

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: **10/02/1999**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Worzala**

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

Drafter: **kunkemd**

May Contact:

Alt. Drafters:

Subject: **Public Util. - electric
Environment - air quality**

Extra Copies: **RTC**

Pre Topic:

LFB:.....Worzala -

Topic:

Electric reliability package

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>
/?	kunkemd 10/02/1999	gilfokm 10/02/1999		_____			
/P1	kunkemd 10/03/1999	chanaman 10/03/1999	kfollet 10/02/1999	_____	lrb_docadmin 10/03/1999		
/1			hhagen 10/03/1999	_____	lrb_docadmin 10/04/1999		

FE Sent For:

<END>

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/P1		<i>cmh</i> 10/3		kfollet 10/02/1999		lrb_docadmin 10/03/1999	
				<i>cmh</i> 10/3			

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1/?	kunkemd	/P1-10-2-99 kmg	Kjf 10/2	Kjf/kmg 10/2			

FE Sent For:

<END>

Memo

To: 99b1931 drafting file

From: Mark D. Kunkel, Legislative Attorney

Subject: Explanation of file contents

Date: May 31, 2000

The drafting file for 99b1931 includes the drafting files for 99b1659 and 99b1702 because 99b1931/P1 was created from both 99b1659/7 and 99b1709/2.

With respect to the drafting file for 99b1659, note that 99b1659/1 was created from 99b1329/1, which was introduced as part of the Senate Democratic Caucus amendment (i.e., SA1 to SSA1 to AB133). Therefore, the drafting file for 99b1329 is not included here, but is included with the drafting files for the Senate Democratic Caucus amendment. (Note that the drafting file for 99b1329 shows that 99b1329/1 is created from 99-3150/3, which was introduced as 1999 Senate Bill 196. The drafting file for 1999 Senate Bill 196 is not included in the drafting file for 99b1329, but may be found with the drafting files for other introduced bills.)

With respect to the drafting file for 99b1702, note that 99b1709/1 was created from 99-3373/P1, which was created from 99s0102/1. Therefore, the drafting files for 99-3373 and 99s0102 are included here with the drafting file for 99b1702.

**Cullen
Weston
Pines
& Bach**

Attorneys at Law

122 West Washington Avenue
Suite 900
Madison, Wisconsin 53703
(608) 251-0101
(608) 251-2883 Fax

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Elise Clancy Ruoho
Mary Wright
Jordan Loeb
Tamara B. Packard
Shana R. Lewis

Of Counsel:
Cheryl Rosen Weston

CONFIDENTIAL

September 28, 1999

The Honorable Governor Tommy G. Thompson
Office of the Governor
125 South State Capitol
Madison, WI 53702

Senator Charles Chvala
211 South State Capitol
Madison, WI 53702

Speaker Scott Jensen
211 West State Capitol
Madison, WI 53707

Dear Governor Thompson, Senator Chvala and Speaker Jensen:

Enclosed is the definition of transmission facility which Energize Wisconsin and Customers First! have agreed upon.

Please feel free to call if you have any questions.

Sincerely,

CULLEN, WESTON, PINES & BACH



Lee Cullen

LC/kl

cc: Robert Wood
Chris LaRowe

CFC 9/27/99

CONFIDENTIAL**TRANSMISSION FACILITY DEFINITION**

For purposes of this section, notwithstanding any other provision of ch. 196, and subject to any required federal approval, transmission facilities means at a minimum all facilities operated at a voltage greater than 130 kV, except radial facilities. Facilities operated at a voltage greater than 50 kV and less than 130 kV, except radial facilities, shall be transmission facilities and subject to contribution to the transmission company under this section unless a party demonstrates to the public service commission on a case-by-case basis that a particular facility does not satisfy the definition of transmission facility, applying the criteria of the applicable federal regulatory agency with jurisdiction over the interstate transmission of electricity. Facilities operated at a voltage of less than 50 kV and radial facilities shall be included if a party demonstrates to the commission on a case-by-case basis that such facilities meet such criteria.

CONFIDENTIAL

9/29/99

(2) In establishing nitrogen oxide emissions reductions for the control of atmospheric ozone in another state pursuant to a call for a state implementation plan issued prior to the effective date of this act (or any such call issued after the effective date of this act arising out of a call issued prior to the effective date of this act, pursuant to a remand order from a federal court or otherwise), the department may not, in an implementation plan under sec. 285.11(6), by rule, or through the adoption of control strategies, establish nitrogen oxide emissions standards or limitations that would require total nitrogen oxide emissions to be less than 2,549 tons for the period from May 1 through September 30 of each year for electric generation facilities that are located in Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, La Crosse, Monroe, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Trempeleau, Vernon and Washburn counties and [] tons for electric generation facilities that are located in other counties in the state.

(3) The department may not, based ~~solely~~ on the provisions of ~~sub. 2~~, *this section* require additional reductions of nitrogen oxide emissions from any stationary source which is not an electric generating facility owned by a public utility or electric cooperative, or any mobile source.

(4) At least 866 tons of the nitrogen oxide emission reductions required under the state implementation plan shall be achieved by the implementation of low-income weatherization and energy conservation measures and through the use of renewable energy.

(5) The department shall allow a market-based trading program for the purchase, sale and transfer of emission credits for use in any implementation plan for the reduction of nitrogen oxide emissions. To the extent allowed by federal law, the department shall certify nitrogen oxide emission reductions by any source in the state, regardless of whether they are subject to nitrogen oxide controls under the implementation plan, for purchase, sale or transfer.

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122 West Washington Avenue
Suite 900
Madison, Wisconsin 53703
(608) 251-0101
(608) 251-2883 Fax

CONFIDENTIAL

September 30, 1999

Mr. Robert Wood
Office of the Governor
125 South State Capitol
Madison, WI 53702

Dear Mr. Wood:

Please find enclosed copies of the amendments to LRBB1659/7 that Energize Wisconsin and Customers First! Coalition have agreed to for inclusion in the budget conference committee report:

- *NOx
- *Transmission facility definition
- *Miscellaneous date changes/environmental engineering as an eligible asset; and,
- *WEC-WICOR holding company reporting requirements.

Thank you for your great assistance in helping the parties reach final resolution on these issues.

Sincerely,

CULLEN, WESTON, PINES & BACH



Lee Cullen
LC/kl

Enclosures

cc: William McCoshen, Energize Wisconsin (hand delivery)

Lee Cullen
Lester A. Pines
Steven A. Bach
Alison TenBruggencate
Gordon E. McQuillen
Carol Grob

Linda L. Harfst
Curt F. Pawlisch
Elise Clancy Ruoho
Mary Wright
Jordan Loeb
Tamara B. Packard
Shana R. Lewis

Of Counsel:
Cheryl Rosen Weston

Via Hand Delivery

WEC-WICOR LANGUAGE

Sec. 196.795(7)(a) of the statutes is amended to read:

(7) Commission Investigations (a) No sooner than the first day of the 36th month after the formation of a holding company and at least once every 3 years thereafter, the commission shall investigate the impact of the operation of every holding company system formed on or after November 28, 1985, on every public utility affiliate in the holding company system and shall determine whether each nonutility affiliate, except for the nonutility affiliates of a holding company that were nonutility affiliates of a holding company that was formed before November 28, 1985 does, or can reasonably be expected to do, at least one of the following:

CONFIDENTIAL

TRANSMISSION FACILITY DEFINITION

For purposes of this section, notwithstanding any other provision of ch. 196, and subject to any required federal approval, transmission facilities means at a minimum all facilities operated at a voltage greater than 130 kV, except radial facilities. Facilities operated at a voltage greater than 50 kV and less than 130 kV, except radial facilities, shall be transmission facilities and subject to contribution to the transmission company under this section unless a party demonstrates to the public service commission on a case-by-case basis that a particular facility does not satisfy the definition of transmission facility, applying the criteria of the applicable federal regulatory agency with jurisdiction over the interstate transmission of electricity. Facilities operated at a voltage of less than 50 kV and radial facilities shall be included if a party demonstrates to the commission on a case-by-case basis that such facilities meet such criteria.

