



NANCY VANDERMEER

STATE REPRESENTATIVE • 70TH ASSEMBLY DISTRICT

TO: Honorable Members of the Assembly Committee on Energy and Utilities

FROM: State Representative Nancy VanderMeer

DATE: May 25, 2021

SUBJECT: Testimony in Support of Assembly Bill 302

Thank you Chairman Kuglitsch for holding a hearing on AB 302 today and greetings committee members. Under current Public Service Commission (PSC) regulations, water utilities are supposed to be exempt from getting a certificate of authority (approval for a construction project) before undergoing a routine water meter replacement project. However, despite this statutory interpretation by the PSC in their own administrative rules, they've regularly been determining that all water meter replacement projects are non-routine. This has subjected dozens of water utilities to the burdensome certificate process which delays the projects and costs hundreds, if not thousands of dollars just to clear this regulatory hurdle that's regularly a rubber stamp.

Current law generally requires utilities to obtain a certificate of authority from PSC before engaging in certain construction, installation, or improvement projects. This bill exempts water public utilities and combined water and sewer public utilities from needing a certificate of authority issued by the PSC before beginning customer meter installation, repair, or replacement projects. With this change, water utilities may begin a project sooner and complete the project more efficiently while avoiding the expenses behind the docket application, but it does not remove the oversight in place on water utilities. Water utilities would still be subject to reporting expenses incurred on a water utility meter replacement project on their annual reports. These projects sometimes span multiple years, and therefore, require multiple reports.

One of the primary reasons that I'm at the forefront of trying to make this change is because municipalities in the 70th Assembly District have been despairingly affected by how the PSC is handling these water meter replacement projects. The municipalities that have been despairingly affected are relatively small municipalities that employ good, well-meaning individuals, that have ran into big problems because of the way PSC is handling these projects. Unclear or misleading regulations coupled with unnecessary bureaucratic burdens are a logistical nightmare for small municipalities, in particular, because they simply don't have the bandwidth to deal with it.

We're requesting what we think is a simple, straightforward change to remove an unnecessary regulatory burden on local water utilities. This bill is a result of discussions with stakeholders who have, for years, worked to get the PSC to implement statutory and rule criteria in a fairer manner to no avail.

This legislation is supported by the League of Wisconsin Municipalities, the Wisconsin Rural Water Association, and others. Again, thank you for the opportunity to be here today and the opportunity for a public hearing on this legislation.

STANDING COMMITTEES:

Natural Resources & Energy, Chair
Transportation & Local Government, Vice-Chair

ROBERT L. COWLES

Wisconsin State Senator
2nd Senate District

JOINT COMMITTEES:
Audit Committee, Co-Chair

Testimony on 2021 Assembly Bill 302

Senator Robert Cowles

Assembly Committee on Energy and Utilities

May 25th, 2021

Thank you, Chairman Kuglitsch and Committee Members, for holding a hearing and allowing me to testify on 2021 Assembly Bill 302. This bill exempts water utilities from needing PSC approval for meter projects.

Current law and administrative rule exempts certain projects conducted by local water utilities from needing approval from the Public Service Commission of Wisconsin (PSC). However, if a project does need approval, in the form of a certificate of authority, water utilities have to dedicate time and money away from their typically small staff and tight budgets for this process.

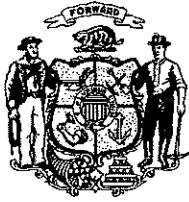
Today, if a water utility is looking to undertake a water meter project, only routine projects under a total cost threshold of \$250,000 or 25% of the utility's annual operating revenues, whichever is less, are exempt. With projects often lasting multiple years, this cost threshold can easily be exceeded. Additionally, "routine projects" have been interpreted to not include projects where a newer model of meter is installed, which is often the case as water utilities are looking to utilize electronic means of gathering monthly meter readings.

