

No. 327, S.]

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CHAPTER 712.

AN ACT to repeal 194.04 (1) (ba) and 195.22 (3); to renumber 196.52 (3); to amend 30.02 (1) (b), 31.18 (1), 184.01 (1), 194.04 (1) (b) and (c) and (3) (a), 194.21 (2), 194.26, 195.37 (3), 196.26 (4), 196.60, 196.67 (2) and 196.85 (1), (2), (3) and (4) (a); to repeal and recreate 195.01 (12) and 196.52 (1) (e); and to create 31.02 (7), 194.23 (2), 194.25 (3), 194.355, 195.291, 196.04 (4), 196.52 (3) (b) and 196.745 of the statutes, relating to powers, duties and functions of the public service commission.

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

SECTION 1. 30.02 (1) (b) of the statutes is amended to read:

30.02 (1) (b) It shall be unlawful to deposit any material or to place any structures upon the bed of any navigable water where no shore line has been established or beyond such shore line where the same has been established, provided, however, that the public service commission may grant to any riparian owner the right to build a structure, or to maintain a structure already built and now existing, for his own use, if the same does not materially obstruct navigation, *or reduce the effective flood flow capacity of the stream or is not detrimental to the public interest.* Upon complaint by any person, the public service commission shall hold a hearing thereon to determine whether or not such present structure, or one proposed to be built, does materially obstruct navigation, *or reduces the effective flood flow capacity of the stream or is detrimental to the public interest.*

SECTION 2. 31.02 (7) of the statutes is created to read:

31.02 (7) No person shall remove any material from the bed of any navigable lake or from the bed of any of the outlying waters of this state without first obtaining a contract as heretofore provided, nor shall any person remove any material from the bed of any lake or stream not mentioned above so as to leave any hole or other condition dangerous to human life.

SECTION 3. 31.18 (1) of the statutes is amended to read:

31.18 (1) The grantee of any permit, the owner of any dam constructed before permits were required by law, and the owner of any bridge at the city of Portage or at any point above that city, over the Wisconsin river, shall maintain and operate all such dams, slides, chutes, piers, booms, guide booms, weirs, tunnels, races, flumes, sluices, pits, fishways, locks, boat hoists, marine railways and all other equipment required by the commission for the protection of public rights in such waters, and for the preservation of life, health and property, in good repair and condition, and shall not wilfully, or otherwise, injure, remove or destroy the same, or any part thereof, unless the commission shall have approved such removal or destruction in writing. *In the event of emergency the commission shall have power, pending investigation and hearing, to order the repair of any dam without notice and hearing.*

SECTION 4. 184.01 (1) of the statutes is amended to read:

184.01 (1) "Public service corporation" means and embraces every corporation, except municipalities and other political subdivisions, which is a public utility as defined in section 196.01, and every corporation which is a railroad as defined in section 195.02, *but shall not include a public utility corporation receiving an annual gross revenue of less than \$1,000 for the calendar year next preceding the issuance of any securities by it.*

SECTION 5. 194.04 (1) (b) and (c) and (3) (a) are amended to read:

194.04 (1) (b) Every application for a certificate shall be accompanied by a filing fee of \$25. Every application for approval of an assignment *or lease* of a certificate or for an amendment to a certificate which shall involve * * * establishing service at any city or villages incorporated or unincorporated, shall be accompanied by a filing fee of \$25. * * * *No fee shall be required for an application for abandonment of service.*

(c) Every application for a license or for approval of assignment *or lease* thereof or for an amendment * * * *thereto* shall be accompanied by a filing fee of \$15.

(3) (a) No motor vehicle permit issued under the provisions of this chapter shall be transferable from one motor vehicle to another. Common motor carrier vehicles, *except truck tractors or road tractors*, upon which the common motor carrier permit fee has been paid may be used or operated by other common motor carriers without the payment of an additional permit fee. Contract motor carrier vehicles upon which the contract motor carrier permit fee has been paid, may be used or operated by other contract motor carriers without the payment of an additional permit fee.

SECTION 6. 194.04 (1) (ba) of the statutes is repealed.