GOVERNOR'S ALTERNATIVE NOx PROVISION

Section _____. Section 285.48 of the statutes is created to read:

285.48. Nitrogen oxide emissions from certain electric generation facilities; emissions credits and trading.

285.48

DOA determines whether collection satisfies

(1) (a) This section is contingent on the SIP call being implemented in a manner that includes the generating facilities in the MAPP portion of Wisconsin. To the extent the call is implemented in a manner that requires NOx emissions reductions for electric generation facilities in the MAPP portion of Wisconsin that are less than those reductions prescribed in EPA's call published on October 27, 1998, the department shall correspondingly adjust upward the 2549 ton emissions level prescribed in sub. (2) for the MAPP facilities and the [15,157] ton emission level prescribed in sub. (2) for the MAIN facilities, relax any related emission control requirements, and advise DOA on appropriate adjustments for payments to and distributions from the Fund due to such lower emissions reductions costs from electric generation facilities associated with such adjustments.

verify

How permit

if don't have to reduce as much, you get to omit more who get permit more?

public utility

stall

who pays what

(b) Wisconsin Energy, Alliant and WPSC agree to contribute to an Air Quality improvement Fund \$2.4 million dollars per year for 10 years. Such payments shall commence one year prior to the commencement of the compliance period for NOx emissions reductions for MAPP facilities. The public benefits portion of Reliability 2000 is amended to create a set aside of \$2.5 million per year for the Fund for 10 years. The eligible applicants to the Fund are MAPP public utilities and electric cooperatives. MAPP public utilities may receive no more than \$500,000 per year from the Fund. The MAPP utilities and electric cooperatives may assign their right to the proceeds of the Fund to third parties who will achieve the same level of emissions reductions. DOA will disburse payments from the Fund. Disbursements received by electric cooperatives shall not constitute "gross revenues" under Wis. Stats. 76.48. Disbursements received by public utilities shall not constitute "gross revenues" under Wis. Stats. 76.28.

public Benefits fund

purpose - sell email

DOA rules

means "generate" NOT distrib work

util HC

util HC

(c) The annual payment by Wisconsin Energy, Alliant and WPSC is a mandatory assessment by the PSC under Chapter 196.

Wisconsin Energy PU A in the State of WI's 1 formed after Nov. 28, 1985 (in order to exempt WI from)

9/29/99

The dept shall issue a support # of perm - allowances to allow the perm levels authorized by this subsec -

(2) In establishing nitrogen oxide emissions reductions for the control of atmospheric ozone in another state pursuant to a call for a state implementation plan issued prior to the effective date of this act (or any such call issued after the effective date of this act arising out of a call issued prior to the effective date of this act, pursuant to a remand order from a federal court or otherwise), the department may not, in an implementation plan under sec. 285.11(6), by rule, or through the adoption of control strategies, establish nitrogen oxide emissions standards or limitations that would require total nitrogen oxide emissions to be less than 2,549 tons for the period from May 1 through September 30 of each year for electric generation facilities that are located in Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, La Crosse, Monroe, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Trempeleau, Vernon and Washburn counties and [15,157] tons for electric generation facilities that are located in other counties in the state.

what is in the permit for burning coal with petrod

+ New sentence - see email

this section

(3) The department may not, based solely on the provisions of sub. (2), require additional reductions of nitrogen oxide emissions from any stationary source which is not an electric generating facility owned by a public utility or electric cooperative, or any mobile source.

(4) At least 866 tons of the nitrogen oxide emission reductions required under the state implementation plan shall be achieved by the implementation of low-income weatherization and energy conservation measures and through the use of renewable energy.

include RN 196.378

per year when SIP is issued are 196.374
including point sources 19.957 (2)(a) etc
est. or participate in ONR develop program
but due this → date back to including

specified in (1)

(5) The department shall allow a market-based trading program for the purchase, sale and transfer of emission credits for use in any implementation plan for the reduction of nitrogen oxide emissions. To the extent allowed by federal law, the department shall certify nitrogen oxide emission reductions by any source in the state, regardless of whether they are subject to nitrogen oxide controls under the implementation plan, for purchase, sale or transfer.

IF NO 866 in (1) than numbers in (2) will be higher on 866

this is unconditional every time conditional or SIP call

who - non attached up to them
How enforce - OVR? Admin. agrees
Linkage?

noting to address NOx in SIP call must
- full into act source address including in permit

1 (b) "Fund" means the utility public benefits fund.

2 (c) "Utility" means a Class A gas or electric utility, as defined by the
3 commission, but does not include a municipal utility, as defined in s. 16.957 (1) (q),
4 a municipal electric company, as defined in s. 66.073 (3) (d), or a cooperative
5 association organized under ch. 185.

6 (2) The commission shall determine the amount that each utility spent in 1998
7 on programs for low-income assistance, including low-income weatherization and
8 writing off uncollectibles and arrearages; energy conservation and efficiency;
9 environmental research and development; and renewable resources.

10 (3) In ~~1999, 2000 and 2001~~^{2000 2001 2002}, the commission shall require each utility to spend
11 a decreasing portion of the amount determined under sub. (2) on programs specified
12 in sub. (2) and contribute the remaining portion of the amount to the commission for
13 deposit in the fund. In each year after ~~2001~~²⁰⁰², each utility shall contribute the entire
14 amount determined under sub. (2) to the commission for deposit in the fund. The
15 commission shall ensure in rate-making orders that a utility recovers from its
16 ratepayers the amounts spent on programs or contributed to the fund under this
17 subsection. The commission shall allow each utility the option of continuing to use,
18 until January 1, ~~2001~~²⁰⁰², the moneys that it has recovered under s. 196.374 (3), 1997
19 stats., to administer the programs that it has funded under s. 196.374 (1), 1997 stats.
20 The commission may allow each utility to spend additional moneys on the programs
21 specified in sub. (2) if the utility otherwise complies with the requirements of this
22 section and s. 16.957 (4).

23 (4) If the department notifies the commission under s. 16.957 (2) (b) 2. that the
24 department has reduced funding for energy conservation and efficiency and
25 renewable resource programs by an amount that is greater than the portion of the

1 2. Any other resource, except a conventional resource, that the commission
2 designates as a renewable resource in rules promulgated under sub. (4).

3 (i) "Renewable resource credit" means a credit calculated in accordance with
4 rules promulgated under sub. (3) (a).

5 (j) "Resource" means a source of energy used to generate electric power.

6 (k) "Retail electric cooperative" means a cooperative association organized
7 under ch. 185 that sells electricity at retail to its members only. For purposes of this
8 paragraph, a cooperative association is not considered to sell electricity at retail
9 solely on the basis of its ownership or operation of a retail electric distribution
10 system.

11 (n) "System renewable energy" means the amount of electricity that an electric
12 provider sells to its retail customers or members and that is supplied by renewable
13 facilities owned or operated by the electric provider.

14 (o) "Total renewable energy" means the sum of an electric provider's system and
15 nonsystem renewable energy.

16 (2) RENEWABLE RESOURCE ENERGY. (a) Each electric provider shall provide to its
17 retail electric customers or members total renewable energy in at least the following
18 percentages of its total retail electric sales, either directly or through renewable
19 resource credits from another electric provider:

- 20 1. By December 31, ~~2000~~²⁰⁰¹, 0.5%.
- 21 2. By December 31, ~~2002~~²⁰⁰³, 0.85%.
- 22 3. By December 31, ~~2004~~²⁰⁰⁵, 1.2%.
- 23 4. By December 31, ~~2006~~²⁰⁰⁷, 1.55%.
- 24 5. By December 31, ~~2008~~²⁰⁰⁵, 1.9%.
- 25 6. By December 31, ~~2010~~²⁰¹¹, 2.2%.

1 transmission utility that has not contributed its transmission facilities to the
2 transmission company shall elect to become part of the single zone for pricing
3 purposes within the Midwest independent system operator and any phase-in plan
4 prepared under sub. (3m) (a) 4.

5 **SECTION 2335uh.** 196.485 (5) of the statutes is created to read:

6 196.485 (5) PUBLIC UTILITY AFFILIATES. (a) *Asset cap exception.* Section 196.795
7 (6m) (e) does not apply to the eligible assets of a nonutility affiliate in a holding
8 company system unless each public utility affiliate in the holding company system
9 does each of the following:

10 1. Petitions the commission and the federal energy regulatory commission to
11 approve the transfer of operational control of all the public utility affiliate's
12 transmission facilities in this state and in Iowa, Michigan, Minnesota and Illinois to
13 the Midwest independent system operator.

14 2. Files with the commission an unconditional, irrevocable and binding
15 commitment to contribute, no later than ~~June 30~~ ^{September}, 2000, all of the transmission
16 facilities that the public utility affiliate owns or operates in this state on the effective
17 date of this subdivision [revisor inserts date], and land rights, to the transmission
18 company. A filing under this subdivision shall specify a date no later than ~~June 30~~ ^{September},
19 2000, on which the public utility affiliate will complete the contribution of
20 transmission facilities.

21 3. Files with the commission an unconditional, irrevocable and binding
22 commitment to contribute, and to cause each entity into which it merges or
23 consolidates or to which it transfers substantially all of its assets to contribute, any
24 transmission facility in this state the ownership or control of which it acquires after

1 **SECTION 2335yn.** 196.795 (6m) (a) (intro.) of the statutes is created to read:

2 196.795 (6m) (a) *Definitions.* (intro.) In this subsection:

3 **SECTION 2335yo.** 196.795 (6m) (a) 1. of the statutes is created to read:

4 196.795 (6m) (a) 1. “Contributor public utility affiliate” means a public utility
5 affiliate that has contributed its transmission facilities to the transmission company
6 under s. 196.485 (5) (b).

7 **SECTION 2335yp.** 196.795 (6m) (a) 2. of the statutes is created to read:

8 196.795 (6m) (a) 2. “Eligible asset” means an asset of a nonutility affiliate that
9 is used for any of the following:

10 a. Producing, generating, transmitting, delivering, selling or furnishing gas,
11 oil, electricity or steam energy.

12 b. Providing an energy management, conservation or efficiency product or
13 service or a demand–side management product or service.

14 c. Providing an energy customer service, including metering or billing.

15 d. Recovering or producing energy from waste materials.

16 e. Processing waste materials.

17 f. Manufacturing, distributing or selling products for filtration, pumping water
18 or other fluids, processing or heating water, handling fluids or other related
19 activities.

20 g. Providing a telecommunications service, as defined in s. 196.01 (9m).

21 h. *Providing an environmental engineering service.*
22 **SECTION 2335yq.** 196.795 (6m) (a) 4. of the statutes is created to read:

23 196.795 (6m) (a) 4. “Generation assets” means assets that are classified as
24 electric generation assets on the books of account of a public utility, as determined
25 by the commission.

25 **SECTION 2335yr.** 196.795 (6m) (b) (title) of the statutes is created to read:

Cullen
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Attorneys at Law

122 West Washington Avenue
Suite 900
Madison, Wisconsin 53703
(608) 251-0101
(608) 251-2883 Fax

CONFIDENTIAL

September 30, 1999

Mr. Robert Wood
Office of the Governor
125 South State Capitol
Madison, WI 53702

Dear Mr. Wood:

Enclosed is a final amendment which Customers First! and Energize Wisconsin have agreed to.

Sincerely,

CULLEN, WESTON, PINES & BACH



Lee Cullen

LC/kl

Enclosure

Lee Cullen
Lester A. Pines
Steven A. Bach
Allison TenBruggencate
Gordon E. McQuillen
Carol Grob

Linda L. Harfst
Curt F. Pawlisch
Elise Clancy Ruoho
Mary Wright
Jordan Loeb
Tamara B. Packard
Shana R. Lewis

Of Counsel:
Cheryl Rosen Weston

9/20/99

1 (b) For purposes of determining compliance with par. (a):

2 1. Total retail electric sales shall be calculated on the basis of an average of an
3 electric provider's retail electric sales in this state during the prior 3 years.

4 2. The amount of electricity supplied by a biomass cofired facility that may be
5 counted toward satisfying the requirements of par. (a) shall be an amount equal to
6 the product of the maximum amount of electricity that the facility is capable of
7 generating and the ratio of the energy content of the biomass fuels to the energy
8 content of both the biomass and conventional resources.

9 3. Any excludable renewable energy that exceeds 0.6% of an electric provider's
10 total retail electric sales shall be excluded from the electric provider's total
11 renewable energy.

12 4. The Members of ^{the} municipal electric company may aggregate and allocate renewable energy -
13 (c) No later than April 15 annually, an electric provider shall submit a report

14 to the department that describes the electric provider's compliance with par. (a).
15 Reports under this paragraph may include certifications from wholesale suppliers
16 regarding the sources and amounts of energy supplied to an electric provider. The
17 department may specify the documentation that is required to be included with
18 reports submitted under this paragraph.

19 (d) The commission shall allow an electric utility to recover from ratepayers the
20 cost of providing total renewable energy to its retail customers in amounts that equal
21 or exceed the percentages specified in par. (a). Subject to any approval of the
22 commission that is necessary, an electric utility may recover costs under this
23 paragraph by any of the following methods:

- 24 1. Allocating the costs equally to all customers on a kilowatt-hour basis.
- 25 2. Establishing alternative price structures, including price structures under
which customers pay a premium for renewable energy.

Kunkel, Mark

From: Burnett, Douglas
Sent: Thursday, September 30, 1999 3:39 PM
To: Kunkel, Mark
Cc: 'Curt Pawlisch'
Subject: RE: Clarification of conf. committee instructions on electric reliability

The so-called realtors amendment should be included in the final draft. Do you have the final instructions from Curt on that? There will also be an adjustment to the public benefits funding level (separate from the Nox deal) which will be determined this afternoon or evening.

-----Original Message-----

From: Kunkel, Mark
Sent: Thursday, September 30, 1999 2:08 PM
To: Burnett, Douglas
Subject: Clarification of conf. committee instructions on electric reliability

Doug,

Perhaps I am jumping the gun, but should I assume that the following are the Conference Committee's final instructions on electric reliability?

-- include the provisions of LRBb1659/7, as modified by the changes described in Lee Cullen's letter to Robert Wood dated Sept. 30, 1999 (note, this includes NOx, transmission facility definition, WEC-WICOR holding company reporting and miscellaneous date changes and environmental engineering as an eligible asset).

Are there any outstanding issues in addition to the above? For example, what about the so-called "realtor's amendment"? And what about making final adjustments to the amount of public benefits funding?

Mark Kunkel
Legislative Attorney
State of Wisconsin
Legislative Reference Bureau

mark.kunkel@legis.state.wi.us
(608) 266-0131

Kunkel, Mark

From: Burnett, Douglas
Sent: Thursday, September 30, 1999 3:47 PM
To: 'Curt Pawlisch'
Cc: Kunkel, Mark
Subject: RE: Clarification of conf. committee instructions on electric reliability

That's correct Curt. Thanks all.

-----Original Message-----

From: Curt Pawlisch [mailto:pawlisch@cwpb.com]
Sent: Thursday, September 30, 1999 4:50 PM
To: Burnett, Douglas .
Cc: Mark.Kunkel@legis.state.wi.us
Subject: RE: Clarification of conf. committee instructions on electric reliability

Doug,

I will make sure Mark has the realtors' amendment (LRBb1709/2). I take it by your reply to Mark that everything on his list to you is in and he should be drafting accordingly.

Thanks.

--Curt

Kunkel, Mark

From: Burnett, Douglas
Sent: Thursday, September 30, 1999 3:54 PM
To: Kunkel, Mark
Subject: RE: Clarification of conf. committee instructions on electric reliability

Rely only on Curt Pawlisch, and if there's a dispute, have Curt call me and I'll get it straightened out.

