



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-4032/1
EHS:amn

2023 ASSEMBLY BILL 470

October 5, 2023 - Introduced by Representatives PETERSEN, MURSAU, O'CONNOR, PLUMER, STEFFEN, SWEARINGEN and WICHGERS, cosponsored by Senators BRADLEY, MARKLEIN and WANGGAARD. Referred to Committee on Energy and Utilities.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to create** 196.485 (1) (cr), 196.485 (1) (ef) and 196.485 (3g) of the statutes;
2 **relating to:** an incumbent transmission facility owner's right to construct,
3 own, and maintain certain transmission facilities and Public Service
4 Commission procedures if the transmission facility is a regionally cost-shared
5 transmission line.

Analysis by the Legislative Reference Bureau

This bill grants to an incumbent transmission facility owner the right to construct, own, and maintain a transmission facility that has been approved for construction in the Midcontinent Independent System Operator's (MISO) transmission plan and that connects to transmission facilities owned by that incumbent transmission facility owner. Under the bill, an "incumbent transmission facility owner" is a transmission company or a cooperative or public utility that owns a transmission facility and provides transmission service in this state. Under current law, MISO is an organization that is subject to the jurisdiction of the Federal Energy Regulatory Commission and that coordinates and controls electric transmission in a region of the country that includes this state. The bill provides that the right to construct, own, and maintain a transmission facility that connects to transmission facilities owned by two or more incumbent transmission facility owners belongs individually and proportionally to each incumbent transmission facility owner, unless otherwise agreed upon in writing.

The bill also defines "regionally cost-shared transmission line" to mean a high-voltage transmission line that is eligible for regional cost sharing and is not

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subject to a right of first refusal in accordance with the MISO tariff. Under the bill, if under MISO's transmission plan a regionally cost-shared transmission line has been approved for construction and connection to facilities owned by an incumbent transmission facility owner, the incumbent transmission facility owner must give the Public Service Commission written notice regarding the owner's intent to construct, own, and maintain the line no later than 90 days after approval of the transmission plan. If the owner indicates that it does not intent to construct the line, the bill requires it to fully explain that decision in the notice to PSC. In that case, the bill allows PSC to determine whether the incumbent transmission facility owner or another entity must construct the line, taking into consideration issues such as cost, efficiency, and reliability.

The bill requires an incumbent transmission facility owner with the right to construct a MISO-approved regionally cost-shared transmission line to include in any application for a certificate of public convenience and necessity an estimate of the cost of construction, along with documentation that the estimate is the result of competitively bid engineering, procurement, and construction contracts. The bill also requires such an incumbent transmission facility owner to provide to PSC until construction is complete quarterly reports that include updated estimates of the construction cost and an explanation of any changes from prior cost estimates.

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

1 **SECTION 1.** 196.485 (1) (cr) of the statutes is created to read:

2 196.485 (1) (cr) "Incumbent transmission facility owner" means a transmission
3 company or transmission utility.

4 **SECTION 2.** 196.485 (1) (ef) of the statutes is created to read:

5 196.485 (1) (ef) "Regionally cost-shared transmission line" means a
6 high-voltage transmission line that is eligible, in whole or in part, for regional cost
7 sharing and is not subject to a right of first refusal in accordance with the tariff of
8 the Midwest independent system operator.

9 **SECTION 3.** 196.485 (3g) of the statutes is created to read:

10 196.485 (3g) INCUMBENT TRANSMISSION FACILITY OWNER RIGHTS. (a) *Rights.*
11 Subject to the approval of the commission under s. 196.491 (3), an incumbent
12 transmission facility owner has the right to construct, own, and maintain a

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1 transmission facility that has been approved for construction in the Midwest
2 independent system operator's transmission plan and that connects to transmission
3 facilities owned by that incumbent transmission facility owner. The right to
4 construct, own, and maintain a transmission facility that connects to transmission
5 facilities owned by 2 or more incumbent transmission facility owners belongs
6 individually and proportionally to each incumbent transmission facility owner,
7 unless otherwise agreed upon in writing.

8 (b) *Commission procedure.* 1. If, in the Midwest independent system operator's
9 transmission plan, a regionally cost-shared transmission line has been approved for
10 construction and connection to facilities owned by an incumbent transmission
11 facility owner, the incumbent transmission facility owner shall give written notice
12 to the commission regarding the owner's intent to construct, own, and maintain the
13 regionally cost-shared transmission line no later than 90 days after approval of the
14 transmission plan.

15 2. If an incumbent transmission facility owner indicates in its notice to the
16 commission under subd. 1. that it does not intend to construct the regionally
17 cost-shared transmission line, it shall in the notice fully explain the basis for that
18 decision. In that case, the commission may determine whether the incumbent
19 transmission facility owner or another entity is required to construct the regionally
20 cost-shared transmission line, taking into consideration issues such as cost,
21 efficiency, reliability, and other factors identified in this chapter.

22 (c) *Cost control and requirement of competition.* With respect to a regionally
23 cost-shared transmission line approved by the Midwest independent system
24 operator, an incumbent transmission facility owner with the right to construct the
25 transmission line shall do all of the following:

