

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9-2-00

BILL NO. CR-00-81

OR
SUBJECT DDA ADMMU RULES

ON PUBLIC BENEFITS

JOHN MARX

(NAME) PO Box 7868

101 E WILSON ST. 6TH FL

(Street Address or Route Number) MADISON WI 53707-7868

(City and Zip Code) DEPT OF ADMINISTRATION

(Representing) Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9/28/00

BILL NO. CR00-81

OR
SUBJECT CR00-81

Bob Andersen

(NAME) Le N. Carroll

(Street Address or Route Number) Madison WI 53703

(City and Zip Code) COUNCIL ON CHILDREN & FAMILIES

(Representing) Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9-28-2000

BILL NO. 00-081

OR
SUBJECT Public Benefits Fees

JOHN T SHIPLEY

(NAME) 547 Woodward Dr

(Street Address or Route Number) Sou Spairie WI 53550

(City and Zip Code) APP - Capira City Post Office

(Representing) Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9/28/00

BILL NO. 00-08.1
OR passed

SUBJECT DOA Beach

Progn

MIKE MANGAN

(NAME) 1102 N Breens Bay Rd

(Street Address or Route Number)

Oconomowoc, WI 53066

(City and Zip Code) self

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

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but not speaking:

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but not speaking:

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only; Neither for nor against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9.28.00

BILL NO. _____
OR _____

SUBJECT CR 80-81-82

(NAME) Bob Jones

(Street Address or Route Number) 1310 Mendota St #107

(City and Zip Code) Madison, WI 53716

(Representing) WISCAP

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9.28.00

BILL NO. Rules 00-080j
OR _____

SUBJECT 00-081; 00-082

(NAME) CURT PAULISCH

(Street Address or Route Number) 122 WEST WASHINGTON AVE.

(City and Zip Code) MADISON, WI 53703

(Representing) CUSTOMERS FIRST

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

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but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 24 SEP 00

BILL NO. _____
OR _____

SUBJECT WB YOUTH

PROGRAMS.

(NAME) HARRY L. OLSON

(Street Address or Route Number) 2400 WRIGHT ST-

(City and Zip Code) MADISON, WI 53704

(Representing) DMA

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9/28/00

BILL NO. _____
OR _____

SUBJECT Slafkebo

DAVID SLATKES
(NAME)

478 EVELAERS
(Street Address or Route Number)

Green Bay WI
(City and Zip Code)

Challenge Academy
(Representing)

Speaking in Favor:

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Registering in Favor:

but not speaking:

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but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9-28-00

BILL NO. _____
OR _____

SUBJECT Challenge Academy

Misty Wilson
(NAME)

615 W. Monrovia St.
(Street Address or Route Number)

Tomah, WI 54660
(City and Zip Code)

Challenge Academy
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 09-28-00

BILL NO. _____
OR _____

SUBJECT Guard. Badger Challenge

MARCHEL, JASON
(NAME)

1802 Tamarack St
(Street Address or Route Number)

Plow 54467
(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9/28/00

BILL NO. _____

OR

SUBJECT Chalkie Academy /

Becky Bridges

Jerome Bargulak

(NAME)

1201 N. Ruit D. St. A. WI

(Street Address or Route Number) 53598

(City and Zip Code)

Beaun

(Representing) Chalkie Academy / Chalkie

Speaking in Favor:

Speaking Against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9-28-00

BILL NO. _____

OR

SUBJECT WING Challenge

Academy

Brian Zeien

(NAME)

Wing City

(Street Address or Route Number)

Wataloo 53599

(City and Zip Code)

(Representing) Challenge Academy

Speaking in Favor:

Speaking Against:

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but not speaking:

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but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9/28/00

BILL NO. _____

OR

SUBJECT NG. CHALLENGE

ACADEMY

STEVE & ANNETTE BAKER

(NAME)

805 WILLIAMS DR

(Street Address or Route Number)

STOUTON WI 53589

(City and Zip Code)

(Representing) SONWHO IS A RECENT GRAD OF ACADEMY

Speaking in Favor:

Speaking Against:

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but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 28 SEP 00
BILL NO. WIS 16 Badger
OR
SUBJECT Challenge

(NAME) Andrew Schuster
2400 WRIGHT ST
(Street Address or Route Number)
Madison WI 53703
(City and Zip Code)
Badger Challenge
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9-28-00
BILL NO. _____
OR
SUBJECT Chuckle McHenry

(NAME) Michael Anderson
(Street Address or Route Number) _____
WISCONSIN, WI
(City and Zip Code)
Chuckle McHenry
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 28 SEP 00
BILL NO. _____
OR
SUBJECT Challenge Henry

(NAME) Mac Lorel, MS
7111 Dunes Rd
(Street Address or Route Number)
Tomah WI 54660
(City and Zip Code)

(Representing)
Speaking in Favor:
Speaking Against:
Registering in Favor:
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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 09-27-00

BILL NO. _____
OR _____

SUBJECT Challenge Academy

(NAME) Steve Gincer

(Street Address or Route Number) 6159 Highland LN Apt #3

(City and Zip Code) Greendale, WI 53129

(Representing) Chalkona Academy

Speaking in Favor:

Speaking Against:

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but not speaking:

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but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9-28-00

BILL NO. _____
OR _____

SUBJECT Challenge Academy

(NAME) Heenan Brown

(Street Address or Route Number) 4017 N. Parkway Ave.

