

09hr_AC-EU_ab0857_pt01



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Energy and Utilities...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (ab = Assembly Bill) (ar = Assembly Resolution) (ajr = Assembly Joint Resolution)
 - (sb = Senate Bill) (sr = Senate Resolution) (sjr = Senate Joint Resolution)
- Miscellaneous ... **Misc**

- None.

Registrations for Information Only

- None.

March 30, 2010

EXECUTIVE SESSION HELD

Present: (12) Representatives Soletski, Zepnick, Staskunas, Richards, Steinbrink, Parisi, Zigmunt, Huebsch, Montgomery, Honadel, Petersen and Zipperer.

Absent: (0) None.

Moved by Representative Montgomery, seconded by Representative Huebsch that **Assembly Amendment 1** be recommended for introduction.

Ayes: (12) Representatives Soletski, Zepnick, Staskunas, Richards, Steinbrink, Parisi, Zigmunt, Huebsch, Montgomery, Honadel, Petersen and Zipperer.

Noes: (0) None.

**INTRODUCTION OF ASSEMBLY AMENDMENT 1
RECOMMENDED, Ayes 12, Noes 0**

Moved by Representative Montgomery, seconded by Representative Zepnick that **Assembly Amendment 1** be recommended for adoption.

Ayes: (12) Representatives Soletski, Zepnick, Staskunas, Richards, Steinbrink, Parisi, Zigmunt, Huebsch, Montgomery, Honadel, Petersen and Zipperer.

Noes: (0) None.

**ASSEMBLY AMENDMENT 1 ADOPTION RECOMMENDED, Ayes
12, Noes 0**

Moved by Representative Huebsch, seconded by Representative Honadel that **Assembly Bill 857** be recommended for passage as amended.

Ayes: (12) Representatives Soletski, Zepnick, Staskunas, Richards, Steinbrink, Parisi, Zigmunt, Huebsch, Montgomery, Honadel, Petersen and Zipperer.

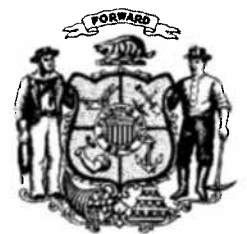
Noes: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 12, Noes 0

Steven Peters
Committee Clerk



WISCONSIN STATE LEGISLATURE



**Testimony of Peter Jaskoski,
Director of Government Relations for TransCanada USA Services
Regarding AB-857
Before the Assembly Committee on Energy and Utilities**

March 29th, 2010

Mr. Chairman, members of the Committee, I apologize for not being able to appear before you in person, but I appreciate the opportunity to provide this testimony to offer comments in support of the Bill amending Wis. Stats. §§ 706.09(3)(a) and 893.33(5). These amendments provide a necessary clarification of the Wisconsin law relating to right of way pipeline easements held by natural gas companies.

I comment today on behalf of TransCanada USA Services, parent company of ANR Pipeline Company (ANR) and Great Lakes Gas Transmission Limited (Great Lakes). Collectively known as TransCanada, these two natural gas pipeline companies are affected by the proposed legislation.

TransCanada operates one of the nation's largest interstate natural gas pipeline transportation systems which is regulated by the Federal Energy Regulatory Commission ("FERC"). ANR provides storage, transportation and various capacity related services to a variety of customers. Overall, TransCanada has approximately 10,600 miles of pipeline stretching from producing areas in the South continuing to the upper Midwest, including over 1,800 miles of pipeline in the State of Wisconsin. TransCanada cannot discontinue a provision of natural gas transportation services without authorization from FERC.

Great Lakes is similarly regulated by FERC. Great Lakes transports more than 2.2 billion cubic feet of natural gas per day through approximately 2,100 miles of dual, high-pressure pipelines, which extend from the international boundary near Emerson, Manitoba, through the states of Minnesota, Wisconsin, and Michigan, to the international boundary near Sault Ste. Marie and St. Clair, Michigan.

TransCanada procures and maintains right of way easements in multiple jurisdictions in order to operate its pipeline system and furnish energy related services to their customers.

Under Wisconsin law and the law in general, right of way easements constitute real property interests. The proposed legislation specifically addresses and rectifies ambiguities regarding the proper application of Wisconsin's notice re-filing requirements to such real property interests.

As currently enacted, Wis. Stat. § 706.09 operates to extinguish any interest in real property if the owner fails to re-file notice of that interest in the public land record every 30 years. A related statute of limitations provision, Wis. Stat. § 893.33, operates to bar any action or defense concerning an interest in real property if the recorded interest is more than 30 years old.

There are, however, exceptions to the present re-filing requirements. Wisconsin law does not impose a re-filing requirement for certain entities and utilities, including public service corporations, electric cooperatives, railroads, and governmental units (e.g., the Wisconsin Department of Transportation). These exceptions provide a practical alternative to the multiple re-recording of easements on numerous parcels for the named entities and alleviate the administrative burden on local register of deeds offices. This results in protection of property rights which are used to provide essential services to the general public.

