

2013 DRAFTING REQUEST

Bill

Received: 1/25/2013 Received By: mkunkel
 Wanted: As time permits Same as LRB: -1668
 For: Paul Farrow (608) 266-9174 By/Representing: David Lovell
 May Contact: David Lovell Drafter: mkunkel
 Subject: Public Util. - electric Addl. Drafters:
 Extra Copies: EVM

Submit via email: YES
 Requester's email: Sen.Farrow@legis.wisconsin.gov
 Carbon copy (CC) to: David.Lovell@legis.wi.gov

Pre Topic:

No specific pre topic given

Topic:

Electric transmission company powers

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>
/?	mkunkel 2/4/2013			_____			
/1	mkunkel 2/12/2013	evinz 2/4/2013	jfrantze 2/5/2013	_____	sbasford 2/5/2013		
/2		evinz 2/13/2013	phenry 2/13/2013	_____	srose 2/13/2013	sbasford 2/19/2013	

Not Needed

FE Sent For:

not
needed

<END>

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/?	mkunkel 2/4/2013						
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/1	evinz 2/4/2013	jfrantze 2/5/2013			sbasford 2/5/2013		
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FE Sent For:

1/2 eev 2/12/13
 2/12 ph
 2/12 ph/RS

<END>

2013 DRAFTING REQUEST

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See attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mkunkel	1 rev 2/4/13		JL 2/5			

FE Sent For:

<END>

Kunkel, Mark

From: BJackson@foley.com
Sent: Thursday, January 24, 2013 10:48 AM
To: Kunkel, Mark
Subject: FW: ATC Language
Attachments: ATC Language 1 24 13.doc

Hey Mark,

[REDACTED]

Don't know if your in this loop or not, but this is language that ATC is hoping that Sen. Farrow and Rep. Honadel can introduce soon. Let me know if you have any questions.

Brad

From: Jackson, Bradley D.
Sent: Thursday, January 24, 2013 10:23 AM
To: 'David.Lovell@legis.wisconsin.gov'
Subject: ATC Language



David,

Following our discussion I have worked with ATC to come up with the attached language to allow the company to acquire transmission rights in addition to facilities. Please let me know your thoughts at your earliest convenience.

Brad

Bradley D. Jackson
Foley & Lardner LLP
150 East Gilman Street
Madison, WI 53703
(608) 258-4262 (office)
(608) 692-6335 (mobile)



The preceding email message may be confidential or protected by the attorney-client privilege. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this message in error, please (i) do not read it, (ii) reply to the sender that you received the message in error, and (iii) erase or destroy the message. Legal advice contained in the preceding message is solely for the benefit of the Foley & Lardner LLP client(s) represented by the Firm in the particular matter that is the subject of this message, and may not be relied upon by any other party.

Internal Revenue Service regulations require that certain types of written advice include a disclaimer. To the extent the preceding message contains advice relating to a Federal tax issue, unless expressly stated otherwise the advice is not intended or written to be used, and it cannot be used by the recipient or any other taxpayer, for the purpose of avoiding Federal tax penalties, and was not written to support the promotion or marketing of any transaction or matter discussed herein.

196.485 (1) (ge) “Transmission company” means a corporation organized under ch. 180 or a limited liability company organized under ch. 183 that has as its sole purpose the planning, constructing, operating, maintaining and expanding of transmission facilities ~~that it owns~~ and the providing of transmission service to provide for an adequate and reliable transmission system that meets the needs of all users that are dependent on the transmission system and that supports effective competition in energy markets without favoring any market participant.

196.485 (3m) (b) *Powers*. The transmission company may, directly or through one or more affiliates, do any of the following:

...

2. Subject to any approval required under state or federal law, purchase or acquire transmission facilities in addition to the transmission facilities contributed under sub. (5)(b), or purchase or acquire the rights to provide transmission service.

Kunkel, Mark

From: Lovell, David
Sent: Friday, February 01, 2013 1:47 PM
To: Gustafson, Andrew
Cc: 'Jackson, Bradley D.' (BJackson@foley.com); Kunkel, Mark
Subject: ATC draft

Gus,

You asked me to prepare a WLC version of the ATC draft that has been submitted to Mark Kunkel for drafting, to have something to show folks in the meantime. That draft is attached.