This regulatory uncertainty has led to a small host of investigations by the PSC into small local water utilities which thought they were in compliance, but were found to be in violation. These violations were not a result of bad faith, but rather a poor regulatory framework. After all, it can be very unclear what's a multi-year project versus what are several separate, smaller projects undertaken in separate years, and replacing older meters with the newer industry standard may not often be given a second thought.

Assembly Bill 302 looks to exempt water meter projects from a certificate of authority. The original bill looked to provide that projects may not exceed an annual average cost to align with current statutory cost thresholds but to allow for multi-year projects. Following feedback from the PSC, we choose to introduce Assembly Substitute Amendment 1 to exempt all meter projects and make corresponding changes directly to the administrative code to provide clarity and consistency for regulators and regulated entities.

While projects would be exempt from the certificate of authority process, this does not mean that there's no oversight. Apart from the responsibility of local units of government to properly serve their constituents and water utilities to serve their customers, utilities would still be subject to reporting expenses incurred from a water meter project on their annual reports. Further, no water utility may raise their rates without approval from the PSC in a separate process with regulatory oversight and an opportunity for public comments.

Assembly Bill 302 makes a simple, common-sense change to remove an unnecessary regulatory rubber stamp for these necessary projects by our local water utilities and also aligns the meter replacement criteria with electric and gas utilities. This bill is a result of discussions with stakeholders who have, for years, worked to implement statutory and rule criteria in a fairer manner without success.



Public Service Commission of Wisconsin

Rebecca Cameron Valcq, Chairperson
Ellen Nowak, Commissioner
Tyler Huebner, Commissioner

4822 Madison Yards Way
P.O. Box 7854
Madison, WI 53707-7854

PSC Testimony on Assembly Bill 302 – Water Meter Installation or Replacement Projects Assembly Committee on Energy and Utilities May 25, 2021

Chairman Kuglitsch and committee members, my name is Matt Sweeney and I am the Public and External Affairs Director at the Public Service Commission (Commission). Today I am here to testify on behalf of Commission chairperson, Rebecca Cameron Valcq. Thank you for the opportunity to testify on AB 302, which exempts water public utilities from needing a certificate of authority issued by the PSC prior to completing a non-routine meter replacement project.

At present, water public utilities must obtain a certificate of authority from the Commission prior to completing a non-routine meter replacement project that meets a cost threshold¹ and involves an upgrade in technology or accelerated replacement of existing meters. Water meter projects can be a major investment for a utility. Implementing a new meter system often requires changes in business practices and policies and can impact different functions within a utility. The Commission's existing review process and order conditions help ensure utilities are comparing alternatives (either vendors or types of technology) and taking advantage of the potential that advanced metering technology offers for optimizing utility operations and delivering direct benefits to customers.

Based on our experience reviewing these projects, the Commission recognizes that what was once considered new technology in water meters is rapidly becoming more routine within the water industry. In addition, the cost difference between technology types has gotten smaller over time. It's appropriate now to change what kind of approval is needed to take on these projects.

I would like to take the opportunity to thank Representative VanderMeer and Senator Cowles for working with us to incorporate our suggested language that would remove the certificate of authority requirement for all types of meter installation, repair, or replacement projects in the bill language through the substitute amendment. Chairperson Valcq supports the changes AB 302 makes to the Commission review of meter installation or replacement projects as amended by the substitute amendment.

¹ Current cost threshold is \$432,000 or 25 percent of the utility's operating revenues in the prior year, whichever is less.



May 25, 2021

Members of the Assembly Committee on Energy and Utilities

Re: **Support for 2021 Assembly Bills 300 and 302**

Dear Members of the Assembly Committee on Energy and Utilities,

Please accept this letter as an indication of support for **Assembly Bill 300 (AB 300)** and **Assembly Bill 302 (AB 302)**. As a representative of a local unit of government and a water utility providing service to approximately 67,000 residents, these bills have the potential to save us, and other local governments like us, thousands of dollars and weeks, if not months, of time.