SECTION 7. 194.21 (2) of the statutes is amended to read:

194.21 (2) The commission shall have power to require common motor carriers of property or public contract motor carriers required by the commission to file maximum rates with it to refund any over or excessive charges paid to them for the transportation of property in the manner provided for railroad companies and express companies in section 195.38.

SECTION 8. 194.23 (2) of the statutes is created to read:

194.23 (2) The commission may, pending notice and hearing, issue temporary certificates or amendments thereto when in its judgment an emergency exists and the public interest so requires.

SECTION 9. 194.25 (3) of the statutes is created to read:

194.25 (3) When the holder of a certificate or license or any right or privilege thereunder dies, his personal representative, heirs or surviving spouse may continue to operate thereunder for a reasonable period after his death. The commission shall have power to determine when such period shall end and no person shall operate under the provisions of this subsection beyond the date fixed by the commission. Any person electing to operate under this subsection shall be considered as having assented to be considered as the holder of said certificate, license or any right or privilege thereunder for purposes of regulation under the laws of Wisconsin.

SECTION 10. 194.26 of the statutes is amended to read:

194.26 No common motor carrier without first having secured the approval of the commission shall abandon *all or any part of its certificated authority* or discontinue any service established under the provisions of this chapter except temporarily by reason of road conditions or when ordered by the state or local highway authorities. Every contract motor carrier who shall cease operation or abandon his rights under his license shall notify the commission thereof within 30 days of such cessation or abandonment.

SECTION 11. 194.355 of the statutes is created to read:

194.355 OPERATION UNDER PERMIT. The operation of a motor vehicle under a permit issued to a common motor carrier or a contract motor carrier shall, during the effective life of said permit, be deemed to be the operation of the permittee for all purposes related to the enforcement of chapters 85, 110 and 194.

SECTION 12. 195.01 (12) of the statutes is repealed and recreated to read:

195.01 (12) CONFERENCES. The commission may confer with any regulatory agency of any other state or of the federal government, or may participate in any proceedings before or with any such agency.

SECTION 13. 195.22 (3) of the statutes is repealed.

SECTION 14. 195.291 of the statutes is created to read:

195.291 PUBLIC HEARING, WHEN NOT REQUIRED. In any matter before the commission involving protection for railroad grade crossings, said commission may dispense with a public hearing where the railroad and highway commission or other public agency engaged in laying out or improving highways agree upon the need for crossing protection, the kind of protection or structure necessary and the apportionment of costs therefor among them.

SECTION 15. 195.37 (3) of the statutes is amended to read:

195.37 (3) All complaints provided for in subsection (1), except those for straight overcharges, shall be filed with the commission within 2 years after delivery of the shipment of property at destination, *subject to subsection (6)*.

SECTION 16. 196.04 (4) of the statutes is created to read:

196.04 (4) Provided the parties cannot agree and the commission finds that public convenience and necessity or the rendition of reasonably adequate service to the public requires that a public utility should be permitted to extend its lines on, over, or under the right of way of any railroad, or requires that the tracks of any railroad should be extended on, over, or under the right of way of any public utility, the commission is empowered to order such extension by said public utility or railroad on, over or under the right of way of the other when it will not materially impair the ability of the railroad or utility, on, over, or under whose right of way such extension would be made, to serve the public. Such use so ordered shall be permitted upon such conditions and such compensation as the commission shall deem equitable and reasonable in the light of all the circumstances, which conditions and compensation so prescribed shall be the lawful conditions and compensation for such use and the lawful terms and conditions upon which such use shall be made, observed, followed and paid.

SECTION 17. 196.26 (4) of the statutes is amended to read:

196.26 (4) The notice provided for in subsections (2) and (3) may be combined but if combined the notice shall not be less than * * * 10 days.

SECTION 18. 196.52 (1) (e) of the statutes is repealed and recreated to read:

196.52 (1) (e) Every corporation operating a public utility, a railroad, or a servicing organization for furnishing supervisory, construction, engineering, accounting, legal and similar services to utilities or railroads, which has one or more officers or one or more directors in common with such public utility, and every other corporation which has directors in common with such public utility where the number of such directors is more than one-third of the total number of the utility's directors.