Mark, Brad,

Note that the attached draft has a phrase that was not in the instructions Brad gave me. At the end of s. 196.485 (3m) (b) 2., I added "over transmission facilities that it does not own." I hope this is OK – I think it makes the intent clearer.

David



0071_1.pdf

1 **AN ACT** *to amend* 196.485 (1) (ge) and 196.485 (3m) (b) (intro.) and 2. of the
2 statutes; **relating to:** the powers of an electric transmission company.

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

LEGISLATIVE COUNCIL STAFF PREFATORY NOTE: This draft authorizes the American transmission company (ATC) to provide transmission services over transmission facilities it does not own, under agreements with the owners of the facilities and subject to approval of the public service commission and the federal energy regulatory commission.

The draft also authorizes ATC to exercise its statutory powers directly or through one or more affiliates. In addition to the power to provide transmission service, as affected by this draft, the other power that this change would affect is the power to construct transmission facilities.

3 **SECTION 1.** 196.485 (1) (ge) of the statutes is amended to read:

4 196.485 (1) (ge) “Transmission company” means a corporation organized under ch. 180
5 or a limited liability company organized under ch. 183 that has as its sole purpose the planning,
6 constructing, operating, maintaining and expanding of transmission facilities ~~that it owns~~ and
7 the providing of transmission service to provide for an adequate and reliable transmission
8 system that meets the needs of all users that are dependent on the transmission system and that
9 supports effective competition in energy markets without favoring any market participant.

10 **SECTION 2.** 196.485 (3m) (b) (intro.) and 2. of the statutes are amended to read:

11 196.485 (3m) (b) *Powers.* (intro.) The transmission company may, directly or through
12 one or more affiliates, do any of the following:

13 2. Subject to any approval required under state or federal law, purchase or acquire
14 transmission facilities in addition to the transmission facilities contributed under sub. (5) (b)

1 or purchase or acquire the right to provide transmission service over transmission facilities

2 that it does not own.

3 (END)



eev

0-107E

2013 BILL

S000

IN 2-4

gen cat

1 **AN ACT** .;. **relating to:** powers and duties of an electric transmission company.

Analysis by the Legislative Reference Bureau

Under current law, certain electric utilities have contributed their transmission facilities to a transmission company, which is defined, in part, as a company whose sole purpose is the planning, constructing, operating, maintaining, and expanding of transmission facilities that it owns. Also under current law, the transmission company has certain duties and powers, including the power to purchase or acquire transmission facilities in addition to those contributed by the electric utilities, subject to any approvals that are required under federal or state law. This bill revises that power so that the transmission company is also allowed to purchase or acquire the right to provide transmission service over transmission facilities that it does not own. The bill makes a related change to the definition of "transmission company" so that the purpose of the transmission company is to provide transmission service, which is not limited to transmission facilities that it owns. Finally, the bill specifies that the transmission company may exercise its powers either directly or through one or more affiliates.

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

✕

2 **SECTION 1.** 196.485 (1) (ge) of the statutes is amended to read:

BILL

SECTION 1

1 196.485 (1) (ge) "Transmission company" means a corporation organized under
2 ch. 180 or a limited liability company organized under ch. 183 that has as its sole
3 purpose the planning, constructing, operating, maintaining and expanding of
4 transmission facilities ~~that it owns, and the providing of transmission service,~~ to
5 provide for an adequate and reliable transmission system that meets the needs of all
6 users that are dependent on the transmission system and that supports effective
7 competition in energy markets without favoring any market participant.

8 History: 1997 a. 204; 1999 a. 9, 75; 2001 a. 104; 2003 a. 40. ~~X~~

8 **SECTION 2.** 196.485 (3m) (b) (intro.) of the statutes is amended to read:

9 196.485 (3m) (b) *Powers.* (intro.) The transmission company may, directly or
10 through one or more affiliates, do any of the following:

11 History: 1997 a. 204; 1999 a. 9, 75; 2001 a. 104; 2003 a. 40. ~~X~~

11 **SECTION 3.** 196.485 (3m) (b) 2. of the statutes is amended to read:

12 196.485 (3m) (b) 2. Subject to any approval required under state or federal law,
13 purchase or acquire transmission facilities in addition to the transmission facilities
14 contributed under sub. (5) (b) or purchase or acquire the right to provide
15 transmission service over transmission facilities that it does not own.

