



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4857/1
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2019 ASSEMBLY BILL 712

January 8, 2020 - Introduced by Representative KUGLITSCH, cosponsored by Senator LEMAHIEU, by request of Public Service Commission of Wisconsin. Referred to Committee on Energy and Utilities.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to repeal* 196.209; *to amend* 30.025 (4) (c), 196.07 (1), 196.191 (3) (a) 2.,
2 196.203 (4m) (a), 196.31 (1) (intro.), 196.49 (5g) (ar) 1m. d., 196.491 (2) (f),
3 196.491 (3) (a) 1., 196.491 (3) (a) 2m. a., 196.499 (1) (b), 196.499 (1) (f) and 196.85
4 (3); *to repeal and recreate* 196.31 (2m); and *to create* 196.026 (7m), 196.20
5 (9) and 196.315 of the statutes; **relating to:** making various changes to statutes
6 administered by the Public Service Commission and requiring investor-owned
7 energy utilities to fund a consumer advocate.

Analysis by the Legislative Reference Bureau

This bill provides for funding for a consumer advocate and makes various changes to statutes administered by the Public Service Commission.

Consumer advocate funding. The bill requires the PSC to require investor-owned electric and natural gas public utilities (energy utilities) to provide funding to a “consumer advocate,” which is defined as the Citizens Utility Board that was created by the legislature in 1979 and subsequently dissolved and reorganized as a nonstock, nonprofit corporation. All actions of the consumer advocate that are funded under the bill must be directed toward a duty to represent and protect the interests of residential, small commercial, and small industrial energy customers of the state. The bill requires the consumer advocate to annually file with the PSC a budget, which the PSC must approve if it is consistent with the foregoing duty and

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covers reasonable annual costs, including salaries, benefits, overhead expenses, an operating reserve, and any other costs directly or indirectly related to representing and protecting the interests of the foregoing customers. However, the bill allows the PSC to approve the budget with conditions and modifications that the PSC determines are necessary. If the PSC fails to take final action within 60 days after a budget is filed, the PSC is considered to have approved the budget.

The bill limits the total annual funding for the consumer advocate to a maximum of \$900,000. Each energy utility's share of that total is based on an individual energy utility's proportionate share of residential, small commercial, and small industrial customer meters in the state, which each energy utility must annually report to the PSC. The bill requires the PSC to ensure in rate-making orders that energy utilities recover the funding from their customers. The PSC must apply escrow accounting treatment to energy utility expenditures for the funding.

The bill prohibits the consumer advocate from using the funding for lobbying or defraying the cost of participating in proceedings involving the rates or practices of municipal utilities and no other public utilities. The bill also limits the amount that the PSC may compensate the consumer advocate for participating in PSC proceedings. Under current law, if certain requirements are satisfied, the PSC is allowed to compensate participants in proceedings who are not public utilities. Under this bill, the PSC may grant no more than \$100,000 annually in such compensation to the consumer advocate.

Energy-related changes. The bill does all of the following:

1. Allows an applicant for a PSC-issued certificate that is required for a project involving a high-voltage transmission line to agree with the Department of Natural Resources to extend the deadline for DNR to take action on certain water-related permit applications that are also required for the project. Current law allows a similar agreement for an applicant for a different PSC-issued certificate that is required to construct a high-voltage transmission line.

2. Allows the PSC to approve without a hearing certain public utility fuel cost plans that are contained in settlement agreements.

3. Increases a cost threshold for exempting certain projects of natural gas utilities from the requirement to obtain a PSC-issued certificate. Under current law, the exemption applies if the project's estimated gross cost is not more than a specified dollar amount or 4 percent of the natural gas utility's operating revenues in the prior year, whichever is less. Under current law, the dollar amount is \$2,500,000. The bill increases the dollar amount to \$5,000,000.

4. Allows a person who proposes to construct a large electric generating facility and an associated high-voltage transmission line to submit a single application that covers the two PSC-issued certificates that are required, instead of submitting one application for the certificate for the facility and a separate application for the certificate for the line as required under current law. If a person submits a single application, the PSC must conduct a single proceeding for issuing the two certificates.

5. Eliminates a requirement for the PSC to prepare an environmental assessment on its biennial strategic energy assessment.

