

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: **06/22/99**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **Senate Democratic Caucus**

By/Representing: **Walter**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Alt. Drafters:

Subject: **Tax - utilities**

Extra Copies:

Pre Topic:

SDC:.....Walter - CN #3306,

Topic:

License fee for wholesale merchant plants at 2.5% of gross revenues.

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	jkreye 06/23/99	gilfokm 06/27/99	hhagen 06/28/99	_____	lrb_docadmin 06/28/99		
	jkreye 06/29/99	gilfokm 06/29/99		_____			
/2			ismith 06/29/99	_____	lrb_docadmin 06/29/99		

FE Sent For:

<END>

6/29/99 7:55:48 PM

Page 2

FE Sent For:

<END>

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Topic:

License fee for wholesale merchant plants at ¹2.5% of gross revenues. ₄

Instructions:

See Attached

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/1	jkreye 06/23/99	gilfokm 06/27/99	hhagen 06/28/99	_____	lrb_docadmin 06/28/99		

FE Sent For:

*12-6-29
KMB*

*RPN 6/28/99
6/29*

<END>

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Extra Copies:

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Topic:

License fee for wholesale merchant plants at 2.5% of gross revenues *e*

Instructions:

See Attached

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/1	jkreye	1-6-27 kmg		<i>PROVED</i> 6/28			

FE Sent For:

<END>

yes

Agency: Public Service Commission - Agencywide

caucus number 3306

duplicate flag:

duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Reference WI Act 204. 3 changes to merchant utility plants licensed in WI after 1/1/00.1: tax rate to be 1.59% not #.19%. 2: power sales between energy trading companies not taxed. 3: Fuel used to generate power exempt from sales tax. See attached details

other notes Modification to above: Do point one only and at 2.5% in 7/1/01

drafting instructions: See attached.

more instructions:

Agency: **Public Service Commission - Agencywide**

Number of Amendments: 1

Priority Budget Motion-Merchant utility plant modifications to Wisconsin Tax Statutes

This motion would deal with merchant utility plants coming into Wisconsin. I have INCOMPLETE language drafted that does not reflect the addition that these provisions only affect plants licensed by the PSC after January 1, 2000. I suggest 3 changes to current law in this motion:

2.5% beg
7/1/01

- 1) The gross receipts tax rate for merchant plants receiving their certificate of public convenience and necessity after January 1, 2000 would be ~~1.89%~~ rather than the current ~~2.19%~~. The ~~1.89%~~ rate would only apply to wholesale transactions or sales destined for the wholesale market. That change is not reflected in the included draft.
- ~~NO~~ 2) Sales of power between energy trading companies would not be subject to the gross receipts tax.
- ~~NO~~ 3) Fuel used in generation of power by merchant plants receiving the certificate of public convenience and necessity after January 1, 2000 would be exempt from the Wisconsin sales tax.

Companies interested in building merchant plants in Wisconsin believe that with these tax changes the necessary tax climate will exist for merchant plants to be constructed in Wisconsin as envisioned by 1997 Wisconsin Act 204 and will help solve the state's reliability problem.

There is no fiscal impact in this biennium due to the January 1, 2000 start date.

Do point one only
and at 2.5% in
7/1/01

MERCHANT PLANT TAX ISSUE

PROBLEM

There is uncertainty and inequity over how electricity generated by a "merchant plant" in Wisconsin will be treated by the Wisconsin Gross Receipts Tax. Problems range from:

- 1. Electricity generated by a merchant plant in Wisconsin and then sold to a Wisconsin utility would be double taxed, once at the generation plant and again when sold by the utility. This double taxation would result in consumers paying higher bills.**
- 2. If the electricity described in #1 above were first sold to an energy trading company, there might be the application of the gross receipts tax at that sale as well, resulting in triple taxation.**
- 3. The power being sold to Wisconsin utilities being subject to the gross receipts tax but the power sold to an Illinois utility subject to less Wisconsin tax, thus creating an incentive for a Wisconsin merchant plant to sell power to Illinois rather than to Wisconsin.**
- 4. Wholesale merchant plants do not rely on long-term sales contracts with utility companies or guaranteed rates but assume all risks of participating in a competitive electric market. The current tax structure, both its double taxation feature and uncertainty of its application, make it unlikely that a merchant plant will be built in Wisconsin to help solve the state's reliability problems.**

The second problem arises from the Wisconsin Sales Tax on fuel. Fuel purchased by a Wisconsin utility is exempt from the sales tax. However, merchant plants are subject to the sales tax. This creates an unfair advantage for the utility company and another discouraging hurdle in trying to attract merchant plants to Wisconsin.

