

State of Wisconsin



1995 Assembly Bill 912

Date of enactment: **June 6, 1996**
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1995 WISCONSIN ACT 409

AN ACT to amend 196.01 (5), 196.213 (2), 196.26 (1), 196.37 (1), 196.491 (2) (i) (intro.), 1. and 2., 196.50 (1) (a) and 196.604 of the statutes; **relating to:** an indeterminate permit to operate a public utility; investigation by the public service commission of the reasonableness of public utility rates; updating the definition of complaint; deleting the requirement that a small telecommunications utility submit a list of its published consumers to the public service commission when proposing a rate increase; updating the definition of public utility; the advance planning of electric generating facilities and transmission lines; and rebates, concessions and discrimination by public utilities (suggested as remedial legislation by the public service commission).

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the public service commission and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 196.01 (5) of the statutes is amended to read:

196.01 (5) "Public utility" means every corporation, company, individual, association, their lessees, trustees or receivers appointed by any court, and every sanitary district, town, village or city that may own, operate, manage or control any toll bridge or all or any part of a plant or equipment, within the state, for the production, transmission, delivery or furnishing of heat, light, water or power either directly or indirectly to or for the public. "Public utility" does not include a cooperative association organized under ch. 185 for the purpose of producing or furnishing heat, light, power or water to its members only. "Public utility" includes any person engaged in the

transmission or delivery of natural gas for compensation within this state by means of pipes or mains and any person, except a governmental unit, who furnishes services by means of a sewerage system either directly or indirectly to or for the public. "Public utility" includes a telecommunications utility. "Public utility" does not include a holding company, as defined in s. 196.795 (1) (h), unless the holding company furnishes, directly to the public, telecommunications or sewer service, heat, light, water or power or, by means of pipes or mains, natural gas. "Public utility" does not include any company, as defined in s. 196.795 (1) (f), which owns, operates, manages or controls a telecommunications utility unless the company furnishes, directly to the public, ~~telephone, telegraph~~ telecommunications or sewer service, heat, light, water or power or, by means of pipes or mains, natural gas. "Public utility" does not include a cellular mobile radio telecommunications utility.

NOTE: This amendment revises the definition of "public utility" by deleting the word "telephone" and inserting the updated term "telecommunications". It also eliminates the reference to "telegraph" service, which has been deregulated.

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

SECTION 2. 196.213 (2) of the statutes is amended to read:

196.213 (2) Unless subject to ss. 196.28 and 196.37 as they apply to any rate, toll or charge and to ss. 196.02 (2), 196.09 (2) to (7), 196.11 (2), 196.20 and 196.26, at least 60 days and not more than 100 days before the effective date of a rate increase proposed by a small telecommunications utility, the small telecommunications utility shall notify each of its consumers and the commission of the proposed rate increase. Notice to the commission shall include a list of the small telecommunications utility's published consumers and a summary of the justification for the proposed rate increase. Notice by the small telecommunications utility to all consumers shall be by mail and shall include a schedule of the proposed rates, tolls and charges, the effective date of the rates, tolls and charges and the procedure necessary for consumers to petition the commission to determine rates, tolls or charges in lieu of the proposed rates, tolls or charges, including but not limited to a notice that the deadline for commission receipt of petitions is 60 days after a small telecommunications utility mails notice of a proposed rate increase to consumers. The proposed notice to consumers shall be submitted to the commission for approval. The commission may reject the proposed notice if the notice is misleading. If the commission does not act on the proposed notice within 10 days after receiving it, the notice is considered approved. If a small telecommunications utility inserts the procedures to petition the commission in the telephone directory published by the utility, the directory shall describe the petitioning procedures under s. 196.215 (3) (a) and (cm). A reference in an approved notice to the location of the procedure described in the directory shall be adequate notice of the procedure to consumers billed for local telecommunications service access lines.

NOTE: This amendment deletes the requirement found in current law that, when notifying the public service commission of a proposed rate increase, a small telecommunications utility submit a list of its published consumers. Directories of these consumers are already on file with the public service commission.

