

RESOLUTION NO.: 11—2023-24

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

MAJORITY

1 Wisconsin Electric Power Company, doing business as We Energies (Grantee) is requesting
2 an easement in order to construct, install, operate, maintain, repair, replace and extend
3 underground utility facilities, conduit and cables, electric pad-mounted transformers,
4 manhole, electric pad-mounted switch-fuse units, electric pad-mounted vacuum fault
5 interrupter, concrete slabs, power pedestals, riser equipment, terminals and markers,
6 together with all necessary and appurtenant equipment under and above ground as deemed
7 necessary by Grantee, all to transmit electric energy, signals, television and
8 telecommunication services, including the customary growth and replacement thereof.
9 Trees, bushes, branches and roots may be trimmed or removed so as not to interfere with
10 Grantee's use of the easement area.

11
12 NOW THEREFORE, the undersigned members of the Highway, Recycling and Solid Waste
13 Committee recommend adoption of the following resolution.

14 BE IT RESOLVED, that the Outagamie County Board of Supervisors does authorize
15 granting We Energies an easement for the area described as a strip of land ten (10) feet in width
16 being a part of grantor's premises in the Southeast ¼ of the Southeast ¼ of Section 17, Township
17 21 North, Range 18 East, Village of Little Chute, Outagamie County, Wisconsin; said land is shown
18 on the attached Distribution Easement Underground and Temporary Exhibit A which by reference
19 is made a part hereof, and

20 BE IT FINALLY RESOLVED, that the Outagamie County Clerk be directed to forward a
21 copy of this resolution to the Outagamie County Highway Commissioner and We Energies,
22 Property Rights & Information Group, 231 W. Michigan Street, Room P277, P.O. Box 2046,
23 Milwaukee, WI 53201-2046.

24 Dated this ____ day of May 2023

25

26

Respectfully Submitted,

HIGHWAY, RECYCLING AND SOLID
WASTE COMMITTEE

Joy Hagen

Daniel Nejedlo

Jason Wegand

Dennis Clegg

Jeremy Thyssen

Duly and officially adopted by the County Board on: _____

Signed: _____
Board Chairperson

County Clerk

Approved: _____

Vetoed: _____

Signed: _____
County Executive

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DISTRIBUTION EASEMENT UNDERGROUND

Document Number

WR NO. 4782327 IO NO. 52967

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, OUTAGAMIE COUNTY, a municipal corporation, hereinafter referred to as "Grantor", owner of land, hereby grants and warrants to WISCONSIN ELECTRIC POWER COMPANY, a Wisconsin corporation doing business as We Energies, hereinafter referred to as "Grantee", a permanent easement upon, within, beneath, over and across a part of Grantor's land hereinafter referred to as "easement area".

The easement area is described as a strip of land Ten (10) feet in width being a part of grantor's premises in the Southeast 1/4 of the Southeast 1/4 of Section 17, Township 21 North, Range 18 East, Village of Little Chute, Outagamie County, Wisconsin.

The location of the easement area with respect to Grantor's land is as shown on the attached drawing, marked Exhibit "A", and made a part of this document.

RETURN TO: We Energies PROPERTY RIGHTS & INFORMATION GROUP 231 W. MICHIGAN STREET, ROOM P277 PO BOX 2046 MILWAUKEE, WI 53201-2046

146-260400700 (Parcel Identification Number)