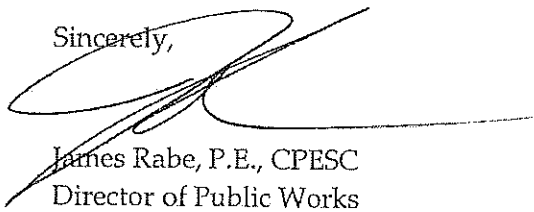
AB 300 would ensure that applications submitted by public water utilities have statutory deadlines for actions by the Public Service Commission of Wisconsin (PSC). Currently, the PSC has deadlines related to actions once a Notice of Investigation (NOI) is opened and until a final decision is granted. Unfortunately, there are no such timelines from the time the application is submitted up to the time the NOI is opened, which creates uncertainty, and often very lengthy delays. Providing specificity in the timeframes both before and after the NOI would help provide local governments more financial and project planning certainty.

AB 302, as amended, would exempt water meter installation, repair, or replacement projects from the Construction Authorization (CA) process. Current PSC rules do not require CA review and approval for electric utilities to replace and upgrade meters; rather, they appear to presume that the meter upgrades are in the public's best interest. However, water utilities have to spend hundreds, if not thousands, of dollars and wait months for the PSC to perform a CA review on a common and necessary project to replace meters or roll the dice with the confusing regulations surrounding current law exemptions. This change would not only save water utilities, and therefore our customers' time and money, but would align water utility regulations with those of other utilities.

I ask for your support of these proposals that will help water utilities throughout the state by creating more clarity, certainty, and consistency among the regulation of utilities in Wisconsin.

Thank you for your time and consideration of this letter.

Sincerely,



James Rabe, P.E., CPESC
Director of Public Works

JER/HI



To: Members, Assembly Committee on Energy and Utilities
From: League of Wisconsin Municipalities
Municipal Environmental Group – Water Division
Wisconsin Rural Water Association
Date: May 25, 2021
RE: **Support for AB 302 Modify PSC’s Construction Authorization Exemptions for Water Meter Projects**

Our organizations submit these comments in support of Assembly Bill 302 (as amended by Assembly Substitute Amendment 1), which will exempt water utility meter upgrade projects from the PSC construction review. Revising this bureaucratic requirement will reduce the cost and red tape involved in installing upgraded water meters that more accurately measure water usage, reduce labor costs associated with meter reading, and streamline utility operations.

Under current law, PSC is authorized to adopt rules requiring public utilities to obtain a Certificate of Authority for projects to construct new facilities or to improve or add to existing facilities or equipment. Specific statutory exemptions apply based on utility-type, project scope and cost. Under Wis. Stat. § 196.49(5g)(ar)1m.e., a water utility project is exempt if it costs less than \$250,000 or 25 percent of the utility’s operating revenues in the prior year, whichever is less. For a multi-year project (which most meter projects are), the cost threshold applies to the total project cost, not the annual project cost.

PSC’s water utility construction rules (Wis. Admin. Code, PSC 184) provide additional exemptions for water utility projects including projects for “routine meter repair or replacement,” although this exemption is strictly limited by PSC. PSC does not apply the exemption to projects involving technology upgrades or accelerated meter replacement. Almost always, water meter replacement projects involve a technology upgrade, as old meters are replaced with new system technology. And, as new system technology is installed, it is not uncommon for some meters to be replaced sooner than anticipated so that all meters are able to work with the new technology. As a result, most water meter replacement projects require the PSC Construction Authorization Review.

AB 302, as amended by Assembly Substitute Amendment 1, will exempt all meter projects from the PSC Construction Authorization process. Water meter projects will still be reported to the PSC either through rate cases or annual reporting requirement.

Finally, PSC rules do not require construction review for electric meter upgrades. PSC rules appear to presume that electric meter upgrade projects are in the public interest. Water utility meter upgrade projects are also in the public interest and should be afforded the same treatment as electric meter upgrade projects.

