

1999 ASSEMBLY BILL 934

March 28, 2000 – Introduced by Representative HOVEN, cosponsored by Senator MOEN, by request of Governor Tommy G. Thompson. Referred to Committee on Utilities.

1 **AN ACT** *to amend* 196.485 (3m) (a) 1. a., 196.485 (5) (a) 2., 196.485 (6) (a) (intro.)
2 and 196.86 (1) (b); *to repeal and recreate* 285.48 (3) (c); and *to create* 196.86
3 (1) (f), 285.48 (1) (cm) and 285.48 (3) (d) 2m. of the statutes; **relating to:**
4 transmission company duties; contributions of transmission facilities to the
5 transmission company; nitrogen oxide emissions standards and limitations; air
6 quality improvement program assessments; and making an appropriation.

Analysis by the Legislative Reference Bureau

Current law imposes certain requirements if the department of natural resources (DNR) issues a state implementation plan for the control of atmospheric ozone in another state pursuant to a call by the federal environmental protection agency (EPA) under the federal Clean Air Act. The requirements apply if EPA made the call before October 29, 1999, or if EPA makes a call after that date that arises out of a call EPA made before that date. In addition, for the requirements to apply, the state implementation plan must require electric generating facilities in a certain area of the state to comply with nitrogen oxide emission reduction requirements. The area of the state is the northwestern portion of the state that is served by the Mid-Continent Area Power Pool (MAPP), which is a reliability council established under federal law. If DNR issues such a state implementation plan, the department of administration (DOA) is required to make grants to assist electric providers in complying with the nitrogen oxide emission reduction requirements. The funding

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source for the grants consists of assessments paid by electric public utility affiliates in certain public utility holding company systems.

This bill specifies that the electric public utility affiliates that must pay the assessments are those electric public utility affiliates that own electric generating facilities in the area outside the northwestern portion of the state served by MAPP.

Current law also imposes certain restrictions on the nitrogen oxide emissions standards or limitations that DNR may establish if DNR issues the state implementation plan described above. In addition, if DNR issues that state implementation plan, current law prohibits DNR from requiring, on the basis of these restrictions, reductions of nitrogen oxide emissions from mobile sources and certain stationary sources that are in addition to the reductions required in the state implementation plan. The stationary sources to which this prohibition applies are stationary sources that are not electric generating facilities owned by public utilities or electric cooperatives.

The bill replaces the prohibition that applies if DNR issues the state implementation plan described above. Under the bill, if DNR issues that state implementation plan, DNR may not, with respect to any nonutility stationary or mobile source, do any of the following: 1) require reductions in nitrogen oxide emissions for boilers, turbines or internal combustion engines with a designed heat input of 250 million British thermal units per hour or less; 2) require reductions of nitrogen oxide emissions that are in addition to reductions required by or projected for nonutility stationary or mobile sources based on nitrogen oxide inventory and subinventory data used by EPA in determining the total amount of allowable nitrogen oxide emissions in the state under the federal Clean Air Act; or 3) require any additional reductions of nitrogen oxide emissions from nonutility stationary or mobile sources due to the foregoing prohibitions or the restrictions under current law on DNR's establishment of nitrogen oxide emissions standards or limitations. The bill defines a "nonutility stationary or mobile source" as a stationary or mobile source that is not an electric generating facility owned by a public utility or electric cooperative.

Current law also requires DNR to take certain actions if DNR implements a state implementation plan described above in a manner that requires reductions in nitrogen oxide emissions that are lower than certain reductions specified by EPA in calling for the state implementation plan. In addition to the actions required under current law, the bill requires DNR to determine the amounts by which reduction requirements for any nonutility stationary or mobile source are to be relaxed to reflect the lower reductions.

The bill also makes changes to requirements under current law for the creation of a transmission company that plans, constructs, operates, maintains and expands electric transmission facilities and takes other measures to provide for an adequate and reliable electric transmission system. Under current law, the transmission company is required to apply, no later than November 1, 2000, for any state or federal approvals that are necessary for the transmission company to begin operations. This bill changes the application deadline to January 1, 2001.

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Also under current law, certain limits apply to the amount of nonutility assets that may be held in a public utility holding company system. There is an exception to these limits if each public utility affiliate in such a holding company system takes certain actions, including filing with the public service commission (PSC) a commitment to contribute all of its transmission facilities and certain land rights to the transmission company. Certain other electric utilities and cooperatives are also allowed to transfer certain of their transmission facilities to the transmission company or purchase equity interests in the transmission company, but must do so no later than one year after the first public utility affiliate files a commitment with the PSC. This bill changes this deadline to January 1, 2001.

Finally, the bill increases the appropriation for intervenors in proceedings before the PSC by \$250,000 in fiscal year 1999–00 and in fiscal year 2000–01.

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

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

1 **SECTION 1.** 196.485 (3m) (a) 1. a. of the statutes, as created by 1999 Wisconsin
2 Act 9, is amended to read:

3 196.485 **(3m)** (a) 1. a. Apply for any approval under state or federal law that
4 is necessary for the transmission company to begin operations no later than
5 ~~November 1, 2000~~ January 1, 2001.

6 **SECTION 2.** 196.485 (5) (a) 2. of the statutes, as created by 1999 Wisconsin Act
7 9, is amended to read:

8 196.485 **(5)** (a) 2. Files with the commission an unconditional, irrevocable and
9 binding commitment to contribute, no later than ~~September 30, 2000~~ January 1,
10 2001, all of the transmission facilities that the public utility affiliate owns or operates
11 in this state on October 29, 1999, and land rights, to the transmission company. A
12 filing under this subdivision shall specify a date no later than ~~September 30, 2000~~
13 January 1, 2001, on which the public utility affiliate will complete the contribution
14 of transmission facilities.

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1 **SECTION 3.** 196.485 (6) (a) (intro.) of the statutes, as created by 1999 Wisconsin
2 Act 9, is amended to read:

3 196.485 **(6)** (a) (intro.) No later than ~~the first day of the 12th month beginning~~
4 ~~after the first public utility affiliate files a commitment under sub. (5) (a) 2. January~~
5 1, 2001:

6 **SECTION 4.** 196.86 (1) (b) of the statutes, as created by 1999 Wisconsin Act 9,
7 is amended to read:

8 196.86 **(1)** (b) “Electric public utility affiliate” means a public utility affiliate,
9 as defined in s. 196.795 (1) (L), that sells electricity in this state and owns electric
10 generating facilities in the transmission area.

11 **SECTION 5.** 196.86 (1) (f) of the statutes is created to read:

12 196.86 **(1)** (f) “Transmission area” has the meaning given in s. 196.485 (1) (g).

13 **SECTION 6.** 285.48 (1) (cm) of the statutes is created to read:

14 285.48 **(1)** (cm) “Nonutility stationary or mobile source” means a stationary or
15 mobile source that is not an electric generating facility owned by a public utility or
16 electric cooperative.

17 **SECTION 7.** 285.48 (3) (c) of the statutes, as created by 1999 Wisconsin Act 9,
18 is repealed and recreated to read:

19 285.48 **(3)** (c) In establishing nitrogen oxide emission reduction requirements
20 for the control of atmospheric ozone in another state pursuant to a call, the
21 department may not, with respect to any nonutility stationary or mobile source in
22 this state, in a state implementation plan, by rule or through the adoption of control
23 strategies, establish nitrogen oxide emissions standards or limitations that do any
24 of the following:

