

1999 - 2000 LEGISLATURE

LRBb1659/4

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TODAY - 2:00

By 2:00 Today

SENATE AMENDMENT,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133

RM NOT RUN

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

2 1. Page 24, line 9: after that line insert:

3 "SECTION 28m. 15.107 (17) of the statutes is created to read:

4 15.107 (17) COUNCIL ON UTILITY PUBLIC BENEFITS. There is created a council on
5 utility public benefits that is attached to the department of administration under s.
6 15.03. The council shall consist of the following members appointed for 3-year
7 terms:

8 (a) Two members appointed by the governor.

9 (b) Two members appointed by the senate majority leader.

10 (c) One member appointed by the senate minority leader.

11 (d) Two members appointed by the speaker of the assembly.

12 (e) One member appointed by the assembly minority leader.

1 (f) One member appointed by the secretary of natural resources.

2 (g) One member appointed by the secretary of administration.

3 (h) One member appointed by the chairperson of the public service
4 commission.”.

5 **2.** Page 54, line 4: after that line insert:

6 “SECTION 109m. 16.957 of the statutes is created to read:

7 **16.957 Utility public benefits. (1) DEFINITIONS.** In this section:

8 (bm) “Commission” means the public service commission.

9 (c) “Commitment to community program” means a program by a municipal
10 utility or retail electric cooperative for low-income assistance or an energy
11 conservation program by a municipal utility or retail electric cooperative.

12 (cm) “Council” means the council on utility public benefits created under s.
13 15.107 (17).

14 (d) “Customer application of renewable resources” means the generation of
15 electricity from renewable resources that takes place on the premises of a customer
16 or member of an electric provider.

17 (e) “Division of housing” means the division of housing in the department.

18 (f) “Electric provider” means an electric utility or retail electric cooperative.

19 (g) “Electric utility” means a public utility that owns or operates a retail electric
20 distribution system.

21 (h) “Energy conservation program” means a program for reducing the demand
22 for natural gas or electricity or improving the efficiency of its use during any period.

23 (i) “Fiscal year” has the meaning given in s. 655.001 (6).

1 (k) “Local unit of government” means the governing body of any county, city,
2 town, village or county utility district or the elected tribal governing body of a
3 federally recognized American Indian tribe or band.

4 (L) “Low-income assistance” means assistance to low-income households for
5 weatherization and other energy conservation services, payment of energy bills or
6 early identification or prevention of energy crises.

7 (m) “Low-income household” means any individual or group of individuals in
8 this state who are living together as one economic unit and for whom residential
9 electricity is customarily purchased in common or who make undesignated
10 payments for electricity in the form of rent, and whose household income is not more
11 than 150% of the poverty line as determined under 42 USC 9902 (2).

12 (n) “Low-income need” means the amount obtained by subtracting from the
13 total low-income energy bills in a fiscal year the product of 2.2% of the estimated
14 average annual income of low-income households in this state in that fiscal year
15 multiplied by the estimated number of low-income households in this state in that
16 fiscal year.

17 (o) “Low-income need percentage” means the percentage that results from
18 dividing the sum of the following by the amount of low-income need in fiscal year
19 1998–99:

20 1. The total amount received by the department for low-income funding under
21 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in fiscal year 1997–98.

22 1m. The amount of the portion of the public benefits fee for fiscal year
23 1999–2000 that is specified in sub. (4) (c) 1. The amount specified in this subdivision
24 shall not be subject to the reduction under 1999 Wisconsin Act (this act), section
25 9101 (1zv) (a).

1 2. The total amount expended by utilities under s. 196.374 related to
2 low-income assistance.

3 3. Fifty percent of the amount of public benefits fees that municipal utilities
4 and retail electric cooperatives are required to charge under sub. (5) (a) in fiscal year
5 1999–2000. The amount specified in this subdivision shall not be subject to the
6 reduction under 1999 Wisconsin Act (this act), section 9101 (1zv) (c).

7 (p) “Low-income need target” means the product of the low-income need
8 percentage multiplied by low-income need in a fiscal year.

9 (q) “Municipal utility” means an electric utility that is owned wholly by a
10 municipality and that owns a retail distribution system.

11 (qm) “Public utility” has the meaning given in s. 196.01 (5).

12 (r) “Renewable resource” has the meaning given in s. 196.378 (1) (h).

13 (s) “Retail capacity” means the total amount of electricity that an electric
14 provider is capable of delivering to its retail customers or members and that is
15 supplied by electric generating facilities owned or operated by the electric provider
16 or any other person. “Retail capacity” does not include any electricity that is not used
17 to satisfy the electric provider’s retail load obligations.

18 (t) “Retail electric cooperative” means a cooperative association that is
19 organized under ch. 185 for the purpose of providing electricity at retail to its
20 members only and that owns or operates a retail electric distribution system.

21 (u) “Total low-income energy bills” means the total estimated amount that all
22 low-income households are billed for residential electricity, natural gas and heating
23 fuel in a fiscal year.

1 (v) "Wholesale electric cooperative" means a cooperative association that is
2 organized under ch. 185 for the purpose of providing electricity at wholesale to its
3 members only.

move text

4 (4) ~~(v)~~^x "Wholesale supply percentage" means the percentage of a municipal
5 utility's or retail electric cooperative's retail capacity in a fiscal year that is supplied
6 by a wholesale supplier.

7 ~~(v)~~^w "Wholesale supplier" means a wholesale electric cooperative or a municipal
8 electric company, as defined in s. 66.073 (3) (d), that supplies electricity at wholesale
9 to a municipal utility or retail electric cooperative.

10 (2) DEPARTMENT DUTIES. In consultation with the council, the department shall
11 do all of the following:

12 (a) *Low-income programs.* After holding a hearing, establish programs to be
13 administered by the department through the division of housing for awarding grants
14 from the appropriation under s. 20.505 (10) (r) to provide low-income assistance. In
15 each fiscal year, the amount awarded under this paragraph shall be sufficient to
16 ensure that an amount equal to 47% of the sum of the following is spent for
17 weatherization and other energy conservation services:

18 1. All moneys received from the federal government under 42 USC 6861 to 6873
19 and 42 USC 8621 to 8629 in a fiscal year.

20 2. All moneys spent in a fiscal year for low-income programs established under
21 s. 196.374.

22 3. All moneys spent in a fiscal year on programs established under this
23 paragraph.

24 4. Fifty percent of the moneys collected in public benefits fees under sub. (5).

1 (b) *Energy conservation and efficiency and renewable resource programs.* 1.
2 Subject to subd. 2., after holding a hearing, establish programs for awarding grants
3 from the appropriation under s. 20.505 (10) (s) for each of the following:

4 a. Proposals for providing energy conservation or efficiency services. In
5 awarding grants under this subd. 1. a., the department shall give priority to
6 proposals directed at the sectors of energy conservation or efficiency markets that
7 are least competitive and at promoting environmental protection, electric system
8 reliability or rural economic development. In each fiscal year, 1.75% of the
9 appropriation under s. 20.505 (10) (s) shall be awarded in grants for research and
10 development proposals regarding the environmental impacts of the electric industry.

11 b. Proposals for encouraging the development or use of customer applications
12 of renewable resources, including educating customers or members about renewable
13 resources or encouraging uses of renewable resources by customers or members or
14 encouraging research technology transfers. In each fiscal year, the department shall
15 ensure that 4.5% of the appropriation under s. 20.505 (10) (s) is awarded in grants
16 under this subd. 1. b.

17 2. For each fiscal year after fiscal year 2003–04, determine whether to continue,
18 discontinue or reduce any of the programs established under subd. 1. and determine
19 the total amount necessary to fund the programs that the department determines
20 to continue or reduce under this subdivision. The department shall notify the
21 commission if the department determines under this subdivision to reduce funding
22 by an amount that is greater than the portion of the public benefits fee specified in
23 sub. (4) (c) 2. The notice shall specify the portion of the reduction that exceeds the
24 amount of public benefits fees specified in sub. (4) (c) 2.

25 (c) *Rules.* Promulgate rules establishing all of the following:

1 1. Eligibility requirements for low-income assistance under programs
2 established under par. (a). The rules shall prohibit a person who receives
3 low-income assistance from a municipal utility or retail electric cooperative under
4 a program specified in sub. (5) (d) 2. b. or 3. a. from receiving low-income assistance
5 under programs established under par. (a).

6 2. Requirements and procedures for applications for grants awarded under
7 programs established under par. (a) or (b) 1.

8 2m. Criteria for the selection of proposals by a corporation specified in sub. (3)
9 (b).

10 2n. Criteria for making the determination under par. (b) 2. Rules promulgated
11 under this subdivision shall require the department to determine whether the need
12 for a program established under par. (b) 1. is satisfied by the private sector market
13 and, if so, whether the program should be discontinued or reduced.

14 4. Requirements for electric utilities to allow customers to include voluntary
15 contributions to assist in funding a program established under par. (a) or (b) 1. with
16 bill payments for electric service. The rules may require an electric utility to provide
17 a space on an electric bill in which a customer may indicate the amount of a voluntary
18 contribution and the customer's preference regarding whether a contribution should
19 be used for a program established under par. (a) or (b) 1. a. or b. The rules shall
20 establish requirements and procedures for electric utilities to pay to the department
21 any voluntary contributions included with bill payments and to report to the
22 department customer preferences regarding use of the contributions. The
23 department shall deposit all contributions received under this paragraph in the
24 utility public benefits fund.

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. (4) (a) or (5) (c) or (d) in the utility
12 public benefits fund.

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.,

1 nonstock, nonprofit corporations organized under ch. 181 or local units of
2 government to provide services under the programs established under sub. (2) (a).

3 (b) The department shall, on the basis of competitive bids, contract with one
4 or more nonstock, nonprofit corporations organized under ch. 181 to administer the
5 programs established under sub. (2) (b) 1., including soliciting proposals, processing
6 grant applications, selecting, based on criteria specified in rules promulgated under
7 sub. (2) (c) 2m., proposals for the department to make awards and distributing grants
8 to recipients.

9 (c) In selecting proposals and awarding grants under sub. (2) (b), the
10 department or a nonprofit corporation specified in par. (b) may not discriminate
11 against an electric provider or its affiliate or a wholesale electric supplier or its
12 affiliate solely on the basis of its status as an electric provider, wholesale electric
13 supplier or affiliate.

14 (4) ELECTRIC UTILITIES. (a) *Requirement to charge public benefits fees.* Each
15 electric utility, except for a municipal utility, shall charge each customer a public
16 benefits fee in an amount established in rules promulgated by the department under
17 par. (b). An electric utility, except for a municipal utility, shall collect and pay the fees
18 to the department in accordance with the rules promulgated under par. (b). The
19 public benefits fees collected by an electric utility shall be considered trust funds of
20 the department and not income of the electric utility.

21 (am) *Electric bills.* An electric utility shall include a public benefits fee in the
22 fixed charges for electricity in a customer's bill and shall provide the customer with
23 an annual statement that identifies the annual charges for public benefits fees and
24 describes the programs for which fees are used.

1 (b) *Rules.* In consultation with the council, the department shall promulgate
2 rules that establish the amount of a public benefits fee under par. (a). Fees
3 established in rules under this paragraph may vary by class of customer, but shall
4 be uniform within each class, and shall satisfy each of the following:

5 1. The fees may not be based on the kilowatt-hour consumption of electricity
6 by customers.

7 2. Seventy percent of the total amount of fees charged by an electric provider
8 may be charged to residential customers and 30% of the total may be charged to
9 nonresidential customers.

10 3. The fees shall allow an electric provider to recover the reasonable and
11 prudent expenses incurred by the electric provider in complying with this section.

12 (c) *Amount of public benefits fees.* A fee established in rules promulgated under
13 par. (b) shall satisfy each of the following:

14 1. 'Low-income funding.' In fiscal year 1999–2000, a portion of the public
15 benefits fee shall be an amount that, when added to 50% of the estimated public
16 benefits fees charged by municipal utilities and retail electric cooperatives under
17 sub. (5)(a) for that fiscal year, shall equal \$27,000,000. In each fiscal year after fiscal
18 year 1999–2000, a portion of the public benefits fee shall be an amount that, when
19 added to the sum of the following shall equal the low-income need target for that
20 fiscal year determined by the department under sub. (2) (d) 1.:

21 a. Fifty percent of the estimated public benefits fees charged by municipal
22 utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year.

23 b. All moneys received under 42 USC 6861 to 6873 and 42 USC 8621 to 8629
24 for that fiscal year.

1 c. The total amount spent on programs or contributed to the commission by
2 utilities under s. 196.374 (3) for that fiscal year for low-income assistance.

3 2. ‘Energy conservation and efficiency and renewable resource funding.’ For
4 fiscal year 1999–2000, a portion of the public benefits fee shall be in an amount that,
5 when added to 50% of the estimated public benefits fees charged by municipal
6 utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year, shall
7 equal \$20,000,000. In each fiscal year after fiscal year 1999–2000, a portion of the
8 public benefits fee shall be the amount determined under this subdivision for fiscal
9 year 1999–2000, except that if the department determines to reduce or discontinue
10 a program under sub. (2) (b) 2., the department shall reduce the amount accordingly.