PSC review of meter upgrade projects has not resulted in benefits or improved projects for ratepayers. To our knowledge, all meter projects have been approved. **But the need for PSC review of these meter upgrade projects has resulted in project delays, increased costs, and the expenditure of valuable PSC staff time (the cost of which is then billed to the utility).** On behalf of our organizations, we ask for your support for this legislation.



131 W. Wilson St., Suite 505
Madison, Wisconsin 53703
phone (608) 267-2380; (800) 991-5502
fax: (608) 267-0645
league@lwm-info.org; www.lwm-info.org

To: Assembly Committee on Energy and Utilities
From: Toni Herkert, Government Affairs Director, League of Wisconsin Municipalities
Date: May 25, 2021
RE: AB 300, relating to timing of PSC approvals and AB 302, relating to meter installment

Chairman Kuglitsch and members of the Energy and Utilities Committee,

My name is Toni Herkert, and I am the new Government Affairs Director for the League of Wisconsin Municipalities. Thank you for hearing these two bills important to water utilities today. I appreciate the opportunity to testify before you in support of AB 300 and AB 302. The League worked on these bills as a member of a water utility coalition with MEG Drinking Water Division and Wisconsin Rural Water Association. The League would also like to thank the authors Senator Cowles, Representative Thiesfeldt, and Representative VanderMeer for their hard work and commitment to finding a compromise on these important bills.

As you are probably aware, Wisconsin has 11,525 public water systems, the largest number of any state. Public water systems are defined as those that provide water for human consumption to at least 15 service connections or regularly serve at least 25 people for 60 days or longer per year. Municipal systems are included in a category called community water systems which serve water to people where they live or work. Wisconsin's community water systems serve 70 percent of the state's population. The other 30 percent of the state's residents get their water from private wells.

Municipal community water systems are owned by cities, villages, towns, or sanitary districts and include care and correctional facilities that are owned by counties or municipalities. Wisconsin has 611 municipal systems. Milwaukee Waterworks is the state's largest, serving almost 600,000 people. Wisconsin's smallest municipal water systems, by contrast, serve fewer than 50 people each. While municipal systems only account for 611 of the over 11,000 public water systems, they service over 4 million of the state's residents.

The primary objective for municipal water systems is to provide safe, timely, and reliable distribution of water and other related services to the public for domestic, commercial, or industrial purposes. Water utilities keep a keen eye on efficiencies and technical and financial feasibility to provide the most reliable and efficient service to rate payers in the most economical manner. AB 300 and AB 302 aid in this overall mission by removing some of the red tape and administrative inefficiency from the process of construction authorizations and meter installation or replacement. By providing clear timelines for projects and eliminating delays in the approval process, utilities can better plan, utilize and align financing, and provide related benefits to their customers. With the recent American Rescue Plan Act sending federal funding to municipalities, we have been told that water and sewer projects are on many municipal short lists. Providing the efficiencies, timelines, clarity, and consistency will help move these projects through completion before the federal funding deadlines.

Thank you for your time and I would be happy to answer any questions you may have.

YOUR VOICE. YOUR WISCONSIN.



Green Bay Water Utility

General Manager Nancy Quirk, P.E.

631 S. Adams St. – P.O. Box 1210
Green Bay, WI 54305-1210

920-448-3480
FAX 920-448-3486
www.gbwater.org

May 25, 2021

2021 Assembly Committee on Energy and Utilities

Representative Mike Kuglitsch (Chair)

Representative Steffen (Vice-Chair)

Representative Tranel

Representative Oldenburg

Representative Petryk

Representative Neylon

Representative Vorpagel

Representative Tauchen

Representative Petersen

Representative Horlacher

Representative B. Meyers

Representative Subeck

Representative Andraca

Representative Moore Omokunde

Representative S. Rodriguez

Wisconsin State Capitol

Madison, WI 53708

RE: Assembly Bills 300—Public Service Commission Deadlines, and 302—Meter Installation

Honorable Chairman Kuglitsch and Distinguished Committee Members:

Thank you for your dedication to Wisconsin's safe drinking water. I have proudly served Wisconsin water utilities as a professional engineer and leader for more than 33 years—and was recently appointed to the EPA's National Drinking Water Advisory Council. As General Manager for Green Bay Water Utility, I appreciate the challenge before you to make the rules that guide a critical workforce during difficult circumstances.

