



2011 ASSEMBLY BILL 145

May 20, 2011 - Introduced by Representatives KLENKE, NYGREN, BERNIER, PETRYK and LOUDENBECK, cosponsored by Senators HOPPER, GALLOWAY and LEIBHAM. Referred to Committee on Energy and Utilities.

1 **AN ACT** *to create* 196.191 of the statutes; **relating to:** authorizing the Public
2 Service Commission to approve temporary electric rates to promote economic
3 development.

Analysis by the Legislative Reference Bureau

This bill permits the Public Service Commission (PSC) to approve a proposal by an electric public utility to offer discounted rates to a qualifying industrial customer specified in the electric public utility's proposal if the PSC determines that the discounted rates will promote economic development in a service territory of the electric public utility located in this state.

Under the bill, a prospective customer of the electric public utility with no industrial operations in this state may qualify for discounted rates if the customer demonstrates that it will establish operations in this state if it receives the discounted rates. A current customer of the electric public utility may qualify for discounted rates if the customer demonstrates that it will increase its energy consumption in the service territory of the electric public utility located in this state by 5 percent over its average energy consumption over the previous 36 months. A current customer of the electric public utility may also qualify for discounted rates if the customer demonstrates to the satisfaction of the electric public utility that it will be unable to maintain operations in this state without a discounted rate and it falls into one of the following categories: 1) the customer has received economic development assistance of at least \$500,000 from a local governmental unit or state agency within the calendar year preceding a request for a discounted rate from the

ASSEMBLY BILL 145

electric public utility; or 2) the customer will receive such economic development assistance within two calendar years following a request for a discounted rate from the electric public utility.

The PSC must review and either approve or deny a proposal to offer discounted rates within 90 days after receiving the proposal. If the PSC does not approve the proposal, the PSC must provide the reasons for its decision and shall permit the electric public utility to submit a revised proposal.

The bill prohibits a customer from receiving a discounted rate for merely shifting operations from one electric provider in this state to another electric provider in this state. Similarly, the bill prohibits a customer from receiving a discounted rate for increasing the amount of energy purchased from one electric provider in this state while concurrently or proximately decreasing the amount of energy purchased from another electric provider in this state. The bill defines "electric provider" as an electric public utility or retail electric cooperative. Finally, the bill prohibits a customer from receiving a discounted rate for increasing energy consumption in one electric public utility service territory located in this state while decreasing energy consumption in another electric public utility service territory located in this state.

If the PSC approves the proposal, the electric public utility may offer the discounted rates for up to five years. The discounted rate would apply only to the incremental increase in energy usage over the customer's base energy usage. The bill defines "base energy usage" as the customer's average energy usage over the previous 12 months. The PSC would be required to ensure that the electric public utility recovers at least 105 percent of the electric public utility's marginal costs for providing service to the customer receiving the discounted rate. The PSC must also ensure that the electric public utility recovers the difference between the discounted and nondiscounted rates from all of the electric public utility's customers in the electric public utility's next subsequent rate-making proceeding.

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

- 1 **SECTION 1.** 196.191 of the statutes is created to read:
- 2 **196.191 Temporary rates for economic development. (1)** In this section:
- 3 (a) "Local governmental unit" means a political subdivision of this state, a
- 4 special purpose district in this state, an instrumentality or corporation of such a
- 5 political subdivision or special purpose district, a combination or subunit of any of
- 6 the foregoing, or an instrumentality of this state and any of the foregoing.

ASSEMBLY BILL 145

1 (b) "Prospective customer" means a person with no industrial operations in this
2 state.

3 (c) "State agency" has the meaning given in s. 101.177 (1) (d).

4 **(2)** (a) Subject to sub. (4), the commission may approve a proposal filed by an
5 electric public utility to offer discounted rates for a time not to exceed 5 years to a
6 prospective customer specified in the proposal if all of the following apply:

7 1. The prospective customer submits a sworn affidavit that demonstrates to the
8 satisfaction of the electric public utility that the prospective customer will establish
9 industrial operations in this state if the electric public utility offers the discounted
10 rates to the prospective customer.

11 2. The commission determines that the discounted rates will promote economic
12 development in a service territory of the electric public utility that is located in this
13 state.