SECTION 19. 196.52 (3) of the statutes is renumbered 196.52 (3) (a).

SECTION 20. 196.52 (3) (b) of the statutes is created to read:

196.52 (3) (b) The provisions of this section requiring the written approval of the commission shall not apply to transactions with affiliated interests where the amount of consideration involved is not in excess of \$10,000 or 5 per cent of the par value of outstanding common stock, whichever is smaller; provided, however, that regularly recurring payments under a general or continuing arrangement which aggregate a greater annual amount shall not be broken down into a series of transactions to come within the aforesaid exemption. Such transactions shall be valid or effective without commission approval under this section. However, in any proceeding involving the rates or practices of the public utility, the commission may exclude from the accounts of such public utility any payment or compensation made pursuant to such transaction unless the public utility shall establish the reasonableness of such payment or compensation.

SECTION 21. 196.60 of the statutes is amended to read:

196.60 If any public utility or any agent or officer thereof shall, directly or indirectly, charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered by it in or affecting or relating to the production, transmission, delivery or furnishing of heat, light, water or power, or the conveyance of telephone messages, or for any service in connection therewith, than that prescribed in the published schedules or tariffs then in force, or established as provided herein, or than it charges, demands, collects or receives from any other person for a like and contemporaneous service, such public utility shall be deemed guilty of unjust discrimination, which is hereby prohibited, and upon conviction thereof shall forfeit not less than \$100 nor more than \$1,000 for each offense; and such agent or officer so offending shall be punished by a fine of not less than \$50 nor more than \$100 for each offense. *Nothing in this section or any other provision of law shall be construed to prohibit any public utility engaged in the conveying of telephone messages from furnishing service to its employes and officers, or the receiving of service by such employes and officers, at charges less than those prescribed in its published schedules or tariffs according to such rules as the public service commission may prescribe.*

SECTION 22. 196.67 (2) of the statutes is amended to read:

196.67 (2) Every such sign shall be * * * in red or black letters not less than 2 inches high on a background of white and shall read "Danger—High Voltage". * * *

SECTION 23. 196.745 of the statutes is created to read:

196.745 CONSTRUCTION AND OPERATION; SAFETY; COMMISSION ORDERS. Every public utility which owns, operates, manages or controls facilities for the production, transmission, or distribution of gas shall construct, operate and maintain such facilities in a reasonably adequate and safe manner. The commission is authorized to issue orders or rules, after hearing, requiring the construction and operation of such facilities to be safe, and may revise such orders or rules from time to time as may be required to promote public safety. Upon complaint to the commission that the facilities of a public utility are unsafe, it may proceed under section 196.26, or may proceed under section 196.28. After hearing the commission shall order any alteration in construction, maintenance or operation required in the interest of public safety.

SECTION 24. 196.85 (1), (2), (3) and (4) (a) of the statutes are amended to read:

196.85 (1) Whenever the commission in a proceeding upon its own motion, on complaint, or upon an application to it shall deem it necessary in order to carry out the duties imposed upon it by law to investigate the books, accounts, practices and activities of, or make appraisals of the property of any public utility, power district or railroad or to render any engineering or accounting services to any public utility, power district or railroad, such public utility, power district or railroad shall pay the expenses reasonably attributable to such investigation, appraisal or service. The commission shall ascertain such expenses, and shall render a bill therefor, by registered mail, to the public utility, power district or railroad, either at the conclusion of the investigation, appraisal or services, or from time to time during its progress, which bill shall constitute notice of said

assessment and demand of payment thereof. Upon bill so rendered such public utility, power district or railroad shall, within * * * 30 days after the mailing thereof pay to the commission the amount of the special expense for which it is billed, and such payment when made shall be credited to the appropriation to the commission in section 20.51 (4). The total amount, in any one calendar year, for which any public utility, power district or railroad shall become liable, by reason of costs incurred by the commission within such calendar year including charges under section 184.10 (2), shall not exceed four-fifths of one per cent of its gross operating revenues derived from intrastate operations in the last preceding calendar year. Where, pursuant to this subsection, costs are incurred within any calendar year which are in excess of four-fifths of one per cent of such gross operating revenues, the excess costs shall not be chargeable as part of the remainder under subsection (2) of this section but shall be paid out of the general appropriation to the public service commission. Nothing herein contained shall prevent the commission from rendering bills in one calendar year for costs incurred within a previous year.