Our utility proudly received recognition on national news headlines for being the first Wisconsin water utility to voluntarily remove all lead services, which we accomplished from 2016 to 2020. The challenges we faced largely came down to funding: relying on the Safe Drinking Water Act Principal Loan Forgiveness Program, a City of Green Bay excess sales tax from Lambeau Field, and most notably (for the sake of this letter) the *Leading on Lead Act* (Senate Bill 48) signed in 2018.

Our utility and customers deeply appreciated this much-needed solution to replacing all private lead services without the total funding to do so. However, as you'll see by the timeline below, we were pinched by the painstaking eight-month PSC approval process. Green Bay Water Utility expected the process to be complete within 90 days and even initiated a pre-application conference call with PSC and DNR, ensuring we had all expectations established to fulfill every aspect of their application. When you look at the timeline below, ask yourself: why would this have taken eight months to get the PSC's approval when public health was at stake? By the way, our records show we paid the PSC \$6,758.76 in 2020 for their review of our application for lead funding for our utility customers.

TIMELINE

- November 14, 2019: Green Bay Water Utility officially files PSC application
- January 9, 2020: 57 days passes with no word from PSC; GBWU notes five pending cases, with one utility still pending after 261 days
- February 11, 2020: Concern growing, still-pending GBWU sent a letter of urgency to PSC with construction season just three months away
- April 21, 2020: application still pending. Five words are changed to update to a related city ordinance which should have had no impact on GBWU's PSC application; however, the change prompts PSC staff to tell the PSC commission they need an extension
- On May 7, 2020: the PSC commission grants PSC staff an extension with the GBWU application
- May 13, 2020: Sen. Cowles is made aware of this delay, realizing the start of construction season, and sends a letter of urgency to PSC about the GBWU application
- May 21, 2020: PSC commission approves GBWU application
- June 11, 2020: PSC issues final approval of GBWU application
- July 20, 2020: PSC approves tariffs with construction season more than halfway over. **We were not able to begin work until this day.**

Committee, utilities are called to be servants of public health. Habitual delays by the PSC plague Wisconsin's drinking water industry as a whole, not just GBWU—but when lead service replacements are at stake, this type of delay is all the more unacceptable. Please support Assembly Bill 300 for the sake of utilities trying to do right by their customers by replacing toxic lead pipes on a reasonable timeline.

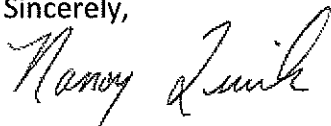
I also urge you to support Assembly Bill 302, removing the need for utilities to obtain PSC permission to upgrade meters. From 2005 to 2013, Green Bay Water Utility transformed from a meter-reading employee walking door-to-door—to our smart water meters made right here in Wisconsin by Badger Meter. These meters instantly upgraded our customer's experience and made us more efficient, saving us time and money, and using technology to quickly alert us to concerning changes in water usage. This upgrade came with an upfront cost. Technology can be that way—as we all know, having gone from offices that used to supply a desk phone, but now must supply a desktop computer. Didn't that change make us more efficient?

Customer water meters are standard pieces of equipment that every water utility has in common. We utility leaders of Wisconsin consult one another to discuss modern technology and worthwhile investments on a regular basis. After all, we are the ones working in utilities day after day—and the ones who know our customers and local circumstances the best. It is baffling that we could trust our utility experts to deliver safe drinking water to millions of people each day, but cannot trust these same utility managers, engineers and our metering staff to decide when the time is right to make necessary changes to technology, for the benefit of everyone.

