

State of Wisconsin



2015 Assembly Bill 804

Date of enactment: **March 30, 2016**

Date of publication*: **March 31, 2016**

2015 WISCONSIN ACT 299

AN ACT *to repeal* 196.372, 196.975, 285.41 (3) and 285.45 (3); *to renumber* 196.49 (5g) (a) 1. to 5.; *to renumber and amend* 30.025 (4) and 196.49 (5g) (a) (intro.); *to amend* 20.155 (1) (g), 30.206 (1) (ag) 2., 30.208 (3) (e), 66.0821 (5) (a), 66.0821 (5) (e) (intro.), 66.0821 (5) (e) 2., 66.0821 (5) (e) 3., 66.0821 (5) (e) 4., 196.374 (3) (b) 2., 196.49 (5g) (b), 196.52 (3) (d) 2., 200.59 (5) (d), 285.41 (4) (a), 285.41 (4) (a) 4., 285.41 (4) (c) and 285.41 (4) (d); and *to create* 30.025 (4) (c), 66.0821 (5) (f), 196.49 (5g) (ag), 196.49 (5g) (ar) 2m. and 196.85 (1m) (f) of the statutes; **relating to:** sulfur dioxide compliance plans; assessment authority of the Public Service Commission; funding for state-wide energy efficiency and renewable resource programs; public utility contracts with affiliated interests; local access and transport areas for telephone service; railroad telecommunications service; Department of Natural Resources permit application procedures related to the construction of a high-voltage transmission line; navigable water general permits and individual permits related to utility facilities; exempting the construction of certain electric transmission lines from Public Service Commission certification; and making an appropriation.

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

SECTION 1. 20.155 (1) (g) of the statutes is amended to read:

20.155 (1) (g) *Utility regulation.* The amounts in the schedule for the regulation of utilities. Ninety percent of all moneys received by the commission under s. 66.0821 (5) (f) 3., 196.85, 196.855, or 201.10 (3) shall be credited to this appropriation. Ninety percent of all receipts from the sale of miscellaneous printed reports and other copied material, the cost of which was originally paid under this paragraph, shall be credited to this appropriation.

SECTION 2. 30.025 (4) of the statutes is renumbered 30.025 (4) (a) and amended to read:

30.025 (4) (a) The permit may be issued, or the authority to proceed under a permit may be granted, upon stated conditions deemed necessary to assure compliance with the criteria designated under sub. (3). The

(b) Except as provided in par. (c), the department shall grant or deny the application for a permit for the utility facility within 30 days of the date on which the commission issues its decision under s. 196.49 or 196.491 (3).

SECTION 3. 30.025 (4) (c) of the statutes is created to read:

30.025 (4) (c) Notwithstanding the deadline in par. (b), upon agreement between the department and a person who submits an application under s. 196.491 (3) for a permit to construct a high-voltage transmission line, the department shall grant or deny the application within 45 days after the department receives all of the information necessary for it to carry out its obligations under this subsection, as determined by the department.

SECTION 4. 30.206 (1) (ag) 2. of the statutes is amended to read:

30.206 (1) (ag) 2. Location requirements that ensure that the activity will not materially interfere with navigation or have an adverse impact on the riparian property

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

rights of adjacent riparian owners, except that if the activity is necessary in order to maintain or repair a utility facility that is owned or operated by a public utility, as defined in s. 196.01 (5), or a cooperative association organized under ch. 185 for the purpose of producing or furnishing heat, light, water, or power to its members only, the department may not impose a condition on the permit that requires the relocation of the facility.

SECTION 5. 30.208 (3) (e) of the statutes is amended to read:

30.208 (3) (e) Within 20 days after the period for public comment under sub. (4) (b) has ended or, if no public hearing is held, within 30 days of the 30-day comment period under sub. (4) (a), the department shall render a decision issuing, denying, or modifying the permit or approving or disapproving the contract that is the subject of the application submitted under sub. (1). If the application is to modify a permit to allow an activity necessary to maintain or repair a utility facility that is owned or operated by a public utility, as defined in s. 196.01 (5), or a cooperative association organized under ch. 185 for the purpose of producing or furnishing heat, light, water, or power to its members only, the department may not modify the permit to require the relocation of the facility.