SOLUTION

To clarify Wisconsin tax law, to close loopholes, to provide certainty, to avoid some of the double taxation, to take away incentives to sell to out-of-state utilities and to encourage development of merchant plants in Wisconsin, the following changes are needed:

- 1. Sales of power by or between energy trading companies would not be subject to the gross receipts tax.**
- 2. The gross receipts tax rate for merchant plants receiving their certificate of public convenience and necessity after January 1, 2000 would be 1.59% rather than the current 3.19%. The 1.59% rate would only apply to wholesale transactions or sales destined for the wholesale market.**
- 3. Fuel used in the generation of power by merchant plants receiving the certificate of public convenience and necessity after January 1, 2000 would be exempt from the Wisconsin sales tax.**

COMPANIES INTERESTED IN BUILDING MERCHANT PLANTS IN WISCONSIN BELIEVE THAT WITH THESE TAX CHANGES THE NECESSARY TAX CLIMATE WILL EXIST FOR MERCHANT PLANTS TO BE CONSTRUCTED IN WISCONSIN AS ENVISIONED BY 1997 WISCONSIN ACT 204 AND WILL HELP SOLVE THE STATE'S RELIABILITY PROBLEM.

6-16-99

Modifications to Wisconsin Tax Statutes
Necessary to Encourage Merchant Plant Development

I. **Wis. Stat. § 76.28 – License Fee for Light, Heat and Power Companies**

A. **EXISTING LANGUAGE**

The existing language provides for a tax based on the gross receipts of "light, heat and power companies," including a "qualified wholesale electric company," that generate electricity in Wisconsin. Under existing law, a wholesale merchant plant would be encompassed by these definitions and would pay a tax equal to 3.19% of gross receipts from sales of electricity. Existing law is ambiguous as to whether the tax applies to multiple wholesale level sales of electricity.

B. **BASIS FOR LANGUAGE CHANGE**

Wisconsin has taken a significant step toward encouraging construction of wholesale merchant plants to prevent potential shortages of generating capacity and to mitigate the effects of transmission constraints in the state by enacting 1997 Wisconsin Act 204, which streamlined the regulatory approval process. This has reduced the potential for added costs due to regulatory delay. Wholesale merchant plants do not rely on long-term power sale contracts with utilities (the costs of which can be passed through to utility ratepayers) but assume all risks of participating in a competitive electric market. A qualified wholesale electric company that has a long-term power sale contract with a utility can pass its tax costs on to the purchasing utility (which can pass the tax costs on to the ratepayer), while a wholesale merchant plant has no such pass-through mechanism. Accordingly, a reduction in the rate at which gross receipts of wholesale merchant plants are taxed is necessary to encourage development of such plants in Wisconsin. Consistent with the intent of 1997 Wisconsin Act 204 to encourage wholesale merchant plants, we suggest that a reduced gross receipts tax for wholesale merchant plants will likely (i) encourage investment in wholesale merchant plants and ensure that new generation is built within Wisconsin; (ii) lead to improved reliability in Wisconsin's electric generation systems; and (iii) ensure that Wisconsin generators will be competitive within the region. Such approach is also consistent with the approach that was taken to encourage competition in the telecommunications industry. Finally, a reduced gross receipts tax for wholesale merchant plants will not cause a revenue reduction because without incentives for wholesale merchant plants, few, if any, will be built, (*i.e.*, it may be more preferable for Wisconsin to collect some gross receipts tax from merchant plants than none at all because no such wholesale merchant plants are located within the state).

Before wholesale merchant plants can be developed as envisioned by 1997 Wisconsin Act 204, there must exist a vibrant, competitive wholesale electric market for their output. Such a wholesale electric market is not only necessary for merchant power plants to flourish as intended by 1997 Wisconsin Act 204, but is consistent with the intent of the Federal Energy Policy Act (including Federal Energy Regulatory Commission Order 888) which also encourage the development of wholesale electric markets. However, taxing multiple resales of

the same electricity will discourage the development of a competitive wholesale electric market by increasing transaction costs. Accordingly, intermediate wholesale electric transactions should not be taxed in order to encourage wholesale electric markets in Wisconsin and the development of wholesale merchant plants.

C. PROPOSED LANGUAGE

1. The following provision should be added to Wis. Stat. § 76.28(1):

(j) "Wholesale merchant plant" means a facility defined in § 196.491(1)(w) which has received a certificate of public convenience and necessity pursuant to § 196.491(3)(a) after January 1, 2000.

2. The following provision should be added to Wis. Stat. § 76.28(2):

(e) For wholesale merchant plants, an amount equal to the apportionment factor multiplied by the product of gross revenues multiplied by 1.59%.

3. In the first sentence in Wis. Stat. § 76.28(2)(a), "(b) to (d)" should be changed to "(b) to (e)."

4. The words "or a wholesale merchant plant" should be added to the first and the last sentence of Wis. Stat. § 76.28(1)(d) after "qualified wholesale electric company."

5. The words "and wholesale merchant plants" should be added to Wis. Stat. § 76.28(1)(e) after "qualified wholesale electric companies." Add to the end of § 76.28(2)(d) as revised the following sentence: "The term "light, heat and power companies" does not include persons that purchase and resell electricity at wholesale, but not to any retail customer in this state."

6. The words "other than wholesale merchant plants" should be added to Wis. Stat. § 76.28(2)(c) after "For private light, heat and power companies."

7. The words "other than wholesale merchant plants" should be added to the last sentence of Wis. Stat. § 76.28(9) after the words "Property under s. 76.025(2)."

~~II. Wis. Stat. § 77.54 - Exemptions from Sales and Use Taxes~~

~~A. EXISTING LANGUAGE~~

~~Wis. Stat. § 77.54(6)(c) exempts "utilities" from payment of sales and use tax with respect to fuel converted to electric energy, gas or steam. Persons other than utilities are exempt from such taxes only with respect to fuel converted to steam that is resold. The Department of Revenue interprets "utilities" to mean regulated public utilities.~~

B. BASIS FOR LANGUAGE CHANGE

Wholesale merchant plants and other nonregulated generating companies will sell electricity in a competitive environment. Existing law places such providers at a competitive disadvantage when compared with regulated electric utilities which do not have to pay sales or use tax in connection with fuel used to generate electricity. This increases fuel costs for wholesale merchant plants and similar providers. This increases the risks to the developer which may discourage plant development. Wisconsin already has taken a significant step toward encouraging wholesale merchant plants by streamlining the regulatory process. (Although the non-utility is eligible for an income tax credit for the fuel sales tax paid, various circumstances, such as insufficient income, may prevent current credit utilization.)

C. PROPOSED LANGUAGE

The phrase "by electric generation companies" should be substituted for "by utilities" in § 77.54(6)(c) in both places where the latter term appears.

April 6, 1999

DATE: June 8, 1999
MEMO TO: Sen. Chvala
MEMO FROM: Joe Strohl
RE: LFB Merchant Plant Tax Memo

COPY

1. The sales tax exemption for "non-utility electric generation companies" should be effective on the same date and under the same circumstances as the new gross receipts tax for wholesale merchant plants.
2. The sales tax exemption is projected to cost the state \$1.5 million in 1999-00 and \$4.5 million in 2000-01. Since the cost of fuel is currently available as an income tax credit there might not be any loss revenue to the state if a merchant plant company were exempt from the sales tax.
3. Electricity produced by the USGen facility will be sold wholesale to Wisconsin investor owned utility (IOU) companies who will also be subject to the gross receipts tax of 3.19%. The LFB memo described the USGen facility in somewhat of a vacuum. Not only would the electricity from the USGen plant be subject to the gross receipts tax but it would again be taxed when resold by a Wisconsin utility.