Not only do we have to consult, apply and wait for the PSC to make the decision, but the process is frequently delayed by the commission, greatly impacting project timelines. Delays impact everything. And let me tell you: we are facing a workforce shortage. Green Bay Water Utility is not at full staff, and neither are most other utilities in the state, according to fellow managers I confide in regularly. I want to reiterate that we utilities have to pay the PSC out of our general budgets for the all the time they put into these decisions. PSC staff may not even have the background needed or full scope of understanding of these projects. Our utilities use valuable staff time to work on this approval process after we have already decided as a utility. So ask yourself: should ratepayer money and staff time be used on a PSC application to upgrade meters to smarter technology? My answer is no. Meters are one thing utilities easily handle on our own without the PSC's help, and in turn, removing it from their duties will assist them with their backlog of cases.

Thank you for your consideration in support for AB300 and AB302.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Quirk".

Nancy Quirk, P.E.
General Manager
Green Bay Water Utility



CITY OF LA CROSSE UTILITIES
WATER - SEWER - STORM

400 La Crosse St
La Crosse WI 54601-3396
Phone (608) 789-7536
Fax (608) 789-7592
utilities@cityoflacrosse.org

05/19/2021

Bernard N Lenz, P.E.
Utilities Manager
lenzb@cityoflacrosse.org

Tina Erickson
Utilities Accounting &
Customer Support Supervisor
ericksont@cityoflacrosse.org

Dear Assembly Committee on Energy and Utilities,

The City of La Crosse Water Utility supports AB-300 related to establishing a PSC deadlines for "completeness determinations" and supports AB-302 to eliminate, for all water meter installation or replacement projects, the requirement of obtaining a PSC construction approval.

Both bills will allow the Utility to operate more efficiently and better serve our customers, ultimately meaning lower rates and happier customers.

Thank You for your considerations.

A handwritten signature in black ink that reads "Bernard N. Lenz". The signature is written in a cursive style.

Bernard N. Lenz, PE – City of La Crosse Utility Manager



P.O. Box 927
Madison, WI 53701-0927
Telephone (608) 283-1788
Facsimile (608) 283-1709

Non-Routine Meter Replacement Construction Authorizations

Applicant	Approval Date	Number of Meters	Total Cost	Project Length
Eagle River, City 1710-CW-101	5/14/21	414 meters 1,150 encoders 1,150 radio modules	\$443,834	3 years, overall 2 years, meters
Valders, Village 6060-CW-101	3/31/21	213 meters (approx.)	\$78,700	1-2 years
Luck, Village 3220-CW-100	2/24/21	385 residential meters 98 commercial meters	\$162,465	< 1 year
Balsam Lake, Village 340-CW-103	1/8/21	536 meters	\$162,416	< 1 year
Spring Valley, Village 5650-CW-104	10/13/20	574 meters	\$156,656	< 1 year
Hurley, City 2640-CW-101	9/17/2020	791 meters	\$288,660	< 1 year
Wilson, Village 6545-CW-100	9/9/20	75 meters	\$23,271	< 1 year
Weyerhaeuser, Village 6470-CW-101	7/20/20	153 meters	\$37,263	2 years
Washburn, City 6190-CW-101	6/29/20	905 meters	\$338,715	< 1 year
Drummond Sanitary District 1685-CW-102	6/17/20	144 meters	\$69,000	~ 6 years
Monona, City 3800-CW-100	6/11/20	2,500 residential meters 291 non-residential meters	\$839,598	< 1 year
Iola, Village 2670-CW-101	3/23/20	467 customers 38 meters remaining since reprimand	\$142,482	~ 11 years (2014- 2025)
Curtiss, Village 1505-CW-103	2/12/20	103 meters	\$51,495	< 1 year

Prepared May 21, 2021, with information compiled from the PSC ERF site:
<https://apps.psc.wi.gov/ERF/ERF/ERFhome.aspx>