



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - PLEASE DO NOT REMOVE FROM DRAFTING FILE

Appendix E

Date Transfer Requested: 04/13/2007 (Per: MDK)




The 2007 drafting file for
LRBa0226/1 (transferred)
LRBa0227/1 (transferred)
LRBa0228/1 (transferred)
LRBa0259/1 (transferred)



LRBa0283/2 (transferred)
LRBa0285/1 (transferred)
LRBa0291/1 (transferred)

where used to create ...
LRB 07s0061

 The attached 2005 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the attached drafting file were added, as a appendix, to the new 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2007 DRAFTING REQUEST

Assembly Amendment (AA-AB207)

Received: 04/12/2007

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Phil Montgomery (608) 266-5840**

By/Representing: **Leg. Council**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Public Util. - telco**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Montgomery@legis.wisconsin.gov**

Carbon copy (CC:) to: **john.stolzenberg@legis.wisconsin.gov**
david.lovell@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Municipal authority over rights-of-way

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	mkunkel 04/12/2007	lkunkel 04/12/2007	nmatzke 04/12/2007	_____	lparisi 04/12/2007	lparisi 04/12/2007	
/2	mkunkel 04/13/2007	lkunkel 04/13/2007	nmatzke 04/13/2007	_____	mbarman 04/13/2007	mbarman 04/13/2007	

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/?							
/1	mkunkel 04/12/2007	lkunkel 04/12/2007	nmatzke 04/12/2007	_____	lparisi 04/12/2007	lparisi 04/12/2007	

FE Sent For:

1/2 lmk 4/13
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4/13
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<END>

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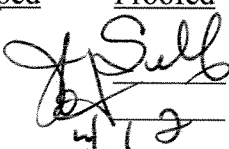
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Municipal authority over rights-of-way

Instructions:

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/?	mkunkel	1/mk 4/12					

FE Sent For:

<END>

To Address Right of Way Concerns:
On Page 34, before line 7, add the following:

Section 28.5. 182.017 of the statutes is amended to read:

182.017 Transmission lines; privileges; damages.

(1) Right-of-way for. Any domestic corporation organized to furnish telegraph or telecommunications service or transmit heat, power or electric current to the public or for public purposes, an independent system operator, as defined in s. 196.485 (1) (d), an independent transmission owner, as defined in s. 196.485 (1) (dm), or a cooperative association organized under ch. 185 or 193 to furnish telegraph or telecommunications service or a cooperative organized under ch. 185 to transmit heat, power or electric current to its members, or a video service provider, as defined under s. 66.020(2)(zg), may, subject to ss. 30.44 (3m), 30.45, 86.16 and 196.491 (3) (d) 3m. and to reasonable regulations made by any city, village or town through which its transmission lines or systems may pass, construct and maintain such lines or systems with all necessary appurtenances in, across or beneath any public highway or bridge or any stream or body of water, or upon any lands of any owner consenting thereto, and for such purpose may acquire lands or the necessary easements; and may connect and operate its lines or system with other lines or systems devoted to like business, within or without this state, and charge reasonable rates for the transmission and delivery of messages or the furnishing of heat, power or electric light.

... [remainder of 182.017 remains unchanged but a new paragraphs (8) & (9) are added]

(8) Commission review. Upon complaint made by any corporation described in subd 1., the public service commission shall set a hearing and if it finds a regulation by any city, village or town under subd.1 to be unreasonable, the regulation shall be void. ~~Admin Law Judge~~

(9) Time for permits. If pursuant to subd. 1, any city, village or town establishes a permit process, the city village, or town must either approve or deny a permit application within 60 days of receipt. If the city, village or town denies such a permit application, it must provide a written explanation of the reasons for such denial at the same time that it denies the application.

~~Admin Law Judge~~
PSC
Standard

R 19, l. 13 Except as provided in s. 182.017.
p. 26 line 12



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa0283/1
MDK:.....
lnk

O-NOTE

today
4 PM

ASSEMBLY AMENDMENT,
TO 2007 ASSEMBLY BILL 207

1 At the locations indicated, amend the bill as follows:

2 1. Page 19, line 13: after "s. 66.0425" insert "and except as provided in s.
3 182.017".

