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# Wisconsin Legislative Council

## ACT MEMO

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November 18, 2021

### 2021 Wisconsin Act 85 [2021 Assembly Bill 300]

### Deadlines for Public Service Commission Actions on Various Water Public Utility Applications

## APPLICATIONS BY WATER PUBLIC UTILITIES

Under current law, a water public utility must apply to and receive approval from the Public Service Commission (PSC) before taking certain actions. As relevant to 2021 Wisconsin Act 85, a water public utility must obtain PSC approval before implementing a program to provide financial assistance to property owners to replace customer-side lead service lines.<sup>1</sup> Similarly, a water or combined water and sewer public utility must obtain approval from the PSC before undertaking certain construction projects.<sup>2</sup>

Prior to the enactment of 2021 Wisconsin Act 85, the deadlines for final PSC action on these applications were established as follows:

- If the PSC held a hearing on an application, the commission was required to take final action on the application within 180 days after it issued a hearing notice. The chairperson of the PSC could extend the time period for an additional 180 days for good cause.
- If the PSC did not hold a hearing on an application, the commission was required to take final action within 90 days of when it issued a notice opening a docket on the application. The chairperson of the PSC could extend the period for an additional 90 days for good cause.

In either situation, if the PSC failed to take final action within the specified time period, the commission was considered to have granted its approval. Statutes did not specify deadlines for the PSC to issue a hearing notice or issue a notice opening a docket on these applications.

## Changes Under 2021 Wisconsin Act 85

2021 Wisconsin Act 85 modifies the time periods in which the PSC must take final action on the applications described above. While the duration of these periods and the ability to extend the periods remains unchanged, the act changes the events that initiate the periods in which the PSC must act. Specifically, the act provides that the periods are initiated when the PSC determines that an application is complete (rather than when the PSC issues a hearing notice or opens a docket, as provided under prior law).

The act further requires the PSC to determine whether an application is complete and, no later than 45 days after the application is submitted for the first time and no later than 30 days after the application is refiled a second or subsequent time, notify the applicant in writing of the determination. If the PSC

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<sup>1</sup> [Section 196.372\(2\), Stats.](#)

<sup>2</sup> [Section 196.49, Stats.](#)

fails to determine whether an application is complete within these periods, the application is considered to be complete.

The act further provides that if the PSC determines that an application is incomplete, the PSC's notice to the applicant must identify the portions that were determined to be incomplete and state the reasons for the determination. The act also provides that an applicant may supplement and refile an incomplete application and that there is no limit on the number of times that an applicant may refile an application.

**Effective date:** November 7, 2021

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