A more accurate picture would look something like this: A new 1,000 megawatt generation plant owned by a Wisconsin IOU would generate approximately \$7.1 million annually in gross receipts tax. If that same plant were owned by a merchant plant company the same \$7.1 million would be generated. Since much of the electricity from the merchant plant would be sold to Wisconsin IOU's and then resold to Wisconsin consumers, the state would realize \$14.2 million of gross receipts tax on the sale of electricity from the 1,000 megawatt plant.

The USGen tax change would reduce total revenues to the state from the sale of electricity from the one plant from \$14.2 million to \$10.6.

If the merchant plant is not built and instead an IOU must construct it to meet the state needs, the state only receives \$7.1 million. With the tax change recommended by USGen the state makes an additional \$3.6 million.

- 4. The new gross receipt tax (1.59%) for "wholesale" merchant plants assumes that all the electricity generated is sold into the wholesale market. Today that is what is likely. However, retail sales will someday be a reality.**

To clarify the 1.59% rate, it should be stated that it only applies to wholesale transactions or sales destined for the wholesale market.

This language would both clarify when the new rate applies and make it clear that USGen does not seek some type of tax advantage over the IOU's in competing for their or other retail customers.



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

June 18, 1999

TO: Senator Robert Wirch
Room 310, South, State Capitol

FROM: Faith Russell, Fiscal Analyst

SUBJECT: Fiscal Effect of Changes in Taxation of Merchant Power Plants

At your request, I am providing information on a proposal to change the tax treatment of merchant power plants. Specifically you asked for the fiscal effect of each component of a proposal to do the following:

- a. Specify that sales of power by or between companies that purchase and resell electricity at wholesale, but not to any retail customer in this state (energy trading companies), would not be subject to the Wisconsin gross receipts tax.
- b. Reduce the gross receipts tax rate for a wholesale merchant plant that received a certificate of public convenience and necessity after January 1, 2000, from 3.19% to 1.59%.
- c. Provide that sales of fuel used by non-utility electric generation companies to generate electricity would be exempt from the sales tax for a company that received a certificate of public convenience and necessity after January 1, 2000.

Current Law

Under current law, a license fee on gross revenues is imposed on the following utilities in lieu of local property taxation: (a) light, heat and power companies; (b) electric cooperatives; and (c) car line companies. Light, heat and power companies, including qualified wholesale electric companies, are generally subject to a 3.19% gross revenues license fee on revenues from electricity sales.

Wisconsin statutes specify that a "wholesale merchant plant" means electric generating equipment and associated facilities located in this state that do not provide service to any retail

law, the associated sales tax would be \$6 million. However, the sales tax on such fuel could be partially offset if the company claimed a corporate income tax credit for sales taxes paid on fuel used to produce electricity. Under this proposal, there would be no sales tax on such fuel.

I hope this information is useful. Please let me know if you have additional questions.

FR/sas



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0845/1

JK
mg

in 6-23-99

SDC:.....Walter - CN #3306, License fee for wholesale merchant plants at 2.5% of gross revenues

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

SOON
D-N
Fix Request Sheet

1 At the locations indicated, amend the substitute amendment as follows:


2 1. Page 952, line 22: after that line insert:

3 "SECTION 1807b. 76.025 (2) of the statutes is amended to read:

4 76.025 (2) If the property of any company defined in s. 76.28 (1), except a
5 qualified wholesale electric company as defined in s. 76.28 (1) (gm) and a wholesale
6 merchant plant as defined in s. 76.28 (1) (j), is located entirely within a single town,
7 village or city, it shall be subject to local assessment and taxation."