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Other changes. The bill also does the following:

1. Requires the PSC to ensure in rate-making orders that a public utility recovers from its ratepayers reasonable amounts spent on pension and other post-employment benefit costs. Also, if requested by a public utility, the PSC must prescribe escrow accounting treatment for that recovery.

2. Allows the PSC to collect past due assessments that are owed by persons subject to the PSC's jurisdiction. Current law specifies a procedure for collection that involves the Department of Administration. The bill eliminates that procedure and allows the PSC to collect the amount due in accordance with procedures the PSC establishes.

3. Requires public utilities to file annual balance sheets with the PSC by May 1, instead of April 1, as required under current law.

4. Eliminates a requirement for the PSC to promulgate rules establishing privacy guidelines for telecommunications services.

5. Eliminates a requirement for telecommunications providers to address privacy considerations before introducing new telecommunications service.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 30.025 (4) (c) of the statutes is amended to read:

2 30.025 (4) (c) Notwithstanding the deadline in par. (b), upon agreement
3 between the department and a person who submits an application under s. 196.49
4 or 196.491 (3) for a permit to construct a high-voltage transmission line, the
5 department shall grant or deny the application within 45 days after the department
6 receives all of the information necessary for it to carry out its obligations under this
7 subsection, as determined by the department.

8 **SECTION 2.** 196.026 (7m) of the statutes is created to read:

9 196.026 (7m) If a public utility's fuel cost plan is contained in a settlement
10 agreement, the commission may approve the fuel cost plan for the first year of a
11 2-year settlement agreement without holding a hearing.

12 **SECTION 3.** 196.07 (1) of the statutes is amended to read:

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1 196.07 (1) Each public utility shall close its accounts annually on December 31
2 and promptly prepare a balance sheet of that date. On or before the following April
3 May 1 every public utility shall file with the commission the balance sheet together
4 with; counts of the numbers of meters serving residential, small commercial, and
5 small industrial customers as of December 31; and any other information the
6 commission prescribes, verified by an officer of the public utility. The commission,
7 for good cause shown, may extend the time for filing the balance sheet and prescribed
8 information.

9 **SECTION 4.** 196.191 (3) (a) 2. of the statutes is amended to read:

10 196.191 (3) (a) 2. The commission may modify the new tariff after an
11 opportunity for a hearing only to the extent that the tariff violates s. 196.209,
12 196.212, or 196.219 and only to the extent that s. 196.209, 196.212, or 196.219 applies
13 to the telecommunications utility or alternative telecommunications utility.

14 **SECTION 5.** 196.20 (9) of the statutes is created to read:

15 196.20 (9) The commission shall ensure in rate-making orders that a public
16 utility recovers from its ratepayers reasonable amounts that the public utility
17 spends on pension and other post-employment benefit costs. If requested by the
18 public utility, the commission shall prescribe escrow accounting treatment for the
19 recovery of public utility expenditures related to pension and other
20 post-employment benefit costs.

21 **SECTION 6.** 196.203 (4m) (a) of the statutes is amended to read:

22 196.203 (4m) (a) The commission may impose s. 196.02 (1), (4), or (5), 196.04,
23 196.135, 196.14, 196.197, 196.199, 196.207, 196.208, ~~196.209~~, 196.218, 196.219 (1),
24 (2) (b), (c), or (d), (2r), or (3) (a), (d), (j), (m), (n), or (o), 196.25, 196.26, 196.39, 196.395,

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1 196.40, 196.41, 196.43, 196.44, 196.65, 196.66, 196.81, 196.85, 196.858, or 196.859
2 on an alternative telecommunications utility.

3 **SECTION 7.** 196.209 of the statutes is repealed.

4 **SECTION 8.** 196.31 (1) (intro.) of the statutes is amended to read:

5 196.31 (1) (intro.) ~~In~~ Except as provided in sub. (2m), in any proceeding before
6 the commission, the commission shall compensate any participant in the proceeding
7 who is not a public utility, for some or all of the reasonable costs of participation in
8 the proceeding if the commission finds that:

9 **SECTION 9.** 196.31 (2m) of the statutes is repealed and recreated to read:

10 196.31 (2m) The commission may grant no more than \$100,000 annually in
11 compensation under this section to the consumer advocate, as defined in s. 196.315
12 (2) (a).