4 2. Page 26, line 15: delete "or any permit fee" and substitute "or,
5 notwithstanding s. 182.017, any permit fee".

6 3. Page 34, line 6: after that line insert:

7 "SECTION 28b. 182.017 (1) of the statutes is renumbered 182.017 (1r) and
8 amended to read:

9 182.017 (1r) RIGHT-OF-WAY FOR. Any domestic corporation organized to furnish
10 telegraph or telecommunications service or transmit heat, power or electric current
11 to the public or for public purposes, an independent system operator, as defined in
12 s. 196.485 (1) (d), an independent transmission owner, as defined in s. 196.485 (1)
13 (dm), or a cooperative association organized under ch. 185 or 193 to furnish telegraph

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

History: 1971 c. 40; 1975 c. 68, 199; 1979 c. 34, 323; 1985 a. 297 s. 76; 1989 a. 31; 1993 a. 213, 246, 371; 1997 a. 204; 2005 a. 441.

12 **SECTION 28f.** 182.017 (1g) of the statutes is created to read:

13 182.017 (1g) DEFINITIONS. In this section:

14 (a) "Commission" means the public service commission. ✓

15 (b) "Company" means any of the following:

16 1. A domestic corporation organized to furnish telegraph or
17 telecommunications service or transmit heat, power, or electric current to the public
18 or for public purposes. ✓

19 2. An independent system operator, as defined in s. 196.485 (1) (d). ✓

20 3. An independent transmission owner, as defined in s. 196.485 (1) (dm). ✓

21 4. A cooperative association organized under ch. 185 or 193 to furnish telegraph
22 or telecommunications service. ✓

23 5. A cooperative association organized under ch. 185 to transmit heat, power,
24 or electric current to its members. ✓

1 6. An interim cable operator, as defined in s. 66.0420 (2) (n). ✓

2 7. A video service provider, as defined in s. 66.0420 (2) (zg).

3 (c) "Municipality" means a city, village, or town. ✓

4 **SECTION 28k.** 182.017 (3) of the statutes is amended to read:

5 182.017 (3) ABANDONED LINES REMOVED. The ~~public service~~ ✓ commission after a
6 public hearing as provided in s. 196.26, and subject to the right of review as provided
7 in ch. 227, may declare any line to have been abandoned or discontinued, if the facts
8 warrant such finding. Whenever such a finding shall have been made the
9 ~~corporation~~ ✓ company shall remove such line, and on failure for 3 months after such
10 finding of abandonment or discontinuance, any person owning land over, through or
11 upon which such line shall pass, may remove the same, or the supervisors of any town
12 within which said lines may be situated, may remove the said lines from the limits
13 of its highways, and such person or supervisors shall be entitled to recover from the
14 company ✓ owning the lines the expense for labor involved in removing the property.

History: 1971 c. 40; 1975 c. 68, 199; 1979 c. 34, 323; 1985 a. 297 s. 76; 1989 a. 31; 1993 a. 213, 246, 371; 1997 a. 204; 2005 a. 441.

15 **SECTION 28o.** 182.017 (5) of the statutes is amended to read:

16 182.017 (5) TREE TRIMMING. Any ~~such corporation~~ ✓ company which shall in any
17 manner destroy, trim or injure any shade or ornamental trees along any such lines
18 or systems, or, in the course of tree trimming or removal, cause any damage to
19 buildings, fences, crops, livestock or other property, except by the consent of the
20 owner, or after the right so to do has been acquired, shall be liable to the person
21 aggrieved in 3 times the actual damage sustained, besides costs.

History: 1971 c. 40; 1975 c. 68, 199; 1979 c. 34, 323; 1985 a. 297 s. 76; 1989 a. 31; 1993 a. 213, 246, 371; 1997 a. 204; 2005 a. 441.

22 **SECTION 28s.** 182.017 (6) of the statutes is amended to read:

23 182.017 (6) MUNICIPAL FRANCHISE REQUIRED. No lighting or heating corporation
24 or cooperative association shall have any right hereunder in any city, village or town

1 municipality until it has obtained a franchise or written consent for the erection or
2 installation of its lines from such ~~city, village or town~~ municipality.