(City and Zip Code) Milwaukee, WI 53209

(Representing) Challenge Academy

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 28 Sept 00

BILL NO. _____
OR _____

SUBJECT Badge Challenge

(NAME) Peter A. Rings

(Street Address or Route Number) 2208 Spring St

(City and Zip Code) Cross Plains WI 53585

(Representing) Badge Challenge

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

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but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: _____

BILL NO. _____

OR

SUBJECT Wisconsin National

Guard - Badger Challenge

USA Volden (former Badger)

(NAME)

207 WARRIOR Rd.

(Street Address or Route Number)

Onalaska WI 54650

(City and Zip Code)

(Representing) Badger Challenge

Speaking in Favor:

Speaking Against:

Registering in Favor:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9-28-00

BILL NO. Wisconsin National

OR

SUBJECT Garard - Badger

Challenges

Nick Siverling

(NAME)

1301 West River Dr.

(Street Address or Route Number)

Stevens Point 54481

(City and Zip Code)

(Representing) Badger Challenge

Speaking in Favor:

Speaking Against:

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DATE: 9-28-00

BILL NO. Wisconsin National

OR

SUBJECT Garard - Badger

Challenges

Naomi Broatz

(NAME)

PO Box 12

(Street Address or Route Number)

Odunburg WI 54602

(City and Zip Code)

(Representing) Badger Challenge

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9-28-00

BILL NO. _____
OR

SUBJECT WI BANNER

CHALLENGE

(NAME) MOLLY DELANEY

4923 WATER AVE

(Street Address or Route Number)

(City and Zip Code) MADISON WI 53716

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 28 September 2000

BILL NO. WISNG Badger Challenge
OR

SUBJECT _____

(NAME) Christopher W. Hecker

229 Buchner Dr.

(Street Address or Route Number)

(City and Zip Code) M. Herb WI 53572

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9/28/00

BILL NO. WIS NG Badger Challenge
OR

SUBJECT _____

(NAME) Math Netzel

2482 S. Syene Rd.

(Street Address or Route Number)

(City and Zip Code) Madison WI 53711

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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SENATE HEARING SLIP

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DATE: 9.28.00

BILL NO. _____
OR _____

SUBJECT WU National

Guard Academy

Stephanie Cristas
(NAME)

3811 April Lane
(Street Address or Route Number)

Stauss Point 54481
(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

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Registering Against:

but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 8.25.00

BILL NO. _____
OR _____

SUBJECT POST A PROGRAM

(NAME)

LARRY E. OLSON
(Street Address or Route Number)

112 Ave 19 WAUKESHA
(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

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but not speaking:

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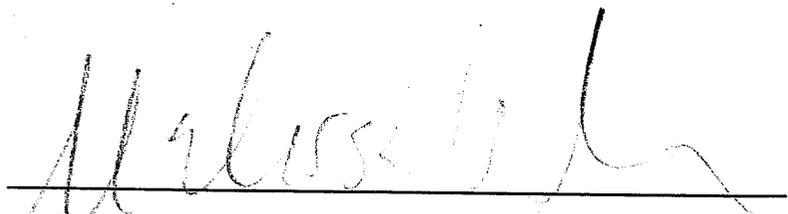
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Committee Meeting Attendance Sheet

Senate Committee on Health, Utilities, Veterans and Military Affairs

Date: 9/28/2000 Meeting Type: Public Hearing
Location: Room 417 North

<u>Committee Member</u>	<u>Present</u>	<u>Absent</u>	<u>Excused</u>
Sen. Rodney Moen, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Roger Breske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Judy Robson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Jon Erpenbach	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Robert Welch	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Peggy Rosenzweig	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>2</u>	<u>-</u>



Committee Clerk

**TO: Senator Rod Moen, Chair, Senate Committee on Health, Utilities,
Veterans & Military Affairs**

FROM: David J. Benforado

DATE: September 28, 2000

**RE: Committee Review of DOA's Proposed Final Administrative Rules
Regarding Implementation of Wisconsin's New Public Benefits
Framework (CR 00-080, CR 00-081, and CR 00-082).**

MEUW wishes to briefly comment on the Department of Administration's (DOA) proposed final administrative rules regarding implementation of Wisconsin's new public benefits framework.

Using an open and collaborative process over the past nine months, the DOA has developed a comprehensive nuts and bolts plan to implement our state's new public benefits framework. This framework will allow low-income assistance and energy conservation programs to continue, despite the utility industry's uncertainty over the looming and difficult question of full scale electric deregulation. This new framework will work in today's regulated world, and tomorrow's deregulated world, if and when the Legislature decides that such deregulation would be in the best interests of all Wisconsin customers.

**cc: Senator Roger Breske
Senator Judy Robson
Senator Jon Erpenbach
Senator Bob Welch
Senator Gary Drzewiecki
Senator Carol Roessler
John Marx, Administrator, DOA Division of Energy and Public Benefits
Pat Essie**

Maeh



**TESTIMONY BEFORE THE
SENATE COMMITTEE ON HEALTH, UTILITIES AND MILITARY
AFFAIRS
ON
ADMINISTRATIVE RULES CR 00-080, CR 00-081, AND CR 00-
082
REGARDING PUBLIC BENEFITS**

**THURSDAY, SEPTEMBER 28, 2000
Room 417 N., State Capitol, Madison, Wisconsin**

**Robert Jones,
Energy and Housing Director
Wisconsin Community Action Program Association (WISCAP)**

Good morning, and thank you for the opportunity to testify in support of the administrative rules for implementing public benefits programs which are before you.