8 2. Page 953, line 3: after that line insert:

9 "SECTION 1808g. 76.28 (1) (d) of the statutes is amended to read:

1 76.28 (1) (d) "Gross revenues" for a light, heat and power company other than
2 a qualified wholesale electric company or a wholesale merchant plant means total
3 operating revenues as reported to the public service commission except revenues for
4 interdepartmental sales and for interdepartmental rents as reported to the public
5 service commission and deductions from the sales and use tax under s. 77.61 (4),
6 except that the company may subtract from revenues either the actual cost of power
7 purchased for resale, as reported to the public service commission, by a light, heat
8 and power company, except a municipal light, heat and power company, that
9 purchases under federal or state approved wholesale rates more than 50% of its
10 electric power from a person other than an affiliated interest, as defined in s. 196.52
11 (1), if the revenue from that purchased electric power is included in the seller's gross
12 revenues or the following percentages of the actual cost of power purchased for
13 resale, as reported to the public service commission, by a light, heat and power
14 company, except a municipal light, heat and power company that purchases more
15 than 90% of its power and that has less than \$50,000,000 of gross revenues: 10% for
16 the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50%
17 for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric
18 company or a wholesale merchant plant, "gross revenues" means total business
19 revenues from those businesses included under par. (e) 1. to 4. 

20 **SECTION 1808h.** 76.28 (1) (e) (intro.) of the statutes is amended to read:

21 76.28 (1) (e) (intro.) "Light, heat and power companies" means any person,
22 association, company or corporation, including corporations described in s. 66.069 (2)
23 and including qualified wholesale electric companies and wholesale merchant plants
24 and except only business enterprises carried on exclusively either for the private use
25 of the person, association, company or corporation engaged in them, or for the private

1 use of a person, association, company or corporation owning a majority of all
2 outstanding capital stock or who control the operation of business enterprises and
3 except electric cooperatives taxed under s. 76.48 that engage in any of the following
4 businesses:

5 **SECTION 1808j.** 76.28 (1) (j) of the statutes is created to read:

6 76.28 (1) (j) "Wholesale merchant plants" means wholesale merchant plants,
7 as defined ~~under~~ⁱⁿ s. 196.491 (1) (w) that receive a certificate of public convenience and
8 necessity under s. 196.491 (3) after June 30, 2001.

9 **SECTION 1808m.** 76.28 (2) (a) of the statutes is amended to read:

10 76.28 (2) (a) There is imposed on every light, heat and power company an
11 annual license fee to be assessed by the department on or before May 1, 1985, and
12 every May 1 thereafter measured by the gross revenues of the preceding year at the
13 rates and by the methods set forth under pars. (b) to ~~(d)~~ ^(e). The fee shall become
14 delinquent if not paid when due and when delinquent shall be subject to interest at
15 the rate of 1.5% per month until paid. Payment in full of the May 1 assessment
16 constitutes a license to carry on business for the 12-month period commencing on the
17 preceding January 1.

18 **SECTION 1808p.** 76.28 (2) (c) (intro.) of the statutes is amended to read:

19 76.28 (2) (c) (intro.) For private light, heat and power companies, except wholesale
20 merchant plants, for 1986 and thereafter, an amount equal to the apportionment
21 factor multiplied by the sum of:

22 **SECTION 1808q.** 76.28 (2) (d) of the statutes is amended to read:

23 76.28 (2) (d) For municipal light, heat and power companies, except wholesale
24 merchant plants, an amount equal to the gross revenues, except gross revenues from

1 operations within the municipality that operates the company, multiplied by the
2 rates under par. (b) or (c).

3 **SECTION 1808r.** 76.28 (2) (e) of the statutes is created to read:

4 76.28 (2) (e) For wholesale merchant plants, an amount equal to the
5 apportionment factor multiplied by the sum of gross revenues multiplied by 2.5%.” ✓

6 ✓ **3.** Page 1600, line 6: after that line insert:

7 “(23^u) **WHOLE MERCHANT PLANTS.** The treatment of sections 76.025 (2) ✓ and ✓
8 (d), (e) (intro.) and (j) ✓ and ~~76.28~~ (2) (a), (c), (d) ✓ and (e) ✓ of the statutes first applies to
9 license fee payments that are due on November 10, 2001.” ✓

10 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0845/1dn

JK: *kim*

6

1. Please review this draft carefully to ensure that it is consistent with your intent. It seems from the instructions that the intent of this amendment, generally, is to treat wholesale merchant plants like qualified wholesale electric companies, for license fee and property tax purposes. Therefore, I did not include any of the recommended language that seemed inconsistent with that intent. For example, the recommended change to section 76.28 (9) of the statutes would result in wholesale merchant plants being subject to the license fee *and* subject to local assessment and taxation under section 79.025 (2) of the statutes. Is that consistent with the amendment's intent? Please note that, under current law, qualified wholesale electric companies are subject to the license fee *but not* subject to local assessment and taxation under section 79.025 (2) of the statutes. The amendment, as drafted, treats wholesale merchant plants like qualified wholesale electric companies for purposes of local assessment and taxation. Is that O.K.?

