



2013 SENATE BILL 35

February 20, 2013 – Introduced by Senator FARROW, cosponsored by Representative HONADEL. Referred to Committee on Government Operations, Public Works, and Telecommunications.

1 **AN ACT to amend** 196.485 (1) (ge), 196.485 (3m) (b) (intro.), 196.485 (3m) (b) 2.,
2 196.491 (3) (a) 1., 196.491 (3) (a) 2., 196.491 (3) (a) 3. a. and 196.491 (3) (a) 3.
3 b. of the statutes; **relating to:** powers and duties of an electric transmission
4 company and certificates of public convenience and necessity and permits for
5 certain electric generating facilities and high-voltage transmission lines.

Analysis by the Legislative Reference Bureau

With certain exceptions, current law prohibits a person from constructing a large electric generating facility or high-voltage transmission line unless the Public Service Commission (PSC) has granted the person a certificate of public convenience and necessity (CPCN). Current law defines a “large electric generating facility” as a facility designed for nominal operation at a capacity of 100 megawatts or more and a “high-voltage transmission line” as an electric transmission line exceeding one mile in length that is designed for operation at a nominal voltage of 100 kilovolts or more. Within 30 days after an application for a CPCN is filed, the PSC must determine whether the application is complete. If the PSC determines that an application is incomplete, the PSC must notify the applicant, who is allowed to refile the application. If the PSC fails to determine that an application is complete within 30 days after filing, current law provides that the application is considered to be complete. This bill clarifies that an application is considered to be complete if the PSC fails to determine that the application is complete within 30 days after filing or refile of the application.

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Current law also requires the PSC, within ten days after an application for a CPCN is filed, to submit copies of the application to the clerk of each city, village, and town in which the proposed large electric generating facility or high-voltage transmission line is to be located and to the main public library in each such county. This bill requires instead that the PSC must submit the copies within ten days after the PSC determines that the application is complete or after the application is considered to be complete. In addition, current law requires an applicant for a CPCN for a high-voltage transmission line to submit a detailed project plan to the Department of Natural Resources (DNR) at least 60 days prior to filing the CPCN application. This bill eliminates the requirement to submit the plan to DNR.

Current law also provides that, if an applicant for a CPCN is also required to obtain one or more permits from DNR, the applicant must use a procedure for submitting only one application to DNR for all of the required DNR permits (combined permit procedure), rather than submitting separate applications to DNR for each permit. However, the combined permit procedure does not apply if the only DNR permit the applicant is required to obtain is a storm water discharge permit. Current law specifies two deadlines for DNR to complete action on the permit applications. The first deadline is that DNR must complete action within 120 days after the date on which the permit application is complete or considered to be complete. Like the PSC, current law requires DNR to determine whether an application is complete within 30 days after filing, allows an applicant to refile an application that is incomplete, and specifies that, if DNR fails to determine that an application is complete within 30 days after filing or refiling, the application is considered to be complete. The second deadline is that DNR must complete action on the permit application within 30 days after the PSC issues its decision on the CPCN application. This bill provides that, if the combined permit procedure applies to an applicant, the second deadline applies to DNR, and not the first deadline.

Also under current law, certain electric utilities have contributed their transmission facilities to a transmission company, which is defined, in part, as a company whose sole purpose is the planning, constructing, operating, maintaining, and expanding of transmission facilities that it owns. In addition, under current law, the transmission company has certain duties and powers, including the power to purchase or acquire transmission facilities in addition to those contributed by the electric utilities, subject to any approvals that are required under federal or state law. This bill revises that power so that the transmission company is also allowed to purchase or acquire the right to provide transmission service over transmission facilities that it does not own. The bill makes a related change to the definition of "transmission company" so that the purpose of the transmission company is to provide transmission service, which is not limited to transmission facilities that it owns. Finally, the bill specifies that the transmission company may exercise its powers either directly or through one or more affiliates.

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

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1 **SECTION 1.** 196.485 (1) (ge) of the statutes is amended to read:

2 196.485 (1) (ge) “Transmission company” means a corporation organized under
3 ch. 180 or a limited liability company organized under ch. 183 that has as its sole
4 purpose the planning, constructing, operating, maintaining and expanding of
5 transmission facilities ~~that it owns, and the providing of transmission service,~~ to
6 provide for an adequate and reliable transmission system that meets the needs of all
7 users that are dependent on the transmission system and that supports effective
8 competition in energy markets without favoring any market participant.

9 **SECTION 2.** 196.485 (3m) (b) (intro.) of the statutes is amended to read:

10 196.485 (3m) (b) *Powers.* (intro.) The transmission company may, directly or
11 through one or more affiliates, do any of the following:

12 **SECTION 3.** 196.485 (3m) (b) 2. of the statutes is amended to read:

13 196.485 (3m) (b) 2. Subject to any approval required under state or federal law,
14 purchase or acquire transmission facilities in addition to the transmission facilities
15 contributed under sub. (5) (b) or purchase or acquire the right to provide
16 transmission service over transmission facilities that it does not own.

17 **SECTION 4.** 196.491 (3) (a) 1. of the statutes is amended to read:

18 196.491 (3) (a) 1. Except as provided in sub. (3b), no person may commence the
19 construction of a facility unless the person has applied for and received a certificate
20 of public convenience and necessity under this subsection. An application for a
21 certificate issued under this subsection shall be in the form and contain the
22 information required by commission rules and shall be filed with the commission not
23 less than 6 months prior to the commencement of construction of a facility. ~~Within~~
24 ~~10 days after filing an application under this subdivision, the commission shall send~~

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1 a copy of the application to the clerk of each municipality and town in which the
2 proposed facility is to be located and to the main public library in each such county.

3 **SECTION 5.** 196.491 (3) (a) 2. of the statutes is amended to read:

4 196.491 (3) (a) 2. The commission shall determine whether an application filed
5 under subd. 1. is complete and, no later than 30 days after the application is filed,
6 notify the applicant about the determination. If the commission determines that the
7 application is incomplete, the notice shall state the reason for the determination. An
8 applicant may supplement and refile an application that the commission has
9 determined to be incomplete. There is no limit on the number of times that an
10 applicant may refile an application under this subdivision. If the commission fails
11 to determine whether an application is complete within 30 days after the application
12 is filed or refiled, the application shall be considered to be complete. Within 10 days
13 after the commission determines that an application is complete or the application
14 is considered to be complete, the commission shall send an electronic copy of the
15 complete application to the clerk of each municipality and town in which the
16 proposed facility is to be located and to the main public library in each such county.
17 At the request of such a clerk or main public library, the commission shall also send
18 a paper copy of the application.

19 **SECTION 6.** 196.491 (3) (a) 3. a. of the statutes is amended to read:

20 196.491 (3) (a) 3. a. At least 60 days before a person files an application under
21 subd. 1., the person shall provide the department with an engineering plan if the
22 facility is a large electric generating facility ~~or a detailed project plan if the facility~~
23 ~~is a high-voltage transmission line.~~ The engineering ~~or project plan~~ shall show the
24 location of the facility, a description of the facility, including the major components
25 of the facility that have a significant air, water or solid waste pollution potential, and

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1 a brief description of the anticipated effects of the facility on air quality, water
2 quality, wetlands, solid waste disposal capacity, and other natural resources. Within
3 30 days after a person provides an engineering ~~or project~~ plan, the department shall
4 provide the person with a listing of each department permit or approval which, on
5 the basis of the information contained in the engineering ~~or project~~ plan, appears to
6 be required for the construction or operation of the facility.

7 **SECTION 7.** 196.491 (3) (a) 3. b. of the statutes is amended to read:

8 196.491 (3) (a) 3. b. Within 20 days after the department provides a listing
9 specified in subd. 3. a. to a person, the person shall apply for the permits and
10 approvals identified in the listing. The department shall determine whether an
11 application under this subd. 3. b. is complete and, no later than 30 days after the
12 application is filed, notify the applicant about the determination. If the department
13 determines that the application is incomplete, the notice shall state the reason for
14 the determination. An applicant may supplement and refile an application that the
15 department has determined to be incomplete. There is no limit on the number of
16 times that an applicant may refile an application under this subd. 3. b. If the
17 department fails to determine whether an application is complete within 30 days
18 after the application is filed, the application shall be considered to be complete. The
19 Except as provided in s. 30.025 (4), the department shall complete action on an
20 application under this subd. 3. b. for any permit or approval that is required prior
21 to construction of a facility within 120 days after the date on which the application
22 is determined or considered to be complete.

23 **SECTION 8. Initial applicability.**

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SECTION 8

1 (1) The treatment of section 196.491 (3) (a) 2. and 3. b. of the statutes first
2 applies to applications filed or refiled on the effective date of this subsection.

3 (END)