13 **SECTION 10.** 196.315 of the statutes is created to read:

14 **196.315 Consumer advocate funding. (1) LEGISLATIVE STATEMENT OF INTENT**
15 **AND PURPOSE.** It is in the public interest that there be an independent, nonpartisan
16 consumer advocate for residential, small commercial, and small industrial energy
17 utility customers of this state and that the advocate be sufficiently funded by those
18 customers to allow for the representation and protection of their interests before the
19 commission and other venues. All actions by the advocate funded under this section
20 shall be directed toward such duty.

21 **(2) DEFINITIONS.** In this section:

22 (a) "Consumer advocate" means the body created under s. 199.04 (1), dissolved
23 under s. 199.17, and reorganized as a nonstock, nonprofit corporation under ch. 181.

24 (b) "Energy utility" means an investor-owned electric or natural gas public
25 utility.

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1 (c) "Municipal utility" has the meaning given in s. 196.377 (2) (a) 3.

2 (3) FUNDING. (a) Annually, within 60 days after a budget under sub. (5) is
3 approved, each energy utility shall pay to the consumer advocate the amount
4 specified under sub. (5) (e). In any year, the total of all amounts required to be paid
5 by energy utilities to the consumer advocate under this subsection may not exceed
6 \$900,000.

7 (b) The funds provided under par. (a) may not be used for any of the following:

8 1. Lobbying, as defined in s. 13.62 (10).

9 2. Defraying the cost of participating in proceedings involving the rates or
10 practices of municipal utilities and no other public utilities.

11 (c) The consumer advocate shall retain all relevant records supporting its
12 expenditure of funds provided under par. (a) for 3 years after receipt of the funds and
13 shall grant the commission access to the records upon request.

14 (4) COST RECOVERY. (a) *Rate-making orders.* The commission shall ensure in
15 rate-making orders that an energy utility recovers from its residential, small
16 commercial, and small industrial customers the amounts the energy utility pays
17 under sub. (3) (a).

18 (b) *Accounting.* The commission shall apply escrow accounting treatment to
19 expenditures required under this section.

20 (5) BUDGET REVIEW; APPROVAL. (a) The commission shall review the budgeting
21 and expenditure of funds provided to the consumer advocate under sub. (3) (a).

22 (b) Annually, by a date specified by the commission, the consumer advocate
23 shall file for the commission's approval an annual budget as approved by the
24 consumer advocate's board of directors. The commission may request additional
25 information from the consumer advocate related to the budget, and may consider any

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1 relevant factors, including existing operating reserves and actual costs in prior years
2 compared to the budgets approved by the commission.

3 (c) The commission shall approve a budget filed under this subsection if the
4 commission determines it is consistent with sub. (1) and covers the reasonable
5 annual costs of the consumer advocate, including salaries, benefits, overhead
6 expenses, the maintenance of an operating reserve, and any other cost directly or
7 indirectly related to representing and protecting the interests of residential, small
8 commercial, and small industrial energy utility customers. The commission may
9 approve the budget with such conditions and modifications as the commission
10 determines are necessary.

11 (d) If the commission fails to take final action under par. (c) within 60 days after
12 a budget is filed with the commission, the commission is considered to have approved
13 the budget that was submitted by the consumer advocate.

14 (e) Subject to sub. (3) (a), the total amount of the approved budget shall be paid
15 to the consumer advocate by the energy utilities. Each energy utility's share of the
16 total amount shall be based on the energy utility's proportionate share of the total
17 number of residential, small commercial, and small industrial customer meters
18 reported by energy utilities under s. 196.07 (1).

19 **SECTION 11.** 196.49 (5g) (ar) 1m. d. of the statutes is amended to read:

20 196.49 (5g) (ar) 1m. d. For a natural gas public utility, the cost threshold is
21 ~~\$2,500,000~~ \$5,000,000 or 4 percent of the public utility's natural gas operating
22 revenues in the prior year, whichever is less.