-----Original Message-----

From: Kunkel, Mark
Sent: Thursday, September 30, 1999 3:49 PM
To: Burnett, Douglas
Subject: RE: Clarification of conf. committee instructions on electric reliability

Doug:

Who should I accept instructions from in the event that I have questions about the meaning of the language that you have identified as the instructions? Specifically, regarding the NOx language, should I accept clarification from either side that negotiated the language, or should I rely on only one source?

Mark Kunkel
Legislative Attorney
State of Wisconsin
Legislative Reference Bureau

mark.kunkel@legis.state.wi.us
(608) 266-0131

-----Original Message-----

From: Burnett, Douglas
Sent: Thursday, September 30, 1999 3:47 PM
To: 'Curt Pawlisch'
Cc: Kunkel, Mark
Subject: RE: Clarification of conf. committee instructions on electric reliability

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-----Original Message-----

From: Curt Pawlisch [<mailto:pawlisch@cwpb.com>]
Sent: Thursday, September 30, 1999 4:50 PM
To: Burnett, Douglas
Cc: Mark.Kunkel@legis.state.wi.us
Subject: RE: Clarification of conf. committee instructions on electric reliability

Doug,

I will make sure Mark has the realtors' amendment (LRBb1709/2). I take it by your reply to Mark that everything on his list to you is in and he should be drafting accordingly.

Thanks.

--Curt

Kunkel, Mark

From: Curt Pawlisch [pawlisch@cwpb.com]
Sent: Thursday, September 30, 1999 3:50 PM
To: mark.kunkel@legis.state.wi.us

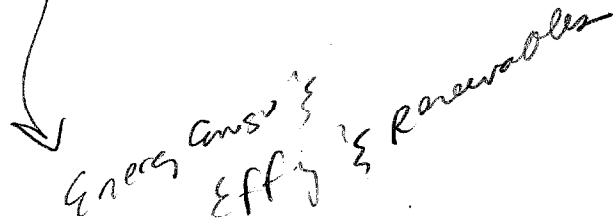
Mark,

1. As to what the money could be used for from the Air Quality Improvement Fund, try this: "for the purpose of complying with requirements for reductions of NOx emissions that apply to western Wisconsin."
2. The allocation to the Air Quality Improvement Fund would be an offset against the environmental spending under 16.957(2)(b). If money remains unspent from the Air Quality Improvement Fund, it would lapse back to the Public Benefits Fund and the monies would be available to be spent for 16.597(2)(b) programs.

More later.

--Curt

Energy Conservation & Renewables



Kunkel, Mark

From: Curt Pawlisch [pawlisch@cwpb.com]
Sent: Thursday, September 30, 1999 4:08 PM
To: mark.kunkel@legis.state.wi.us
Cc: david.worzala@legis.state.wi.us; john.stolzenberg.@legis.state.wi.us
Subject: Reductions in public benefits levels

Mark,

If you receive drafting instructions from the conferees to reduce public benefit funding levels, you may wish to receive clarification from the conferees on the following point: it had been our suggestion that the commitment to community revenue requirements be reduced proportionately if the \$47 million was reduced. Thus, if the new spending was \$47 million, then the average per meter charge is \$17 for commitment to community. If the \$47 million is reduced, then the average per meter charge should be reduced proportionately. The conferees may intend this result, but overlook communicating it.

--Curt

Kunkel, Mark

From: Curt Pawlisch [pawlisch@cwpb.com]
Sent: Thursday, September 30, 1999 5:56 PM
To: mark.kunkel@legis.state.wi.us
Subject: Allocation of \$2.4 million contribution

Mark, try this.

--Curt

- a. "Electric public utility affiliate" means a public utility affiliate of a holding company that sells electricity.
- b. "Public utility affiliate" has the meaning in sec. 196.795(1)(L).
- c. "Holding company" has the meaning in sec. 196.795(1)(h).
- d. The annual utility contribution to the fund (\$2.4 million) shall be allocated among electric public utility affiliates in this state based upon the ratio of the sum of the total heat throughput of each electric generation facility owned by an electric public utility affiliate to the sum of the heat throughput of each electric generation facility of all the electric public utility affiliates.

Kunkel, Mark

From: Curt Pawlisch [pawlisch@cwpb.com]
Sent: Thursday, September 30, 1999 6:05 PM
To: Mark.kunkel@legis.state.wi.us
Subject: Additional technical change

Mark, re: NOx draft of 9/29/99 under (1)(a) on the fourth line. We've already deleted "in the MAPP portion". People are telling us that to implement the Intent, we would also delete from that line "electric generation facilities" which precedes the already deleted material. Thus, the language should read:

"To the extent the call is implemented in a manner that requires NOx emission rdeuctions for Wisconsin that are less than . . ."

Thanks.

--Curt

My home number is 249-8062, home e-mail is pawlisch@chorus.net.

Kunkel, Mark

From: Burnett, Douglas
Sent: Friday, October 01, 1999 1:34 AM
To: Kunkel, Mark; 'Curt Pawlisch'
Cc: Healy, Brett; Lang, Bob
Subject: Final Reliability Public Benefits Number

The final public benefits agreement is for \$44 million. The reduction from \$47 million to \$44 million should come from the low income portion.

Kunkel, Mark

From: Curt Pawlisch [pawlisch@cwpb.com]
Sent: Friday, October 01, 1999 10:07 AM
To: MARK.KUNKEL@LEGIS.STATE.WI.US
Subject: NOx amemdment--9/29/99 drafting instrucionts

Mark,

The negotiators of the NOx language intended that the following sentence (inadvertently omitted) appear at the end of sub (2). Therefore, please add the following sentence: "2234 of the 2549 tons shall be allocated to electric generating facilities in these counties which are owned by an electric cooperative, and 315 of the 2549 tons shall be allocated to electric generating facilities in these counties which are owned by a public utility." Thanks. ✓

--Curt

Kunkel, Mark

From: Curt Pawlisch [pawlisch@cwpb.com]
Sent: Friday, October 01, 1999 10:17 AM
To: mark.kunkel@legis.state.wi.us
Subject: commitment to community fee

Mark,

With Doug's news that the public benefits fees will be reduced from \$47 to \$44 million, please reduce the average annual per meter commitment to community fee from \$17 to \$16. (LRBb1659/7, p. 11, line 21) Thanks.

--Curt

Kunkel, Mark

From: Kunkel, Mark
Sent: Friday, October 01, 1999 11:01 AM
To: Worzala, David
Subject: Realtor's amendment

I understand from Curt Pawlisch that LRBb1709/2 should be used for the "realtor's amendment" language. Can you verify this from the Conference Committee?

FYI here is how LRBb1709/2 is different from what the Assembly had before it when it considered AB389.

LRBb1709/2 is identical AA3 to AB389 (as AA3 is amended by AA1 to AA3) except for the following:

1. LRBb1709/2 adds a definition for "passively held company", and excludes "passively held company" from the definition of "nonutility affiliate".
2. Proposed s. 196.796 (2) (e) (which includes a prohibition) is eliminated from LRBb1709/2 and is replaced with a new permitted activity (i.e., owning a passively held company) in new s. 196.796 (3) (a) 7.
3. The "strict construction" provision that was in s. 196.796 (6) is eliminated from LRBb1709/2.
4. There definition of "nonutility affiliate" in s. 196.796 (1) (g) in LRBb1709/2 has a very slight grammatical difference, in that the definition in LRBb1709/2 consists of 2 sentences, rather than one sentence with an exception clause.

The above information should be helpful to you if it turns out that the Conference Committee says that LRBb1709/2 is the instruction for the "realtor's language" and you want to make a comparison to what the Assembly had before it.

Give me a call if you have any questions.

Mark Kunkel
Legislative Attorney
State of Wisconsin
Legislative Reference Bureau

mark.kunkel@legis.state.wi.us
(608) 266-0131

Kunkel, Mark

From: Curt Pawlisch [pawlisch@cwps.com]
Sent: Friday, October 01, 1999 11:48 AM
To: Mark.kunkel@legis.state.wi.us
Subject: 99b1709b.pdf 1



99b1709b.pdf_1.pdf

Mark,

Yes, this is the draft. LRBb1709/2. To address Jim Z's concerns, we had to create an exception from the definition of public utility affiliate for passively held companies. LRBb1709/2 does this. It's the right one.

--Curt

MDR draft 10-1-99

1 subject to the rights of any joint user of the land right and to the right of the public
2 utility affiliate to nondiscriminatory access to the real estate that is subject to the
3 land right.

4 b. If the land right is jointly used, or is intended to be jointly used, for electric
5 and gas distribution facilities by the public utility affiliate, the public utility affiliate
6 shall enter into a contract with the transmission company that grants the
7 transmission company a right to place, maintain, modify or replace the transmission
8 company's transmission facilities on the real property that is subject to the land right
9 during the life of the transmission facilities and the life of any replacements of the
10 transmission facilities. A right granted in a contract under this subd. 1. b. shall be
11 paramount to the right of any other user of the land right, except that a right granted
12 in such a contract shall be on par with the right of the public utility affiliate to use
13 the land right for electric or gas distribution facilities.

14 2. If a public utility affiliate is prohibited from making a conveyance or
15 assignment described in subd. 1. a., the public utility affiliate shall enter into a
16 contract with the transmission company that grants the transmission company
17 substantially the same rights as under such a conveyance or assignment. For
18 purposes of a contract under this subdivision, a land right shall be valued at book
19 value, not at market value.

20 3. The commission shall resolve any dispute over the contribution of a land
21 right under subd. 1. or 2., including a dispute over the valuation of such a land right,
22 unless a federal agency exercises jurisdiction over the dispute. During the pendency
23 of any dispute that is before the commission or a federal agency, the transmission
24 company shall be entitled to use the land right that is the subject to the dispute and
25 shall be required to pay any compensation that is in dispute into an escrow account.

→ INSERT 50-25

SECTION 2335uj. 196.485 (6) of the statutes is created to read:

196.485 (6) ELECTRIC UTILITIES, TRANSMISSION DEPENDENT UTILITIES AND RETAIL ELECTRIC COOPERATIVES. ^(a) No later than the first day of the 12th month beginning after the first public utility affiliate files a commitment under sub. (5) (a) 2.:

1. ~~An~~ An electric utility, other than a public utility affiliate or an owner or operator of a wholesale merchant plant, as defined in s. 196.491 (1) (w), may transfer all of its transmission facilities that are specified in ~~sub. 1.~~ ^{subd. 2.} to the transmission company on the same terms and conditions as a contribution of transmission facilities and land rights by a public utility affiliate under sub. (5) (b) and (c). subd. 1.

2. ~~An~~ An electric utility may transfer transmission facilities under ~~sub. 1.~~ if the transmission facilities are located in the geographic area that is served by the Mid-America Interconnected Network, Inc., or the Mid-Continent Area Power Pool reliability council of the North American Electric Reliability Council.

3. ~~A~~ A transmission-dependent utility or retail electric cooperative may purchase equity interests in the transmission company at a price that is equivalent to net book value and on terms and conditions that are comparable to those for public utility affiliates that have contributed transmission facilities to the transmission company. A purchaser under this ~~paragraph~~ ^{subdivision} may contribute funds to the transmission company that are no more than the value of its prorated shares based on firm electric usage in this state in 1999.

SECTION 2335uk. 196.485 (6m) of the statutes is created to read:

196.485 (6m) DIVIDENDS, DISTRIBUTIONS, PROFITS AND GAINS. The commission may not treat any dividend or distribution received by a transmission utility from the transmission company or any gain or profit of a transmission utility from the sale

INSERT 51-20

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB
.....

approval required under federal law,

INSERT 50-25:

and subject to any required

1 (d) *Applicability.* Notwithstanding s. 196.485 (1) (h), for purposes of this
2 subsection, a facility of a public utility affiliate is a transmission facility ~~only~~ if any
3 of the following applies: ~~unless the federal energy regulatory commission has~~
4 ~~determined that the facility is not a transmission facility:~~

Collect approval

5 1. The facility is not a radial facility and the facility is designed for operation
6 at a nominal voltage of more than 130 kilovolts.

7 2. The facility is not a radial facility and the facility is designed for operation
8 at a nominal voltage of more than 50 kilovolts and 130 kilovolts or less, unless a
9 person has demonstrated to the commission that the facility is not a transmission
10 facility on the basis of factors for identifying a transmission facility that are specified
11 in the orders of the federal energy regulatory commission under 16 USC 824d and
12 824e.

13 3. The facility is a radial facility or is designed for operation at a nominal
14 voltage of 50 kilovolts or less, and a person has demonstrated to the commission that
15 the facility is a transmission facility on the basis of factors for identifying a
16 transmission facility that are specified in the orders of the federal energy regulatory
17 commission under 16 USC 824d and 824e.
18

NO

....NOTE: The meaning of the term "radial facility" is uncertain. If you do not supply a definition, a court will have some leeway in interpreting its meaning. Do you want to supply a definition or do you want to require PSC to promulgate rules that define the term? If you want the PSC to promulgate rules, you should still provide the PSC with some guidance on the meaning.

YES

....NOTE: Does the above language properly specify the voltages?

NO

....NOTE: Should the language specify who is allowed request the PSC for a determination regarding whether a facility is a transmission facility? In other words, who has standing to ask the PSC to make the determination? Also, can the PSC make a determination on its own motion? What type of proceeding is required for a

NO . |

determination? A public hearing? Is notice to interested parties required? Should the language address these issues?

INSERT 51-20:

and sub. to any approved order required federal law

1

2 (b) Notwithstanding s. 196.485 (1) (h), for purposes of this subsection, a facility

3 of an electric utility is a transmission facility ~~only~~ if the criteria specified in sub. (5)

4 (d) 1., 2. or 3. are satisfied, unless the federal energy regulatory commission has

5 determined that the facility is not a transmission facility.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-8522
REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5848

FAX TRANSMITTAL COVER SHEET

(From: LRB-Legal Section-Front Office ... Fax: 608-264-6948)

Date: 10/2/99 Time: 12:50

Total pages transmitted, including this page: -17-

Please Deliver This FAX To: Curt Pawlisa

Telephone Number: _____

FAX Number: _____

MESSAGE: Please give me
your comments.

Mark

Senders Name: _____

IF THERE ARE ANY PROBLEMS WITH THIS FAX TRANSMITTAL,
PLEASE CALL (608) 266-3561.
THANK YOU

1 5. A method for estimating total low-income energy bills, average annual
2 income of low-income households and the number of low-income households in a
3 fiscal year for the purpose of determining the amount of low-income need in the fiscal
4 year.

5 (d) *Other duties.* 1. For each fiscal year after fiscal year 1998-99, determine
6 the low-income need target for that fiscal year.

7 2. Encourage customers or members to make voluntary contributions to assist
8 in funding the programs established under pars. (a) and (b) 1. The department shall
9 deposit all contributions received under this paragraph in the utility public benefits
10 fund.

11 3. Deposit all moneys received under ~~sub. (a) (b) (c) (d)~~ ^{sub.} (5) (c) or (d) in the utility
12 public benefits fund. **INSERT 8-12**

13 4. Provide for an annual independent audit and submit an annual report to the
14 legislature under s. 13.172 (2) that describes each of the following:

15 a. The expenses of the department, other state agencies and grant recipients
16 in administering or participating in the programs under pars. (a) and (b).

17 b. The effectiveness of the programs under par. (a) in providing assistance to
18 low-income individuals.

19 c. The effectiveness of the programs under par. (b) in reducing demand for
20 electricity and increasing the use of renewable resources owned by customers or
21 members.

22 d. Any other issue identified by the department, council, governor, speaker of
23 the assembly or majority leader of the senate.

24 (3) **CONTRACTS.** (a) The division of housing shall, on the basis of competitive
25 bids, contract with community action agencies described in s. 46.30 (2) (a) 1.,

INSEAT 15-6

1 under par. (d), including any amounts included in the municipal utility's or retail
2 electric cooperative's calculations under par. (e).