My name is Robert Jones and I am the Energy and Housing Director for the Wisconsin Community Action Program Association. WISCAP is the statewide association for Wisconsin's community action agencies and three single-purpose agencies; locally-controlled, not-for-profit organizations whose work is dedicated towards providing economic self-sufficiency to our state's low-income population.

Consistent with that task, we have been deeply involved in the development of public benefits policy and programming since it was first discussed in 1995. I served on the Advisory Committee on Electric Industry Restructuring chaired by then-Commissioner Neitzel which laid out Wisconsin's first blueprint for considering restructuring. Out of that committee, as well, was birthed the Customer's First Coalition, which WISCAP has been a member of since its inception.

Further, we participated in the 'stakeholder' process at the Public Service Commission in 1996, out of which formed the design of public benefits. We participated actively in coalitions with utilities to form a consensus on low-income programs suitable to all. Our association had membership on the Special Committee on Public Benefits chaired by Representative Hoven in the fall and winter of 1998-9. We worked closely with legislative sponsors of public benefits legislation in the spring 1998 session and in the successfully concluded Reliability 2000 legislation.

I give you this history to, hopefully, give weight to our claim that the rules before you regarding implementation of the access fee, contracting for energy efficiency programs and determining eligibility for low-income programs are consistent with the intent, design and law of public benefits and should be approved as presented.

The Division of Energy and Public Benefits, in the Department of Administration, has done an exemplary job of vetting these rules before formally presenting them to you. They have been very open and inclusive in their deliberations, seeking out opinions and accepting outside concerns with good intentions and respect. They have properly passed the rules through a public

comment process and through a review by the Council on Utility Public Benefits, of which I am a member. And the Council has given its blessing.

We support the generalized design of CR 81 and CR 82 and the flexibility inherent in them. Given the nature of the public benefits program and its intent to forge new ground and methods in the delivery of services, it is critical that the rules – at the front end – not be so prescriptive as to inhibit the full level of creativity which will be necessary to make public benefits a success.

We are confident in the direction the programs are going and in the processes in the Division to ensure adequate quality control, monitoring and evaluation; as well as input from interested parties. Current low-income energy programs administered by the Division have a strong history of effective, efficient service ... all under the guidance of operating procedures and the like, without prescriptive administrative rules. We support the rules as constructed, and see the prudent flexibility they would allow as being a strength of public benefits, not a weakness.

We also support CR 80, relating to the collection of the access fee authorized by 1999 Wisconsin Act 9. We would commend DoA for its recent implementation as an emergency rule and urge its adoption as a permanent one. This fee rule has gone through numerous versions and edits; the Division has, to the best of our knowledge, gone well out of its way to accommodate various interests and make the fee as equitable and simple to administer as the law allows. It is the best effort of many, many experts and it is consistent with the law.

There may be those who do not wish to see Wisconsin commit to the ambitious public benefits program passed and signed into law; they may see this

rule as a means to stall, slow down or obfuscate the promise of public benefits. To allow this would be a disservice; a disservice – given the looming crisis in heating fuel costs, and the impact that crisis will particularly have on low-and-moderate income households – that would be bordering on tragic.

Our state has been both prescient and wise in the 'go-slow' approach it has taken to restructuring issues; your decision to make public benefits a prerequisite for future change, by including it in last year's Reliability 2000 legislation, was integral to that approach. The value of this is, now, only being magnified. At the very time our citizens are facing the potential of oppressive costs for essential heating fuels during the winter months, implementation of this fee will allow the public benefits fund to collect money which can be used to substantially ease that burden. It can do so, if we have the courage of our convictions; to actually set out on the new path of energy self-sufficiency promised by public benefits.

Thank you for the opportunity to comment. I would be happy to answer any questions.



SEP 27 2000



MEMORANDUM

DATE: September 26, 2000

TO: Representatives and Senators of Legislative Districts Served by Electric Cooperatives and Municipal Electric Utilities

FROM: David Jenkins, WECA Division Manager, Wisconsin Federation of Cooperatives, and David Benforado, Executive Director, Municipal Electric Utilities of Wisconsin

RE: **“Commitment to Community” Public Benefits Program Fees**

Beginning in October, all Wisconsin electric customers will be charged a “public benefits fee” that will appear on electric utility monthly bills. As you might recall, 1999 Wisconsin Act 9 (the budget bill) called for this fee to support a variety of energy conservation and low-income energy services.

Under the act, municipal electric utilities and electric cooperatives were given the option to conduct their own local “commitment to community” programs, instead of sending the money to the Department of Administration. Because these options are different than those of investor-owned utilities we have prepared a straightforward question-and-answer sheet for you and your staff. We hope the enclosed brochure will be helpful in explaining any calls or inquiries you may get from constituents regarding these fees.

Our offices would be willing and able to answer questions you or your staff has about these fees and the programs they support. As usual, local electric cooperatives and municipal electric utilities will do as good a job as possible in handling inquiries from consumer-members about this issue. In addition, the Public Service Commission will establish a toll-free number people can call to inquire about the fees.

Please call Warren Day at the Wisconsin Federation of Cooperatives at 608-258-4400 or David Benforado at Municipal Electric Utilities of Wisconsin at 608-837-2263 if you have questions or need more information.

Thank you for your consideration.

assistance to low-income households and other programs to meet these needs as determined by local leaders of consumer-owned utilities.

Q: If I have ideas for effective energy conservation/efficiency programs, or low-income energy assistance programs, who should I contact?

A: Consumer-owned utilities welcome public input and suggestions on improving their energy efficiency and conservation efforts. If you have suggestions on how this important work can be done more efficiently or in a more innovative manner, please call the member services director of your electric cooperative or general manager or superintendent of your municipal electric utility.

Questions and Answers About

Commitment to Community Programs

and

Wisconsin's New Public Benefits Law

Prepared by the Wisconsin Electric Cooperative Association and the Municipal Electric Utilities of Wisconsin

Background

In April of 1999, as a result of months of negotiations and discussion between electric utilities, municipal electric utilities and cooperatives, consumer groups, business and labor groups, and other stakeholders, Governor Thompson submitted a consensus proposal to the Legislature to improve electric reliability in this state. The proposal was called *Reliability 2000*. The proposal was included in 1999 Wisconsin Act 9, the state biennial budget bill, which passed in October, 1999 and was signed into law.

The law affects many areas of electric energy policy, such as renewable energy, the asset cap provisions of the Utility Holding Company law, and many more topics. One area the law addresses is public benefits: those programs designed to foster and improve energy conservation and efficiency and low-income energy assistance.

Because Wisconsin will remain vulnerable to electricity shortages over the next several years, it is imperative that conservation and efficiency be encouraged.

Electric cooperatives and municipal utilities will now have the obligation to collect and spend an average of \$1.33 per meter per month to support these programs. This fee is similar for customers of investor-owned utilities. The following are questions and answers about this fee and how it will be used.

**Questions and Answers About Electric Cooperative Public Benefits
September, 2000**

Q: What is the "non-taxable program charge" on my electric bill?

A: To help address the serious electric power shortages that Wisconsin experienced in the past several years, business, labor, utilities, consumer and other groups supported a change in the law to ensure financing for the state's energy conservation and low-income energy assistance programs. The proposal was submitted to the Legislature by Governor Thompson in April 1999, and the resulting program charge was passed as part of the state budget bill in October 1999.

Q: Why does the state need to improve energy conservation and low-income energy assistance programs?

A: In recent years, electric energy supply has not kept up with demand. No single strategy will be adequate to meet our growing electricity needs. Instead, we need to develop a balanced approach including many things: constructing new generating plants, easing congestion on overloaded transmission lines and improving energy efficiency and conservation. Reliable electric service for the citizens, farms and businesses of Wisconsin depends on all three. The "Commitment to Community" programs designed and operated by your municipal electric utility or electric cooperative will help achieve the important goals of energy conservation and efficiency.

Q: What is "Commitment to Community"?

A: That's the name your electric cooperative and municipal electric utilities have chosen for their special approach to managing the programs financed by the non-taxable program charge—also known as a public benefits fee. Investor-owned utilities will remit the fees they collect to the Wisconsin Department of Administration, which is responsible for operating statewide energy conservation and low-income energy assistance programs. Electric cooperatives and municipal utilities have the option to create and operate their own programs under the title "Commitment to Community." Under this approach, the fees paid by municipal and co-op customers can be kept in the communities where they're collected, to be used for local needs.

Q: How much is the charge and when did it start?

A: For electric cooperatives and municipal electric utilities, the charge is established by law at an average of \$1.33 per meter per month. All utilities must begin collecting the fee for these public benefits programs starting with the monthly bills mailed in October 2000, for electricity used in September 2000.

Some utilities and cooperatives may choose to cap the charge at 3 percent of each monthly bill, or \$1.33, whichever is less. Other cooperatives and municipal electric utilities have decided to follow the letter of the law by limiting the charge to 3 percent of electric bills over the next eight years.

Q: Are all electric customers in the state required to pay these charges?

A: Yes. However the charges may vary among utilities. Some cooperatives and municipal electric utilities, for example calculate credits for programs they already offer. The charges may also vary between residential, commercial and industrial customers.

Q: What if I refuse to pay the charge?

A: This charge is considered part of your monthly electric bill. If you don't pay the charge, it will be treated as an incomplete bill payment.

Q: Will this charge appear on my gas or other fuel bill?

A: No. The program charge is only applied to electric bills, and as the designation "non-taxable program charge" implies, it's not subject to the state sales tax.

Q: Do other states require similar programs and charges?

A: Yes. At least nineteen and the District of Columbia other states have similar programs in place and funded in the same way.

Q: Who controls how this money is spent?

A: Your electric cooperative's board of directors, or, in the case of municipal electric utilities, your local utility commission, city council or village board will have primary oversight. In addition, consumer-owned utilities must make an annual report to the Wisconsin Department of Administration on the amounts collected and how the funds are spent. The Department has published a broad list of conservation-related programs and activities for which public benefits money can be used, and additional ideas may qualify.

Q: What are examples of "Commitment to Community" programs?

