

Public Utilities Legislative Update March 2020



Zach Ramirez

Assistant General Counsel

Legislative Update – Act 9 (Budget)

- Repealed the three-year limit on firm sales of electricity from an affiliate to a public utility. [repealed s. 196.491 (3m) (c) 3.]
- Provided an additional \$100,000, each year, for intervenor compensation, for a total annual appropriation of \$842,500.
- Increased funding for the Broadband Expansion Grant program by \$22 million in FY 19-20 and \$22 million in FY 20-21. (A total of \$24 million in broadband funding is available for FY 19-20).
- Generally, reduced the permissible video service provider fee percentage by 0.5% (50 basis points) in CY 2020, and by an additional 0.5% (total 100 basis point reduction) in CY 2021. Municipalities reimbursed for the difference from shared revenue.
- Veto message directs DOA to allocate up to \$10 million of the remaining VW settlement funds for grants for electric vehicle charging stations that are “located in a public place, workplace, or multi-unit dwelling.” [Eligible Mitigation Action #9.]

Legislative Update – Act 14

Wireless Facilities and Public ROW

- Addressed by Richard's presentation
- Nonstatutory Provision creating a ROW Study Committee to commence no later than June 1, 2020.
- Scope: To study laws regarding use by private entities of public ROW, including: access to and placement of facilities in public ROW; fees; procedures for locating and obtaining access to facilities; disputes; appeals; condemnation; remediation and maintenance requirements.

Legislative Update – Act 14

Study Committee Membership

1. The governor or his or her designee.
2. Two senators appointed by the senate majority leader or an appointed senator's designee.
3. One senator appointed by the senate minority leader or the appointed senator's designee.
4. Two representatives to the assembly appointed by the speaker of the assembly or an appointed representative's designee.
5. One representative to the assembly appointed by the minority leader of the assembly or the appointed representative's designee.
6. One representative from each of the following appointed jointly by the speaker of the assembly and the senate majority leader:
 - The Wisconsin Counties Association.
 - The League of Wisconsin Municipalities.
 - The Wisconsin Towns Association.
 - The Wisconsin State Telecommunications Association.
 - The Wisconsin Cable Communications Association.
 - The Wisconsin Utilities Association.
7. Two representatives of the wireless community appointed jointly by the speaker of the assembly and the senate majority leader.
8. Two representatives of the electric distribution community appointed jointly by the speaker of the assembly and the senate majority leader.
9. One representative of a cooperative association appointed jointly by the speaker of the assembly and the senate majority leader.
10. One representative of a municipal electric utility appointed jointly by the speaker of the assembly and the senate majority leader.

Legislative Update – Act 33

RE: Damage and Trespass

- Increased the penalty from a Class A misdemeanor to a Class H felony for intentionally **causing damage** to property owned, leased, or operated by a
 - (1) public water utility;
 - (2) a coop that furnishes water;
 - (3) a company that operates a gas, oil, petroleum, refined petroleum product, renewable fuel, water, or chemical generation, storage transportation, or delivery system.
- Increased the penalty from a Class B forfeiture to a Class H felony for intentionally **entering property** without lawful authority or consent of the owner, for the entities listed above.
- **Exemptions for:** monitoring compliance with public worker safety laws or other statutory requirements, engaging in picketing at the workplace that is otherwise lawful, engaging in union organizing activities that are otherwise lawful, engaging in a right of free speech or assembly that is otherwise lawful.

Legislative Update – Act 45

Levy Limit Exemption

- Creates a new exception under the levy limit law, allowing a political subdivision to raise its levy to replace revenue lost due to a reduction in utility aid payments as a result of closure or decommissioning of a power plant.
- **Background:** After a power plant is closed or decommissioned, utility aid payments associated with that plant are reduced 20 percent annually over a five-year period. Except as approved by local referendum, a political subdivision may not exceed levy limits as calculated and imposed under s. 66.0602, Stats.

Legislative Update – Act 59

Wetland Mitigation Banking

- Creates locational criteria that determine where and from whom credits must be purchased, if available. Generally requires that, if available, credits must be purchased according the following prioritization:
 - From a bank located in the same subbasin as the wetland impacts.
 - From a bank located within the same service bank area as the wetland impacts.
 - From a bank located within the same basin as the wetland impacts.
 - ***Unless DNR, in consultation with USACE, determines that deviating from this prioritization better serves natural resource goals.
- Modifies the timeline by which an approved mitigation bank may release credits for wetland mitigation.
- Creates certain requirements that apply to the legal and financial documents that govern a mitigation bank's operations.

Legislative Update – AB 344

Personal Property Tax Exemption for Broadband Service Property

Exempts from the personal property tax that applies to telephone companies tangible personal property that meets any of the following standards:

- The property is installed in a rural area **prior to** 1/1/2020, and is used to provide Internet service to the rural area at actual speeds that are at least a download speed of 25 megabits per second and an upload speed of 3 megabits per second.
- The property is installed in a rural or underserved area **after** 12/31/2019, and is used to provide Internet service to the rural or underserved area at actual speeds that meet or exceed the higher of the following thresholds:
 - A download speed of 25 Mbps and an upload speed of 3 Mbps.
 - The download and upload speed benchmarks for fixed services as designated by FCC

Legislative Update – AB 712/SB689

Consumer Advocate Funding

- CUB must annually file a budget by a date specified by the Commission.
- The Commission shall approve the budget if it is consistent with CUB's duty to provide independent, nonpartisan advocacy and covers reasonable annual costs. Passive approval after 60 days.
- The Commission may approve the budget with conditions and modifications.
- The total amount of an approved budget, up to a maximum of \$900,000, shall be paid by IOU electric and gas utilities.
- Each IOU's share of the payment shall be based on the IOU's proportionate share of the total number of residential, small commercial, and small industrial customer meters reported by the IOUs in their annual reports.
- The Commission must ensure that IOUs recover the funding from their residential, small commercial, and small industrial customers.
- CUB may not use the funds for lobbying or participating in a proceeding that does not include an IOU.
- Prohibits the Commission from granting CUB more than \$100,000 annually in general intervenor compensation funds.

Legislative Update – AB 712/SB689

Construction Provisions

- Authorizes DNR and an applicant for a **CA** for a transmission line to agree to extend DNR's deadline from 30 days to 45 days for certain DNR permits, including wetland, storm water, and other permits. (CPCNs already covered).
- Updates the cost threshold for qualifying for an exemption from the requirement to apply for a CA for a gas construction project from \$2.5 million to \$5 million (or 4% of the utility's operating revenues, if that is less).
- Allows a person who proposes to construct a large electric generating facility and an associated transmission line to submit a single application that covers both CPCNs. The PSC must conduct a single proceeding and apply the relevant statutory requirements in the same manner that it applies them to facilities for which separate CPCN applications are filed.

Legislative Update – AB 712/SB689

Other Provisions

- Extends from April 1 to May 1 the deadline for utilities to file annual reports/balance sheets.
- Provides that, if a public utility's fuel cost plan is contained in a settlement agreement, the Commission may approve the plan for the first year of a two-year settlement agreement without holding a hearing.
- Requires the Commission to ensure that a public utility recovers reasonable amounts spent on pension and other post-employment benefit costs. If requested by a public utility, the Commission must prescribe escrow accounting treatment for that recovery.