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# ROGER ROTH

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STATE SENATOR • 19<sup>TH</sup> SENATE DISTRICT

September 8, 2015

## **2015 Senate Bill 231**

*Relating to: conveying interests in local government land for construction of natural gas lines.*

**This bill expands the current exception in state law regarding easements to include natural gas distribution and transmission lines constructed by natural gas public utilities.**

Under current law, if a utility receives approval from the PSC and DNR for a high voltage transmission line to be constructed on municipal or county property, the owner of the land must convey to the utility, at fair market value, the interest in land necessary for the construction, operation, and maintenance of the line.

This bill expands the exception for creating easements to include natural gas distribution and transmission lines constructed by natural gas public utilities. Under the bill, if a natural gas public utility receives a Certificate of Authority from the PSC and DNR authorizing construction of such a line on land owned by a county, city, village, town, public board, or commission, the owner of the land must convey to the utility, at fair market value, the interest in land necessary for the line.

The bill, much like its predecessor regarding transmission lines, provides that when energy infrastructure is deemed necessary for the public good by the PSC and DNR, allowances for easements on public property will protect ratepayers from unnecessary delays and expenses. The bill will prevent additional private landowners from being affected.

The PSC has a deliberative process which includes public input to determine which energy decisions are in the best interests of the entire state to ensure affordable, reliable energy. This proposal would provide a process where utilities and public entities can resolve disagreements over easement rights. If the parties do not reach agreement, the bill requires the circuit court of the county in which the land is located to appoint an arbitrator to determine fair market value of the easement. Only routes already approved by the PSC and DNR may seek arbitration under the bill.

This bill merely extends the current law exception and process to include natural gas lines.

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# THOMAS WEATHERSTON

STATE REPRESENTATIVE • 62<sup>ND</sup> ASSEMBLY DISTRICT

## **Testimony on SB 231 before Senate Committee on Workforce Development, Public Works, and Military Affairs, September 8, 2015**

Mr. Chairman and members of the committee, thank you for holding this hearing on SB 244.

Current law provides a way for electric public utilities to purchase an easement on publicly owned land in order to build a high transmission line. The process involves receiving a certificate of public convenience and necessity from the Public Service Commission. The utility would then pay the fair market value for the land, determined by either an agreement between the parties, or an arbitrator if no agreement was reached.

This bill keeps the process the same, but would allow natural gas utilities to use the same method that electric utilities can use now. The bill also adds natural gas distribution lines as a type of construction that public land can be acquired to build. Utilities would still have to pay fair market value for any such land or easement they use.

It is important to note what this bill does not do. This bill would only allow natural gas lines, not oil pipelines. Companies that use oil pipelines are not public utilities, and an oil pipeline is a different type of pipe than the type used to send natural gas into residential homes. It also only affects public land owners such as counties, cities, or local commissions. Private land owners are not impacted at all by this bill.

This bill is needed because there is currently the potential for some public entities to block natural gas lines, and force the public utility to either pay far more than market value for a piece of land, or utilize an expensive alternative route. Since the extra costs that would result end up being passed along to all rate payers, this is not a purely local issue.

Requiring the utility to pay the market value for land ensures a fair price for the public land owner, while preventing high acquisition costs or expensive alternate routes for the utility keeps the cost low for ratepayers. Both parties are protected and the public comes out ahead under this bill.

Thank you again for holding this hearing on SB 231.

*Senate*  
**PUBLIC HEARING**

**Committee on Workforce Development, Public Works, and Military Affairs**

**Testimony of WEC Energy Group  
Represented by Joel Haubrich**

Tuesday, September 8, 2015  
1:30 PM  
400 Southeast

Mr. Chairman, Senators, thank you for holding a hearing on SB 231.

My name is Joel Haubrich and I am here representing WEC Energy Group and our two Wisconsin utilities, We Energies and Wisconsin Public Service.

SB 231 is common sense legislation. It sends a clear message that large infrastructure projects – projects needed to heat our homes or keep our lights on – should be sited by the PSC and the DNR **and** once those two regulators make a decision on the merits and necessity of the project, that no municipality or county should be able to veto that project.

Here is an example of why this bill is needed. In 2014, We Energies submitted an application to build 86 miles of gas lateral and distribution lines in western Wisconsin. Throughout the PSC/DNR process parties filed 750 documents over 12 months. From that, the PSC and the DNR determined the best route for the project. Roughly, seventy-three miles of it on private land and thirteen miles on public land.

In 2014, following receipt of a Certificate of Authority (CA) from the PSC and DNR, contact was made with hundreds of land owners and the governments of several towns, villages, cities and at least two counties.

During the process we contacted village of Alma Center about establishing fair market value for necessary easements on village property.

However, once we began talking to the village we were thrown for a loop when their attorney indicated the village wanted We Energies to base the easement fee on the value of the gas we were sending through the pipe and not the value of the land.

While We Energies viewed this as an unacceptable cost to our customers, efforts were made to work with the village and their attorney. Further discussions were not successful. To keep the project moving forward, We Energies filed a route adjustment with the PSCW to maintain the construction schedule.

After some delay and customer money spent we received a new route to go around the village property in question.

Department of Natural Resources (DNR) agreed to the changes as did the PSCW.

When the village indicated they wanted excessive easement fees, we were forced to change the route because **current law** does not have a mechanism in place to resolve easement issues on public land.

We appreciate Sen. Roth and Rep. Weatherston for authoring this bill. It would provide a necessary tool to keep projects on-time and on-budget.

State law does include a mechanism (196.491) to negotiate easements for high-voltage transmission lines constructed by electric public utilities and cooperative associations. The legislature passed that law ten years ago. SB 231 expands that law to include gas projects that receive a certificate from the PSC and DNR.

Only routes approved by the PSC and the DNR may seek the arbitration outlined in the statute.

If a dispute would arise, a judge in the county of the municipality will arbitrate the fair market value of the easement.

The bill, much like its predecessor, provides that when energy infrastructure is deemed necessary for the public good by the PSC and DNR, no single community can veto it.

I should mention that this bill does not include pipeline companies that move oil and gas. They are not public utilities.

This concludes my testimony. Thank you for your time.



44 East Mifflin Street • Suite 202 • Madison, Wisconsin 53703 • 608/257-3151

**To: Senate Committee on Workforce Development, Public Works and Military Affairs**

**From: Bill Skewes, Executive Director  
Wisconsin Utilities Association**

A handwritten signature in black ink, appearing to read 'Bill Skewes', is written over the printed name of the Executive Director.

**Re: Support for SB 231 – Natural Gas Easements**

**Date: September 8, 2015**

On behalf of Wisconsin's investor owned gas and electric utilities, the Wisconsin Utilities Association (WUA) supports SB 231, relating to conveying interests in local government land for construction of natural gas lines. **WUA supports this bill because it can save customers money.**

As you may know, the bill would require a local government to grant an easement to property under its jurisdiction to a natural gas public utility for fair market value, if the Public Service Commission of Wisconsin has found it in the public interest by issuing a *certificate of authority*.

It extends the same deadlines and arbitration procedures that exist under current law for electric transmission lines, to natural gas facilities, described in **196.491(3e)**.

By requiring the local government to grant an easement, SB 231 prevents a single community from forcing a utility to re-route around it by vetoing an infrastructure project that has been found by the Public Service Commission and the DNR to be in the public good.

Please support passage of SB 231.