23 **SECTION 12.** 196.491 (2) (f) of the statutes is amended to read:

24 196.491 (2) (f) Section 1.11 (2) (c) shall not apply to a strategic energy
25 assessment prepared under par. (a) ~~but the commission shall prepare a single~~

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1 ~~environmental assessment on the strategic energy assessment, which shall include~~
2 ~~a discussion of generic issues and environmental impacts. The commission shall~~
3 ~~make the environmental assessment available to the public at least 30 days prior to~~
4 ~~the hearing under par. (g).~~

5 **SECTION 13.** 196.491 (3) (a) 1. of the statutes is amended to read:

6 196.491 (3) (a) 1. Except as provided in sub. (3b), no person may commence the
7 construction of a facility unless the person has applied for and received a certificate
8 of public convenience and necessity under this subsection. A person who proposes
9 to construct a large electric generating facility may apply for a certificate for that
10 facility and for another certificate for an associated high-voltage transmission line
11 for which a certificate under this subsection is required by submitting a single
12 application, and the commission shall consider that single application by conducting
13 a single proceeding and applying the requirements of this subsection to each facility
14 addressed in that application in the same manner that the commission applies the
15 requirements of this subsection to facilities for which separate applications are filed.

16 An application for a certificate issued under this subsection shall be in the form and
17 contain the information required by commission rules and shall be filed with the
18 commission not less than 6 months prior to the commencement of construction of a
19 facility. Within 10 days after filing an application under this subdivision, the
20 commission shall send an electronic copy of the application to the clerk of each
21 municipality and town in which the proposed facility is to be located and to the main
22 public library in each such county. At the request of such a clerk or main public
23 library, the commission shall also send a paper copy of the application.

24 **SECTION 14.** 196.491 (3) (a) 2m. a. of the statutes is amended to read:

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1 196.491 (3) (a) 2m. a. The application includes some but not all of the
2 information necessary to evaluate or approve the construction of transmission
3 facilities that may be associated with the proposed electric generating facility; and
4 a person other than the applicant will construct, or be responsible for the
5 construction of, the transmission facilities; and the application is not a single
6 application for both a certificate for a large electric generating facility and another
7 certificate for a high-voltage transmission line.

8 **SECTION 15.** 196.499 (1) (b) of the statutes is amended to read:

9 196.499 (1) (b) A telecommunications carrier shall be treated under ss.
10 ~~196.209~~, 196.218 (8) and 196.219 as a telecommunications provider.

11 **SECTION 16.** 196.499 (1) (f) of the statutes is amended to read:

12 196.499 (1) (f) For purposes of enforcing s. ~~196.209~~, 196.218 (3) or (8), 196.219,
13 196.85, or 196.858, or for purposes of approving or enforcing an interconnection
14 agreement to which a telecommunications carrier is a party, a telecommunications
15 carrier shall be subject to ss. 196.02 (3), 196.32, 196.33, 196.39, 196.395, 196.40,
16 196.41, 196.43, 196.44 (3), and 196.48 and be treated as a party to the agreement
17 under ss. 196.199 and 196.26, as a public utility under ss. 196.02 (5) and (6), 196.14,
18 196.24, 196.44 (2), 196.66, and 196.85 (1), and as a telecommunications provider
19 under ss. 196.25 (3) and 196.65 (3).

20 **SECTION 17.** 196.85 (3) of the statutes is amended to read:

21 196.85 (3) If any public utility, sewerage system, joint local water authority, or
22 power district is billed under sub. (1), (2), or (2e) and fails to pay the bill within 30
23 days or fails to file objections to the bill with the commission, as provided in sub. (4),
24 the commission shall ~~transmit to the secretary of administration a certified copy of~~
25 ~~the bill, together with notice of failure to pay the bill, and on the same day the~~

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1 ~~commission shall mail by registered mail to the public utility, sewerage system, joint~~
2 ~~local water authority, or power district a copy of the notice that it has transmitted~~
3 ~~to the state treasurer. Within 10 days after receipt of the notice and certified copy~~
4 ~~of the bill, the secretary of administration shall levy the amount stated on the bill to~~
5 ~~be due, with interest, by distress and sale of any property, including stocks,~~
6 ~~securities, bank accounts, evidences of debt, and accounts receivable belonging to the~~
7 ~~delinquent public utility, sewerage system, joint local water authority, or power~~
8 ~~district. The levy by distress and sale shall be governed by s. 74.10, 1985 stats.,~~
9 ~~except that it shall be made by the secretary of administration and that goods and~~
10 ~~chattels anywhere within the state may be levied upon collect the amount due in~~
11 ~~accordance with procedures established by the commission.~~

12

(END)