14 (b) Subject to sub. (4), the commission may approve a proposal filed by an
15 electric public utility to offer discounted rates for a time not to exceed 5 years to an
16 industrial customer of the electric public utility specified in the proposal if all of the
17 following apply:

18 1. The commission determines that the discounted rates will promote economic
19 development in a service territory of the electric public utility that is located in this
20 state.

21 2. The customer has received within the most recent calendar year preceding
22 a request for a discounted rate or the customer will receive within the 2 calendar
23 years following a request for a discounted rate economic development assistance of
24 at least \$500,000 from a local governmental unit or state agency.

ASSEMBLY BILL 145

1 3. Subject to par. (d), the customer submits a sworn affidavit to the electric
2 public utility indicating all of the following:

3 a. The customer will be unable to maintain or would be required to
4 substantially curtail operations in a service territory of the electric public utility that
5 is located in this state if the customer did not receive or qualify to receive the
6 economic development assistance described in subd. 2.

7 b. The customer will be unable to maintain or would be required to
8 substantially curtail operations in a service territory of the electric public utility that
9 is located in this state if the customer does not receive the discounted rate.

10 (c) Subject to sub. (4), the commission may approve a proposal filed by an
11 electric public utility to offer discounted rates for a time not to exceed 5 years to an
12 industrial customer of the electric public utility specified in the proposal if, subject
13 to par. (d), the customer demonstrates to the satisfaction of the electric public utility
14 that it will increase its energy consumption in a service territory of the electric public
15 utility that is located in this state by an amount equal to at least 5 percent over the
16 average of the energy consumed by that customer in that service territory over the
17 previous 36 months, but only if the customer receives the discounted rate.

18 (d) 1. In this paragraph, “electric provider” means an electric public utility or
19 a retail electric cooperative, as defined in s. 196.378 (1) (k).

20 2. The transfer of operations by a customer from one electric provider located
21 in this state to another electric provider located in this state for the purpose of
22 satisfying the requirements under par. (b) 3. b. or (c) shall render the customer
23 ineligible for a discounted rate under par. (b) or (c).

24 3. A customer of more than one electric provider that increases the amount of
25 energy purchased from one electric provider located in this state while concurrently

ASSEMBLY BILL 145

1 or proximately decreasing the amount of energy purchased from another electric
2 provider located in this state shall not be eligible for a discounted rate under par. (b)
3 or (c).

4 4. A customer that increases energy consumption in one service territory of the
5 electric public utility that is located in this state while concurrently or proximately
6 decreasing energy consumption in another service territory of the electric public
7 utility that is located in this state shall not be eligible for a discounted rate under par.
8 (b) or (c).

9 **(3)** (a) A proposal submitted under this section shall include the marginal costs
10 to the electric public utility to provide the proposed discounted rates.

11 (b) The commission shall review and notify an electric public utility in writing
12 whether the commission approves or denies a proposal for discounted rates filed
13 under sub. (2) (a), (b), or (c) within 90 days after the commission receives the
14 proposal. If the commission does not approve the proposal, the commission shall
15 include the reasons in its decision, including identifying modifications that would
16 improve the likelihood that the proposal promotes economic development, and shall
17 permit the electric public utility to submit a revised proposal.

18 **(4)** (a) A discounted rate offered to a customer under this section shall apply
19 only to the incremental increase in the customer's energy usage over the customer's
20 base energy usage. A customer's base energy usage shall be the customer's average
21 energy usage over the 12 months preceding the date on which the electric public
22 utility submitted to the commission the initial proposal to offer a discounted rate to
23 the customer.

24 (b) If the commission approves a discounted rate under this section, the
25 commission shall ensure that the electric public utility recovers at least 105 percent

ASSEMBLY BILL 145

1 of the marginal costs to the electric public utility to provide service to the customer
2 receiving the discounted rate under this section.

3 **(5)** (a) Nothing in s. 1.12, 196.192, 196.37, or 196.60 prohibits the commission
4 from approving a proposal under sub. (2).

5 (b) If the commission approves a proposal for discounted rates filed under sub.
6 (2) (a), (b), or (c), the commission shall ensure that the electric public utility recovers
7 the difference between the discounted and nondiscounted rates from all customers
8 of the electric public utility in the electric public utility's next subsequent
9 rate-making proceeding.

10 **(END)**