2013 ASSEMBLY BILL 257


AN ACT to amend 941.40 (4) (b); and to create 895.63 of the statutes; relating to: exemption from civil liability for electric service providers.

Analysis by the Legislative Reference Bureau

This bill provides an exemption from civil liability to an electric service provider (provider) for damage to an animal, an individual, or property caused by the transmission, distribution, or sale of electric energy by that provider. The bill defines “electric service provider” to mean: 1) a public utility involved in the transmission, distribution, or sale of electric energy; and 2) a cooperative association organized for the purpose of transmitting, distributing, or selling electric energy. To attain the exemption, the provider must prove by clear and convincing evidence that the electric facilities owned by the provider and providing service to the location of the alleged damage are operated and maintained in compliance with all applicable engineering and safety standards. Under the bill, a provider may not avoid liability for damage to an animal, an individual, or property if the damage is caused by reckless, wanton, or willful acts or omissions or intentional misconduct.

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

SECTION 1. 895.63 of the statutes is created to read:

895.63 Civil liability exemption; electric service operations. (1) In this section:
(a) “Electric service provider” means any of the following:

1. A public utility, as defined in s. 196.01 (5) (a), involved in the transmission, distribution, or sale of electric energy.

2. A cooperative association organized under ch. 185 for the purpose of transmitting, distributing, or selling electric energy.

(b) “Rural utilities service” has the meaning given in s. 196.485 (1) (f).

(2) Except as provided in sub. (3), an electric service provider is not liable in a civil action for any damage to an animal, an individual, or property caused by the transmission, distribution, or sale of electric energy by an electric service provider if the electric service provider proves by clear and convincing evidence all of the following:

(a) For an electric service provider under sub. (1) (a) 1., the electric facilities owned or operated by the electric service provider and providing service to the location of alleged damage are operated and maintained in compliance with all engineering and safety standards adopted by rule or order by a state regulatory agency and applicable to the facilities.

(b) For an electric service provider under sub. (1) (a) 2., the electric facilities owned or operated by the electric service provider and providing service to the location of alleged damage are operated and maintained in compliance with all engineering and safety standards by the rural utilities service, or comparable engineering and safety standards adopted by the board of directors of the electric service provider, and applicable to the facilities.

(3) This section does not apply if the damage to an animal, an individual, or property was caused by reckless, wanton, or willful acts or omissions or intentional misconduct.
SECTION 2. 941.40 (4) (b) of the statutes is amended to read:

941.40 (4) (b) Subsections (2) and (3) do not apply to a person who acts with the permission of the telegraph, telecommunications, electric light, or electric power company, including a cooperative association organized under ch. 185, that is affected or that owns the wire, pole, cable, conductor, ground, equipment, facility, or other affected property or with the permission of the person who owns the property on which the wire, pole, cable, conductor, ground, equipment, facility, or other affected property is located.

SECTION 3. Initial applicability.

(1) The treatment of section 895.63 of the statutes first applies to actions or special proceedings commenced on the effective date of this subsection.

(2) The treatment of section 941.40 (4) (b) of the statutes first applies to acts done on the effective date of this subsection.

(END)