3 b. A description of commitment to community programs established by the
4 municipal utility or retail electric cooperative in the fiscal year.

5 2. The department shall maintain reports filed under subd. 1. for at least 6
6 years. *OK*

7 **3.** Page 60, line 22: after that line insert:

8 "SECTION 114nm. 16.969 of the statutes is created to read:

9 **16.969 Fees for certain high-voltage transmission lines.** (1) In this
10 section:

11 (a) "Commission" means the public service commission.

12 (b) "High-voltage transmission line" means a high-voltage transmission line,
13 as defined in s. 196.491 (1) (f), that is designed for operation at a nominal voltage of
14 345 kilovolts or more.

15 (2) The department shall promulgate rules that require a person who is issued
16 a certificate of public convenience and necessity by the commission under s. 196.491
17 (3) for a high-voltage transmission line to pay the department the following fees:

18 (a) An annual impact fee in an amount equal to 0.3% of the cost of the
19 high-voltage transmission line, as determined by the commission under s. 196.491
20 (3) (gm).

21 (b) A one-time environmental impact fee in an amount equal to 5% of the cost
22 of the high-voltage transmission line, as determined by the commission under s.
23 196.491 (3) (gm).

INSEAT 18-12

1 "SECTION 587b. 20.505 (10) of the statutes is created to read:

2 20.505 (10) UTILITY PUBLIC BENEFITS. (q) *General program operations*. From
3 the utility public benefits fund, the amounts in the schedule for general program
4 operations.

5 (r) *Low-income assistance grants*. From the utility public benefits fund, a sum
6 sufficient for low-income assistance grants under s. 16.957 (2) (a).

7 (s) *Energy conservation and efficiency and renewable resource grants*. From the
8 utility public benefits fund, a sum sufficient for energy conservation and efficiency
9 and renewable resource grants under s. 16.957 (2) (b) 1. *oe*

INSEAT 18-9

10 9. Page 464, line 10: after that line insert:

11 "SECTION 699m. 25.17 (1) (xm) of the statutes is created to read:

12 25.17 (1) (xm) Utility public benefits fund (s. 25.96); *oe*

13 10. Page 470, line 18: after that line insert:

14 "SECTION 718b. 25.96 of the statutes is created to read:

15 25.96 Utility public benefits fund. There is established a separate
16 nonlapsible trust fund designated as the utility public benefits fund, consisting of
17 deposits by the public service commission under s. 196.374 (3), public benefits fees
18 received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions received under
19 s. 16.957 (2) (c) 4. and (d) 2. *oe*

20 11. Page 953, line 3: after that line insert:

21 "SECTION 1809b. 76.28 (1) (d) of the statutes is amended to read:

22 76.28 (1) (d) "Gross revenues" for a light, heat and power company other than
23 a qualified wholesale electric company or a transmission company means total
24 operating revenues as reported to the public service commission except revenues for

INSEAT 18-19

1 interdepartmental sales and for interdepartmental rents as reported to the public
2 service commission and deductions from the sales and use tax under s. 77.61 (4),
3 except that the company may subtract from revenues either the actual cost of power
4 purchased for resale, as reported to the public service commission, by a light, heat
5 and power company, except a municipal light, heat and power company, that
6 purchases under federal or state approved wholesale rates more than 50% of its
7 electric power from a person other than an affiliated interest, as defined in s. 196.52
8 (1), if the revenue from that purchased electric power is included in the seller's gross
9 revenues or the following percentages of the actual cost of power purchased for
10 resale, as reported to the public service commission, by a light, heat and power
11 company, except a municipal light, heat and power company that purchases more
12 than 90% of its power and that has less than \$50,000,000 of gross revenues: 10% for
13 the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50%
14 for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric
15 company, "gross revenues" means total business revenues from those businesses
16 included under par. (e) 1. to 4. For a transmission company, "gross revenues" means
17 total operating revenues as reported to the public service commission, except
18 revenues for transmission service that is provided to a public utility that is subject
19 to the license fee under sub. (2) (d), to a public utility, as defined in s. 196.01 (5), or
20 to a cooperative association organized under ch. 185 for the purpose of providing
21 electricity to its members only. For an electric utility, as defined in s. 16.957 (1) (g),
22 "gross revenues" does not include public benefits fees collected by the electric utility
23 under s. 16.957 (4) (a) or (5) (a). For a wholesale supplier, as defined in s. 16.957 (1)
24 (w), "gross revenues" does not include any public benefits fees that are received from
25 a municipal utility or retail electric cooperative or under a joint program established

IN SEAT 19-23

1 76.28 (2) (c) (intro.) ~~For~~ Except as provided under par. (e), for private light, heat
2 and power companies for 1986 and thereafter, an amount equal to the apportionment
3 factor multiplied by the sum of:

4 **SECTION 1809w.** 76.28 (2) (d) of the statutes is amended to read:

5 76.28 (2) (d) ~~For~~ Except as provided under par. (e), for municipal light, heat and
6 power companies, an amount equal to the gross revenues, except gross revenues from
7 operations within the municipality that operates the company, multiplied by the
8 rates under par. (b) or (c).

9 **SECTION 1809y.** 76.28 (2) (e) of the statutes is created to read:

10 76.28 (2) (e) For transmission companies, an amount equal to the gross
11 revenues multiplied by the rates under par. (c).”.

12 **12.** Page 953, line 4: before that line insert:

13 “**SECTION 1809zm.** 76.48 (1g) (d) of the statutes is amended to read:

14 76.48 (1g) (d) “Gross revenues” means total operating revenues, except
15 revenues for interdepartmental sales and for interdepartmental rents, less
16 deductions from the sales and use tax under s. 77.61 (4) and, in respect to any electric
17 cooperative that purchases more than 50% of the power it sells, less the actual cost
18 of power purchased for resale by an electric cooperative, if the revenue from that
19 purchased electric power is included in the seller’s gross revenues or if the electric
20 cooperative purchased more than 50% of the power it sold in the year prior to January
21 1, 1988, from a seller located outside this state. For a retail electric cooperative,
22 “gross revenues” does not include public benefits fees collected by the retail electric
23 cooperative under s. 16.957 (5) (a), public benefits fees received by the retail electric
24 cooperative from a retail electric cooperative or municipal utility under a joint

INSERT 21 - 21

1 2. A transmission company to which an energy unit is sold by a transmission
 2 utility shall, beginning on the expiration of the 3-year period specified in s. 196.485
 3 (3m) (a) 1. b. or, if applicable, the expiration of any extension of such 3-year period,
 4 offer employment to the nonsupervisory employes who are employed with the energy
 5 unit immediately prior to the transfer and who are necessary for the operation and
 6 maintenance of the energy unit.

7 **(3) EMPLOYMENT TERMS AND CONDITIONS.** (a) Except as provided in par. (b), the
 8 employment that is offered under sub. (2) shall satisfy each of the following during
 9 the 30-month period beginning immediately after the transfer:

10 1. Wage rates shall be no less than the wage rates in effect immediately prior
 11 to the transfer.

12 2. Fringe benefits shall be substantially equivalent to the fringe benefits in
 13 effect immediately prior to the transfer.

14 3. Terms and conditions of employment, other than wage rates and fringe
 15 benefits, shall be substantially equivalent to the terms and conditions in effect
 16 immediately prior to the transfer.

17 (b) A collective bargaining agreement may modify or waive a requirement
 18 specified in par. (a).

19 **(4) COMMISSION APPROVAL.** Except for a cooperative association, as defined in
 20 s. 196.491 (1) (bm), or a transmission utility that sells an energy unit to a
 21 transmission company, no person may sell an energy unit unless the commission
 22 determines that the person has satisfied subs. (2) and (3)."