11 3. ‘Limitation on electric bill increases.’ For the period beginning on the
12 effective date of this subdivision ... [revisor inserts date], and ending on June 30,
13 2008, the total increase in a customer’s electric bills that is based on the requirement
14 to pay public benefits fees, including any increase resulting from an electric utility’s
15 compliance with this section, may not exceed 3% of the total of every other charge for
16 which the customer is billed for that period or \$750 per month, whichever is less.

17 **(5) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES.** (a) *Requirement to*
18 *charge public benefits fees.* Each retail electric cooperative and municipal utility
19 shall charge a monthly public benefits fee to each customer or member in an amount
20 that is sufficient for the retail electric cooperative or municipal utility to collect an
21 annual average of \$17 per meter. A retail electric cooperative or municipal utility
22 may determine the amount that a particular class of customers or members is
23 required to pay under this paragraph and may charge different fees to different
24 classes of customers or members.

1 (am) *Public benefits fee restriction.* Notwithstanding par. (a), for the period
2 beginning on the effective date of this paragraph [revisor inserts date], and ending
3 on June 30, 2008, the total increase in a customer's or member's electric bills that is
4 based on the requirement to pay public benefits fees, including any increase
5 resulting from a retail electric cooperative's or municipal utility's compliance with
6 this section, may not exceed 3% of the total of every other charge for which the
7 member or customer is billed for that period or \$750 per month, whichever is less.

8 (b) *Election to contribute to department programs.* 1. No later than the first
9 day of the 12th month beginning after the effective date of this subdivision
10 [revisor inserts date], each municipal utility or retail electric cooperative shall notify
11 the department whether it has elected to contribute to the programs established
12 under sub. (2) (a) or (b) 1. for a 3-year period.

13 2. No later than every 3rd year after the date specified in subd. 1., each
14 municipal utility or retail electric cooperative shall notify the department whether
15 it has elected to contribute to the programs established under sub. (2) (a) or (b) 1. for
16 a 3-year period.

17 (c) *Full contribution.* If a municipal utility or retail electric cooperative elects
18 under par. (b) 1. or 2. to contribute to the programs established both under sub. (2)
19 (a) and under sub. (2) (b) 1., it shall pay 100% of the public benefits fees that it charges
20 under par. (a) to the department in each fiscal year of the 3-year period for which it
21 has made the election.

22 (d) *Partial contributions and commitment to community spending.* A
23 municipal utility or retail electric cooperative not specified in par. (c) shall do one of
24 the following:

1 1. If the municipal utility or retail electric cooperative elects to contribute only
2 to the programs established under sub. (2) (a), the municipal utility or retail electric
3 cooperative shall, in each fiscal year of the 3–year period for which it elects to
4 contribute under par. (b) 1. or 2., do all of the following:

5 a. Pay 50% of the public benefits fees that it charges under par. (a) to the
6 department.

7 b. Spend 50% of the public benefits fees that it charges under par. (a) on energy
8 conservation programs.

9 2. If the municipal utility or retail electric cooperative elects to contribute only
10 to the programs established under sub. (2) (b) 1., the municipal utility or retail
11 electric cooperative shall, in each fiscal year of the 3–year period for which it elects
12 to contribute under par. (b) 1. or 2., do all of the following:

13 a. Pay 50% of the public benefits fees that it charges under par. (a) to the
14 department.

15 b. Spend 50% of the public benefits fees that it charges under par. (a) on
16 programs for low–income assistance.

17 3. If the municipal utility or retail electric cooperative elects not to contribute
18 to any of the programs established under sub. (2) (a) or (b) 1., the municipal utility
19 or retail electric cooperative shall, in each fiscal year of the 3–year period for which
20 it elects not to contribute under par. (b) 1. or 2., do all of the following:

21 a. Spend 50% of the public benefits fees that it charges under par. (a) on
22 programs for low–income assistance.

23 b. Spend 50% of the public benefits fees that it charges under par. (a) on energy
24 conservation programs.

1 (e) *Wholesale supplier credit.* If a wholesale supplier has established a program
2 for low-income assistance or an energy conservation program, a municipal utility or
3 retail electric cooperative that is a customer or member of the wholesale supplier
4 may do any of the following:

5 1. Include an amount equal to the product of the municipal utility's or retail
6 electric cooperative's wholesale supply percentage and the amount that the
7 wholesale supplier has spent on low-income assistance in a fiscal year in calculating
8 the amount that the municipal utility or retail electric cooperative has spent on
9 low-income assistance in that fiscal year under par. (d) 2. b. or 3. a.

10 2. Include an amount equal to the product of the municipal utility's or retail
11 electric cooperative's wholesale supply percentage and the amount that the
12 wholesale supplier has spent on energy conservation programs or customer
13 applications of renewable resources in a fiscal year in calculating the amount that
14 the municipal utility or retail electric cooperative has spent on energy conservation
15 programs under par. (d) 1. b. or 3. b.

16 (f) *Joint programs.* Municipal utilities or retail electric cooperatives may
17 establish joint commitment to community programs, except that each municipal
18 utility or retail electric cooperative that participates in a joint program is required
19 to comply with the spending requirements under par. (d).

20 (g) *Reports.* 1. For each fiscal year, each municipal utility and retail electric
21 cooperative that does not pay 100% of the public benefits fee that it charges under
22 par. (a) to the department under par. (c) shall file a report with the department that
23 describes each of the following:

24 a. An accounting of public benefits fees charged to customers or members under
25 par. (a) in the fiscal year and expenditures on commitment to community programs

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.”.

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).

1 **(3)** (a) The department shall distribute the fees that are paid by a person under
2 the rules promulgated under sub. (2) (a) to each town, village and city that is
3 identified by the commission under s. 196.491 (3) (gm) in proportion to the amount
4 of investment that is allocated by the commission under s. 196.491 (3) (gm) to each
5 such town, village and city.

6 (b) The fee that is paid by a person under the rules promulgated under sub. (2)
7 (b) shall be distributed as follows:

8 1. The department shall pay 50% of the fee to each county that is identified by
9 the commission under s. 196.491 (3) (gm) in proportion to the amount of investment
10 that is allocated by the commission under s. 196.491 (3) (gm) to each such county.

11 2. The department shall pay 50% of the fee to each town, village and city that
12 is identified by the commission under s. 196.491 (3) (gm) in proportion to the amount
13 of investment that is allocated by the commission under s. 196.491 (3) (gm) to each
14 such town, village and city.

15 **(4)** A county, town, village or city that receives a distribution under sub. (3) (b)
16 may use the distribution only for park, conservancy, wetland or other similar
17 environmental programs.”.

18 **4.** Page 114, line 8: increase the dollar amount for fiscal year 1999–00 by
19 \$250,000 and increase the dollar amount for fiscal year 2000–01 by \$250,000 for the
20 purpose for which the appropriation is made.

21 **5.** Page 235, line 18: after that line insert:

1	“(ge) High-voltage transmission line				
2	annual impact fee distributions	PR	C	-0-	-0-
3	(gs) High-voltage transmission line				
4	environmental impact fee dis-				
5	tributions	PR	C	-0-	-0-”.

6 **6.** Page 244, line 13: after that line insert:

7 “(10) UTILITY PUBLIC BENEFITS

8	(q) General program operations	SEG	A	-0-	-0-
9	(r) Low-income assistance grants	SEG	S	-0-	-0-
10	(s) Energy conservation and effi-				
11	ciency and renewable resource				
12	grants	SEG	S	-0-	-0-”.

13 **7.** Page 371, line 18: after that line insert:

14 “SECTION 511n. 20.505 (1) (ge) of the statutes is created to read:

15 20.505 (1) (ge) *High-voltage transmission line annual impact fee distributions.*

16 All moneys received from the payment of fees under the rules promulgated under s.
17 16.969 (2) (a) for distributions to to towns, villages and cities under s. 16.969 (3) (a).

18 **SECTION 511r.** 20.505 (1) (gs) of the statutes is created to read:

19 20.505 (1) (gs) *High-voltage transmission line environmental impact fee*
20 *distributions.* All moneys received from the payment of fees under the rules
21 promulgated under s. 16.969 (2) (b) for distributions to counties, towns, villages and
22 cities under s. 16.969 (3) (b).”.

23 **8.** Page 388, line 14: after that line insert:

*WDO
please fix font*

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 operations.

5

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

7

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

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);”.

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 nonlapsible trust fund designated as the utility public benefits fund, consisting of deposits by the public service commission under s. 196.374 (3), public benefits fees received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions received under s. 16.957 (2) (c) 4. and (d) 2.”.

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 a qualified wholesale electric company or a transmission company means total operating revenues as reported to the public service commission except revenues for

23

24

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 grants received by the electric utility under a program
 24 established under s. 16.957 (2) (a) or (b) 1. For a wholesale supplier, as defined in
 25 s. 16.957 (1) (g), "gross revenues" does not include any public benefits fees that are

or (5) (a)

1 received from a municipal utility or retail electric cooperative. For a municipal
2 utility, “gross revenues” does not include public benefits fees received by the
3 municipal utility from a municipal utility or retail electric cooperative under a joint
4 program established under s. 16.957 (5) (f).

5 **SECTION 1809f.** 76.28 (1) (e) (intro.) of the statutes is amended to read:

6 76.28 (1) (e) (intro.) “Light, heat and power companies” means any person,
7 association, company or corporation, including corporations described in s. 66.069 (2)
8 ~~and including,~~ qualified wholesale electric companies and transmission companies
9 and except only business enterprises carried on exclusively either for the private use
10 of the person, association, company or corporation engaged in them, or for the private
11 use of a person, association, company or corporation owning a majority of all
12 outstanding capital stock or who control the operation of business enterprises and
13 except electric cooperatives taxed under s. 76.48 that engage in any of the following
14 businesses:

15 **SECTION 1809k.** 76.28 (1) (e) 5. of the statutes is created to read:

16 76.28 (1) (e) 5. Transmitting electric current for light, heat or power.

17 **SECTION 1809h.** 76.28 (1) (eg) of the statutes is created to read:

18 76.28 (1) (eg) “Municipal utility” has the meaning given in s. 16.957 (1) (q).

19 **SECTION 1809j.** 76.28 (1) (gr) of the statutes is created to read:

20 76.28 (1) (gr) “Retail electric cooperative” has the meaning given in s. 16.957

21 (1) (t).

22 **SECTION 1809no.** 76.28 (1) (j) of the statutes is created to read:

23 76.28 (1) (j) “Transmission company” has the meaning given in s. 196.485 (1)

24 (ge).

25 **SECTION 1809s.** 76.28 (2) (c) (intro.) of the statutes is amended to read:

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

1 program established under s. 16.957 (5) (f) ~~of grants received by the retail electric~~
 2 ~~cooperative under a program established under s. 16.957 (2) (a) or (b) 1.~~ For a
 3 wholesale supplier, as defined in s. 16.957 (1) (p), "gross revenues" does not include
 4 any public benefits fees that are received from a municipal utility, as defined in s.
 5 16.957 (1) (q), or retail electric cooperative. **INSERT 22-5**

6 **SECTION 1809zo.** 76.48 (1g) (dm) of the statutes is created to read:

7 76.48 (1g) (dm) "Municipal utility" has the meaning given in s. 16.957 (1) (q).

8 **SECTION 1809zp.** 76.48 (1g) (fm) of the statutes is created to read:

9 76.48 (1g) (fm) "Retail electric cooperative" has the meaning given in s. 16.957

10 (1) (t). **INSERT 22-10**

11 **13.** Page 953, line 21: after that line insert:

12 "SECTION 1813s. 77.51 (14g) (fm) of the statutes is created to read:

13 77.51 (14g) (fm) The transfer of transmission facilities, as defined in s. 196.485

14 (1) (h), to a transmission company, as defined in s. 196.485 (1) (ge), after the

15 organizational start-up date, as defined in s. 196.485 (1) (dv), of such company in

16 exchange for securities, as defined in s. 196.485 (1) (fe),".

17 **14.** Page 1179, line 21: after that line insert:

18 "SECTION 2315c. 196.025 of the statutes is renumbered 196.025 (1).

19 **SECTION 2315g.** 196.025 (2) of the statutes is created to read:

20 196.025 (2) The commission shall promulgate rules establishing requirements

21 and procedures for the commission to carry out the duties under s. 1.11. Rules

22 promulgated under this subsection shall include requirements and procedures for

23 each of the following:

INSERT 22-16

1 (a) Standards for determining the necessity of preparing an environmental
2 impact statement.

3 (b) Adequate opportunities for interested persons to be heard on environmental
4 impact statements, including adequate time for the preparation and submission of
5 comments.

6 (c) Deadlines that allow thorough review of environmental issues without
7 imposing unnecessary delays in addressing the need for additional electric
8 transmission capacity in this state.

9 **SECTION 2315L.** 196.025 (3) of the statutes is created to read:

10 196.025 (3) The commission shall promulgate rules establishing requirements
11 and procedures for electric utilities, as defined under s. 196.491 (1) (d), to file reports
12 with the commission, on a frequency that the commission determines is reasonably
13 necessary, on their current reliability status, including the status of operating and
14 planning reserves, available transmission capacity and outages of major operational
15 units and transmission lines. A report filed under the rules promulgated under this
16 subsection is subject to inspection and copying under s. 19.35 (1), except that the
17 commission may withhold the report from inspection and copying for a period of time
18 that the commission determines is reasonably necessary to prevent an adverse
19 impact on the supply or price of energy in this state.

20 **SECTION 2315p.** 196.025 (4) of the statutes is created to read:

21 196.025 (4) (a) In consultation with the department of administration and the
22 department of revenue, the commission shall study the establishment of a program
23 for providing incentives for the development of high-efficiency, small-scale electric
24 generating facilities in this state that do either of the following:

1 1. Provide benefits in the form of support for electric distribution or
2 transmission systems, power quality or environmental performance.

3 2. Employ technologies such as combined heat and power systems, fuel cells,
4 microturbines or photovoltaic systems that may be situated in, on or next to
5 buildings or other electric load centers.

6 (b) No later than January 1, 2001, the commission shall submit a report of its
7 findings and recommendations under par. (a) to the chief clerk of each house of the
8 legislature for distribution to the appropriate standing committees under s. 13.172
9 (3).

10 **SECTION 2315t.** 196.025 (5) of the statutes is created to read:

11 196.025 (5) (ag) In this subsection, “electric cooperative” means a cooperative
12 association organized under ch. 185 for the purpose of generating, distributing or
13 furnishing electric energy at retail or wholesale to its members only.

14 (ar) The commission shall contract with an expert consultant in economics to
15 conduct a study on the potential for horizontal market power, including the
16 horizontal market power of electric generators, to frustrate the creation of an
17 effectively competitive retail electricity market in this state and to make
18 recommendations on measures to eliminate such market power on a sustainable
19 basis. The study shall include each of the following:

20 1. An assessment of the effect of each recommendation on public utility workers
21 and shareholders and electric cooperative workers and members.

22 1m. An assessment of the effect of each recommendation on rates for each class
23 of public utility customers and electric cooperative members.

24 2. An evaluation of the impact of transmission constraints on the market power
25 of electric generators in local areas.

1 (b) No later than January 1, 2001, the commission shall submit a report of the
2 results of the study under par. (ar) to the chief clerk of each house of the legislature
3 for distribution to the appropriate standing committees under s. 13.172 (3).

4 **SECTION 2315x.** 196.192 of the statutes is created to read:

5 **196.192 Market-based compensation, rates and contracts.** (1) In this
6 section, “electric public utility” means a public utility whose purpose is the
7 generation, distribution and sale of electric energy.

8 (2) No later than March 1, 2000, each investor-owned electric public utility
9 shall do each of the following:

10 (a) File with the commission rates that result in customers receiving
11 market-based compensation for voluntary interruptions of firm load during peak
12 periods of electric use.

13 (b) File with the commission market-based pricing options and options for
14 individual contracts that allow a retail customer, through service from its existing
15 public utility, to receive market benefits and take market risks for the customer’s
16 purchases of capacity or energy.

17 (3) (a) The commission shall approve market-based rates that are consistent
18 with the options specified in sub. (2), except that the commission may not approve
19 a market-based rate unless the commission determines that the rate will not harm
20 shareholders of the investor-owned electric public utility or customers who are not
21 subject to the rate.

22 (b) Nothing in s. 196.20, 196.21, 196.22, 196.37, 196.60 or 196.604 prohibits the
23 commission from approving a filing under sub. (2) or approving market-based rates
24 under par. (a).

1 (4) Subject to any approval of the commission that is necessary, an electric
2 public utility that is not an investor–owned electric public utility may implement
3 market–based rates approved under sub. (3) (a) or implement the options in filings
4 under sub. (2) that are approved by the commission.”.

5 **15.** Page 1185, line 19: after that line insert:

6 “**SECTION 2334d.** 196.31 (1) (intro.) of the statutes is amended to read:

7 196.31 (1) (intro.) In any proceeding before the commission, the commission
8 may shall compensate any participant in the proceeding who is not a public utility,
9 for some or all of the reasonable costs of participation in the proceeding if the
10 commission finds that:

11 **SECTION 2334h.** 196.31 (1) (a) of the statutes is amended to read:

12 196.31 (1) (a) The participation is necessary to provide for the record an
13 adequate presentation of a significant position in which the participant has a
14 substantial interest, and that an adequate presentation would not be possible occur
15 without a grant of compensation; or

16 **SECTION 2334p.** 196.374 of the statutes is repealed and recreated to read:

17 **196.374 Low-income assistance, energy efficiency and other**
18 **programs.** (1) In this section:

19 (a) “Department” means the department of administration.

20 (b) “Fund” means the utility public benefits fund.

21 (c) “Utility” means a Class A gas or electric utility, as defined by the
22 commission, but does not include a municipal utility, as defined in s. 16.957 (1) (q),
23 a municipal electric company, as defined in s. 66.073 (3) (d), or a cooperative
24 association organized under ch. 185.

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

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

18 (4) If the department notifies the commission under s. 16.957 (2) (b) 2. that the
19 department has reduced funding for energy conservation and efficiency and
20 renewable resource programs by an amount that is greater than the portion of the
21 public benefits fee specified in s. 16.957 (4) (c) 2., the commission shall reduce the
22 amount that utilities are required to spend on programs or contribute to the fund
23 under sub. (3) by the portion of the reduction that exceeds the amount of public
24 benefits fees specified in s. 16.957 (4) (c) 2.

25 **SECTION 2334t.** 196.378 of the statutes is created to read:

1 **196.378 Renewable resources. (1) DEFINITIONS.** In this section:

2 (a) “Biomass” means a resource that derives energy from wood or plant
3 material or residue, biological waste, crops grown for use as a resource or landfill
4 gases. “Biomass” does not include garbage, as defined in s. 289.01 (9), or
5 nonvegetation-based industrial, commercial or household waste, except that
6 “biomass” includes refuse-derived fuel used for a renewable facility that was in
7 service in this state before January 1, 1998.

8 (am) “Biomass cofired facility” means a renewable facility in which biomass
9 and conventional resources are fired together.

10 (b) “Conventional resource” means a resource that derives energy from coal, oil,
11 nuclear power or natural gas, except for natural gas used in a fuel cell.

12 (bm) “Department” means the department of administration.

13 (c) “Electric provider” means an electric utility or retail electric cooperative.

14 (d) “Electric utility” means a public utility that sells electricity at retail. For
15 purposes of this paragraph, a public utility is not considered to sell electricity at
16 retail solely on the basis of its ownership or operation of a retail electric distribution
17 system.

18 (e) “Excludable renewable energy” means the portion of an electric provider’s
19 total renewable energy that is supplied from renewable facilities that were placed
20 in service before January 1, 1998, and that, before January 1, 1998, derived
21 electricity from hydroelectric power, even if the output of the renewable facilities is
22 used to satisfy requirements under federal law.

23 (f) “Nonsystem renewable energy” means the amount of electricity that an
24 electric provider sells to its retail customers or members and that is supplied or
25 allocated under executed wholesale purchase contracts from renewable facilities

1 that are not owned or operated by the electric provider. “Nonsystem renewable
2 energy” does not include any electricity that is not used to satisfy the electric
3 provider’s retail load obligations.

4 (g) “Renewable facility” means an installed and operational electric generating
5 facility in which electricity is derived from a renewable resource. “Renewable
6 facility” includes a facility the installation or operation of which is required under
7 federal law, but does not include a facility the installation or operation of which is
8 required under the laws of another state even if the installation or operation of the
9 facility is also required under federal law.

10 (h) “Renewable resource” means any of the following:

- 11 1. A resource that derives electricity from any of the following:
- 12 a. A fuel cell that uses, as determined by the commission, a renewable fuel.
 - 13 b. Tidal or wave action.
 - 14 c. Solar thermal electric or photovoltaic energy.
 - 15 d. Wind power.
 - 16 e. Geothermal technology.
 - 17 g. Biomass.
- 18 1m. A resource with a capacity of less than 60 megawatts that derives
19 electricity from hydroelectric power.
- 20 2. Any other resource, except a conventional resource, that the commission
21 designates as a renewable resource in rules promulgated under sub. (4).

22 (i) “Renewable resource credit” means a credit calculated in accordance with
23 rules promulgated under sub. (3) (a).

24 (j) “Resource” means a source of energy used to generate electric power.

1 (k) “Retail electric cooperative” means a cooperative association organized
2 under ch. 185 that sells electricity at retail to its members only. For purposes of this
3 paragraph, a cooperative association is not considered to sell electricity at retail
4 solely on the basis of its ownership or operation of a retail electric distribution
5 system.

6 (n) “System renewable energy” means the amount of electricity that an electric
7 provider sells to its retail customers or members and that is supplied by renewable
8 facilities owned or operated by the electric provider.

9 (o) “Total renewable energy” means the sum of an electric provider’s system and
10 nonsystem renewable energy.

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

- 15 1. By December 31, 2000, 0.5%.
- 16 2. By December 31, 2002, 0.85%.
- 17 3. By December 31, 2004, 1.2%.
- 18 4. By December 31, 2006, 1.55%.
- 19 5. By December 31, 2008, 1.9%.
- 20 6. By December 31, 2010, 2.2%.

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

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

24 2. The amount of electricity supplied by a biomass cofired facility that may be
25 counted toward satisfying the requirements of par. (a) shall be an amount equal to

1 the product of the maximum amount of electricity that the facility is capable of
2 generating and the ratio of the energy content of the biomass fuels to the energy
3 content of both the biomass and conventional resources.

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

7 (c) No later than April 15 annually, an electric provider shall submit a report
8 to the department that describes the electric provider's compliance with par. (a).
9 Reports under this paragraph may include certifications from wholesale suppliers
10 regarding the sources and amounts of energy supplied to an electric provider. The
11 department may specify the documentation that is required to be included with
12 reports submitted under this paragraph.

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

- 18 1. Allocating the costs equally to all customers on a kilowatt-hour basis.
19 2. Establishing alternative price structures, including price structures under
20 which customers pay a premium for renewable energy.
21 3. Any combination of the methods specified in subs. 1. and 2.

22 (e) 1. This subsection does not apply to any of the following:

- 23 a. An electric provider that provides more than 10% of its summer peak demand
24 in this state from renewable facilities.

1 b. An electric provider that provides more than 10% of its summer peak demand
2 from renewable resources.

3 2. For purposes of calculating the percentages under subd. 1., an electric
4 provider may include renewable facilities located in this or another state and
5 renewable facilities located on its or another electric provider's system.

6 3. Notwithstanding subd. 1., this subsection applies to an electric provider
7 unless the electric provider provides documentation to the commission that
8 establishes, to the satisfaction of the commission, that the electric provider satisfies
9 the requirements under subd. 1. a. or b.

10 **(3) RENEWABLE RESOURCE CREDITS.** (a) An electric provider that provides total
11 renewable energy to its retail electric customers or members in excess of the
12 percentages specified in sub. (2) (a) 1. to 6. may, in the applicable year, sell to any
13 other electric provider a renewable resource credit or a portion of a renewable
14 resource credit at any negotiated price. Alternatively, an electric provider may use
15 a renewable resource credit or portion of a renewable resource credit in a subsequent
16 year to establish compliance with sub. (2) (a). The commission shall promulgate
17 rules that establish requirements for the use of a renewable resource credit,
18 including calculating the amount of a renewable resource credit.

19 (b) The commission may promulgate rules that establish requirements and
20 procedures for a sale under par. (a).

21 **(4) RULES.** The commission may promulgate rules that designate a resource,
22 except for a conventional resource, as a renewable resource in addition to the
23 resources specified in sub. (1) (h) 1. and 1m.

24 **(5) PENALTY.** Any person who violates sub. (2) or any wholesale supplier who
25 provides an electric provider with a false or misleading certification regarding the

1 sources or amounts of energy supplied to the electric provider shall forfeit not less
2 than \$5,000 nor more than \$500,000. Forfeitures under this subsection shall be
3 enforced by action on behalf of the state by the attorney general. A court imposing
4 a forfeiture under this subsection shall consider all of the following in determining
5 the amount of the forfeiture:

6 (a) The appropriateness of the forfeiture to the person's or wholesale supplier's
7 volume of business.

8 (b) The gravity of the violation.

9 (c) Whether a violation of sub. (2) is due to circumstances beyond the violator's
10 control.”.

11 **16.** Page 1186, line 2: after that line insert:

12 “SECTION 2335ta. 196.485 (title) of the statutes is repealed and recreated to
13 read:

14 **196.485 (title) Transmission system requirements.**

15 **SECTION 2335tb.** 196.485 (1) (am) of the statutes is created to read:

16 196.485 (1) (am) “Contribute a transmission facility” means to divest a person's
17 interest in the transmission facility and to transfer ownership of the transmission
18 facility, and associated deferred tax reserves to the extent permitted by law, to
19 another person.

20 **SECTION 2335tc.** 196.485 (1) (be) of the statutes is created to read:

21 196.485 (1) (be) “Director” means, with respect to a transmission company
22 organized as a corporation under ch. 180, a member of the board of directors of the
23 transmission company.

24 **SECTION 2335td.** 196.485 (1) (bs) of the statutes is created to read:

INSERT 33-18

1 196.485 (1) (bs) “Electric utility” means any of the following:

2 1. A public utility that is involved in the generation, transmission, distribution
3 or sale of electric energy.

4 2. A retail or wholesale electric cooperative.

5 **SECTION 2335te.** 196.485 (1) (dm) (intro.) of the statutes is amended to read:

6 196.485 (1) (dm) (intro.) “Independent transmission owner” means:

7 1m. Means a person that satisfies each of the following:

8 **SECTION 2335tf.** 196.485 (1) (dm) 1. of the statutes is renumbered 196.485 (1)
9 (dm) 1m. a.

10 **SECTION 2335tg.** 196.485 (1) (dm) 2. of the statutes is created to read:

11 196.485 (1) (dm) 2. Does not include the transmission company.

12 **SECTION 2335th.** 196.485 (1) (dm) 3. of the statutes is renumbered 196.485 (1)
13 (dm) 1m. b. and amended to read:

14 196.485 (1) (dm) 1m. b. The person is not an affiliated interest of a person
15 specified in subd. 1. 1m. a.

16 **SECTION 2335ti.** 196.485 (1) (do) of the statutes is created to read:

17 196.485 (1) (do) “Land right” means any right in real property, including fee
18 simple ownership or a right-of-way or easement, that has been acquired for a
19 transmission facility that is located or intended to be located on the real property.

20 **SECTION 2335tk.** 196.485 (1) (dq) of the statutes is created to read:

21 196.485 (1) (dq) “Manager” means, with respect to a transmission company
22 organized as a limited liability company under ch. 183, the representatives of the
23 security holders that are elected or appointed under sub. (3m) (c).

24 **SECTION 2335tL.** 196.485 (1) (dr) of the statutes is created to read:

1 196.485 (1) (dr) “Merger enforcement policy” means the enforcement policy of
2 the federal department of justice and the federal trade commission regarding
3 horizontal acquisitions and mergers that are subject to 15 USC 1, 18 or 45.

4 **SECTION 2335tm.** 196.485 (1) (ds) of the statutes is created to read:

5 196.485 (1) (ds) “Midwest independent system operator” means the
6 independent system operator the establishment of which the federal energy
7 regulatory commission has conditionally authorized in an order issued on September
8 16, 1998, or the successor to such independent system operator.

9 **SECTION 2335tn.** 196.485 (1) (dt) of the statutes is created to read:

10 196.485 (1) (dt) “Nontransmission utility security holder” means a security
11 holder that is not a transmission utility security holder.

12 **SECTION 2335to.** 196.485 (1) (dv) of the statutes is created to read:

13 196.485 (1) (dv) “Organizational start-up date” means, with respect to a
14 transmission company that is organized as a limited liability company under ch. 183,
15 the date on which the articles of organization become effective under s. 183.0111 or,
16 with respect to a transmission company that is organized as a corporation under ch.
17 180, the date on which the articles of incorporation become effective under s.
18 180.0123.

19 **SECTION 2335tp.** 196.485 (1) (em) of the statutes is created to read:

20 196.485 (1) (em) “Retail electric cooperative” means a cooperative that provides
21 retail electric service to its members.

22 **SECTION 2335tq.** 196.485 (1) (fe) of the statutes is created to read:

23 196.485 (1) (fe) “Security” means, with respect to a transmission company
24 organized as a corporation under ch. 180, a share, as defined in s. 180.0103 (15), and,

1 with respect to a transmission company organized as a limited liability company
2 under ch. 183, a limited liability company interest, as defined in s. 183.0102 (11).

3 **SECTION 2335tr.** 196.485 (1) (ge) of the statutes is created to read:

4 196.485 (1) (ge) “Transmission company” means a corporation organized under
5 ch. 180 or a limited liability company organized under ch. 183 that has as its sole
6 purpose the planning, constructing, operating, maintaining and expanding of
7 transmission facilities that it owns to provide for an adequate and reliable
8 transmission system that meets the needs of all users that are dependent on the
9 transmission system and that supports effective competition in energy markets
10 without favoring any market participant.

11 **SECTION 2335ts.** 196.485 (1) (gm) of the statutes is created to read:

12 196.485 (1) (gm) “Transmission dependent utility” means an electric utility
13 that is not a transmission utility and that is dependent on the transmission system
14 of another person for delivering electricity to the electric utility’s customers.

15 **SECTION 2335tt.** 196.485 (1) (j) of the statutes is created to read:

16 196.485 (1) (j) “Transmission utility security holder” means a person that is a
17 security holder of a transmission company, is an investor–owned transmission utility
18 in the transmission area and has contributed its transmission facilities to the
19 transmission company.

20 **SECTION 2335ttm.** 196.485 (1) (k) of the statutes is created to read:

21 196.485 (1) (k) “Wholesale electric cooperative” means a cooperative that
22 provides wholesale electric service to its members.

23 **SECTION 2335tu.** 196.485 (1m) of the statutes is created to read:

24 196.485 (1m) DUTY TO PROVIDE TRANSMISSION SERVICE. (a) The duty of any
25 electric utility that has contributed its transmission facilities to the transmission

1 company to finance, construct, maintain or operate a transmission facility shall
2 terminate on the date, as determined by the commission under sub. (2) (d), that the
3 transmission company begins operations.

4 (b) After beginning operations, the transmission company shall, except for
5 transmission service provided by an electric utility that has not transferred its
6 transmission facilities to the the transmission company, have the exclusive duty to
7 provide transmission service in those areas in which transmission facilities have
8 been contributed. The duty under this paragraph shall terminate on the date, as
9 determined by the commission under sub. (2) (d), that the Midwest independent
10 system operator begins operations.

11 (c) After beginning operations, the Midwest independent system operator shall
12 have the exclusive duty to provide transmission service in the transmission area and
13 shall ensure that each transmission facility in the transmission area that is under
14 its operational control is planned, constructed, operated, maintained and controlled
15 as part of a single transmission system.

16 **SECTION 2335tv.** 196.485 (2) (a) (intro.) of the statutes is amended to read:

17 196.485 (2) (a) (intro.) By June 30, 2000, if a transmission utility has not
18 transferred control over its transmission facilities to an independent system
19 operator that is approved by the applicable federal agency or divested, with approval
20 of the applicable federal agency and, for a public utility, the commission, its interest
21 in its transmission facilities to an independent transmission owner, the commission
22 shall, subject to ~~par. pars.~~ par. (am) and (ar), order the transmission utility to apply to the
23 applicable federal agency to do one of the following:

24 **SECTION 2335tw.** 196.485 (2) (ar) of the statutes is created to read:

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1 196.485 (2) (ar) The commission shall waive the requirement to issue an order
2 against a transmission utility under par. (a) if the transmission utility shows, to the
3 satisfaction of the commission, that a transfer of its transmission facilities to the
4 Midwest independent system operator may have the effect of jeopardizing the
5 tax-exempt status of the transmission utility or its securities under the Internal
6 Revenue Code. A waiver under this paragraph shall be in effect until the commission
7 determines that the proposed transfer does not have the effect described in this
8 paragraph.

9 **SECTION 2335tx.** 196.485 (2) (bx) of the statutes is created to read:

10 196.485 (2) (bx) If the Midwest system operator fails to commence operations
11 or ceases operations, the requirements of this section that apply to the Midwest
12 independent system operator shall apply to any other independent system operator
13 or regional transmission organization that is authorized under federal law to operate
14 in this state. The commission shall require that any transfer of transmission
15 facilities to such independent system operator or regional transmission organization
16 satisfies the requirements of this section.

17 **SECTION 2335ty.** 196.485 (2) (d) of the statutes is created to read:

18 196.485 (2) (d) The commission shall determine each of the following:

- 19 1. The date on which the transmission company begins operations.
20 2. Whether the Midwest independent system operator has begun operations
21 and the date on which such operations have begun.

22 **SECTION 2335tz.** 196.485 (3) (bm) of the statutes is repealed.

23 **SECTION 2335ub.** 196.485 (3m) of the statutes is created to read:

24 196.485 (3m) TRANSMISSION COMPANY. (a) *Duties.* 1. The transmission company
25 shall do each of the following:

1 a. Apply for any approval under state or federal law that is necessary for the
2 transmission company to begin operations no later than November 1, 2000.

3 b. Subject to any approval required under state or federal law, contract with
4 each transmission utility that has transferred transmission facilities to the
5 transmission company for the transmission utility to provide reasonable and
6 cost-effective operation and maintenance services to the transmission company
7 during the 3-year period after the transmission company first begins operations.
8 The transmission company and a transmission utility may, subject to any approval
9 required under federal or state law, agree to an extension of such 3-year period.

10 c. Assume the obligations of a transmission utility that has transferred
11 ownership of its transmission facilities to the transmission company under any
12 agreement by the transmission utility to provide transmission service over its
13 transmission facilities or credits for the use of transmission facilities, except that the
14 transmission company may modify such an agreement to the extent allowed under
15 the agreement and to the extent allowed under state or federal law.

16 d. Apply for membership in the Midwest independent system operator as a
17 single zone for pricing purposes that includes the transmission area and, upon a
18 determination by the commission under sub. (2) (d) that the Midwest independent
19 system operator has begun operations, transfer operational control of the
20 transmission company's transmission facilities to the Midwest independent system
21 operator.

22 e. Remain a member of the Midwest independent system operator, or any
23 independent system operator or regional transmission organization that has been
24 approved under federal law to succeed the Midwest independent system operator, for
25 at least the 6-year transition period that is specified in the agreement conditionally

1 approved by the federal energy regulatory commission that establishes the Midwest
2 independent system operator.

3 f. Subject to subd. 4., elect to be included in a single zone for the purpose of any
4 tariff administered by the Midwest independent system operator.

5 2. The transmission company may not do any of the following:

6 a. Sell or transfer its assets to, or merge its assets with, another person, unless
7 the assets are sold, transferred or merged on an integrated basis and in a manner
8 that ensures that the transmission facilities in the transmission area are planned,
9 constructed, operated, maintained and controlled as a single transmission system.

10 b. Bypass the distribution facilities of an electric utility or provide ~~electric~~
11 service directly to a retail customer or member.

12 c. Own electric generation facilities or sell, market or broker electric capacity
13 or energy in a relevant wholesale or retail market as determined by the commission,
14 except that, if authorized or required by the federal energy regulatory commission,
15 the transmission company may procure or resell ancillary services obtained from 3rd
16 parties, engage in redispatch activities that are necessary to relieve transmission
17 constraints or operate a control area.

18 3. Notwithstanding subd. 1. a., the transmission company may not begin
19 operations until it provides an opinion to the commission from a nationally
20 recognized investment banking firm that the transmission company is able to
21 finance, at a reasonable cost, its start-up costs, working capital and operating
22 expenses and the cost of any new facilities that are planned.

23 4. If the transmission charges or rates of any transmission utility in the
24 transmission area are 10% or more below the average transmission charges or rates
25 of the transmission utilities in the transmission area on the date, as determined by

1 the commission, that the last public utility affiliate files a commitment with the
2 commission under sub. (5) (a) 2., the transmission company shall, after consulting
3 with each public utility affiliate that has filed a commitment under sub. (5) (a) 2.,
4 prepare a plan for phasing in a combined single zone rate for the purpose of pricing
5 network use by users of the transmission system operated by the Midwest
6 independent system operator and shall seek plan approval by the federal energy
7 regulatory commission and the Midwest independent system operator. A plan under
8 this subdivision shall phase in an average-cost price for the combined single zone in
9 equal increments over a 5-year period, except that, under the plan, transmission
10 service shall be provided to all users of the transmission system on a single-zone
11 basis during the phase-in period.

12 (b) *Powers.* The transmission company may do any of the following:

13 1. Subject to the approval of the commission under s. 196.491 (3), construct and
14 own transmission facilities, including high-voltage transmission lines, as defined in
15 s. 196.491 (1) (f), in the transmission area or in any other area of the state in which
16 transmission facilities that have been contributed to the transmission company are
17 located. This subdivision does not affect the right or duty of an electric utility that
18 is not located in the transmission area or that has not contributed its transmission
19 facilities to the transmission company to construct or own transmission facilities.

20 2. Subject to any approval required under state or federal law, purchase or
21 acquire transmission facilities in addition to the transmission facilities contributed
22 under sub. (5) (b).

23 (c) *Organization.* The operating agreement, as defined in s. 183.0102 (16), of
24 a transmission company that is organized as a limited liability company under ch.

1 183 or the bylaws of a transmission company that is organized as a corporation under
2 ch. 180 shall provide for each of the following:

3 1. That the transmission company has no less than 5 nor more than 14
4 managers or directors, except that the operating agreement or bylaws may allow the
5 requirements of this subdivision to be modified upon a unanimous vote of the
6 managers or directors during the 10-year period after the organizational start-up
7 date or upon a two-thirds vote of the board of directors or managers after such
8 10-year period.

9 2. That at least 4 managers or directors of the transmission company have
10 staggered 4-year terms, are elected by a majority vote of the voting security holders
11 and are not directors, employees or independent contractors of a person engaged in
12 the production, sale, marketing, transmission or distribution of electricity or natural
13 gas or of an affiliate of such a person.

14 3. That, during the 10-year period after the organizational start-up date, each
15 of the following is satisfied, subject to the limitation on the number of managers or
16 directors under subd. 1.:

17 a. Each nontransmission utility security holder that owns 10% or more of the
18 outstanding voting securities of the transmission company may appoint one
19 manager or director of the transmission company for a one-year term, except that
20 the requirements of this subd. 3. a. may be modified upon a unanimous vote of the
21 managers or directors.

22 b. Each group of nontransmission utility security holders that, as a group, owns
23 10% or more of the outstanding voting securities of the transmission company may
24 appoint one manager or director of the transmission company for a one-year term
25 if the group has entered into a written agreement regarding the appointment and the

1 group files the agreement with the transmission company, except that the
2 requirements of this subd. 3. b. may be modified upon a unanimous vote of the
3 managers or directors.

4 bg. Each nontransmission utility security holder that makes an appointment
5 under subd. 3. a. is not allowed to make an appointment under subd. 3. b. as a
6 member of a group of nontransmission utility security holders.

7 br. Each nontransmission utility security holder that makes an appointment
8 as a member of a group under subd. 3. b. is not allowed to make an appointment
9 under subd. 3. a.

10 c. Each person that receives at least 5% of the voting securities of the
11 transmission company under sub. (6) (a) or (b) may appoint one manager or director
12 of the transmission company for a one-year term if the person continues to hold at
13 least a 5% equity interest in the transmission company during the one-year term
14 and if the person does not make an appointment under subd. 3. a., b. or d.

15 d. Each transmission utility security holder may appoint one manager or
16 director of the transmission company for a one-year term.

17 4. That, during the 5-year period after the organizational start-up date, no
18 public utility affiliate that contributes transmission facility assets to the
19 transmission company under sub. (5) (b) and no affiliate of such a public utility
20 affiliate may increase its percentage share of the outstanding securities of the
21 transmission company prior to any initial issuance of securities by the transmission
22 company to any 3rd party other than a 3rd party exercising its right to purchase
23 securities under sub. (6) (b), except that this subdivision does not apply to securities
24 that are issued by the transmission company in exchange for transmission facilities
25 that are contributed in addition to the transmission facilities that are contributed

1 under sub. (5) (b) and except that the requirements of this subdivision may be
2 modified upon a unanimous vote of the managers or directors.

3 5. That, beginning 3 years after the organizational start-up date, any holder
4 of 10% or more of the securities of the transmission company may require the
5 transmission company to comply with any state or federal law that is necessary for
6 the security holder to sell or transfer its shares.

7 (d) *Commission jurisdiction.* The transmission company is subject to the
8 jurisdiction of the commission except to the extent that it is subject to the exclusive
9 jurisdiction of the federal energy regulatory commission.

10 **SECTION 2335ud.** 196.485 (4) (a) (intro.) of the statutes is amended to read:

11 196.485 (4) (a) (intro.) ~~A Except as provided in par. (am), a~~ transmission utility
12 may not transfer control over, or divest its interest in, its transmission facilities to
13 an independent system operator or independent transmission owner unless, to the
14 satisfaction of the commission, each of the following requirements is satisfied:

15 **SECTION 2335uf.** 196.485 (4) (am) of the statutes is created to read:

16 196.485 (4) (am) Each transmission utility in the transmission area that is a
17 public utility shall become a member of the Midwest independent system operator
18 no later than June 30, 2000, and shall transfer operational control over its
19 transmission facilities to the Midwest independent system operator. Each such
20 transmission utility that has not contributed its transmission facilities to the
21 transmission company shall elect to become part of the single zone for pricing
22 purposes within the Midwest independent system operator and any phase-in plan
23 prepared under sub. (3m) (a) 4.

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

1 196.485 (5) PUBLIC UTILITY AFFILIATES. (a) *Asset cap exception.* Section 196.795
2 (6m) (e) does not apply to the eligible assets of a nonutility affiliate in a holding
3 company system unless each public utility affiliate in the holding company system
4 does each of the following:

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

9 2. Files with the commission an unconditional, irrevocable and binding
10 commitment to contribute, no later than June 30, 2000, all of the transmission
11 facilities that the public utility affiliate owns or operates in this state on the effective
12 date of this subdivision [revisor inserts date], and land rights, to the transmission
13 company. A filing under this subdivision shall specify a date no later than June 30,
14 2000, on which the public utility affiliate will complete the contribution of
15 transmission facilities.

16 3. Files with the commission an unconditional, irrevocable and binding
17 commitment to contribute, and to cause each entity into which it merges or
18 consolidates or to which it transfers substantially all of its assets to contribute, any
19 transmission facility in this state the ownership or control of which it acquires after
20 the effective date of this subdivision [revisor inserts date], and land rights, to the
21 transmission company.

22 4. Notifies the commission in writing that the public utility affiliate has become
23 a member of the Midwest independent system operator, has agreed to transfer its
24 transmission facilities to the Midwest independent system operator and has
25 committed not to withdraw its membership prior to the date on which the public

1 utility affiliate contributes transmission facilities to the transmission company
2 under par. (b).

3 5. Petitions the commission and the federal energy regulatory commission to
4 approve the contributions specified in subds. 2. and 3. and agrees in such a petition
5 not to withdraw the petition in the event that the commission or the federal energy
6 regulatory commission conditions its approval on changes that are consistent with
7 state or federal law.

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8 (b) *Contribution of transmission facilities.* 1. A public utility affiliate may not
9 contribute a transmission facility to the transmission company until the commission
10 has reviewed the terms and conditions of the transfer to determine whether the
11 transfer satisfies the requirements of this subsection and has issued an order
12 approving or ~~modifying~~ the terms and conditions of the transfer. An order under this
13 subdivision that approves or modifies the terms and conditions of a transfer may
14 allow a public utility affiliate to recover in retail rates any adverse tax consequences
15 of the transfer as a transition cost.

16 2. The transmission company and a public utility affiliate that files a
17 commitment to contribute transmission facilities under par. (a) 2. shall structure the
18 transfer of the transmission facilities in a manner that satisfies each of the following:

19 a. The structure of the transfer avoids or minimizes ~~the~~ material adverse tax
20 consequences to the public utility affiliate ~~that result~~ from the transfer and avoids
21 or minimizes material adverse consequences on public utility rates that do not arise
22 out of combining the transmission company's facilities into a single zone in the
23 Midwest independent system operator.

24 b. To the extent practicable, the structure of the transfer satisfies the
25 requirements of the Internal Revenue Service for a tax-free transfer.

1 3. The requirements under subd. 2. b. shall, if practicable, be satisfied by the
2 transmission company's issuance of a preferred class of securities that provides the
3 fixed-cost portion of the resulting capital structure of the transmission company.
4 The transmission company shall issue preferred securities under this subdivision on
5 a basis that does not dilute the voting rights of the initial security holders relative
6 to the value of their initial contributions.

7 4. If the transfer of transmission assets under this paragraph results in a
8 capital structure of the transmission company in which the percentage of common
9 equity is materially higher than that of the public utility affiliates who made the
10 transfer, or if the cost of the fixed-cost portion of the capital structure of the
11 transmission company is materially higher than that of the public utility affiliates
12 who made the transfer, the public utility affiliates shall enter into a contract with the
13 transmission company under which the public utility affiliates agree to accept from
14 the transmission company a return on common equity based upon the equity rate of
15 return approved by the federal energy regulatory commission and upon an imputed
16 capital structure that assigns to a portion of the public utility affiliates' common
17 equity holdings an imputed debt return that is consistent with the requirements of
18 this subdivision. A contract under this subdivision shall specify that the public
19 utility affiliates shall be required to accept the return on common equity described
20 in this subdivision only until such time that the federal energy regulatory
21 commission determines that the actual capital structure and capital costs of the
22 transmission company are appropriate and consistent with industry practice for a
23 regulated public utility that provides electric transmission service in interstate
24 commerce.

1 5. If, at the time that a public utility affiliate files a commitment under par. (a)
2 2., the public utility affiliate has applied for or obtained a certificate of public
3 convenience and necessity under s. 196.491 (3) or a certificate under s. 196.49 for the
4 construction of transmission facilities, the public utility affiliate shall do each of the
5 following:

6 a. Proceed with diligence with respect to obtaining the certificate and, except
7 as provided in subd. 6., constructing the transmission facilities.

8 b. If the commission determines that the cost of the transmission facilities is
9 reasonable and prudent, transfer the transmission facilities to the transmission
10 company at net book value when construction is completed in exchange for additional
11 securities of the transmission company on a basis that is consistent with the
12 securities that were initially issued to the public utility affiliate.

13 6. If the construction of a transmission facility specified in subd. 5. a. is not
14 completed within 3 years after a certificate is issued for the transmission facility
15 under s. 196.49 or 196.491 (3), the transmission company may assume responsibility
16 for completing construction of the transmission facility. If the transmission company
17 assumes responsibility for completing construction under this subdivision, the
18 transmission company shall carry out any obligation under any contract entered into
19 by the public utility with respect to the construction until the contract is modified or
20 rescinded by the transmission company to the extent allowed under the contract.

21 7. Any transmission facilities that are contributed to the transmission
22 company shall be valued at net book value determined on the basis of the regulated
23 books of account at the time of the transfer.

24 (bm) *Lease of transmission facilities.* If a public utility affiliate is not able to
25 contribute its transmission facilities to the transmission company as required under

1 par. (b) due to merger-related accounting requirements, the public utility affiliate
2 shall transfer the transmission facilities to the transmission company under a lease
3 for the period of time during which the accounting requirements are in effect and,
4 after such requirements are no longer in effect, contribute the transmission facilities
5 to the transmission company under par. (b). A public utility affiliate that transfers
6 transmission facilities under a lease under this paragraph does not qualify for the
7 asset cap exception under par. (a) unless, during the term of the lease, the public
8 utility affiliate does not receive any voting interest in the transmission company.

9 (c) *Contribution of land rights.* 1. A public utility affiliate that commits to
10 contributing land rights to the transmission company under par. (a) 2. shall do each
11 of the following:

12 a. Except as provided in subd. 2., if the land right is assigned to a transmission
13 account for rate-making purposes and is not jointly used for electric and gas
14 distribution facilities by the public utility affiliate, the public utility affiliate shall
15 convey or assign at book value all of its interest in the land right to the transmission
16 company, except that any conveyance or assignment under this subd. 1. a. shall be
17 subject to the rights of any joint user of the land right and to the right of the public
18 utility affiliate to nondiscriminatory access to the real estate that is subject to the
19 land right.

20 b. If the land right is jointly used, or is intended to be jointly used, for electric
21 and gas distribution facilities by the public utility affiliate, the public utility affiliate
22 shall enter into a contract with the transmission company that grants the
23 transmission company a right to place, maintain, modify or replace the transmission
24 company's transmission facilities on the real property that is subject to the land right
25 during the life of the transmission facilities and the life of any replacements of the

1 transmission facilities. A right granted in a contract under this subd. 1. b. shall be
2 paramount to the right of any other user of the land right, except that a right granted
3 in such a contract shall be on par with the right of the public utility affiliate to use
4 the land right for electric or gas distribution facilities.

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

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

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

18 196.485 (6) ELECTRIC UTILITIES, TRANSMISSION DEPENDENT UTILITIES AND RETAIL
19 ELECTRIC COOPERATIVES. No later than the first day of the 12th month beginning after
20 the first public utility affiliate files a commitment under sub. (5) (a) 2.:

21 (a) An electric utility, other than a public utility affiliate or an owner or operator
22 of a wholesale merchant plant, as defined in s. 196.491 (1) (w), may transfer all of its
23 integrated transmission facilities to the transmission company on the same terms
24 and conditions as a contribution of transmission facilities and land rights by a public
25 utility affiliate under sub. (5) (b) and (c).

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

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

9 196.485 (6m) DIVIDENDS, DISTRIBUTIONS, PROFITS AND GAINS. The commission
10 may not treat any dividend or distribution received by a transmission utility from
11 the transmission company or any gain or profit of a transmission utility from the sale
12 or other disposition of securities issued by the transmission company as a credit
13 against the retail revenue requirements of the transmission utility.

14 **SECTION 2335um.** 196.485 (7) of the statutes is created to read:

15 196.485 (7) ENFORCEMENT. A wholesale or retail customer of a public utility
16 affiliate may petition the circuit court for Dane County for specific performance of
17 a commitment filed under sub. (5) (a) 2. or 3.

18 **SECTION 2335uo.** 196.485 (8) of the statutes is created to read:

19 196.485 (8) PENALTIES. A public utility affiliate that fails to complete the
20 contribution of transmission facilities to the transmission company by the
21 completion date specified in the filing under sub. (5) (a) 2. shall forfeit \$25,000 for
22 each day that completion of the contribution is delayed if the transmission company
23 is legally able to accept the contribution.

24 **SECTION 2335uq.** 196.487 of the statutes is created to read:

25 **196.487 Reliability of electric service.** (1) DEFINITIONS. In this section:

1 (a) “Public utility affiliate” has the meaning given in s. 196.795 (1) (L).

2 (b) “Transmission company” has the meaning given in s. 196.485 (1) (ge).

3 (2) COMMISSION ORDER. If the commission determines that a public utility
4 affiliate or the transmission company is not making investments in the facilities
5 under its control that are sufficient to ensure reliable electric service, the commission
6 shall order the public utility affiliate or transmission company to make adequate
7 investments in its facilities that are sufficient to ensure reliable electric service. An
8 order under this subsection shall require the public utility affiliate or transmission
9 company to provide security in an amount and form that, to the satisfaction of the
10 commission, is sufficient to ensure that the public utility affiliate or transmission
11 company expeditiously makes any investment that is ordered.

12 (3) COST RECOVERY. The commission shall allow a public utility affiliate that is
13 subject to an order under sub. (2) to recover in its retail electric rates the costs that
14 are prudently incurred in complying with the order.

15 **SECTION 2335wb.** 196.491 (3) (d) 3r. of the statutes is created to read:

16 196.491 (3) (d) 3r. For a high-voltage transmission line that is proposed to
17 increase the transmission import capability into this state, existing rights-of-way
18 are used to the extent practicable and the routing and design of the high-voltage
19 transmission line minimizes environmental impacts in a manner that is consistent
20 with achieving reasonable electric rates.

21 **SECTION 2335wd.** 196.491 (3) (d) 3t. of the statutes is created to read:

22 196.491 (3) (d) 3t. For a high-voltage transmission line that is designed for
23 operation at a nominal voltage of 345 kilovolts or more, the high-voltage
24 transmission line provides usage, service or increased regional reliability benefits to
25 the wholesale and retail customers or members in this state and the benefits of the

1 high-voltage transmission line are reasonable in relation to the cost of the
2 high-voltage transmission line.

3 **SECTION 2335wf.** 196.491 (3) (gm) of the statutes is created to read:

4 196.491 (3) (gm) The commission may not approve an application filed after the
5 effective date of this paragraph [revisor inserts date], under this section for a
6 certificate of public convenience and necessity for a high-voltage transmission line
7 that is designed for operation at a nominal voltage of 345 kilovolts or more unless the
8 approval includes the condition that the applicant shall pay the fees specified in sub.
9 (3g) (a). If the commission has approved an application under this section for a
10 certificate of public convenience and necessity for a high-voltage transmission line
11 that is designed for operation at a nominal voltage of 345 kilovolts or more that was
12 filed after April 1, 1999, and before the effective date of this paragraph [revisor
13 inserts date], the commission shall require the applicant to pay the fees specified in
14 sub. (3g) (a). For any application subject to this paragraph, the commission shall
15 determine the cost of the high-voltage transmission line, identify the counties,
16 towns, villages and cities through which the high-voltage transmission line is routed
17 and allocate the amount of investment associated with the high-voltage
18 transmission line to each such county, town, village and city.

19 **SECTION 2335wh.** 196.491 (3g) of the statutes is created to read:

20 196.491 (3g) FEES FOR CERTAIN HIGH-VOLTAGE TRANSMISSION LINES. (a) A person
21 who receives a certificate of public convenience and necessity for a high-voltage
22 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
23 or more under sub. (3) shall pay the department of administration an annual impact
24 fee as specified in the rules promulgated by the department of administration under
25 s. 16.969 (2) (a) and shall pay the department of administration a one-time

1 environmental impact fee as specified in the rules promulgated by the department
2 of administration under s. 16.969 (2) (b).

3 (b) A person that pays a fee under par. (a) may not use the payment to offset
4 any other mitigation measure that is required in an order by the commission under
5 sub. (3) regarding the certificate of public convenience and necessity specified in par.
6 (a).

7 **SECTION 2335wj.** 196.491 (3m) (b) 2. of the statutes is amended to read:

8 196.491 (3m) (b) 2. The analytical process specified in subd. 1. b. shall, to the
9 extent practicable, be consistent with the analytical process described in the merger
10 enforcement policy of the federal department of justice and the federal trade
11 commission regarding horizontal acquisitions and mergers that are subject to 15
12 USC 1, 18 or 45, as defined in s. 196.485 (1) (dr).

13 **SECTION 2335wL.** 196.494 (3) of the statutes is amended to read:

14 196.494 (3) ~~No later than December 31, 2004, the~~ The commission may shall,
15 under this subsection, issue an order requiring an electric utility to construct or
16 procure, on a competitive basis, the construction of transmission facilities specified
17 by the commission in its order if the commission determines that, ~~based on the~~
18 ~~results of the study under sub. (2),~~ such construction is necessary to relieve a
19 constraint on a transmission system and the construction will materially benefit the
20 customers of the electric utility or other electric utilities or of an independent system
21 operator, as defined in s. 196.485 (1) (d), or independent transmission owner, as
22 defined in s. 196.485 (1) (dm).

23 **SECTION 2335wn.** 196.494 (5) of the statutes is created to read:

24 196.494 (5) The governor may, on behalf of this state, enter into an interstate
25 compact that establishes a joint process for the states in the upper midwest region

1 of the United States to determine the need for and siting of regional electric
2 transmission facilities that may affect electric service in this state. The governor
3 may not enter into a compact under this subsection unless the compact includes
4 requirements and procedures for establishing each of the following:

5 (a) Compliance with each state's environmental and siting standards for
6 transmission facilities.

7 (b) A regional need determination for transmission facilities.

8 (c) A mechanism for resolving conflicts between the states regarding the siting
9 of transmission facilities.

10 **SECTION 2335wp.** 196.52 (3) (a) of the statutes is amended to read:

11 196.52 (3) (a) In this subsection, "contract or arrangement" means a contract
12 or arrangement providing for the furnishing of management, supervisory,
13 construction, engineering, accounting, legal, financial or similar services and any
14 contract or arrangement for the purchase, sale, lease or exchange of any property,
15 right, or thing, or for the furnishing of any service, property, right, or thing, other
16 than management, supervisory, construction, engineering, accounting, legal,
17 financial or similar services, but "contract or arrangement" does not include a
18 contract or arrangement under which a transmission utility, as defined in s. 196.485
19 (1) (i), sells or transfers securities, as defined in s. 196.485 (1) (fe), that have been
20 issued by a transmission company, as defined in s. 196.485 (1) (ge). Except as
21 provided under par. (b), unless and until the commission gives its written approval,
22 any contract or arrangement is not valid or effective if the contract or arrangement
23 is made between a public utility and an affiliated interest after June 7, 1931. Every
24 public utility shall file with the commission a verified copy of any contract or
25 arrangement, a verified summary of any unwritten contract or arrangement, and

1 any contract or arrangement, written or unwritten, which was in effect on June 7,
2 1931. The commission shall approve a contract or arrangement made or entered into
3 after June 7, 1931, only if it shall clearly appear and be established upon
4 investigation that it is reasonable and consistent with the public interest. The
5 commission may not approve any contract or arrangement unless satisfactory proof
6 is submitted to the commission of the cost to the affiliated interest of rendering the
7 services or of furnishing the property or service to each public utility or of the cost
8 to the public utility of rendering the services or of furnishing the property or service
9 to each affiliated interest. No proof is satisfactory under this paragraph unless it
10 includes the original (or verified copies) of the relevant cost records and other
11 relevant accounts of the affiliated interest, or an abstract of the records and accounts
12 or a summary taken from the records and accounts if the commission deems the
13 abstract or summary adequate. The accounts shall be properly identified and duly
14 authenticated. The commission, where reasonable, may approve or disapprove a
15 contract or arrangement without submission of the cost records or accounts.

16 **SECTION 2335ya.** 196.795 (1) (g) 1. of the statutes is amended to read:

17 196.795 (1) (g) 1. As a beneficial owner, to take, hold or acquire 5% or more of
18 the outstanding voting securities of a public utility, other than a transmission
19 company, with the unconditional power to vote those securities.

20 **SECTION 2335yb.** 196.795 (1) (g) 2. of the statutes is amended to read:

21 196.795 (1) (g) 2. To exchange or convert 50% or more of the outstanding voting
22 securities of a public utility, other than a municipality or other political subdivision
23 or a transmission company, for or into the voting securities of a company organized,
24 created, appointed or formed by or at the direction of the public utility or of a
25 subsidiary of such company.

1 **SECTION 2335yc.** 196.795 (1) (h) 3. of the statutes is created to read:

2 196.795 (1) (h) 3. “Holding company” does not include a transmission company.

3 **SECTION 2335yd.** 196.795 (1) (p) of the statutes is created to read:

4 196.795 (1) (p) “Transmission company” has the meaning given in s. 196.485

5 (1) (ge).

6 **SECTION 2335ye.** 196.795 (5) (i) 1. of the statutes is amended to read:

7 196.795 (5) (i) 1. Shall consider the public utility affiliate as a wholly

8 independent corporation and shall impute a capital structure to the public utility

9 affiliate and establish a cost of capital for the public utility affiliate on a stand-alone

10 basis;

11 **SECTION 2335yf.** 196.795 (5) (p) 1., 2., 3. and 4. of the statutes are renumbered

12 196.795 (6m) (b) 1., 2., 3. and 4.

13 **SECTION 2335yg.** 196.795 (5) (pm) 1. (intro.) of the statutes is repealed.

14 **SECTION 2335yh.** 196.795 (5) (pm) 1. a. of the statutes is renumbered 196.795

15 (6m) (a) 3.

16 **SECTION 2335yi.** 196.795 (5) (pm) 1. b. of the statutes is renumbered 196.795

17 (6m) (a) 5.

18 **SECTION 2335yj.** 196.795 (5) (pm) 1. c. of the statutes is renumbered 196.795

19 (6m) (a) 6.

20 **SECTION 2335yk.** 196.795 (5) (pm) 2. of the statutes is renumbered 196.795

21 (6m) (c) and amended to read:

22 196.795 (6m) (c) Wholesale merchant plants. The assets of a wholesale

23 merchant plant shall not be included in the sum of the assets of a public utility

24 affiliate under par. (p) (b) 1. a., b. or c. and shall not be included in a nonutility

25 affiliate’s total assets under par. (p) (b) 2. a. if the requirements specified in s. 196.491

1 (3m) (a) 1. and 2. are satisfied or if the wholesale merchant plant qualifies for the
2 exemption under s. 196.491 (3m) (e).

3 **SECTION 2335yL.** 196.795 (5) (pm) 3. of the statutes is renumbered 196.795
4 (6m) (d) and amended to read:

5 196.795 (6m) (d) *Foreign affiliates.* The assets of a foreign affiliate shall be
6 included in the sum of the assets of a public utility affiliate under par. (p) (b) 1. a.,
7 b. or c. and shall not be included in a nonutility affiliate's total assets under par. (p)
8 (b) 2. a.

9 **SECTION 2335ym.** 196.795 (6m) (title) of the statutes is created to read:

10 196.795 (6m) (title) ASSET CAP.

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

12 196.795 (6m) (a) *Definitions.* (intro.) In this subsection:

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

14 196.795 (6m) (a) 1. "Contributor public utility affiliate" means a public utility
15 affiliate that has contributed its transmission facilities to the transmission company
16 under s. 196.485 (5) (b).

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

18 196.795 (6m) (a) 2. "Eligible asset" means an asset of a nonutility affiliate that
19 is used for any of the following:

20 a. Producing, generating, transmitting, delivering, selling or furnishing gas,
21 oil, electricity or steam energy.

22 b. Providing an energy management, conservation or efficiency product or
23 service or a demand-side management product or service.

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

25 d. Recovering or producing energy from waste materials.

1 e. Processing waste materials.

2 f. Manufacturing, distributing or selling products for filtration, pumping water
3 or other fluids, processing or heating water, handling fluids or other related
4 activities.

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

6 **SECTION 2335yq.** 196.795 (6m) (a) 4. of the statutes is created to read:

7 196.795 (6m) (a) 4. “Generation assets” means assets that are classified as
8 electric generation assets on the books of account of a public utility, as determined
9 by the commission.

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

11 196.795 (6m) (b) *In general.*

12 **SECTION 2335ys.** 196.795 (6m) (e) of the statutes is created to read:

13 196.795 (6m) (e) *Contributor public utility affiliates.* 1. The eligible assets of
14 a nonutility affiliate in a holding company system that includes each of the
15 contributor public utility affiliates in the holding company system shall not be
16 included in the sum of the assets of the public utility affiliates under par. (b) 1. a.,
17 b. or c. and shall not be included in the nonutility affiliate’s total assets under par.
18 (b) 2. a.

19 2. For purposes of subd. 1., all of the assets of a nonutility affiliate shall be
20 considered eligible assets if each of the following is satisfied:

21 a. The bylaws of the nonutility affiliate or a resolution adopted by its board of
22 directors specifies that the business of the nonutility affiliate is limited to activities
23 involving eligible assets.

24 b. Substantially all of the assets of the nonutility affiliate are eligible assets.

1 3. The net book value of transmission facility assets that a contributor public
2 utility affiliate has contributed to a transmission company under s. 196.485 (5) (b)
3 shall be included in the sum of the assets of the public utility affiliate under par. (b)
4 1. a., b. and c. In determining net book value under this subdivision, accumulated
5 depreciation shall be calculated as if the contributor public utility affiliate had not
6 contributed the assets.

7 4. The net book value of generation assets that a contributor public utility
8 affiliate has transferred to a person that is not affiliated with the public utility
9 affiliate pursuant to the order of the commission, a court or a federal regulatory
10 agency shall be included in the sum of the assets of the public utility affiliate under
11 par. (b) 1. a., b. and c. In determining net book value under this subdivision,
12 accumulated depreciation shall be calculated as if the contributor public utility
13 affiliate had not transferred the assets.

14 **SECTION 2335yt.** 196.795 (11) (b) of the statutes is amended to read:

15 196.795 (11) (b) This section shall be deemed to legalize and confirm the
16 formation, prior to November 28, 1985, of any holding company, which is not itself
17 a public utility, and shall be deemed to legalize and confirm the operations and
18 issuances of securities of the holding company, except that nothing in this section
19 shall be deemed to prevent the commission from imposing reasonable terms,
20 limitations or conditions on any holding company which are consistent with the
21 requirements of sub. ~~(5) (pm)~~ (6m) (c) or (d) or which are consistent with and
22 necessary to satisfy the requirements of sub. (5) (b) to (o) and (q) to (s) or which relate
23 to future investments by the holding company unless the holding company owns,
24 operates, manages or controls a telecommunications utility and does not also own,
25 operate, manage or control a public utility which is not a telecommunications utility.

1 **SECTION 2335yu.** 196.795 (11) (c) of the statutes is created to read:

2 196.795 (11) (c) The commission may not impose upon a holding company the
3 formation of which is considered to be legalized and confirmed under par. (b) any
4 term, limitation or condition under par. (b) that establishes the sum of the holding
5 company's nonutility affiliate assets at less than 25% of the sum of the holding
6 company's utility affiliate assets. For purposes of this paragraph, any term,
7 limitation or condition on nonutility affiliate assets shall not apply to the ownership,
8 operation, management or control of any eligible asset, as defined under sub. (6m)
9 (a) 2.

10 **SECTION 2335z.** 196.807 of the statutes is created to read:

11 **196.807 Energy affiliate and utility employes.** (1) DEFINITIONS. In this
12 section:

13 (a) "Affiliate or utility" means a nonutility affiliate, holding company system,
14 public utility or cooperative association organized under ch. 185.

15 (b) "Energy unit" means a unit in this state that is engaged in activities related
16 to the production, generation, transmission or distribution of electricity, gas or steam
17 or the recovery of energy from waste materials.

18 (c) "Holding company system" has the meaning given in s. 196.795 (1) (i).

19 (d) "Nonutility affiliate" has the meaning given in s. 196.795 (1) (j).

20 (e) "Public utility affiliate" has the meaning given in s. 196.795 (1) (L).

21 (f) "Sell an energy unit" means to sell, offer by lease, or otherwise transfer
22 ownership or control of the energy unit.

23 (fg) "Transmission company" has the meaning given in s. 196.485 (1) (ge).

24 (fr) "Transmission utility" has the meaning given in s. 196.485 (1) (i).

1 (g) "Unit" means a division, department or other operational business unit of
2 an affiliate or utility.

3 (2) OFFER OF EMPLOYMENT. (a) Except as provided in par. (b), a person may not
4 sell an energy unit unless the terms of the transfer require the person to which the
5 energy unit is transferred to offer employment to the nonsupervisory employees who
6 are employed with the energy unit immediately prior to the transfer and who are
7 necessary for the operation and maintenance of the energy unit.

8 (b) 1. A public utility affiliate may not sell an energy unit to a nonutility affiliate
9 in the same holding company system unless the terms of the transfer require the
10 nonutility affiliate to offer employment to all of the nonsupervisory employees who are
11 employed with the energy unit immediately prior to the transfer.

12 2. A transmission company to which an energy unit is sold by a transmission
13 utility shall, beginning on the expiration of the 3-year period specified in s. 196.485
14 (3m) (a) 1. b. or, if applicable, the expiration of any extension of such 3-year period,
15 offer employment to the nonsupervisory employees who are employed with the energy
16 unit immediately prior to the transfer and who are necessary for the operation and
17 maintenance of the energy unit.

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

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

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

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

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

6 (4) COMMISSION APPROVAL. Except for a cooperative association, as defined in
7 s. 196.491 (1) (bm), or a transmission utility that sells an energy unit to a
8 transmission company, no person may sell an energy unit unless the commission
9 determines that the person has satisfied subs. (2) and (3).”.

10 **17.** Page 1186, line 9: after that line insert:

11 “**SECTION 2336u.** 200.01 (2) of the statutes is amended to read:

12 200.01 (2) “Public service corporation” means and embraces every corporation,
13 except municipalities and other political subdivisions, which is a public utility as
14 defined in s. 196.01, and every corporation which is a railroad as defined in s. 195.02,
15 but shall not include a public utility corporation receiving an annual gross revenue
16 of less than \$1,000 for the calendar year next preceding the issuance of any securities
17 by it. “Public service corporation” includes a holding company, as defined under s.
18 196.795 (1) (h), which is a public utility, as defined under s. 196.01 (5). “Public service
19 corporation” does not include a telecommunications utility, as defined in s. 196.01
20 (10). “Public service corporation” does not include any other holding company unless
21 the holding company was formed after November 28, 1985, and unless the
22 commission has determined, under s. 196.795 (7) (a), that each nonutility affiliate,
23 as defined under s. 196.795 (1) (j), does not and cannot reasonably be expected to do
24 at least one of the items specified in s. 196.795 (7) (a). “Public service corporation”

1 does not include a company, as defined in s. 196.795 (1) (f), which owns, operates,
2 manages or controls a telecommunications utility, as defined in s. 196.01 (10), unless
3 such company also owns, operates, manages or controls a public utility which is not
4 a telecommunications utility. “Public service corporation” does not include a
5 transmission company, as defined in s. 196.485 (1) (ge).”

6 **18.** Page 1276, line 4: after that line insert:

7 “**SECTION 2554j.** 285.48 of the statutes is created to read:

8 **285.48 Nitrogen oxide emissions from certain electric generation**
9 **facilities.** (1) In establishing nitrogen oxide emission reductions for the control of
10 atmospheric ozone in another state pursuant to a call for a state implementation plan
11 issued prior to the effective date of this subsection [revisor inserts date], the
12 department may not, in an implementation plan under s. 285.11 (6), by rule or
13 through the adoption of control strategies, regulate nitrogen oxide emissions from
14 electric generation facilities that are located in Ashland, Barron, Bayfield, Buffalo,
15 Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, La Crosse,
16 Monroe, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Trempealeau,
17 Vernon or Washburn county.

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

22 **19.** Page 1468, line 17: after that line insert:

23 “(1zt) INITIAL APPOINTMENTS TO COUNCIL ON UTILITY PUBLIC BENEFITS.
24 Notwithstanding section 15.107 (17) (intro.) of the statutes, as created by this act,

1 the initial members of the council on utility public benefits shall be appointed for the
2 following terms:

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

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

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

11 (1zu) UTILITY PUBLIC BENEFITS AND TRANSMISSION LINE RULES.

12 (a) Using the procedure under section 227.24 of the statutes, the department
13 of administration shall, no later than 60 days after the effective date of this
14 subsection, promulgate the rules required under section 16.957 (4) (b) of the statutes,
15 as created by this act, for the period before the effective date of the permanent rules
16 promulgated under that section, but not to exceed the period authorized under
17 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) and
18 (3) of the statutes, the department is not required to make a finding of emergency.
19 Notwithstanding section 16.957 (4) (b) (intro.) of the statutes, as created by this act,
20 the department of administration is not required to consult with the council on utility
21 public benefits in promulgating rules under this paragraph.

22 (am) Using the procedure under section 227.24 of the statutes, the department
23 of administration shall promulgate the rules required under sections 16.957 (2) (c)
24 and 16.969 (2) of the statutes, as created by this act, for the period before the effective
25 date of the permanent rules promulgated under those sections, but not to exceed the

1 period authorized under section 227.24 (1) (c) and (2) of the statutes.
2 Notwithstanding section 227.24 (1) and (3) of the statutes, the department is not
3 required to make a finding of emergency.

4 (b) The department of administration shall submit in proposed form the rules
5 required under sections 16.957 (2) (c) and (4) (b) and 16.969 (2) of the statutes, as
6 created by this act, to the legislative council staff under section 227.15 (1) of the
7 statutes no later than the first day of the 6th month beginning after the effective date
8 of this paragraph.

9 (1zv) PUBLIC BENEFITS FEES.

10 (a) Notwithstanding section 16.957 (4) (c) 1. (intro.) of the statutes, as created
11 by this act, the department of administration shall ensure that, for fiscal year
12 1999–2000, the portion of the public benefits fee that is specified in section 16.957
13 (4) (c) 1. (intro.) of the statutes, as created by this act, is reduced in proportion to the
14 length of time that has elapsed in that fiscal year at the time that the rules specified
15 in subsection (1zu) (a) become effective.

16 (b) Notwithstanding section 16.957 (4) (c) 2. of the statutes, as created by this
17 act, the department of administration shall ensure that, for fiscal year 1999–2000,
18 the portion of the public benefits fee that is specified in section 16.957 (4) (c) 2. of the
19 statutes, as created by this act, is reduced in proportion to the length of time that has
20 elapsed in that fiscal year at the time that the rules specified in subsection (1zu) (a)
21 become effective.

22 (c) Notwithstanding section 16.957 (5) (a) of the statutes, as created by this act,
23 for fiscal year 1999–2000, the annual average amount of the monthly public benefits
24 fee that retail electric cooperatives and municipalities are required to charge to each
25 customer or member shall be reduced in proportion to the length of time that has

1 elapsed in that fiscal year as of the effective date of the rules promulgated under
2 subsection (1zu) (a). Upon the request of a retail electric cooperative or municipality,
3 the department of administration shall provide advice as to the amount of a
4 reduction that is required under this paragraph.

5 (1zw) PHASE-IN OF WEATHERIZATION AND ENERGY CONSERVATION AWARDS.
6 Notwithstanding section 16.957 (2) (a) (intro.) of the statutes, as created by this act,
7 the department of administration shall do each of the following:

8 (a) Specify a schedule for fiscal years 1999–2000 and 2000–01 for phasing in
9 the requirement to spend the amount specified in section 16.957 (2) (a) of the
10 statutes, as created by this act, on weatherization and other energy conservation
11 services.

12 (b) Ensure that grants under section 16.957 (2) (a) of the statutes, as created
13 by this act, are made in accordance with the schedule specified in paragraph (a).”.

14 **20.** Page 1544, line 8: after that line insert:

15 “(2zt) RENEWABLE RESOURCES, ENVIRONMENTAL IMPACT AND RELIABILITY STATUS
16 RULES.

17 (a) Using the procedure under section 227.24 of the statutes, the public service
18 commission shall promulgate the rules required under sections 196.025 (2) and (3)
19 and 196.378 (3) (a) of the statutes, as created by this act, for the period before the
20 effective date of the permanent rules promulgated under that section, but not to
21 exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes.
22 Notwithstanding section 227.24 (1) and (3) of the statutes, the commission is not
23 required to make a finding of emergency.

1 (b) The public service commission shall submit in proposed form the rules
2 required under sections 196.025 (2) and (3) and 196.378 (3) (a) of the statutes, as
3 created by this act, to the legislative council staff under section 227.15 (1) of the
4 statutes no later than the first day of the 6th month beginning after the effective date
5 of this paragraph.”

6 **21.** Page 1595, line 17: after that line insert:

7 “(1zt) HIGH-VOLTAGE TRANSMISSION LINES. The treatment of section 196.491 (3)
8 (d) 3r. and 3t. of the statutes first applies to applications for certificates of public
9 convenience and necessity that are filed with the public service commission on the
10 effective date of this subsection.”

11 **22.** Page 1596, line 3: after that line insert:

12 “(1zt) TRANSMISSION COMPANY LICENSE FEE. The treatment of sections 76.28 (1)
13 (d), (e) (intro.) and 5. and (j) and (2) (c) (intro.), (d) and (e) and 196.485 (1) (ge) of the
14 statutes first applies to taxable years beginning on January 1 of the year in which
15 this subsection takes effect, except that if this subsection takes effect after July 31
16 the treatment of sections 76.28 (1) (d), (e) (intro.) and 5. and (j) and (2) (c) (intro.), (d)
17 and (e) of the statutes first applies to taxable years beginning on January 1 of the
18 year following the year in which this subsection takes effect.”

19 (END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1659/5ins
MDK:.....

1 **INSERT 22-5:**

2 or under a joint program established under s. 16.957 (5) (f)

3 **INSERT 22-10:**

4 **1.** Page 953, line 14: after that line insert:

5 "SECTION 1810m. 77.25 (21) of the statutes is created to read:

6 77.25 (21) Of transmission facilities or land rights to the transmission
7 company under s. 196.485 (5) (b) or (c) or (6) (a).".

8 **INSERT 22-16:**

9 SECTION 11813v. 77.54 (44) of the statutes is created to read:

10 77.54 (44) The gross receipts from the collection of public benefits fees that are
11 charged under s. 16.957 (4) (a) or (5) (a).".

12 **INSERT 33-18:**

13 and deferred investment tax credits

14 **INSERT 37-11:**

15 , except for transmission service provided by an electric utility that has not
16 transferred control over its transmission facilities to the Midwest independent
17 system operator,

18 **INSERT 46-12:**

19 The commission may modify the terms and conditions of the transfer and take any
20 other action necessary to satisfy the requirements of this subsection.

21 **INSERT 50-23:**

22 that are specified in par. (am)

23 **INSERT 50-25:**



(INS 50-25)

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

(END OF INSERT)

Attorneys at Law

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

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

MEMORANDUM
Confidential

TO: Mark Kunkel

FROM: Lee Cullen ^{LC}

RE: Revisions to technical amendment (LRBb1695/4)

DATE: August 3, 1999

Of Counsel:
Cheryl Rosen Weston

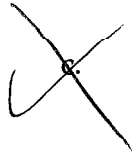
Please prepare the following changes to LRBb1695/4. This request is in response to the comments we received from recipients of the draft technical amendment.

~~1.~~ **Deferred taxes.** The R2K provisions of the Senate version of the budget bill do not include all of the protective language which was requested in our June 7th drafting instructions. (June 7 document, pp. 10-11.) Additionally, the drafting instructions did not refer to transfer of deferred investment tax credits, which are in the same category as deferred taxes. Attached is a proposed draft to accomplish these changes.

2. **Gross receipts exemption.**

~~a.~~ **Grants from the DOA.** Delete the provision in the technical amendment which would exclude grants of public benefits funds from DOA from the gross revenues of an electric utility or cooperative. Attached is a proposed draft to accomplish this change. Because a decision of an electric utility or cooperative to request a grant from DOA is voluntary, an exclusion of such grants from gross revenues is not appropriate. Retain all other aspects of the previously requested language including the exclusion from gross revenues of public benefit fees collected by public utilities and electric cooperatives.

~~b.~~ **Wholesale Supplier.** Insert language to clarify that gross revenues do not include public benefit fees which a wholesale supplier receives under a joint program established under sec. 16.957(5)(f). This is consistent with exempting such fees received from individual municipals or cooperatives, as previously drafted. Attached is a proposed draft to accomplish this change.



Commitment to Community. On page 19, line 23, insert "or 16.957((5)(a))." This clarifies that the term "gross revenues" does not include public benefit fees collected by municipal utilities for commitment to community programs. Attached is a proposed draft to accomplish this change.

CFP/ss

Attachment

cc: Senator Charles Chvala
Customers First! Coalition
Energize Wisconsin
Allen W. Williams
Leonard Sosnowski
John Stolzenberg, David Lovell, Legislative Council
David Worzala, Faith Russell, Legislative Fiscal Bureau

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 16.957 (5) (a)} or grants received by the electric utility under a program
24 established under s. 16.957 (2) (a) or (b) 1. For a wholesale supplier, as defined in
25 s. 16.957 (1) (x), "gross revenues" does not include any public benefits fees that are

1 ~~program established under s. 16.957 (5) (f) or grants received by the retail electric~~
 2 ~~cooperative under a program established under s. 16.957 (2) (a) or (b) 1. For a~~
 3 ~~wholesale supplier, as defined in s. 16.957 (1) (x), "gross revenues" does not include~~
 4 ~~any public benefits fees that are received from a municipal utility, as defined in s.~~
 5 ~~16.957 (1) (q), or retail electric cooperative, or a joint program established~~

under

under s. 16.957(5)(f)

6 **SECTION 1809zo.** 76.48 (1g) (dm) of the statutes is created to read:
 7 76.48 (1g) (dm) "Municipal utility" has the meaning given in s. 16.957 (1) (q).
 8 **SECTION 1809zp.** 76.48 (1g) (fm) of the statutes is created to read:
 9 76.48 (1g) (fm) "Retail electric cooperative" has the meaning given in s. 16.957
 10 (1) (t)."

11 **13.** Page 953, line 21: after that line insert:

12 "SECTION 1813s. 77.51 (14g) (fm) of the statutes is created to read:
 13 77.51 (14g) (fm) The transfer of transmission facilities, as defined in s. 196.485
 14 (1) (h), to a transmission company, as defined in s. 196.485 (1) (ge), after the
 15 organizational start-up date, as defined in s. 196.485 (1) (dv), of such company in
 16 exchange for securities, as defined in s. 196.485 (1) (fe);"

17 **14.** Page 1179, line 21: after that line insert:

18 "SECTION 2315c. 196.025 of the statutes is renumbered 196.025 (1).
 19 SECTION 2315g. 196.025 (2) of the statutes is created to read:
 20 196.025 (2) The commission shall promulgate rules establishing requirements
 21 and procedures for the commission to carry out the duties under s. 1.11. Rules
 22 promulgated under this subsection shall include requirements and procedures for
 23 each of the following:

1 sources or amounts of energy supplied to the electric provider shall forfeit not less
2 than \$5,000 nor more than \$500,000. Forfeitures under this subsection shall be
3 enforced by action on behalf of the state by the attorney general. A court imposing
4 a forfeiture under this subsection shall consider all of the following in determining
5 the amount of the forfeiture:

6 (a) The appropriateness of the forfeiture to the person's or wholesale supplier's
7 volume of business.

8 (b) The gravity of the violation.

9 (c) Whether a violation of sub. (2) is due to circumstances beyond the violator's
10 control."

11 **16.** Page 1186, line 2: after that line insert:

12 "SECTION 2335ta. 196.485 (title) of the statutes is repealed and recreated to
13 read:

14 **196.485 (title) Transmission system requirements.**

15 **SECTION 2335tb.** 196.485 (1) (am) of the statutes is created to read:

16 196.485 (1) (am) "Contribute a transmission facility" means to divest a person's
17 interest in the transmission facility and to transfer ownership of the transmission
18 facility, and associated deferred tax reserves *and deferred investment tax credits* to the extent permitted by law, to
19 another person.

20 **SECTION 2335tc.** 196.485 (1) (be) of the statutes is created to read:

21 196.485 (1) (be) "Director" means, with respect to a transmission company
22 organized as a corporation under ch. 180, a member of the board of directors of the
23 transmission company.

24 **SECTION 2335td.** 196.485 (1) (bs) of the statutes is created to read:

1 utility affiliate contributes transmission facilities to the transmission company
2 under par. (b).

3 5. Petitions the commission and the federal energy regulatory commission to
4 approve the contributions specified in subds. 2. and 3. and agrees in such a petition
5 not to withdraw the petition in the event that the commission or the federal energy
6 regulatory commission conditions its approval on changes that are consistent with
7 state or federal law.

8 (b) *Contribution of transmission facilities.* 1. A public utility affiliate may not
9 contribute a transmission facility to the transmission company until the commission
10 has reviewed the terms and conditions of the transfer to determine whether the
11 transfer satisfies the requirements of this subsection and has issued an order
12 approving ~~of modifying~~ the terms and conditions of the transfer. * An order under this
13 subdivision that approves or modifies the terms and conditions of a transfer may
14 allow a public utility affiliate to recover in retail rates any adverse tax consequences
15 of the transfer as a transition cost.

16 2. The transmission company and a public utility affiliate that files a
17 commitment to contribute transmission facilities under par. (a) 2. shall structure the
18 transfer of the transmission facilities in a manner that satisfies each of the following:

19 a. The structure of the transfer avoids or minimizes ~~the~~ material adverse tax
20 consequences to the public utility affiliate ~~that result~~ from the transfer and avoids
21 or minimizes material adverse consequences on public utility rates that do not arise
22 out of combining the transmission company's facilities into a single zone in the
23 Midwest independent system operator.

24 b. To the extent practicable, the structure of the transfer satisfies the
25 requirements of the Internal Revenue Service for a tax-free transfer.

* The Commission may modify the terms and conditions of the transfer
and take any other action if necessary to satisfy the requirements
of this subsection.

Attorneys at Law

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

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

MEMORANDUM

TO: Mark Kunkel
FROM: Lee Cullen ^{LC}
RE: Additional Provisions to the Technical Amendment
DATE: August 23, 1999

Please include in the final draft of the technical amendment the following additional changes:

✓ 1. **Provide an explicit sales tax exemption for public benefit fees collected by electric utilities and cooperatives pursuant to sec. 16.957, Stats.** The sales tax is imposed on gross receipts of retailers. Sec. 77.52(1), Stats. Without an explicit exemption, DOR will include in gross revenues fees collected pursuant to state mandate. Legislative Council staff have informed us that because of the lack of an explicit sales tax exemption, the sales tax is imposed on universal service fees collected by telecommunications providers. On the other hand, DOR does not impose a sales tax on 911 emergency service fees because of an explicit exemption in sec. 77.54(37), Stats. The amendment is needed to better achieve our intent to ensure tax exempt treatment of public benefit fees collected by electric utilities and cooperatives.

✗ 2. **Provide an exemption from the real estate transfer fee for transfers of transmission assets to the Transco.** We have already provided a sales tax exemption for transfers to the Transco of certain transmission assets. Legislative Council staff suggest that, consistent with our intent to make such transfers a tax-free event, we also exclude transfers of transmission assets from the real estate transfer fee.

✗ 3. **Clarification of public benefits gross receipts exemption. Page 22, line 5:** The handwritten change that was previously provided to you adds the language "or a joint program established under s. 16.957(5)(f)." Please add the word "under" after the word "or" so it reads "or under a joint program...."

4. **Exception to exclusive duty to provide transmission service.** Page 37, lines 11-15, amend as follows:

“(c) After beginning operations, the Midwest independent system operator shall, except for transmission service provided by an electric utility that has not transferred control over its transmission facilities to the Midwest independent system operator, have the exclusive duty to provide transmission service in the transmission area”

This change tracks the language on page 37, lines 4-10, with respect to the transmission company.

5. **Transmission company prohibitions.** Page 40, line 10: Delete the word “electric.” “Electric service” usually connotes the sale of electricity. As presently drafted, a marketer might argue that the transmission company would not be providing electric service to a retail customer if it merely provides transmission service to enable the marketer to serve the retail customer directly. Our intent is to prevent the transmission company from providing transmission service directly to retail customers, bypassing the distribution utility. Deleting the word “electric” better accomplishes that goal.

6. **Contributions to the transmission company.** Delete the word “integrated,” on page 50, line 23, but insert in line 23 after “facilities” “that are located within the geographic area that is served by the Mid-America Interconnected Network, Inc., or the Mid-Continent Area Power Pool”. The word “integrated” is ambiguous and could be viewed as preventing a transmission utility from contributing its transmission facilities that are not integrated within its own control area. The insertion better achieves our intent of limiting the contribution of transmission facilities to those located in the MAPP-MAIN regions.

LC/ss

cc: Senator Charles Chvala
Customers First! Coalition Executive Committee
Bill McCoshen, Energize Wisconsin
Allen W. Williams, Foley & Lardner
Leonard Sosnowski, Foley & Lardner
John Stolzenberg, David Lovell, Legislative Council
David Worzala, Faith Russell, Legislative Fiscal Bureau

Kunkel, Mark

From: Kunkel, Mark
Sent: Monday, August 23, 1999 10:04 AM
To: 'pawlich@cwpb.com'
Subject: Real estate transfer fee exemption

Curt:

Under current law, a return must be filed for certain transfers that are exempt from the real estate transfer fee. Apparently, the purpose of the return is to allow DOR to be notified about the real estate transfer that is exempt and to verify, if it wants to, that the transfer should be exempt.

What do you want to do about the transfers of transmission facilities to the transco? Should there be an exemption from the return requirement (see s. 77.255) as well as the exemption to the fee itself (see s. 77.25)? Or do you want to require the filing of a return?

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@cwpb.com]
Sent: Monday, August 23, 1999 11:55 AM
To: Kunkel, Mark
Subject: Re: Real estate transfer fee exemption

Mark:

Exempt just from the tax but not from the reporting requirement.

--Curt