3 **History:** 1971 c. 40; 1975 c. 68, 199; 1979 c. 34, 323; 1985 a. 297 s. 76; 1989 a. 31; 1993 a. 213, 246, 371; 1997 a. 204; 2005 a. 441.

3 **SECTION 28w.** 182.017 (8) of the statutes is created to read:

4 182.017 (8) COMMISSION REVIEW. Upon complaint by a company that a
5 regulation by a municipality under sub. (1r) is unreasonable, the commission shall
6 set a hearing and, if the commission finds that the regulation is unreasonable, the
7 regulation shall be void. ✓

8 **SECTION 28y.** 182.017 (9) of the statutes is created to read:

9 182.017 (9) TIME LIMIT FOR PERMITS. If a municipality establishes a permit
10 process under sub. (1r), the municipality shall approve or deny a permit application
11 no later than 60 days after receipt of the application. ✓ If a municipality denies a
12 permit application, the municipality shall provide the applicant a written
13 explanation of the reasons for the denial at the time that the municipality denies the
14 application." ✓

15 (END)



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0283/1dn

MDK:.....

mk

(date)

✓
Rep. Montgomery:

Please note the following about this amendment:

1. I created a definition for "company". Note that I replaced all of the references to "corporation" in s. 182.017 with "company," except for the reference to "heating or lighting corporation" in s. 182.017 (6). However, note that I added a reference to heating or light cooperative association to s. 182.017 (6). ✓
2. I also created definitions for "commission" and "municipality." ✓
3. Proposed s. 182.017 (9) requires a municipality to approve or deny an application within 60 days. What should happen if a municipality misses the deadline? Also, other provisions of the bill refer to "business days." Should proposed s. 182.017 (9) also refer to "business days" instead of "days"? ✓

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0283/1dn
MDK:lmk:jf

April 12, 2007

Rep. Montgomery:

Please note the following about this amendment:

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Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

Kunkel, Mark

From: Lovell, David
Sent: Thursday, April 12, 2007 4:17 PM
To: Kunkel, Mark
Cc: Stolzenberg, John; Venskus, Katy
Subject: LRBa0283/1 -- reining in the comma police

Mark,

It looks as though an overzealous editor incorrectly added a comma after "construct" on p. 2, l. 5 of LRBa0283/1.

Boiling down that sentence, it says: "Any company may, subject to ..., construct and maintain ... lines etc.", so no comma after "construct."

David

p.s. I like your creation of "company" as a defined term -- a big improvement in an archaic statute.

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa0283/1
MDK:lmk:jf

2

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TO 2007 ASSEMBLY BILL 207

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4 **2.** Page 26, line 15: delete "or any permit fee" and substitute "or,
5 notwithstanding s. 182.017, any permit fee".

6 **3.** Page 34, line 6: after that line insert:

7 "SECTION 28b. 182.017 (1) of the statutes is renumbered 182.017 (1r) and
8 amended to read:

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10 telegraph or telecommunications service or transmit heat, power or electric current
11 to the public or for public purposes, an independent system operator, as defined in
12 s. 196.485 (1) (d), an independent transmission owner, as defined in s. 196.485 (1)
13 (dm), or a cooperative association organized under ch. 185 or 193 to furnish telegraph

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

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24 or electric current to its members.

25 6. An interim cable operator, as defined in s. 66.0420 (2) (n).

1 7. A video service provider, as defined in s. 66.0420 (2) (zg).

2 (c) "Municipality" means a city, village, or town.

3 **SECTION 28k.** 182.017 (3) of the statutes is amended to read:

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6 in ch. 227, may declare any line to have been abandoned or discontinued, if the facts
7 warrant such finding. Whenever such a finding shall have been made the
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10 upon which such line shall pass, may remove the same, or the supervisors of any town
11 within which said lines may be situated, may remove the said lines from the limits
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13

(END)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa0283/2
MDK:lmk:nwn

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25 installation of its lines from such ~~city, village or town~~ municipality.

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13

(END)