



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 299
[2015 Assembly Bill 804]

**Authority of the Department of
Natural Resources and the Public
Service Commission**

2015 Wisconsin Act 299 makes changes regarding: (1) Public Service Commission (PSC) approval of construction projects involving certain electric transmission lines and associated facilities; (2) deadlines for Department of Natural Resources (DNR) approval of permits relating to high-voltage transmission lines; (3) DNR authority to impose conditions on certain permits; (4) sulfur dioxide emission limit compliance; (5) PSC authority to assess its regulatory expenses against certain persons; (6) Focus on Energy funding; (7) PSC review of affiliated interest contracts; (8) local access and transport areas for telephone service; and (9) railroad telecommunications service.

PSC APPROVAL OF CONSTRUCTION PROJECTS INVOLVING CERTAIN ELECTRIC TRANSMISSION LINES AND ASSOCIATED FACILITIES

Wisconsin law prohibits a public utility from commencing certain construction projects, unless the utility obtains from PSC a Certificate of Authority (CA) for the project. Wisconsin law provides an exemption from this requirement for projects that meet certain criteria.

The Act creates an exemption for a project that involves replacing all or a part of an existing electric transmission line and associated facilities in order to increase the line's capacity to carry current at the same voltage. To qualify for the exemption:

- The existing electric transmission line and associated facilities must be designed for operation at a nominal voltage of less than 345 kilovolts.
- The centerline of the rebuilt electric transmission line must be located within 60 feet on either side of the centerline of an existing electric transmission line operated at a nominal voltage of 69 kilovolts or more.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

- The project does not require the acquisition of more than one-half mile of rights-of-way from landowners from which rights-of-way were not required to be acquired for the existing electric transmission line.
- The project must not have undue environmental impacts on any new rights-of-way required for the project.

DEADLINES FOR DNR APPROVAL OF PERMITS RELATING TO HIGH-VOLTAGE TRANSMISSION LINES

Wisconsin law requires a person wishing to construct a high-voltage transmission line to obtain approval from PSC and certain permits from DNR. A person must request all permits for a project by submitting a single application to DNR. Wisconsin law requires DNR to grant or deny the application within 30 days of the date on which PSC issues its decision on a project.

The Act provides that, upon agreement between DNR and an applicant, DNR must grant or deny the application within 45 days after DNR receives all of the information necessary to make its decision, regardless of whether PSC has issued a decision.

DNR AUTHORITY TO IMPOSE CONDITIONS ON CERTAIN PERMITS

Wisconsin law requires a person conducting certain activities in a navigable water to obtain a general permit from DNR. Wisconsin law authorizes DNR to impose conditions on a general permit, including location requirements that ensure that the activity will not materially interfere with navigation or have an adverse impact on the property rights of riparian owners. The Act provides that DNR may not impose on a general permit a condition that requires relocation of a facility, if the activity for which the permit is sought is necessary in order to maintain or repair a utility facility.

Wisconsin law requires a person who wishes to conduct an activity that does not qualify for a general permit to obtain an individual permit from DNR. If a person possessing an individual permit wishes to engage in an activity that is not authorized by the permit, the person must apply to DNR for a modification of the permit. The Act provides that if an application is made to modify an individual permit to allow an activity necessary to maintain or repair a utility facility, DNR may not modify the permit to require relocation of the facility.

SULFUR DIOXIDE EMISSION LIMIT COMPLIANCE

Wisconsin law provides that it is the goal of the state for annual sulfur dioxide emissions from all major energy utilities and large sources not to exceed 325,000 tons. The Act changes requirements relating to the goal, by doing all of the following:

- Eliminating the requirement for major energy utilities to submit annual plans for complying with sulfur dioxide emission rates to PSC and DNR.
- Eliminating the requirement for DNR to review and approve the plans.

- Eliminating a requirement for DNR to make certain determinations and recommendations to the Legislature regarding goals for sulfur dioxide emissions from major energy utilities and large sources.
- Assigning DNR exclusive responsibility, rather than joint responsibility with PSC, for reviewing requests for a variance from sulfur dioxide emission rates submitted by major energy utilities and determining whether to grant a variance.

PSC AUTHORITY TO ASSESS ITS REGULATORY EXPENSES AGAINST CERTAIN PERSONS

Wisconsin law authorizes PSC to assess its regulatory expenses against certain parties to a proceeding, based on the outcome of the proceeding.

The Act makes all of the following changes to PSC's authority:

- Authorizes PSC to assess certain oil pipeline companies for costs related to proceedings to determine whether the companies have condemnation authority.
- Grants PSC discretion in determining whether to assess its expenses against licensed septage disposers involved in certain proceedings.
- Authorizes PSC to assess its expenses against a person who makes a complaint regarding a municipal sewerage and storm system.

FOCUS ON ENERGY FUNDING

Under Wisconsin law, PSC must require each investor-owned energy utility to annually spend a specified portion of the utility's revenue to fund energy efficiency and renewable resource programs, commonly known as Focus on Energy.

The Act reduces the portion of an investor-owned utility's revenue that the utility must spend on these programs. Prior law, amended by the Act, required each investor-owned energy utility to spend 1.2% of its annual operating revenue. Under the Act, each investor-owned energy utility must spend 1.2% of its annual operating revenue **derived from retail sales**.

PSC REVIEW OF AFFILIATED INTEREST CONTRACTS

The Act authorizes the chairperson of PSC, for good cause, to extend by 90 days the period during which PSC may consider and take action on a public utility's application for approval of a contract with an affiliated interest. Wisconsin law provides that an application is considered approved if PSC fails to take final action within the period.

LOCAL ACCESS AND TRANSPORT AREAS FOR TELEPHONE SERVICE

The Act repeals the authority of consumers to file a petition with PSC requesting that PSC petition a federal court to make changes to local access and transport areas for telephone service.

RAILROAD TELECOMMUNICATIONS SERVICE

The Act repeals PSC's authority to receive and investigate a complaint regarding telecommunications service with any railroad, and to issue an order addressing a complaint.

Effective date: April 1, 2016, except that the changes to Focus on Energy funding became effective on January 1, 2016.

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