- 1. Purpose: The purpose of this easement is to construct, install, operate, maintain, repair, replace and extend underground utility facilities, conduit and cables, electric pad-mounted transformers, manhole, electric pad-mounted switch-fuse units, electric pad-mounted vacuum fault interrupter, concrete slabs, power pedestals, riser equipment, terminals and markers, together with all necessary and appurtenant equipment under and above ground as deemed necessary by Grantee, all to transmit electric energy, signals, television and telecommunication services, including the customary growth and replacement thereof. Trees, bushes, branches and roots may be trimmed or removed so as not to interfere with Grantee's use of the easement area.
2. Access: Grantee or its agents shall have the right to enter and use Grantor's land with full right of ingress and egress over and across the easement area and adjacent lands of Grantor for the purpose of exercising its rights in the easement area.
3. Buildings or Other Structures: Grantor agrees that no structures will be erected in the easement area or in such close proximity to Grantee's facilities as to create a violation of all applicable State of Wisconsin electric codes or any amendments thereto.
4. Elevation: Grantor agrees that the elevation of the ground surface existing as of the date of the initial installation of Grantee's facilities within the easement area will not be altered by more than 4 inches without the written consent of Grantee.
5. Restoration: Grantee agrees to restore or cause to have restored Grantor's land, as nearly as is reasonably possible, to the condition existing prior to such entry by Grantee or its agents. This restoration, however, does not apply to any trees, bushes, branches or roots which may interfere with Grantee's use of the easement area.
6. Exercise of Rights: It is agreed that the complete exercise of the rights herein conveyed may be gradual and not fully exercised until some time in the future, and that none of the rights herein granted shall be lost by non-use.
7. Binding on Future Parties: This grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.
8. Easement Review: Grantor acknowledges receipt of materials which describe Grantor's rights and options in the easement negotiation process and furthermore acknowledges that Grantor has had at least 5 days to review this easement document or voluntarily waives the five day review period.

9. Indemnification and Hold Harmless: In consideration of the foregoing grant, it is understood that during the time said electric facilities are located on the premises of the Grantor pursuant to this grant, Grantee will indemnify, save, and hold harmless the Grantor, its successors and assigns, from any and all claims, liabilities, losses, costs, damages or expenses for injury or death of any person and any damages to property arising out of Grantee's exercise of any of its rights under this easement; excepting, however, 1) any claims, liabilities, losses, costs, damages or expenses arising out of negligence or willful acts on the part of the Grantor, its successors and assigns, employees, agents and invitees; 2) any special, consequential or indirect damages, including but not limited to, loss of profit or revenue, and diminution in value; and 3) any environmental claims, liabilities, losses, costs, damages or expenses not directly caused by the construction or operation of said facilities.

10. Future Adjustment: In consideration of granting the foregoing easement, the grantee, its successors and assignees, agree that in the event the said county trunk highway is reconstructed, repaired, changed or widened in any manner and it becomes necessary as a result that the facility must be raised, lowered, or moved to some other location as a result of the proposed highway improvement, the grantee, its successors and assignees, agree to do all things necessary with the said service as may be required by the grantor so as to facilitate these changes, and at no expense to Outagamie County.

Grantor:
OUTAGAMIE COUNTY, a municipal corporation

By: _____
(Print name and title): _____

By: _____
(Print name and title): _____

By: _____
(Print name and title): _____

Acknowledged before me in _____ County, State of Wisconsin, on _____, 2023,
the above named _____, the _____,
and _____, the _____,
and _____, the _____
of OUTAGAMIE COUNTY, A Municipal Corporation, on behalf of the corporation pursuant to a Resolution adopted by the
County Board on _____ as Resolution No. _____.

Notary Public Signature, State of Wisconsin

Notary Public Name (Typed or Printed)

(NOTARY STAMP/SEAL)

My commission expires _____

This instrument was drafted by Deanna L. Drum on behalf of Wisconsin Electric Power Company, PO Box 2046, Milwaukee, Wisconsin 53201-2046.



ELECTRIC WORK REQUEST

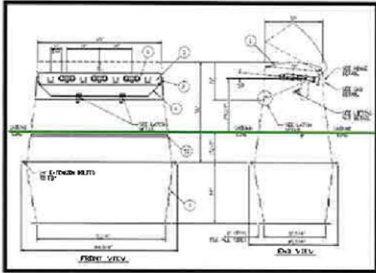
4782327

TEMPORARY EXHIBIT A

Key: 10' wide underground easement area



The dimensions will be 69" L x 32" W x 39" H with cable installation at 62".