23 **18.** Page 1186, line 9: after that line insert:

24 "SECTION 2336u. 200.01 (2) of the statutes is amended to read:

LINSEAT 63-22

1 200.01 (2) "Public service corporation" means and embraces every corporation,
2 except municipalities and other political subdivisions, which is a public utility as
3 defined in s. 196.01, and every corporation which is a railroad as defined in s. 195.02,
4 but shall not include a public utility corporation receiving an annual gross revenue
5 of less than \$1,000 for the calendar year next preceding the issuance of any securities
6 by it. "Public service corporation" includes a holding company, as defined under s.
7 196.795 (1) (h), which is a public utility, as defined under s. 196.01 (5). "Public service
8 corporation" does not include a telecommunications utility, as defined in s. 196.01
9 (10). "Public service corporation" does not include any other holding company unless
10 the holding company was formed after November 28, 1985, and unless the
11 commission has determined, under s. 196.795 (7) (a), that each nonutility affiliate,
12 as defined under s. 196.795 (1) (j), does not and cannot reasonably be expected to do
13 at least one of the items specified in s. 196.795 (7) (a). "Public service corporation"
14 does not include a company, as defined in s. 196.795 (1) (f), which owns, operates,
15 manages or controls a telecommunications utility, as defined in s. 196.01 (10), unless
16 such company also owns, operates, manages or controls a public utility which is not
17 a telecommunications utility. "Public service corporation" does not include a
18 transmission company, as defined in s. 196.485 (1) (ge)."

19 **19.** Page 1276, line 4: after that line insert:

20 "SECTION 2554j. 285.48 of the statutes is created to read:

21 **285.48 Nitrogen oxide emissions from certain electric generation**
22 **facilities. (1)** In establishing nitrogen oxide emission reductions for the control of
23 atmospheric ozone in another state pursuant to a call for a state implementation plan
24 issued prior to the effective date of this subsection [revisor inserts date], the

1 department may not, in an implementation plan under s. 285.11 (6), by rule or
2 through the adoption of control strategies, regulate nitrogen oxide emissions from
3 electric generation facilities that are located in Ashland, Barron, Bayfield, Buffalo,
4 Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, La Crosse,
5 Monroe, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Trempealeau,
6 Vernon or Washburn county.

7 (2) The department may not, based solely on the prohibition under sub. (1),
8 require more stringent nitrogen oxide emission reductions for any electric utility, as
9 defined in s. 196.491 (1) (d), or large industrial core source in this state that is
10 identified by the federal environmental protection agency[?].

11 **20.** Page 1468, line 17: after that line insert:

12 "(1zt) INITIAL APPOINTMENTS TO COUNCIL ON UTILITY PUBLIC BENEFITS.

13 Notwithstanding section 15.107 (17) (intro.) of the statutes, as created by this act,
14 the initial members of the council on utility public benefits shall be appointed for the
15 following terms:

16 (a) One of the members under section 15.107 (17) (a), (b) and (d) of the statutes,
17 as created by this act, for terms expiring on July 1, 2001.

18 (b) One of the members under section 15.107 (17) (a) of the statutes, as created
19 by this act, and the members under section 15.107 (17) (c), (e) and (f) of the statutes,
20 as created by this act, for terms expiring on July 1, 2002.

21 (c) One of the members under section 15.107 (17) (b) and (d) of the statutes, as
22 created by this act, and the members under section 15.107 (17) (g) and (h) of the
23 statutes, as created by this act, for terms expiring on July 1, 2003.

24 (1zu) UTILITY PUBLIC BENEFITS AND TRANSMISSION LINE RULES.

INSERT
65-10

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB
.....

INSERT 8-12:

1
2 and, except as provided in s. 16.958 (2) (a), deposit all moneys received under sub.
3 (4) (a) in the utility public benefits fund

INSERT 15-6:

4
5 SECTION 109o. 16.958 of the statutes is created to read:

6 16.958 Air quality improvement program. (1) In this section:

7 (a) "Electric utility" has the meaning given in s. 16.957 (1) (g).

8 (b) "Eligible electric provider" means a electric utility or generator electric
9 cooperative that provides electric service to customers or members in the
10 midcontinent area.

11 (c) "Generator electric cooperative" means an electric cooperative, as defined
12 in s. 76.48 (1g) (c), that generates electricity.

13 (d) "Initial compliance date" means the date specified in a notice by the
14 department of natural resources under s. 285.48 (2) on which electric generating
15 facilities in the midcontinent area are required to commence compliance with
16 nitrogen oxide emission reductions.

17 (d) "Midcontinent area" means the geographic area served by the
18 Mid-Continent Area Power Pool reliability council of the North American Electric
19 Reliability Council.

20 (2) If the department of natural resources notifies the department of
21 administration that it has made the determination under s. 285.48 (2), the
22 department of administration shall do each of the following:

1 (a) In each fiscal year of the 10-year period that commences on July 1 of the
 2 fiscal year ending before the initial compliance date, deposit \$2,500,000 of the
 3 moneys received under s. 16.957 (4) (a) in the air quality improvement fund and
 4 deposit the remainder of the moneys received under s. 16.957 (4) (a) in the utility
 5 public benefits fund.

****NOTE: The above language does not specify that the \$2,500,000 should come from the low-income portion of the public benefits fees. Is it necessary to make this specification? Does it really matter whether the \$2,500,000 comes from the low-income portion?

****NOTE: Should the \$2,500,000 be reduced in the similar manner as the air quality program assessments are reduced if DNR implements the SIP in the manner described in s. 285.48 (3) (d)?

6 (b) From the air quality improvement fund, award grants to eligible electric
 7 providers to be used for the purpose of complying with requirements under state or
 8 federal law to reduce nitrogen oxide emissions in the midcontinent area. An eligible
 9 electric provider that is a public utility may receive no more than \$500,000 per year
 10 in grants under this paragraph.

****NOTE: The instructions seem to suggest that the grants should be reduced if DNR implements the SIP in the manner described in s. 285.48 (3) (d). Is this necessary? Won't the grants be subject to whatever amount is actually in the fund?

11 (c) Promulgate rules that establish requirements and procedures for awarding
 12 grants under par. (b). The rules shall require an applicant for a grant to identify the
 13 reduction in nitrogen oxide emissions that the applicant is capable of achieving with
 14 the grant.

****NOTE: The 2nd sentence above is my attempt, together with sub. (3) below, to achieve the language in the instruction that 3rd parties must "achieve the same level of emissions reductions". Is the above language is not okay, how else will you tell whether the same level is achieved? Perhaps the pertinent question is: same as what?

15 (3) An eligible electric provider that is awarded a grant under sub. (2) (b) may
 16 assign the grant to a third party only if the third party uses the grant for the purpose
 17 of reducing nitrogen oxide emissions in the midcontinent area and the eligible

1 electric provider demonstrates to the satisfaction of the department of
2 administration that the third party is capable of achieving the reduction in nitrogen
3 oxide emissions identified in the eligible electric provider's application for the
4 grant."

5 **INSERT 18-9:**

6 **SECTION 587d.** 20.505 (11) of the statutes is created to read:

7 20.505 (11) AIR QUALITY IMPROVEMENT PROGRAM. (r) *Air quality improvement*
8 *grants.* From the air quality improvement fund, \$2,500,000 of the moneys received
9 under s. 16.957 (4) (a) and all moneys received under s. 196.86 (2), for the purpose
10 of making grants under s. 16.958 (2) (b)."

11 **INSERT 18-12:**

12 **SECTION 699o.** 25.17 (1) (zg) of the statutes is created to read:

13 25.17 (1) (zg) Air quality improvement fund (s. 25.97);"

14 **INSERT 18-19:**

15 "SECTION 718d. 25.97 of the statutes is created to read:

16 **25.97 Air quality improvement fund.** There is established a separate
17 nonlapsible trust fund designated as the air quality improvement fund, consisting
18 of deposits under ss. 16.958 (2) (a) and 196.86 (3)."

19 **INSERT 19-23:**

20 or grants awarded to the electric utility under s. 16.958 (2) (b).

21 **INSERT 21-21:**

22 For an electric cooperative, "gross revenues" does not include grants awarded to the
23 electric cooperative under s. 16.958 (2) (b).