2. Although the amendment applies to wholesale merchant plants that receive a certificate of public convenience and necessity on or after July 1, 2001, the July 1 date does not work well with current law regarding the assessment and payment of the license fee. Under current law, a company that is subject to the license fee pays the fee in installments, based on estimated revenue in the current year, that are due on May 10 and November 10. Therefore, it makes sense to have the amendment first apply to license fee payments that are due on one of those dates. The amendment, as drafted, first applies to the license fee installment payment that is due on November 10, 2001. Is that consistent with the intent?

①
are

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Kreye@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0845/1dn
JK:kmg:ksh

June 27, 1999

1. Please review this draft carefully to ensure that it is consistent with your intent. It seems from the instructions that the intent of this amendment, generally, is to treat wholesale merchant plants like qualified wholesale electric companies, for license fee and property tax purposes. Therefore, I did not include any of the recommended language that seemed inconsistent with that intent. For example, the recommended change to section 76.28 (9) of the statutes would result in wholesale merchant plants being subject to the license fee *and* subject to local assessment and taxation under section 76.025 (2) of the statutes. Is that consistent with the amendment's intent? Please note that, under current law, qualified wholesale electric companies are subject to the license fee *but are not* subject to local assessment and taxation under section 76.025 (2) of the statutes. The amendment, as drafted, treats wholesale merchant plants like qualified wholesale electric companies for purposes of local assessment and taxation. Is that OK.?

2. Although the amendment applies to wholesale merchant plants that receive a certificate of public convenience and necessity on or after July 1, 2001, the July 1 date does not work well with current law regarding the assessment and payment of the license fee. Under current law, a company that is subject to the license fee pays the fee in instalments, based on estimated revenue in the current year, that are due on May 10 and November 10. Therefore, it makes sense to have the amendment first apply to license fee payments that are due on one of those dates. The amendment, as drafted, first applies to the license fee instalment payment that is due on November 10, 2001. Is that consistent with the intent?

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Kreye@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0845/1
JK:kmg:ksh

1.59%
WFO: tax request sheet

SDC:.....Walter - CN #3306, License fee for wholesale merchant plants at
~~2.5%~~ of gross revenues

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 952, line 22: after that line insert:
- 3 “SECTION 1807b. 76.025 (2) of the statutes is amended to read:
- 4 76.025 (2) If the property of any company defined in s. 76.28 (1), except a
- 5 qualified wholesale electric company as defined in s. 76.28 (1) (gm) and a wholesale
- 6 merchant plant as defined in s. 76.28 (1) (j), is located entirely within a single town,
- 7 village or city, it shall be subject to local assessment and taxation.”.
- 8 **2.** Page 953, line 3: after that line insert:
- 9 “SECTION 1808g. 76.28 (1) (d) of the statutes is amended to read:

1 76.28 (1) (d) “Gross revenues” for a light, heat and power company other than
2 a qualified wholesale electric company or a wholesale merchant plant means total
3 operating revenues as reported to the public service commission except revenues for
4 interdepartmental sales and for interdepartmental rents as reported to the public
5 service commission and deductions from the sales and use tax under s. 77.61 (4),
6 except that the company may subtract from revenues either the actual cost of power
7 purchased for resale, as reported to the public service commission, by a light, heat
8 and power company, except a municipal light, heat and power company, that
9 purchases under federal or state approved wholesale rates more than 50% of its
10 electric power from a person other than an affiliated interest, as defined in s. 196.52
11 (1), if the revenue from that purchased electric power is included in the seller’s gross
12 revenues or the following percentages of the actual cost of power purchased for
13 resale, as reported to the public service commission, by a light, heat and power
14 company, except a municipal light, heat and power company that purchases more
15 than 90% of its power and that has less than \$50,000,000 of gross revenues: 10% for
16 the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50%
17 for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric
18 company or a wholesale merchant plant, “gross revenues” means total business
19 revenues from those businesses included under par. (e) 1. to 4.