While TransCanada believes that they fall under the “public service corporation” exception under the present statutory language, AB-857 would operate to clarify the matter by creating a specific exception for real estate owned by any natural gas company, as defined in 15 U.S.C. § 717a(6).¹ This proposed definition clearly encompasses TransCanada’s operations and other similarly situated natural gas pipeline companies. TransCanada supports this legislation for the following reasons:

- The nature of natural gas pipeline placement is nearly identical to the other entities currently excepted from the filing requirement
- The intent of the law is to allow purchasers of real property to be aware of interests in the property that may not be obvious—a pipeline easement is very obvious.
- Wisconsin’s real estate condition report requirement mandates the disclosure of the existence of transportation pipelines during the sale of property.
- TransCanada, like public service corporations, must comply with Wisconsin’s one-call system (“digger’s hotline”).
- No other states in which the pipelines operate possess this type of filing requirement.
- If TransCanada is not exempted from this statute, this requirement would cause a tremendous burden on local register of deeds offices.
- If TransCanada is not exempted from this statute, this could lead to increased costs for natural gas transportation into Wisconsin and eventually increased costs to consumers.

I would also like to point out that the language in AB-857 regarding natural gas companies was a stand-alone bill last session, SB-565. It received a public hearing and had no opposition.

In sum, the proposed amendments would clarify the scope of the notice re-filing requirements relative to right of way pipeline easements held by natural gas companies while protecting the property rights of companies providing services to the public.

Thank you for your consideration of AB-857.





CORPORATE HEADQUARTERS: P.O. BOX 47 • WAUKESHA, WI 53187-0047
262-506-6700 • Toll Free: 866-899-3204 • Fax: 262-506-6124 • www.atclic.com

March 30, 2010

To: Assembly Committee on Energy and Utilities

From: Stephen Parker
Manager, State Regulatory Affairs
American Transmission Company

Re: Testimony in Support of AB 857

AB 857 clarifies the process found in *Wis. Stat.* § 196.491(4)(c)1. for obtaining approval to construct a high-voltage electric transmission line designed for operation at a nominal voltage of less than 345 kilovolts within the right-of-way of an existing electric transmission line. This statute provides an exemption from the need to obtain a Certificate of Public Convenience and Necessity ("CPCN") from the Public Service Commission. As such, it promotes the use of existing corridors rather than creating new ones, consistent with the siting priorities found in *Wis. Stat.* § 1.12(6), Siting of Electric Transmission Facilities, which is part of the State Energy Policy. Transmission line projects would remain subject to all other approval requirements of the Commission, including the requirement to obtain a Certificate of Authority under *Wis. Stat.* § 196.49.

The bill removes the ambiguity found in *Wis. Stat.* § 196.491(4)(c)1. regarding construction activity "within the area of an existing transmission line right-of-way" by specifying that the centerline of the new transmission line may be up to sixty feet from the centerline of an existing line. Clarifying this matter helps promote the use of the CPCN exemption and avoids the need to develop an alternate transmission line route, a process that can increase both landowner concern and project cost. It also offers the potential to make minor route alignment adjustments, without triggering the need for a CPCN, to reduce the impact of an existing transmission line that is being rebuilt and address landowner concerns such as proximity to buildings and impact on farming operations as well as to reduce the impact on wetlands presently crossed by the line.

Helping to **keep the lights on**, businesses running and communities strong™



Testimony of Representative Jim Soletski
Assembly Bill 857
Assembly Energy and Utilities Committee
March 30, 2010

Thank you for the opportunity to testify before you today on Assembly Bill 857. I have worked with many different groups as well as Senator Plale to craft three key components of this bill which will eliminate current law ambiguities and bring clarity to several state statutes.

One part of this bill clarifies the planning and approval process for transmission facilities located in existing corridors. We can lower project costs, reduce the impact of an existing transmission line by allowing minor adjustments, promoting the use of existing rights-of-way, and removing ambiguity in current law.

Another part of AB 857 updates state statutes to reflect the significant evolution of the electric industry over the past 30 years. The first change would allow out-of-state municipal utilities to join WPPI as members. Current Wisconsin law does not allow formal WPPI membership for the three Iowa and seven Michigan utilities under long-term service contracts with WPPI. This means they do not have a vote in organizational matters. The second change eliminates a potential ambiguity concerning a municipal electric company's authority to conduct business with non-U.S. companies. In practice, as a participant in regional wholesale markets throughout the Midwest and Canada, WPPI and other Wisconsin utilities do business with Canadian utilities. This bill adds to the statutory definition of "person" and "public agency" to ensure that these practices continue.

Finally, a third part of AB 857 clarifies an ambiguous section of our state statutes related to easements. Currently, an owner of an interest in real property must file a notice of that interest every 30 years or that interest will be deemed extinguished. Several entities are exempt from this requirement in order to ease the burden on local register of deeds offices and to avoid the impracticality of recording numerous parcels for certain entities. These exempt entities include public service corporations, electric cooperatives, governmental units, railroads, and trustees. Although TransCanada pipeline firmly believes it currently falls under the public service corporation exception, AB 857 includes specific statutory language to clarify and validate an exemption for interstate natural gas transmission. This exemption is similar to those seen in other states where TransCanada operates and can help keep rates down for Wisconsin natural gas consumers.

In addition I will be offering an amendment which clarifies the exempt status of cooperatives as it relates to CPCNs for building and modifying transmission lines in existing rights of way.

Thank you for your consideration of this bill.