A: Examples include energy audits, energy conservation and efficiency programs, low-income weatherization programs, programs to reduce energy demand or make energy use more efficient in residential, farm, commercial and industrial buildings, energy

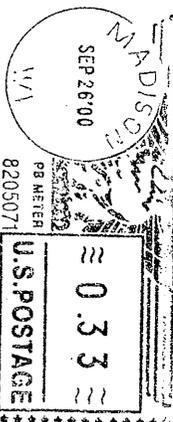
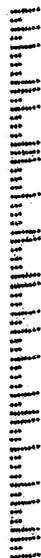


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**WISCONSIN LEGISLATIVE COUNCIL
STAFF MEMORANDUM**

TO: MEMBERS OF THE SENATE COMMITTEE ON HEALTH, UTILITIES, VETERANS AND MILITARY AFFAIRS

FROM: John Stolzenberg, Staff Scientist, and David L. Lovell, Senior Analyst *Yes [Signature]*

RE: Proposed Department of Administration Rules on the Wisconsin Utility Public Benefits Program, Chapters Adm 43, 44 and 45

DATE: September 25, 2000

INTRODUCTION

This memorandum summarizes the three rules that the Department of Administration (DOA) has proposed to govern the administration of its Wisconsin Utility Public Benefits Program, the statutory basis of these rules and the fees that consumers will be paying under this program. These rules include the following:

1. Chapter Adm 43, Nonmunicipal Electric Utility Public Benefits Fee.
2. Chapter Adm 44, Energy Conservation and Efficiency and Renewable Resource Programs.
3. Chapter Adm 45, Low-Income Assistance Benefits.

All three rules were referred to your committee on August 9, 2000 and will be reviewed by your committee in a public hearing on September 28, 2000. In addition, DOA published the rules as emergency rules in the official state newspaper on August 22, 2000. The emergency rules remain in effect until the permanent rules are promulgated by DOA, except that the emergency rules may not be effective for more than 150 days unless the Joint Committee for Review of Administrative Rules extends their effective period.

The remainder of this memorandum is divided into the following sections:

1. Description of "public benefits."
2. Statutory requirements.

3. Chapter Adm 43.
4. Chapter Adm 44.
5. Chapter Adm 45.
6. Public benefits fees in fiscal year 2000-01.

DESCRIPTION OF "PUBLIC BENEFITS"

Public benefits are goods (or benefits) that are produced by a portion or sector of society but whose benefits flow to society as a whole. A variety of public benefits are produced by the electric power industry and made available to the public at least in part as a result of government regulation. An example of this is the availability to all members of society of a safe, reliable and affordable power supply. In the context of electric utility restructuring generally, and Wisconsin's law specifically, "public benefits" refers to certain activities that have been performed by electric (and natural gas) utilities for the public good under Public Service Commission (PSC) direction or oversight, specifically, activities to: (a) help make energy affordable to low-income households; (b) promote energy conservation, efficient energy systems and renewable energy sources; and (c) evaluate and mitigate the environmental impacts of energy production and use.

STATUTORY REQUIREMENTS

1999 Wisconsin Act 9 (the 1999-2001 Biennial Budget Act) contains a package of provisions relating to electric utility regulation, including public benefits, that are commonly called the "Reliability 2000" legislation. This legislation is referred to as the "new law" in this memorandum. The new law took effect on October 29, 1999.¹

The new law creates a statutory framework within which to continue and to expand public benefits programs historically provided by public utilities under PSC oversight. Under the new law, DOA has the principal responsibility for administering these programs in consultation with the newly created Council on Public Benefits. The three rules before the committee, chs. Adm 43, 44 and 45, implement these programs.

Low-Income Assistance Program

The new law creates a program for awarding grants to provide assistance to low-income households for weatherization and other energy conservation services, payment of energy bills and the early identification and prevention of energy crises. The program is similar in purpose to the Federal Low-Income Weatherization and Home Energy Assistance Programs. The new law directs DOA to contract with community action agencies, nonprofit corporations or local units of government to provide

¹ A description of all the provisions in the Reliability 2000 legislation is set forth in Legislative Council Information Memorandum 99-6, *New Law on Electric Utility Regulation--the "Reliability 2000" Legislation (Part of 1999 Wisconsin Act 9)* (December 2, 1999). Legislative Council Staff have also prepared an overview of this legislation and a compilation of the statutory text of the legislation. These publications are available at http://www.legis.state.wi.us/lc/reports_by_topic.htm.

the low-income program services. The new law also directs DOA to regulate the amount of grants awarded under this program to ensure that, after a two-year phase-in, an amount equal to 47% of all state and federal low-income public benefit funds expended in this state is expended on weatherization and conservation services.

Rules. The new law directs DOA to establish the following provisions relating to the low-income assistance program by rule:

- Eligibility requirements, including a prohibition on providing services under the state funded low-income program to individuals who receive low-income services under a “commitment to community program,” described below.
- Requirements and procedures for applications for grants awarded under the program.

Energy Program

The new law creates a program for awarding grants for energy conservation and efficiency services and for renewable resource programs (collectively, the “energy program”). The energy conservation and efficiency services portion of the program must give priority to proposals directed at: (a) sectors of the energy conservation and efficiency services market that are least competitive; and (b) promoting environmental protection, electric system reliability or rural economic development. The renewable resources portion of the program must focus specifically on encouraging the development or use of utility customer and electric cooperative member applications of renewable resources, including educating customers and members about renewable resources, encouraging use of renewable resources by customers and members, and encouraging research technology transfers. Of the total funds available for the energy program, 4.5% must be expended for the renewable resources portion of the program. In addition, 1.75% must be used for research and development proposals regarding the environmental impacts of the electric industry.