(2) (a) The commission shall annually, within 90 days after the close of each fiscal year, ascertain the total of its expenditures during such year which are reasonably attributable to the performance of its duties relating to public utilities and power districts under chapters 184, 196 and 198, and shall deduct therefrom all amounts chargeable to public utilities and power districts under subsection (1) of this section, and section 184.10 (2). The remainder shall be assessed by the commission to the several public utilities and power districts in proportion to their respective gross operating revenues during the last calendar year, derived from intrastate operations. Such assessment shall be paid within * * * 30 days after the bill has been mailed, by registered mail, to the several public utilities and power districts, which shall constitute notice of said assessment and demand of payment thereof. When paid said assessment shall be credited to the appropriation made in section 20.51 (4). The total amount which may be assessed to the public utilities and power districts, under authority of this subsection, shall not exceed one-fifth of one per cent of the total gross operating revenues of such public utilities and power districts, during such calendar year, derived from intrastate operations.

(b) The commission shall annually, within 90 days after the close of each fiscal year, ascertain the total of its expenditures during such year which are reasonably attributable to the performance of its duties relating to railroads, as defined in section 195.02, under chapters 184, 190, 191, 192, 193, 195 and 196, and shall deduct therefrom all amounts chargeable to railroads under section 196.85 (1) and section 184.10 (2). The remainder shall be assessed by the commission to the several railroads in proportion to their respective gross operating revenues during the last calendar year, derived from intrastate operations. Such assessment shall be paid within * * * 30 days after bill has been mailed, by registered mail, to the several railroads, which bill shall constitute notice of said assessment and demand of payment thereof. When paid said assessment shall be credited to the appropriation made in section 20.51 (4). The total amount which may be assessed to the railroads under authority of this subsection shall not exceed two-fifths of one per cent of the total gross operating revenues of such railroads, during such calendar year, derived from intrastate operations.

(3) If any public utility, power district or railroad against which a bill has been rendered either under subsection (1) or subsection (2) of this section, within * * * 30 days after the rendering of such bill shall (a) neglect or refuse to pay the same, or (b) shall fail to file objections to said bill with said commission, as provided hereinafter, it shall be the duty of the public service commission forthwith to transmit to the state treasurer a certified copy of said bill, together with notice of neglect or refusal to pay said bill, and on the same day said commission shall mail by registered mail to the public utility, railroad or power district against which said bill has been rendered a copy of said notice which it has transmitted to the state treasurer. Within 10 days after the receipt of such notice and certified copy of such bill the state treasurer shall proceed forthwith to levy the amount stated on such bill to be due, with interest, by distress and sale of any goods and chattels, including stocks, securities, bank accounts, evidences of debt, and accounts receivable belonging to such delinquent public utility, power district, or railroad. Such levy by distress and sale shall be governed by the provisions of section 74.10 except that it shall be made by the state treasurer and that said goods and chattels anywhere within the state may be levied upon.

(4) (a) Within * * * 30 days after the date of the mailing of any bill as provided by subsections (1) and (2) the public utility, power district or railroad against which such bill has been rendered may file with the public service commission objections setting out in detail the grounds upon which said objector regards said bill to be excessive, erroneous, unlawful or invalid. The commission, after notice to the objector, shall proceed forthwith to hold a hearing upon such objections, not less than 5 nor more than 10 days

after such notice. If after such hearing the commission finds any part of said bill to be excessive, erroneous, unlawful or invalid it shall record its findings upon its minutes and transmit to the objector by registered mail an amended bill, in accordance with such findings. Such amended bill shall have in all ways the same force and effect under this section as an original bill rendered under subsections (1) and (2).

Approved July 27, 1951.