16 History: 1997 a. 204; 1999 a. 9, 75; 2001 a. 104; 2003 a. 40.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1333/1dn

MDK:/::...

Leev

date

Sen. Farrow:

Under s. 196.494 (3), the PSC has the power to order the transmission company (and other electric utilities) to construct or procure the construction of transmission facilities. Because this bill allows the transmission company to provide transmission service over facilities that it does not own, should the PSC's power under s. 196.494 (3) be revised also to allow the PSC to order the transmission company to lease access to, as an alternative to constructing, transmission facilities?

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

LRB-1333/1dn
MDK:eev:jf

February 5, 2013

Sen. Farrow:

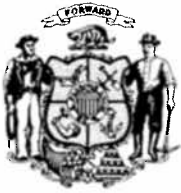
Under s. 196.494 (3), the PSC has the power to order the transmission company (and other electric utilities) to construct or procure the construction of transmission facilities. Because this bill allows the transmission company to provide transmission service over facilities that it does not own, should the PSC's power under s. 196.494 (3) be revised also to allow the PSC to order the transmission company to lease access to, as an alternative to constructing, transmission facilities?

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

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

196.491 (3) (a) 2. The commission shall determine whether an application filed under subd. 1. is complete and, no later than 30 days after the application is filed, notify the applicant about the determination. If the commission determines that the application is incomplete, the notice shall state the reason for the determination. An applicant may supplement and refile an application that the commission has determined to be incomplete. There is no limit on the number of times that an applicant may refile an application under this subdivision. If the commission fails to determine whether an application is complete within 30 days after the application is filed or refiled, the application shall be considered to be complete. Within 10 days after the commission determines that an application is complete or the application is considered to be complete, the commission shall send an electronic copy of the complete 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. At the request of such a clerk or main public library, the commission shall also send a paper copy of the application.

1) This
2) AB 790
3) LRB 133/1
Thanks Mark!



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1333/LP
MDK:eyj

O - NOTE

Stays

PM has been run

SOON

12-2-11

2013 BILL

PLN

1 AN ACT to amend 196.485 (1) (ge), 196.485 (3m) (b) (intro.) and 196.485 (3m) (b)
2 2. of the statutes; relating to: powers and duties of an electric transmission
3 company. and INSERT 1-3

In addition,

INSERT
IA

Analysis by the Legislative Reference Bureau

Also Under current law, certain electric utilities have contributed their transmission facilities to a transmission company, which is defined, in part, as a company whose sole purpose is the planning, constructing, operating, maintaining, and expanding of transmission facilities that it owns. Also under current law, the transmission company has certain duties and powers, including the power to purchase or acquire transmission facilities in addition to those contributed by the electric utilities, subject to any approvals that are required under federal or state law. This bill revises that power so that the transmission company is also allowed to purchase or acquire the right to provide transmission service over transmission facilities that it does not own. The bill makes a related change to the definition of "transmission company" so that the purpose of the transmission company is to provide transmission service, which is not limited to transmission facilities that it owns. Finally, the bill specifies that the transmission company may exercise its powers either directly or through one or more affiliates.

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

BILL

INSERT 2 - 1

1
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SECTION 1. 196.485 (1) (ge) of the statutes is amended to read:

196.485 (1) (ge) "Transmission company" means a corporation organized under ch. 180 or a limited liability company organized under ch. 183 that has as its sole purpose the planning, constructing, operating, maintaining and expanding of transmission facilities that it owns, and the providing of transmission service, to provide for an adequate and reliable transmission system that meets the needs of all users that are dependent on the transmission system and that supports effective competition in energy markets without favoring any market participant.