SECTION 6. 66.0821 (5) (a) of the statutes is amended to read:

66.0821 (5) (a) If a user of a service complains to the public service commission that rates, rules and practices are unreasonable or unjustly discriminatory, or if a holder of a mortgage or revenue bond or mortgage certificate or other evidence of debt, secured by a mortgage on the sewerage system or any part of the system or pledge of the income of sewerage service charges, complains that rates are inadequate, the public service commission shall investigate the complaint. If there appears to be sufficient cause for the complaint, the commission shall set the matter for a public hearing upon 10 days' notice to the complainant and the town, village or city. After the hearing, if the public service commission determines that the rates, rules or practices complained of are unreasonable or unjustly discriminatory, it shall determine and by order fix reasonable rates, rules and practices and may make any other order respecting the complaint that is just and reasonable, including, in the case of standby charges imposed under sub. (4) (c), an order that a municipality refund to the user any amount of the standby charges that have been collected if the user has filed a complaint with the public service commission not later than 60 days after receiving the original notice of charge or after receiving a notice of charge that relates to an increased standby charge. The proceedings under this paragraph are governed, to the extent applicable, by ss. 196.26 to 196.40. The Except as provided in pars. (e) and (f), the commission shall bill any expense of the commission attributable to a proceeding under this paragraph to the town, village or city under s. 196.85 (1).

SECTION 7. 66.0821 (5) (e) (intro.) of the statutes is amended to read:

66.0821 (5) (e) (intro.) ~~Notwithstanding par. (a), the public service commission shall bill under s. 196.85 (1) any~~ Any expense of the commission attributable to a proceeding under par. (a) that is initiated under s. 281.49 (11) (d) ~~as follows is subject to the following:~~

SECTION 8. 66.0821 (5) (e) 2. of the statutes is amended to read:

66.0821 (5) (e) 2. If the commission determines in the proceeding that one or more of the septage disposal fees are unreasonable and determines and fixes by order reasonable fees that, when combined with any other applicable septage disposal fees, total an amount that is not at least 15 percent lower than the total amount of septage disposal fees established by the municipal sewage system for the quantity and type of septage specified in s. 281.49 (11) (b), the commission may require the licensed disposer that is a party to the dispute ~~shall~~ to pay the entire amount of the assessment.

SECTION 9. 66.0821 (5) (e) 3. of the statutes is amended to read:

66.0821 (5) (e) 3. If the commission determines in the proceeding that the septage disposal fees are reasonable, the commission may require the licensed disposer that is a party to the dispute ~~shall~~ to pay the entire amount of the assessment.

SECTION 10. 66.0821 (5) (e) 4. of the statutes is amended to read:

66.0821 (5) (e) 4. If the commission terminates the proceeding before making a final determination on the reasonableness of the septage disposal fees, the commission may require the municipal sewage system and the licensed disposer that are parties to the dispute ~~shall~~ to each pay 50 percent of the assessment, ~~unless the municipal sewage system and the licensed disposer agree to or a different allocation of the assessment agreed to by the parties.~~

SECTION 11. 66.0821 (5) (f) of the statutes is created to read:

66.0821 (5) (f) 1. In this paragraph, "complainant" means a person who makes a complaint under par. (a) that is not initiated under s. 281.49 (11) (d).

2. The public service commission may bill a complainant for any expense of the commission attributable to a proceeding under par. (a) as follows:

a. If the commission determines in the proceeding that the rates, rules, or practices that are the subject of the complaint are not unreasonable, unjustly discriminatory, or inadequate, the commission may require the complainant to pay all or a portion, as determined by the commission, of the expenses.

b. If the commission terminates the proceeding before making a final determination, the commission may require the municipality and complainant to each pay 50 percent of the expenses or a different allocation of

the expenses agreed to by the municipality and complainant.

3. The public service commission shall mail a complainant a bill for any expense the commission requires the complainant to pay under subd. 2. The bill constitutes demand for payment. Within 30 days after the mailing of the bill, the complainant shall pay to the commission the amount billed. Ninety percent of the payment shall be credited to the appropriation account under s. 20.155 (1) (g).

SECTION 36. 196.372 of the statutes is repealed.

SECTION 37. 196.374 (3) (b) 2. of the statutes is amended to read:

196.374 (3) (b) 2. The commission shall require each energy utility to spend 1.2 percent of its annual operating revenues derived from retail sales to fund the utility's programs under sub. (2) (b) 1., the utility's ordered programs, the utility's share of the statewide energy efficiency and renewable resource programs under sub. (2) (a) 1., and the utility's share, as determined by the commission under subd. 4., of the costs incurred by the commission in administering this section.

SECTION 37c. 196.49 (5g) (a) (intro.) of the statutes is renumbered 196.49 (5g) (ar) (intro.) and amended to read:

196.49 (5g) (ar) (intro.) A public utility is exempt from the requirement to obtain a certification or approval of the commission under sub. (2) or (3) before beginning a proposed project if the any of the following applies:

1m. The estimated gross cost of the proposed project is not more than one of the following cost thresholds:

SECTION 37g. 196.49 (5g) (a) 1. to 5. of the statutes are renumbered 196.49 (5g) (ar) 1m. a. to e.