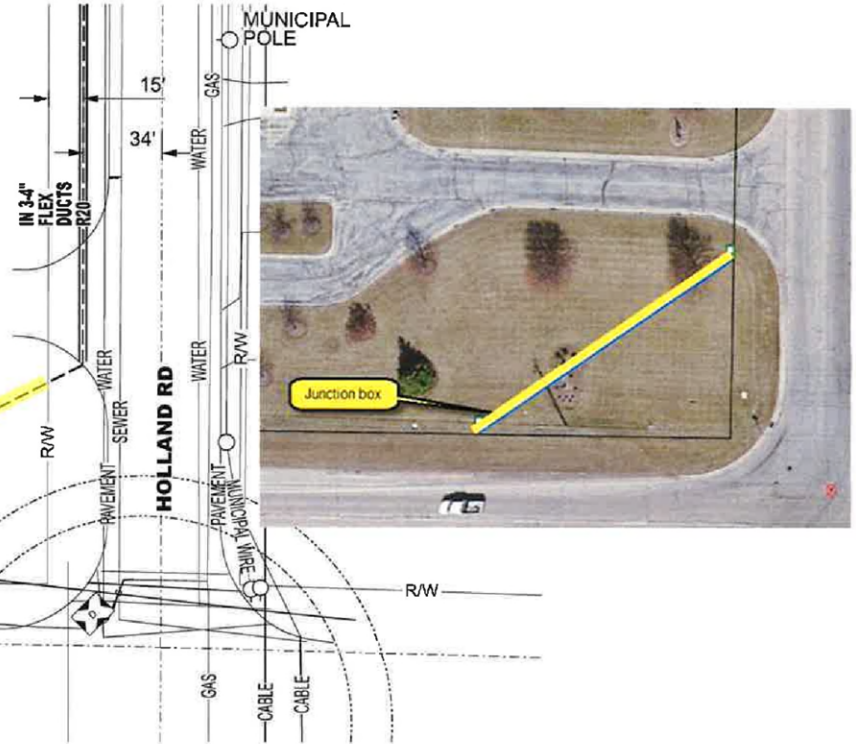


CABLE TO BE INSTALLED MINIMUM 48"

SEE WR 4782328
R20
INSTALLED
ON 4782328

NORTHLAND AVE / CTH-00

FUTURE SIDEWALK
FUTURE ROADWAY



CONSTRUCTION NOTE:
ALL CABLE IS BORED UNLESS NOTED OTHERWISE.
MAINTAIN 3' VERTICAL SEPARATION & 5' HORIZONTAL SEPARATION
BETWEEN PROPOSED CABLE & EXISTING WATER/SEWER.

SCALE 1" = 40' SHEET 16 OF 16

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RIGHTS-OF-WAY AND EASEMENTS

For Electric and Gas Distribution Facility Construction

INTRODUCTION

This pamphlet is intended to help you, the landowner, better understand the possible need for new utility facilities, how utilities build those facilities, and how you can be an important part of the process.

Electric distribution lines carry electricity from substations to customers. These types of electric lines include customer service connections and local distribution lines.

Gas distribution pipes carry natural gas from regulator stations to customers. These types of gas pipes include distribution mains of various sizes and service laterals.

A utility right-of-way (ROW) is a strip of land that a utility uses to construct, maintain, repair, or replace an overhead power line, underground power line, or gas mains. The ROW allows the utility to provide clearance from trees, buildings and other structures that could interfere with the installation, maintenance and operation of the utility facilities. This ROW may be located in the roadway or on private property: It usually is from 6 to 12 feet wide, unless terrain, vegetation, larger utility facilities, or unusual construction obstacles require a wider easement.

1) What are some reasons new or reconstructed power lines might be needed?

New power lines may be needed because of:

- a. Growth in customer's average electricity use
- b. Growth in the number of customers and businesses in Wisconsin
- c. Replacement of old lines due to age of equipment
- d. Additional lines constructed from new substations needed to meet increased demand

2) What are some reasons new or reconstructed gas facilities might be needed:

New gas facilities may be needed because of:

- a. Growth in the number of natural gas customers
- b. Replacement of old pipes due to age or condition

- c. Increased usage of natural gas by existing customers

3) Do utilities need government approval to build new power lines or gas mains?

Yes. A variety of permits are needed from various governmental agencies. The Public Service Commission of Wisconsin (PSCW) reviews our request if a project exceeds \$5 million in cost.

Local road permits, Wisconsin Department of Transportation permits, Wisconsin Department of Natural Resources permits, Federal Aviation Authority permits, etc. are all required if the interests of those agencies are involved.

4) Can conservation eliminate the need for power lines or gas mains?

Yes and no. Right now, conservation helps reduce the need for new power lines, but is not eliminating all future needs. In order to eliminate the need for new utility facilities, conservation would have to be great enough to offset all the needs mentioned in questions one and two.