SECTION 2. 196.485 (3m) (b) (intro.) of the statutes is amended to read:

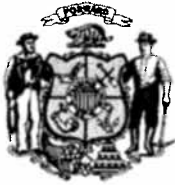
196.485 (3m) (b) *Powers.* (intro.) The transmission company may, directly or through one or more affiliates, do any of the following:

SECTION 3. 196.485 (3m) (b) 2. of the statutes is amended to read:

196.485 (3m) (b) 2. Subject to any approval required under state or federal law, purchase or acquire transmission facilities in addition to the transmission facilities contributed under sub. (5) (b) or purchase or acquire the right to provide transmission service over transmission facilities that it does not own.

(END)

INSERT 2 - 16



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3918/1
MDK:jld:jf

2011 ASSEMBLY BILL 730

March 15, 2012 - Introduced by Representative HONADEL. Referred to Committee on Energy and Utilities.

INSERT 1-3

1 AN ACT to amend 196.491 (3) (a) 1., 196.491 (3) (a) 2., 196.491 (3) (a) 3. a. and
2 196.491 (3) (a) 3. b. of the statutes; relating to: certificates of public
3 convenience and necessity and permits for certain electric generating facilities
4 and high-voltage transmission lines.

INSERT
IA

Analysis by the Legislative Reference Bureau

With certain exceptions, current law prohibits a person from constructing a large electric generating facility or high-voltage transmission line unless the Public Service Commission (PSC) has granted the person a certificate of public convenience and necessity (CPCN). Current law defines a "large electric generating facility" as a facility designed for nominal operation at a capacity of 100 megawatts or more and a "high-voltage transmission line" as an electric transmission line exceeding one mile in length that is designed for operation at a nominal voltage of 100 kilovolts or more. Within 30 days after an application for a CPCN is filed, the PSC must determine whether the application is complete. If the PSC determines that an application is incomplete, the PSC must notify the applicant, who is allowed to refile the application. If the PSC fails to determine that an application is complete within 30 days after filing, current law provides that the application is considered to be complete. This bill clarifies that an application is considered to be complete if the PSC fails to determine that the application is complete within 30 days after filing or refile of the application.

Current law also requires the PSC, within ten days after an application for a CPCN is filed, to submit copies of the application to the clerk of each city, village, and

ASSEMBLY BILL 730

INSEAT 1A (cont'd):

town in which the proposed large electric generating facility or high-voltage transmission line is to be located and to the main public library in each such county. This bill requires instead that the PSC must submit the copies within ten days after the PSC determines that the application is complete or after the application is considered to be complete. In addition, current law requires an applicant for a CPCN for a high-voltage transmission line to submit a detailed project plan to the Department of Natural Resources (DNR) at least 60 days prior to filing the CPCN application. This bill eliminates the requirement to submit the plan to DNR.

Current law also provides that, if an applicant for a CPCN is also required to obtain one or more permits from DNR, the applicant must use a procedure for submitting only one application to DNR for all of the required DNR permits (combined permit procedure), rather than submitting separate applications to DNR for each permit. However, the combined permit procedure does not apply if the only DNR permit the applicant is required to obtain is a storm water discharge permit. Current law specifies two deadlines for DNR to complete action on the permit applications. The first deadline is that DNR must complete action within 120 days after the date on which the permit application is complete or considered to be complete. Like the PSC, current law requires DNR to determine whether an application is complete within 30 days after filing, allows an applicant to refile an application that is incomplete, and specifies that, if DNR fails to determine that an application is complete within 30 days after filing or refiling, the application is considered to be complete. The second deadline is that DNR must complete action on the permit application within 30 days after the PSC issues its decision on the CPCN application. This bill provides that, if the combined permit procedure applies to an applicant, the second deadline applies to DNR, and not the first deadline.

END IF
INSEAT
1A

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

INSEAT 2-1:

1 SECTION 1. 196.491 (3) (a) 1. of the statutes is amended to read:
2 196.491 (3) (a) 1. Except as provided in sub. (3b), no person may commence the
3 construction of a facility unless the person has applied for and received a certificate
4 of public convenience and necessity under this subsection. An application for a
5 certificate issued under this subsection shall be in the form and contain the
6 information required by commission rules and shall be filed with the commission not
7 less than 6 months prior to the commencement of construction of a facility. Within
8 10 days after filing an application under this subdivision, the commission shall send

INSERT 2-1 (Cont'd)

1 a copy of the application to the clerk of each municipality and town in which the
2 proposed facility is to be located and to the main public library in each such county.

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

4 196.491 (3) (a) 2. The commission shall determine whether an application filed
5 under subd. 1. is complete and, no later than 30 days after the application is filed,
6 notify the applicant about the determination. If the commission determines that the
7 application is incomplete, the notice shall state the reason for the determination. An
8 applicant may supplement and refile an application that the commission has
9 determined to be incomplete. There is no limit on the number of times that an
10 applicant may refile an application under this subdivision. If the commission fails
11 to determine whether an application is complete within 30 days after the application
12 is filed or refiled, the application shall be considered to be complete. Within 10 days
13 after the commission determines that an application is complete or the application
14 is considered to be complete, the commission shall send an electronic copy of the
15 complete application to the clerk of each municipality and town in which the
16 proposed facility is to be located and to the main public library in each such county.

17 SECTION 3. 196.491 (3) (a) 3. a. of the statutes is amended to read:

18 196.491 (3) (a) 3. a. At least 60 days before a person files an application under
19 subd. 1., the person shall provide the department with an engineering plan if the
20 facility is a large electric generating facility ~~or a detailed project plan~~ if the facility
21 is a high-voltage transmission line. The engineering or project ~~plan~~ ^{plan} shall show the
22 location of the facility, a description of the facility, including the major components
23 of the facility that have a significant air, water or solid waste pollution potential, and
24 a brief description of the anticipated effects of the facility on air quality, water
25 quality, wetlands, solid waste disposal capacity, and other natural resources. Within

At the request of such a clerk or main public library, the
commission shall also send a paper copy of the application.

- 4 -
(INSECT 2-1
(Cont'd))

1 30 days after a person provides an engineering or project plan, the department shall
2 provide the person with a listing of each department permit or approval which, on
3 the basis of the information contained in the engineering or project plan, appears to
4 be required for the construction or operation of the facility.

5 SECTION 4. 196.491 (3) (a) 3. b. of the statutes is amended to read:

6 196.491 (3) (a) 3. b. Within 20 days after the department provides a listing
7 specified in subd. 3. a. to a person, the person shall apply for the permits and
8 approvals identified in the listing. The department shall determine whether an
9 application under this subd. 3. b. is complete and, no later than 30 days after the
10 application is filed, notify the applicant about the determination. If the department
11 determines that the application is incomplete, the notice shall state the reason for
12 the determination. An applicant may supplement and refile an application that the
13 department has determined to be incomplete. There is no limit on the number of
14 times that an applicant may refile an application under this subd. 3. b. If the
15 department fails to determine whether an application is complete within 30 days
16 after the application is filed, the application shall be considered to be complete. The
17 Except as provided in s. 30.025 (4), the department shall complete action on an
18 application under this subd. 3. b. for any permit or approval that is required prior
19 to construction of a facility within 120 days after the date on which the application
20 is determined or considered to be complete.

(END OF INSECT 2-1)

INSECT 2-16

21 SECTION 5. Initial applicability.

22 (1) The treatment of section 196.491 (3) (a) 2. and 3. b. of the statutes first
23 applies to applications filed or refiled on the effective date of this subsection.

24

(END)

(END OF INSECT 2-16)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1333/2dn

MDK:f:.....

teev

date

Sen. Farrow:

This redraft incorporates 2011[✓] AB 730, with the change to the amendment of s. 196.491
(3) (a) 2. that you requested.

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**

LRB-1333/2dn
MDK:eev:ph

February 13, 2013

Sen. Farrow:

This redraft incorporates 2011 AB 730, with the change to the amendment of s. 196.491 (3) (a) 2. that you requested.

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

Basford, Sarah

From: Gustafson, Andrew
Sent: Tuesday, February 19, 2013 1:00 PM
To: LRB.Legal
Subject: RUSH Draft Review: LRB -1333/2 Topic: Electric transmission company powers

This is RUSH request. Could we please get the jacket back today. Thank you very much.

Please Jacket LRB -1333/2 for the SENATE.