SECTION 37n. 196.49 (5g) (ag) of the statutes is created to read:

196.49 (5g) (ag) In this subsection, "rebuild" means the replacement of all or part of an existing electric transmission line and associated facilities to increase the line's capacity to carry current at the same voltage, including conductors, insulators, transformers, or structures.

SECTION 37r. 196.49 (5g) (ar) 2m. of the statutes is created to read:

196.49 (5g) (ar) 2m. The project is a rebuild and all of the following apply:

a. The existing electric transmission line and associated facilities are designed for operation at a nominal voltage of less than 345 kilovolts.

b. The centerline of the rebuilt electric transmission line is located within 60 feet on either side of the centerline of an existing electric transmission line operating at a nominal voltage of 69 kilovolts or more. In this subd. 2m. b., "centerline" has the meaning given in s. 196.491 (4) (c) 1e.

c. The project requires the acquisition in total of one-half mile or less of rights-of-way from landowners from which rights-of-way were not required to be acquired for

the existing electric transmission line specified in subd. 2m. b.

d. The project will not have undue adverse environmental impacts on any new rights-of-way required for the rebuild.

SECTION 37w. 196.49 (5g) (b) of the statutes is amended to read:

196.49 (5g) (b) Beginning on May 1, 2014, and on May 1 of each successive even-numbered year thereafter, the commission shall adjust the cost thresholds specified in par. (a) (ar) 1m. to reflect changes to the cost of utility construction based on the applicable industry cost index numbers published in the Handy-Whitman Index of Public Utility Construction Costs, or an equivalent successor index, and publicize the adjusted cost thresholds on the commission's Web site.

SECTION 38. 196.52 (3) (d) 2. of the statutes is amended to read:

196.52 (3) (d) 2. If a hearing is not held on an application under this subsection, the commission shall take final action on the application within 90 days after the commission issues a notice opening a docket on the application. The chairperson of the commission may extend the time period for an additional 90 days for good cause. If the commission fails to take final action within the initial 90-day period, or the extended 90-day time period, the commission is considered to have approved the application.

SECTION 40. 196.85 (1m) (f) of the statutes is created to read:

196.85 (1m) (f) For the purpose of direct assessment under sub. (1) of expenses incurred by the commission in proceedings under s. 32.02 (13), the term "public utility" includes a business entity specified in s. 32.02 (13).

SECTION 41. 196.975 of the statutes is repealed.

SECTION 42. 200.59 (5) (d) of the statutes is amended to read:

200.59 (5) (d) Notwithstanding the statutes referenced in par. (a) governing a proceeding under par. (a), s. 66.0821 (5) (e) applies to the public service commission shall allocate commission's allocation of its assessment under s. 196.85 (1) for any expense of the public service commission for a proceeding under par. (a) that is initiated under s. 281.49 (11) (d) ~~as specified in s. 66.0821 (5) (e).~~

SECTION 43. 285.41 (3) of the statutes is repealed.

SECTION 44. 285.41 (4) (a) of the statutes is amended to read:

285.41 (4) (a) *Request; variance conditions.* A major utility may request a variance from the emission rate under sub. (2) (a) by submitting the request to the ~~commission and the~~ department. No request for a variance may be submitted if the department has served the major utility with written notice under s. 285.83 that the major utility has violated sub. (2) (a). Upon receipt of a request, the ~~commission~~ department shall, within 45 days, deter-

mine if any of the following variance conditions exists and shall report its determination to the department:

SECTION 45. 285.41 (4) (a) 4. of the statutes is amended to read:

285.41 (4) (a) 4. The occurrence of an uncontrollable event not anticipated in the plan submitted under sub. (3).

SECTION 46. 285.41 (4) (c) of the statutes is amended to read:

285.41 (4) (c) *Grant of variance.* The department shall grant a request for a variance if the ~~commission~~ department determines that a variance condition exists and the ~~department~~ department determines that the major utility's compliance plan is adequate.

SECTION 47. 285.41 (4) (d) of the statutes is amended to read:

285.41 (4) (d) *Denial of variance.* The department shall deny a request for a variance if the ~~commission~~ department determines that no variance condition exists

or if the ~~department~~ department determines that the major utility's compliance plan is not adequate.

SECTION 48. 285.45 (3) of the statutes is repealed.

SECTION 49. Initial applicability.

(1) ASSESSMENTS. The treatment of sections 66.0821 (5) (a), (e) (intro.), 2., 3., and 4., and (f) and 196.85 (1m) (f) of the statutes first applies to proceedings initiated on the effective date of this subsection.

(2) AFFILIATED INTEREST CONTRACTS. The treatment of section 196.52 (3) (d) 2. of the statutes first applies to applications filed on the effective date of this subsection.

SECTION 50. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 196.374 (3) (b) 2. of the statutes takes effect on January 1, 2016, or on the first day of the 3rd month beginning after publication, whichever is earlier.
