date in relation to the construction proposed therein or was submitted other than in ordinary course with intent to avoid the requirements of this act.

(5) This act shall not apply to the coal-fired electric generating facility scheduled for completion in 1978, known as the Alma unit no. 6, to be operated by the Dairyland Power Cooperative.

SECTION 12. Program responsibility. In the appropriate place in the list of program responsibilities for the department of natural resources under section 15.341 of the statutes, insert reference to section "196.491" of the statutes.