The new law directs DOA to contract with one or more nonprofit corporations to administer the energy programs. The administrative functions of the energy program administrators include soliciting proposals, processing grant applications, selecting proposals to receive grants (on the basis of criteria specified by DOA in rules) and distributing grants to recipients. All contracts must be awarded on the basis of competitive bids. In awarding contracts for energy programs, the administrators may not discriminate against an electric provider, a wholesale electric supplier or an affiliate of one of these solely on the basis of this status.

The new law directs DOA to annually, beginning in fiscal year (FY) 2004-05, determine whether to continue, discontinue or reduce any part of the energy program. In addition, it must determine the amount of funding necessary for the programs that are continued or reduced and to reduce the relevant public benefits fees accordingly. If the reduction in program funding exceeds the amount raised by new public benefits fees for the energy program, DOA must notify the PSC, which must reduce the amount of continuing utility funding for energy programs by this additional amount.

Rules. The new law directs DOA to establish the following provisions relating to the energy program by rule:

- Requirements and procedures for applications for grants awarded under the program.
- Criteria for the selection of energy program administrators.
- Criteria for determining whether to continue, discontinue or reduce any of the energy program components, including a determination by DOA of whether the need for a particular program is satisfied by the “private sector market” and, if so, whether the program should be discontinued or reduced.

Voluntary Customer Contributions

The new law directs DOA to encourage customers to make voluntary contributions to help support public benefits programs.

Rules. DOA must promulgate rules to require that electric utilities allow customers to include such voluntary payments with their bill payments. The rules may require special provisions on each bill for this purpose, including the ability of a customer to specify the types of programs for which a contribution is made, and must establish procedures for transferring those contributions and preferences from the electric utilities to DOA.

Audit and Report

The new law requires that DOA annually provide for an independent audit and submit a report to the Legislature describing the expenses of administering the public benefits programs, the effectiveness of the programs and any other topics identified by DOA, the Council on Public Benefits, the Governor, the Speaker of the Assembly or the Majority Leader of the Senate.

Funding For Public Benefits Programs

The new law relies on three sources of funds for the public benefits programs: (a) funds that major nonmunicipal electric public utilities have been collecting through rates to pay for public benefits programs conducted under PSC oversight or direction; (b) federal funds provided for low-income energy assistance and weatherization programs; and (c) new fees that electric public utilities and retail electric cooperatives are required to collect and remit to the state. The remainder of this section of this memorandum focuses upon the statutory requirements for the third source, the new fees, as ch. Adm 43 establishes these fees and does not address the other two funding sources.

The new law establishes separate fees for nonmunicipal electric utilities customers and for municipal utilities and electric cooperatives customers and members. Except in the case of commitment to community programs, described below, the utility or cooperative must remit the fee revenues to DOA.

Fees Collected by Nonmunicipal Electric Utilities

DOA is required to set the fees collected by nonmunicipal electric utilities by rule. Utilities must include the fee in the fixed charges for electricity and provide customers with an annual statement that identifies annual charges and describes the programs for which they are used.

Revenues From Fees for Low-Income Programs

The fees collected by nonmunicipal electric utilities must be designed to raise specified amounts to fund the low-income assistance and energy programs. The total amount raised in FY 1999-2000 for DOA's low-income programs is calculated in two steps. First, DOA must subtract from \$24 million 1/2 of the amount raised in fees collected by municipal utilities and cooperatives for low-income programs. Then DOA must reduce this amount in proportion to the length of time that elapses in that fiscal year before DOA promulgates the rules setting the amount of the fees.²

In subsequent years, the revenues from low-income fees are established in a formula that involves a number of calculations. The formula is designed to ensure that the total level of funding for low-income assistance programs, from all sources, is the same proportion of a given year's "low-income need" as is provided in the base funding of the program; the fees are set to raise the portion of this funding that is not provided from other sources. The "low-income need" is the amount by which the annual energy bills of all low-income households in the state exceed 2.2% of the annual incomes of those households. This is a measure of the amount of those energy bills that are unaffordable to those households and so is a measure of the need for program funding.

Revenues From Fees for Energy Programs

The total amount raised for DOA's energy program must be \$20 million minus 1/2 of the amount raised in fees collected by municipal utilities and cooperatives. Again, for FY 1999-2000, DOA must reduce this amount in proportion to the length of time that elapses in that fiscal year before DOA promulgates the rules setting the amount of the fees. Beginning in FY 2004-05, DOA is required to reduce the amount of funds raised by this mechanism if it eliminates or reduces a program component and thus reduces the required funding level of the energy program, as described above.

Rules. The new law specifies the following requirements for DOA's rules on public benefit fees:

- The amount of the fees must be specified in the rules.
- The fees must generate specified amounts of revenue, as described below.
- The fees may not be based upon the kilowatt-hour consumption of electricity by customers.
- The fees may vary by class of customers but must be uniform within each class.
- 70% of the revenues collected by any utility must be from fees charged to residential customers and 30% must be from nonresidential customers.

² This proration is based upon the assumption that the rules setting the fees would be promulgated and effective in FY 1999-2000; however, the rules were not promulgated until after the start of FY 2000-01.

- The fees must be capped so that through June 30, 2008, the total amount of fees paid by an individual customer does not exceed 3% of all other charges for which the customer is billed (the “3% cap”) or \$750 per month, whichever is less.
- The fees must allow a utility to recover the reasonable and prudent expenses incurred by the utility in collecting the fees.
- Methods for determining the following terms used in calculating the low-income need each fiscal year must be specified in the rules:
 - Total low-income energy bills.
 - Average annual income of low-income households.
 - Number of low-income households.

Fees Collected by Municipal Utilities and Cooperatives

The new law requires that municipal utilities and cooperatives collect fees from their customers that average \$16 per electric meter per year. They may charge different fee levels for different customer classes. The total amount of fees paid by an individual customer or member through June 30, 2008 may not exceed 3% of all other charges for which the customer or member is billed or \$750 per month, whichever is less. As with fees collected by nonmunicipal electric utilities, for FY 1999-2000, municipal utilities and cooperatives must reduce the amount of fees in proportion to the length of time that elapses in that fiscal year before DOA promulgates the rules setting the amount of the fees for nonmunicipal electric utilities. DOA is required to provide advice to municipalities and cooperatives regarding the amount of this reduction.

Commitment To Community Programs

The new law gives municipal utilities and cooperatives the option to implement all or part of the public benefit programs for their customers in programs referred to as commitment to community programs. They may implement such programs individually or jointly with other municipal utilities or cooperatives. If a municipal utility or cooperative chooses to implement both the low-income assistance and energy components of the public benefits program, it retains all of the revenues from the public benefit fees it collects and uses them for those purposes; if it chooses to implement one but not both components, it retains 1/2 of the revenues for its program and remits the other 1/2 to the state for the state program; if it chooses not to implement a commitment to community program, it remits all of the fee revenues to the state.

By October 29, 2000 (one year after the effective date of the new law), and every three years thereafter, each municipal utility or cooperative must notify DOA whether it intends to implement a commitment to community program. Once it has chosen to do so, it must continue the program for a period of three years and submit an annual report on its program to DOA.

If a municipal utility or cooperative that implements a commitment to community program is served by a wholesale electric supplier that has established a low-income assistance program or an

energy program, it may credit a portion of the supplier's expenditures for that program toward its required expenditures under its commitment to community program.

CHAPTER ADM 43 NONMUNICIPAL ELECTRIC UTILITY PUBLIC BENEFITS FEE

Chapter Adm 43 specifies a process for the annual establishment and collection of public benefits fees by nonmunicipal electric utilities. The schedule of major tasks in this process beginning for fees collected in FY 2001-02 are identified in the figure in *Attachment 1*. These fees are collected each month by nonmunicipal electric utilities from all of their customers that receive metered electric services.

Other major features of ch. Adm 43 and of the application of provisions in ch. Adm 43 by DOA are identified below. DOA's analysis accompanying the rule that creates ch. Adm 43 includes a section-by-section description of ch. Adm 43.

Amounts of Fees

- The fees are set to raise the sum of: (a) "public benefits program funding levels" allocated to nonmunicipal electric utilities' customers; plus (b) nonmunicipal electric utilities' expenses in collecting the fees that are authorized by DOA.
 - Since the public benefits program funding levels may vary by fiscal year under s. 16.957, Stats., the fees are set annually and may vary between fiscal years.
 - "Residential customers" include residential and farm customers. Under the rule, utilities have flexibility in how they assess these customers' fees though, based on common utility billing practices, DOA staff anticipate that these customers will pay a fee for each meter that is assessed a fixed customer charge by the customer's utility.
 - "Nonresidential customers" include commercial and industrial customers. These customers pay a fee for each meter that is assessed a fixed customer charge by the customer's utility.
 - All fees are reduced, as necessary, to ensure that the fees will be no more than 3% of a customer's monthly bill for electric service.
 - Each year, DOA determines: (a) the total public benefits program funding levels; (b) the portions of those funding levels that are to be collected from nonmunicipal electric utilities' residential and nonresidential customers (the "total residential component" and "total nonresidential component"); and (c) the allocation of those portions of the funding levels among each nonmunicipal electric utility.
- The amount that DOA invoices a utility for the utility's nonresidential component is a portion of the total nonresidential component in proportion to the utility's share of all nonmunicipal electric utility nonresidential customers.

- The amount that DOA invoices a utility for the utility's residential component is an amount that results in statewide revenues equal to the total residential component and a uniform statewide residential fee after application of the 3% cap, as determined by DOA with the assistance of the utilities projecting revenues generated by various test fees subject to the 3% cap. (This requirement is not in ch. Adm 43; it is authorized under s. Adm 43.06 (2) (d), which allows DOA to adjust the utilities' residential components in order to produce a more uniform public benefits fee.)
- The actual amounts of the fees are formally established in the utilities' collection plans approved by DOA (and not in the rule).
 - Each utility must allocate its nonresidential component among its nonresidential customers. The amount of the fee may vary between classes of nonresidential customers but must be uniform within a customer class, except for variations due to application of the 3% and \$750 a month caps.
 - Each utility must establish its residential fee to be the amount specified by DOA in its collection plan instructions that results in a uniform statewide residential fee except for variations due to the 3% cap. (This requirement is not in ch. Adm 43; it is reflected in DOA's collection plan instructions dated August 18, 2000.)
- A customer who pays multiple bills to a single utility who has fees that exceed \$750 in any month may request a rebate of the portion of the fees that exceed \$750 in any month.

