

From the Milwaukee Business Journal:

<http://www.bizjournals.com/milwaukee/news/2016/02/12/streetcar-lawsuit-decision-puts-utility-relocation.html>

## Streetcar lawsuit decision puts utility relocation costs on city of Milwaukee

Feb 12, 2016, 4:12pm CST **Updated: Feb 12, 2016, 4:47pm CST**

A ruling in Milwaukee's streetcar lawsuit would put \$10 million to \$25 million utility relocation costs on the city, instead of private utility companies.

The debate concerned whether the city of Milwaukee or utility companies such as WEC Energy Group Inc. must pay the cost of moving underground pipes, cords and other equipment for the streetcar track. It boils down to whether city taxpayers or utility ratepayers will pick up the bill.

The actual cost of the utility relocations is not determined because Milwaukee engineers and utilities continue to work together to reduce them. The city estimated them at between \$10 million and \$25 million for the streetcar's first phase.

Construction of the streetcar's initial downtown loop will start in the coming months. Milwaukee has set aside more than \$20 million in tax incremental financing to pay for the utility costs in case it does not prevail in court.

The city filed the lawsuit in November 2014, challenging the Public Service Commission of Wisconsin decision in the utility dispute. The PSC ruled that the



THEMILWAUKEESTREETCAR.COM

Rendering of the Milwaukee streetcar to be manufactured by Brookville Equipment Corp.

city of Milwaukee, not utilities and their ratepayers, must pay to move underground utilities for the streetcar project.

Milwaukee County Circuit Court Judge William Sosnay on Thursday issued a decision upholding that PSC ruling.

Elise Nelson, PSC spokeswoman, issued a written statement in response to the decision.

“We applaud the circuit court in upholding the PSC’s decision and stand by the fact that Wisconsin’s utilities should not be required to bear the cost of relocating or modifying their infrastructure for the streetcar project,” Nelson said.

Jodie Tabak, spokeswoman for Milwaukee Mayor Tom Barrett, said city attorneys are reviewing the decision.

“We’re pleased that through the cooperative work with We Energies our utility costs have dropped considerably and we are well within budget to get the first leg of the streetcar built,” Tabak said.

It was a complicated lawsuit, wrangling with authority issues between local governments and utilities that are allowed to put their equipment under public streets. It called up city ordinances from 1936 and definitions of the city’s police powers. It also touched upon the law change included in the state budget passed in 2013 that blocked the city from making the utilities pay relocation costs for streetcar projects.

Sosnay did reverse the commission’s ruling saying that Milwaukee cannot pass a law in the future that would require utilities pay the relocation costs. If the city were to pass such a law, it would go counter to the 2013 Legislature’s action banning cities from making utilities pay for relocation bills for streetcar projects.

At one point in his analysis, Sosnay wrote: “The City cannot put off indefinitely the inevitable outcome in this matter by failing to specifically enact any municipal regulation that explicitly requires the utilities to relocate or modify

their facilities and bear the costs associated.”

**Sean Ryan**

Reporter

*Milwaukee Business Journal*

