

# State of Wisconsin



2021 Assembly Bill 27

Date of enactment:  
Date of publication\*:

## 2021 WISCONSIN ACT

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

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

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

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

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

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

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

196.07 (1) Each public utility shall close its accounts annually on December 31 and promptly prepare a bal-

ance sheet of that date. On or before the following ~~April~~ May 1 every public utility shall file with the commission the balance sheet ~~together with:~~ counts of the numbers of meters serving residential, small commercial, and small industrial customers as of December 31; and any other information the commission prescribes, verified by an officer of the public utility. The commission, for good cause shown, may extend the time for filing the balance sheet and prescribed information.

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

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

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

196.20 (9) The commission shall ensure in rate-making orders that a public utility recovers from its ratepayers reasonable amounts that the public utility spends on pension and other post-employment benefit costs. If

\* Section 991.11, WISCONSIN STATUTES: 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."

requested by the public utility, the commission shall prescribe escrow accounting treatment for the recovery of public utility expenditures related to pension and other post-employment benefit costs.

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

196.203 (4m) (a) The commission may impose s. 196.02 (1), (4), or (5), 196.04, 196.135, 196.14, 196.197, 196.199, 196.207, 196.208, ~~196.209~~, 196.218, 196.219 (1), (2) (b), (c), or (d), (2r), or (3) (a), (d), (j), (m), (n), or (o), 196.25, 196.26, 196.39, 196.395, 196.40, 196.41, 196.43, 196.44, 196.65, 196.66, 196.81, 196.85, 196.858, or 196.859 on an alternative telecommunications utility.

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

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

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

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

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

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

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

(2) DEFINITIONS. In this section:

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

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

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

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

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

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

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

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

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

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

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

(b) Annually, by a date specified by the commission, the consumer advocate shall file for the commission's approval an annual budget as approved by the consumer advocate's board of directors. The commission may request additional information from the consumer advocate related to the budget, and may consider any relevant factors, including existing operating reserves and actual costs in prior years compared to the budgets approved by the commission.

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

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

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

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

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

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

196.491 (2) (f) Section 1.11 (2) (c) shall not apply to a strategic energy assessment prepared under par. (a) ~~but the commission shall prepare a single environmental assessment on the strategic energy assessment, which shall include a discussion of generic issues and environmental impacts. The commission shall make the environmental assessment available to the public at least 30 days prior to the hearing under par. (g).~~

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

196.491 (3) (a) 1. Except as provided in sub. (3b), no person may commence the construction of a facility unless the person has applied for and received a certificate of public convenience and necessity under this subsection. A person who proposes to construct a large electric generating facility may apply for a certificate for that facility and for another certificate for an associated high-voltage transmission line for which a certificate under this subsection is required by submitting a single application, and the commission shall consider that single application by conducting a single proceeding and applying the requirements of this subsection to each facility addressed in that application in the same manner that the commission applies the requirements of this subsection to facilities for which separate applications are filed. An application for a certificate issued under this subsection shall be in the form and contain the information required by commission rules and shall be filed with the commission not less than 6 months prior to the commencement of construction of a facility. Within 10 days after filing an application under this subdivision, the commission

shall send an electronic copy of the application to the clerk of each municipality and town in which the proposed facility is to be located and to the main public library in each such county. At the request of such a clerk or main public library, the commission shall also send a paper copy of the application.

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

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

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

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

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

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