20 **SECTION 1808h.** 76.28 (1) (e) (intro.) of the statutes is amended to read:

21 76.28 (1) (e) (intro.) “Light, heat and power companies” means any person,
22 association, company or corporation, including corporations described in s. 66.069 (2)
23 and including qualified wholesale electric companies and wholesale merchant plants
24 and except only business enterprises carried on exclusively either for the private use
25 of the person, association, company or corporation engaged in them, or for the private

1 use of a person, association, company or corporation owning a majority of all
2 outstanding capital stock or who control the operation of business enterprises and
3 except electric cooperatives taxed under s. 76.48 that engage in any of the following
4 businesses:

5 **SECTION 1808j.** 76.28 (1) (j) of the statutes is created to read:

6 76.28 (1) (j) "Wholesale merchant plants" means wholesale merchant plants,
7 as defined in s. 196.491 (1) (w), that receive a certificate of public convenience and
8 necessity under s. 196.491 (3) after ~~June 30, 2004~~ *December 31, 1999*

9 **SECTION 1808m.** 76.28 (2) (a) of the statutes is amended to read:

10 76.28 (2) (a) There is imposed on every light, heat and power company an
11 annual license fee to be assessed by the department on or before May 1, 1985, and
12 every May 1 thereafter measured by the gross revenues of the preceding year at the
13 rates and by the methods set forth under pars. (b) to ~~(d)~~ (e). The fee shall become
14 delinquent if not paid when due and when delinquent shall be subject to interest at
15 the rate of 1.5% per month until paid. Payment in full of the May 1 assessment
16 constitutes a license to carry on business for the 12-month period commencing on the
17 preceding January 1.

18 **SECTION 1808p.** 76.28 (2) (c) (intro.) of the statutes is amended to read:

19 76.28 (2) (c) (intro.) For private light, heat and power companies, except
20 wholesale merchant plants, for 1986 and thereafter, an amount equal to the
21 apportionment factor multiplied by the sum of:

22 **SECTION 1808q.** 76.28 (2) (d) of the statutes is amended to read:

23 76.28 (2) (d) For municipal light, heat and power companies, except wholesale
24 merchant plants, an amount equal to the gross revenues, except gross revenues from

1 operations within the municipality that operates the company, multiplied by the
2 rates under par. (b) or (c).

3 SECTION 1808r. 76.28 (2) (e) of the statutes is created to read:

4 76.28 (2) (e) For wholesale merchant plants, an amount equal to the
5 apportionment factor multiplied by the sum of gross revenues multiplied by 1.59%".

6 ✓ 3. Page 1600, line 6: after that line insert:

7 "~~(c)~~ WHOLE MERCHANT PLANTS. The treatment of sections 76.025 (2) and 76.28
8 (1) (d), (e) (intro.) and (j) and (2) (a), (c), (d) and (e) of the statutes first applies to
9 license fee payments that are due on November 10, 2001".

10 (END)

Wholesale (S)

January 1,

2000

taken effect

1.59%

effect date suit

1614 before

first applies to



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0845/2
JK:kmg:ijs

SDC:.....Walter – CN #3306, License fee for wholesale merchant plants at 1.59% of gross revenues.

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 952, line 22: after that line insert:

3 “SECTION 1807b. 76.025 (2) of the statutes is amended to read:

4 76.025 (2) If the property of any company defined in s. 76.28 (1), except a
5 qualified wholesale electric company as defined in s. 76.28 (1) (gm) and a wholesale
6 merchant plant as defined in s. 76.28 (1) (j), is located entirely within a single town,
7 village or city, it shall be subject to local assessment and taxation.”