SECTION 3. 196.26 (1) of the statutes is amended to read:

196.26 (1) COMPLAINT. In this section "complaint" means a complaint filed with the commission that any rate, toll, charge or schedule, joint rate, regulation, measurement, act or practice relating to the provision of heat, light, water, power or telephone telecommunications service is unreasonable, inadequate, unjustly discriminatory or cannot be obtained.

NOTE: This amendment revises the definition of "complaint" by deleting the word "telephone" and inserting the updated term "telecommunications".

SECTION 4. 196.37 (1) of the statutes is amended to read:

196.37 (1) If, after an investigation under this chapter and or ch. 197, the commission finds rates, tolls, charges, schedules or joint rates to be unjust, unreasonable, insufficient or unjustly discriminatory or preferential or otherwise unreasonable or unlawful, the commission shall determine and order reasonable rates, tolls, charges, schedules or joint rates to be imposed, observed and followed in the future.

NOTE: This amendment clarifies that the public service commission, when it conducts rate investigations regarding the reasonableness of public utility rates, does so under either ch. 196 or 197, and not under both chapters.

SECTION 5. 196.491 (2) (i) (intro.), 1. and 2. of the statutes are amended to read:

196.491 (2) (i) (intro.) Except as provided under s. 196.493, a plan shall be approved if, upon the record of the hearing and the written comments submitted under pars. (c) and (e), the commission determines that the plan meets all of the following conditions:

1. Will provide for a reasonably adequate supply of electrical energy to meet the needs of the public during the planning period;
2. Is in the public interest when considering engineering, economic, health, safety, reliability, efficiency and environmental factors and alternate methods of generation or sources of supply; and.

NOTE: This SECTION amends the punctuation of the 4 criteria set forth in s. 196.491 (2) (i) so that the public service commission (PSC) must approve an advance plan for electric generating facilities and transmission lines, if the plan satisfies all 4 criteria, to conform the text to the legislative intent to require satisfaction of all 4 criteria. As initially enacted, the punctuation lent itself to an interpretation that the PSC must approve the advance plan if the criteria in s. 196.491 (2) (i) 1 to 3., stats., are satisfied or if the criterion in s. 196.491 (2) (i) 4., stats., is satisfied.

SECTION 6. 196.50 (1) (a) of the statutes is amended to read:

196.50 (1) (a) The commission may not grant any person a license, permit or franchise to own, operate, manage or control any plant or equipment for the production, transmission, delivery or furnishing of heat, light, water or power in the municipality, if there is in operation under an indeterminate permit a public utility engaged in similar service in the municipality ~~under an indeterminate permit~~, unless the person seeking the license, permit or franchise secures from the commission a declaration, after a public hearing of any interested party, that public convenience and necessity require the delivery of service by the applicant.

NOTE: This amendment deletes the 2nd mention of the phrase "under an indeterminate permit" from s. 196.50 (1) (a), where it is mentioned twice and the 2nd mention is redundant. This statute prohibits the public service commission from issuing a license, permit or franchise for a public utility if a public utility currently provides similar service under an indeterminate permit, unless the person seeking the license, permit or franchise receives a certificate of necessity from the commission.

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SECTION 7. 196.604 of the statutes is amended to read:

196.604 Rebates, concessions and discriminations unlawful. No person may knowingly solicit, accept or receive any rebate, concession or discrimination from a public utility for any service in or affecting or relating to the production, transmission, delivery or furnishing of heat, light, water or power or the conveying of ~~telephone~~ telecommunications messages within this state or for any

connected service whereby the service is rendered or is to be rendered free or at a rate less than the rate named in the schedules and tariffs in force, or whereby any other service or advantage is received. Any person violating this section shall be fined not less than \$50 nor more than \$5,000 for each offense.

NOTE: This amendment deletes the word "telephone" and inserts the updated term "telecommunications" into the statute relating to unlawful rebates, concessions and discriminations from public utilities.