Conservation can reduce the number of new power lines and power plants needed because conservation makes energy use more efficient. The PSCW reviews utility plans for conservative programs in its Biennial Strategic Energy Assessment ("SEA").

5) How is it decided when and where new or reconstructed utility facilities will be built?

Our engineers use computer models of the power and natural gas systems to study the need for new utility facilities. The results help a utility decide if a new power line or natural gas main is needed or if an existing line or main should be rebuilt or relocated. In some instances the need for new or rebuilt power lines or natural gas mains becomes apparent due to insufficient capacity to meet customer requirements in an area.

6) Does We Energies have the right to construct its utility facilities on my property?

Wisconsin statutes allow us to construct our utility facilities on or along roadways with the consent of

local authorities as long as the utility facilities do not interfere with the use of the roadway by the public or with the use of the adjoining land. We usually have the option of building the distribution lines or mains and related facilities on private property or in the road right-of-way. However, if existing obstacles are in the way, the distribution line or main will be located to avoid these obstacles. If the distribution line or main is located on private property, an easement from the landowner is required. If the distribution line or main is located in road right-of-way, a permit from the municipality is required.

7) **Will my trees need to be cut?**

In some cases, power lines must be built along wooded areas or near existing trees. Therefore, trees in these areas need to be trimmed and sometimes removed.

In order to ensure safe and reliable power, it is important to keep power lines and above ground equipment free of any kind of interference. This means that tall-growing trees should not be placed near or under existing power lines. We maintain a regular trimming schedule to keep interference from trees to a minimum. It is important for customers to understand this requirement and cooperate with us for tree-trimming requirements.

In the case of natural gas facilities, trees or shrubs may need to be trimmed or removed for the installation and maintenance of the gas main.

In order to trim or remove trees along a roadway, the utility will obtain the consent of the owner of the tree.

8) **What is an easement?**

An easement is a written document that grants a permanent right to use land for a specific purpose, such as installing utility facilities to serve you and others. An easement “runs with the land” which means it stays with the property even if ownership of the property changes.

9) **What can the landowner expect in the easement acquisition process?**

Based on many years of experience, we developed a standard easement agreement which covers topics such as proper clearance/cover for utility facilities, restoration of the land and tree trimming. You, as a landowner, have the right to understand these issues as well as the need for distribution facilities.

To minimize impact on your property, we will make every reasonable effort to locate these facilities in setback areas that are unbuildable.

We also contact each potentially affected landowner and present the easement document.

10) **What is required of the landowner in the easement document?**

The easement document grants the utility the right to locate distribution facilities on the landowner’s property. It also requires the landowner to keep the easement area clear to allow the utility access to these facilities for maintenance and repair. Easement area should stay clear of trees.

11) **What kinds of negotiations should be expected?**

While our standard easement is intended to cover normal distribution facility installations, terms or conditions may be negotiated. If the landowner has questions, we will get answers. The right-of-way agent is your contact person and your source of information.

12) **Are there specific waivers of rights involved in the easement negotiation process?**

For electric facilities, PSC 113.0509 gives the landowner, unless voluntarily waived by the landowner, a minimum period of five days to examine the materials we provided before signing any new or revised easement agreement. If you, as the landowner, are comfortable signing the easement agreement after reading the document and getting answers to questions, you may waive the five-day review period established under PSCW Administrative Rules.

There is not comparable code provision for gas facilities; however as a courtesy to our customers, We

Energies applies the same practice in the attainment of gas distribution easements.

13) **Does the use of eminent domain enter into easement negotiation discussions?**

No. We do not mention eminent domain. We will work with the landowner to negotiate a solution on location of distribution facilities.

14) **Does the utility ultimately have the right to use eminent domain?**

Yes. However, as a general practice, we do not use eminent domain to install electric or gas distribution facilities. Only in extremely unusual situations would we consider the use of our eminent domain rights. In those cases specific discussions with the customer regarding the exercise of those rights will occur. (We have not used eminent domain on distribution facilities in over 35 years).

For more information:

For information on a specific project, contact We Energies or the PSCW.

Contact the PSCW at:
Public Service Commission of Wisconsin
P.O. Box 7854
Madison, WI 53707-7854
608-266-5481

Because the PSCW does not have detailed information about every distribution project, please provide the following information when contacting them:

- Utility Name
- Project Name
- Project Location