8 **2.** Page 953, line 3: after that line insert:

9 “SECTION 1808g. 76.28 (1) (d) of the statutes is amended to read:

1 76.28 (1) (d) “Gross revenues” for a light, heat and power company other than
2 a qualified wholesale electric company or a wholesale merchant plant means total
3 operating revenues as reported to the public service commission except revenues for
4 interdepartmental sales and for interdepartmental rents as reported to the public
5 service commission and deductions from the sales and use tax under s. 77.61 (4),
6 except that the company may subtract from revenues either the actual cost of power
7 purchased for resale, as reported to the public service commission, by a light, heat
8 and power company, except a municipal light, heat and power company, that
9 purchases under federal or state approved wholesale rates more than 50% of its
10 electric power from a person other than an affiliated interest, as defined in s. 196.52
11 (1), if the revenue from that purchased electric power is included in the seller’s gross
12 revenues or the following percentages of the actual cost of power purchased for
13 resale, as reported to the public service commission, by a light, heat and power
14 company, except a municipal light, heat and power company that purchases more
15 than 90% of its power and that has less than \$50,000,000 of gross revenues: 10% for
16 the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50%
17 for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric
18 company or a wholesale merchant plant, “gross revenues” means total business
19 revenues from those businesses included under par. (e) 1. to 4.

20 **SECTION 1808h.** 76.28 (1) (e) (intro.) of the statutes is amended to read:

21 76.28 (1) (e) (intro.) “Light, heat and power companies” means any person,
22 association, company or corporation, including corporations described in s. 66.069 (2)
23 and including qualified wholesale electric companies and wholesale merchant plants
24 and except only business enterprises carried on exclusively either for the private use
25 of the person, association, company or corporation engaged in them, or for the private

1 use of a person, association, company or corporation owning a majority of all
2 outstanding capital stock or who control the operation of business enterprises and
3 except electric cooperatives taxed under s. 76.48 that engage in any of the following
4 businesses:

5 **SECTION 1808j.** 76.28 (1) (j) of the statutes is created to read:

6 76.28 (1) (j) “Wholesale merchant plants” means wholesale merchant plants,
7 as defined in s. 196.491 (1) (w), that receive a certificate of public convenience and
8 necessity under s. 196.491 (3) after December 31, 1999.

9 **SECTION 1808m.** 76.28 (2) (a) of the statutes is amended to read:

10 76.28 (2) (a) There is imposed on every light, heat and power company an
11 annual license fee to be assessed by the department on or before May 1, 1985, and
12 every May 1 thereafter measured by the gross revenues of the preceding year at the
13 rates and by the methods set forth under pars. (b) to ~~(d)~~ (e). The fee shall become
14 delinquent if not paid when due and when delinquent shall be subject to interest at
15 the rate of 1.5% per month until paid. Payment in full of the May 1 assessment
16 constitutes a license to carry on business for the 12-month period commencing on the
17 preceding January 1.

18 **SECTION 1808p.** 76.28 (2) (c) (intro.) of the statutes is amended to read:

19 76.28 (2) (c) (intro.) For private light, heat and power companies, except
20 wholesale merchant plants, for 1986 and thereafter, an amount equal to the
21 apportionment factor multiplied by the sum of:

22 **SECTION 1808q.** 76.28 (2) (d) of the statutes is amended to read:

23 76.28 (2) (d) For municipal light, heat and power companies, except wholesale
24 merchant plants, an amount equal to the gross revenues, except gross revenues from

1 operations within the municipality that operates the company, multiplied by the
2 rates under par. (b) or (c).

3 **SECTION 1808r.** 76.28 (2) (e) of the statutes is created to read:

4 76.28 (2) (e) For wholesale merchant plants, an amount equal to the
5 apportionment factor multiplied by the sum of gross revenues multiplied by 1.59%.”.

6 **3.** Page 1614, line 1: before that line insert:

7 “(6t) WHOLESALE MERCHANT PLANTS. The treatment of sections 76.025 (2) and
8 76.28 (1) (d), (e) (intro.) and (j) and (2) (a), (c), (d) and (e) of the statutes takes effect
9 on January 1, 2000.”.

10

(END)