24 **INSERT 63-22:**

1 **1.** Page 1186, line 9: after that line insert:

2 “**SECTION 2337m.** 196.86 of the statutes is created to read:

3 **196.86 Assessments for air quality improvement program.** (1) In this
4 section:

5 (a) “Department” means the department of natural resources.

6 (b) “Electric public utility affiliate” means a public utility affiliate, as defined
7 in s. 196.795 (1) (L), that sells electricity.

8 (c) “Heat throughput ratio” means the means the result obtained by dividing
9 the total heat throughput of all electric generating facilities of an individual electric
10 public utility affiliate by the total heat throughput of all electric generating facilities
11 of all electric public utility affiliates.

12 (d) “Initial compliance date” means the date specified in a notice by the
13 department of natural resources under s. 285.48 (2) on which electric generating
14 facilities in the midcontinent area are required to commence compliance with
15 nitrogen oxide emission reductions.

16 **(2)** If the department of natural resources notifies the commission that it has
17 made the determination under s. 285.48 (2), the commission shall assess against
18 electric public utilities a total of \$2,400,000, or a decreased amount specified in a
19 notice by the department of natural resources under s. 285.48 (3) (d) 3., in each fiscal
20 year of the 10-year period that commences on July 1 of the fiscal year ending before
21 the initial compliance date. An assessment in a fiscal year against an electric public
22 utility affiliate under this subsection shall be in amount that is proportionate to the
23 electric public utility’s heat throughput ratio for the prior fiscal year.

1 (3) An electric public utility affiliate shall pay an assessment required under
2 sub. (2) within 30 days after the commission has mailed a bill for the assessment.
3 The bill constitutes notice of the assessment and demand of payment. Payments
4 shall be deposited in the air quality improvement fund.

5 (4) Section 196.85 (3) to (8), as it applies to assessments under s. 196.85 (1) or
6 (2), applies to assessments under this section.”.

7 **INSERT 65-10:**

8 **285.48 Nitrogen oxide emissions reductions. (1) DEFINITIONS.** In this
9 section:

10 (a) “Electric cooperative” has the meaning given in s. 76.48 (1g) (c).

11 (b) “Midcontinent area” has the meaning given in s. 16.958 (1) (d).

12 (c) “Northwestern county” means Ashland, Barron, Bayfield, Buffalo, Burnett,
13 Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, La Crosse, Monroe,
14 Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Trempealeau, Vernon or
15 Washburn county.

16 (d) “Other county” means a county that is not a northwestern county.

17 (e) “Public utility” has the meaning given in s. 196.01 (5).

18 (f) “Revision call” means a call to revise a state implementation plan that is
19 issued by the federal environmental protection agency before the effective date of
20 this paragraph [revisor inserts date], or after that date arising out of a call issued
21 before that date, including a call issued after that date pursuant to a federal court
22 order.

23 (g) “State implementation plan” means a state implementation plan under s.
24 285.11 (6).

1 (h) "Summer" means the period beginning on May 1 and ending on September
2 30 of each year.

3 (2) APPLICABILITY. This section applies only if the department of natural
4 resources determines, pursuant to a revision call, to implement a state
5 implementation plan that requires electric generating facilities in the midcontinent
6 area to comply with nitrogen oxide emission reductions. If the department of natural
7 resources makes that determination, the department of natural resources shall
8 notify the department of administration and the public service commission. The
9 notice shall specify the date on which electric generating facilities in the
10 midcontinent area are required to commence compliance with the nitrogen oxide
11 emission reductions.

12 (3) NITROGEN OXIDE EMISSIONS STANDARDS AND LIMITATIONS. (a) In establishing
13 nitrogen oxide emission reductions for the control of atmospheric ozone in another
14 state pursuant to a revision call, the department may not, in a state implementation
15 plan, by rule or through the adoption of control strategies, establish nitrogen oxide
16 emissions standards or limitations that do any of the following:

17 1. Require no less than 2234 tons, or the number of tons determined under par.
18 (d) 1., in total nitrogen oxide emissions each summer from all electric generating
19 facilities located in northwestern counties that are owned by electric cooperatives.

20 2. Require no less than 315 tons, or the number of tons determined under par.
21 (d) 1., in total nitrogen oxide emissions each summer from all electric generating
22 facilities located in northwestern counties that are owned by public utilities.

23 3. Require no less than 15,157 tons, or the number of tons determined under
24 par. (d) 1., in total nitrogen oxide emissions each summer from all electric generating
25 facilities located in other counties.

1 (b) The department shall issue emissions allowances in a number that is
2 sufficient to establish the limitations or standards specified in par. (a).

****NOTE: I don't understand the logical relationship between pars. (a) and (b), and
therefore am not sure if the language in par. (b) is correct.

3 (c) The department may not, based solely on the prohibition specified in par (a),
4 require additional reductions of nitrogen oxide emissions from any of the following:

****NOTE: I don't understand the logical relationship between par. (a) and (c), and
am not sure of the meaning of "additional" reductions. Such reductions are in addition
to what?

5 1. Any stationary source located in this state that is not an electric generating
6 facility owned by a public utility or electric cooperative.

7 2. Any mobile source.

8 (d) If the department of natural resources implements a state implementation
9 plan specified in sub. (2) in a manner that requires reductions in nitrogen oxide
10 emissions that are lower than the reductions set forth in the revision call published
11 on October 27, 1998, the department of natural resources shall do each of the
12 following:

13 1. Determine the amounts by which the number of tons specified in par. (a) 1.,
14 2. and 3. shall be increased to reflect the lower reductions.

15 2. Take action that is necessary to relax any related emissions control
16 requirements in a manner that reflects the lower reductions.

17 3. Determine the amount by which the \$2,500,000 in assessments under s.
18 196.86 (2) shall be decreased to reflect the lower reductions and provide notice of the
19 decreased amount to the public service commission.

20 (3) LOW-INCOME WEATHERIZATION, ENERGY CONSERVATION AND RENEWABLE ENERGY
21 PROGRAM. (a) The department shall establish a program for achieving 866 tons of
22 total annual reductions in nitrogen oxide emissions through any of the following:

1 1. The use of renewable energy, including renewable energy that is provided
2 by electric providers for the purpose of complying with the requirements of s. 196.378
3 (2) (a), or renewable energy that is used under programs specified in s. 196.374 (2)
4 (d) that are funded by utility expenditures under s. 196.378 (3).

5 2. The implementation of low-income weatherization and energy conservation
6 measures, including programs established under s. 16.957 (2) (a) or (b) or programs
7 specified 196.374 (2) (a) or (b) that are funded by utility expenditures under s.
8 196.378 (3).

9 (b) The program established under par. (b) shall be in effect during the period
10 that the department implements a state implementation plan pursuant to a revision
11 call.

12 **285.49 Trading program for nitrogen oxide emissions credits.** The
13 department shall establish or participate in a market-based trading program for the
14 purchase, sale and transfer of nitrogen oxide emissions credits for use in any state
15 implementation plan under s. 285.11 (6) that requires reductions in nitrogen oxide
16 emissions. To the extent allowed under federal law, department shall allow nitrogen
17 oxide emissions reductions by any source in this state, regardless of whether the
18 source is subject to nitrogen oxide controls under a state implementation plan under
19 s. 285.11 (6), to be purchased, sold or transferred under the trading program.”.

****NOTE: The instructions state that DNR shall “certify” reductions, but I am not
sure what this means. Certify what? The quantity of a nitrogen oxide emissions
reduction? Please advise.

Kunkel, Mark

From: Kunkel, Mark
Sent: Saturday, October 02, 1999 1:37 PM
To: 'pawlich@cwpb.com'
Subject: Misc. questions

Curt:

1. Should the reference on page 44, line 24 of LRBb1959/7 to "June 30, 2000" be changed to "September 30, 2000"? This change is not made in the instructions accompanying the Sept. 30 letter to Robert Wood. NO
2. When you have a moment, can you or Lee walk me through the change to s. 196.795 (7) (a) that accompanies the Sept. 30 letter? Perhaps I am confused as to what the provision means under current law. done
3. Were you going to send me an email regarding that retroactive issue we discussed yesterday? later

Mark Kunkel
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