Fee Disclosures

- Each nonmunicipal electric utility customer bill that includes a public benefits fee must identify the fee on a separate line as a "nontaxable fixed charge." (Public benefits fees are exempt from the state sales tax under s. 77.54 (44), Stats.)
- DOA must provide each nonmunicipal electric utility with an annual statement that identifies the portion of the total public benefits program funding level collected from the utility's customers and describes the programs for which the public benefits fees were used.
 - Each utility must distribute DOA's annual statement to each of its residential and nonresidential customers.
 - No utility may be required to provide an individual customer the specific amount of public benefits fees assessed to that customer when the utility distributes DOA's annual statement.

Voluntary Payments

- Each electric utility, including municipal electric utilities, must provide its residential and nonresidential customers an opportunity to make voluntary contributions to fund their choice of state public benefits programs by including an insert and return envelope in the mailing that contains DOA's annual public benefits statement.
- DOA may provide a designee to receive voluntary contributions from an electric utility's customers.

Other Provisions

- Other provisions in ch. Adm 35 address the reconciliation of under or overpayments by utilities to DOA, treatment of unpaid public benefits fees, utility record keeping and reporting requirements and an appeals process for a utility that protests a DOA decision under ch. Adm 43 that affects the utility.

CHAPTER ADM 44, ENERGY CONSERVATION AND EFFICIENCY AND RENEWABLE RESOURCE PROGRAMS

Ch. Adm 44 establishes requirements and procedures to be used by program administrators in soliciting and selecting applications for grants for the public benefits energy program and establishes a procedure for conducting the annual review commencing in 2004 to determine which, if any components of the energy program should be reduced or discontinued.

The major features of ch. Adm 44 are identified below. DOA's analysis accompanying the rule that creates ch. Adm 44 includes a section-by-section description of ch. Adm 44.

Grant Administration

- The specific energy programs for which grants will be awarded are designated in a contract between DOA and a program administrator.
- The program administrator's grant proposal solicitations must provide for fairness and competition, whenever practicable, and reasonable public notice.
- Grant applications must be made on forms prescribed by DOA.
- The program administrator must use criteria to evaluate grant applications and select contractors approved by DOA that address compliance with the public benefit statute, qualifications and financial soundness of the applicant, technical feasibility and quality of the proposed work plan, compliance with the public benefits program policy and goals issued by DOA and other factors identified by DOA or the program administrator.
- DOA may reject a proposed contractor for cause, and the program administrator may protest that rejection in an appeal process established by the rule.

- Each grant agreement between the program administrator and a contractor must comply with the minimum terms and conditions specified by DOA, including quantifiable goals and performance measures and cooperation with DOA's independent evaluators and financial auditors.

Program Review

- Beginning December 31, 2003 and yearly thereafter, DOA must submit to the Council on Utility Public Benefits a report containing recommendations for the continuation, discontinuation or reduction of the programs in the energy program. The report must include all of the following:
 - An analysis demonstrating whether the need for a program is satisfied by the private sector market and, if so, a determination of whether the program should be discontinued or reduced.
 - An assessment of progress of efforts to transform relevant markets into markets that capture a significant portion of the available cost-effective energy efficiency potential.
 - An analysis of the benefits that state residents receive as a result of the programs.
 - An analysis of the accomplishments of the programs in meeting statutory priorities (i.e., whether the programs address energy conservation or efficiency markets that are least competitive, and promote environmental protection, electric system reliability or rural economic development).
 - An analysis of the geographic distribution of funds and benefits under the programs.
 - Other information and analysis that will assist the Council on Utility Public Benefits in providing advice to DOA.
- After receiving the advice of the Council on Utility Public Benefits, DOA must annually determine starting no later than March 1, 2004, whether to continue, discontinue or reduce any of the energy programs and to adjust the total funding needed for all energy programs accordingly.

CHAPTER ADM 45, LOW-INCOME ASSISTANCE PUBLIC BENEFITS

Chapter Adm 45 establishes general eligibility and application requirements and procedures for assistance under state low-income assistance programs.

Major features of ch. Adm 45 are identified below. DOA's analysis accompanying the rule that creates ch. Adm 45 contains a section-by-section description of ch. Adm 45.

- A person eligible to receive energy-related low-income assistance from federally funded programs, such as for fuel bill payment assistance and weatherization services, is eligible for assistance through a low-income assistance program. Persons or households not eligible for state assistance include:
 - A person or household eligible to receive low-income assistance from a municipal utility or retail electric cooperative that is operating a commitment to community program.
 - A person imprisoned in a state prison or placed at a secure correctional facility or a secured child caring institution.
- In consultation with the Council on Utility Public Benefits, DOA must annually announce new or continued low-income assistance programs that will be offered by DOA.
 - For each low-income assistance program, DOA must provide specific information on the application process, where to obtain and file an application and the eligibility criteria.
 - Applications for low-income assistance must be made on forms prescribed by DOA.
 - The approving authority (DOA or its contractor) must act on an application within 45 days of receipt of the application.
- A person or household whose application is denied may request the approving authority to review the application for accuracy of information and the "appropriateness of designation."

Public Benefits Fees in Fiscal Year 2000-01

The table in *Attachment 2* identifies the nonmunicipal electric utility public benefits fees that DOA has approved as of September 22, 2000. The utilities established these fees in the process described above in this memorandum.

In its invoices to the utilities for FY 2000-01, DOA directed the utilities to collect public benefits fees between October 2000 and June 2001 rather than the entire fiscal year. The statewide sum of DOA's invoices to all nonmunicipal electric utilities for this ninth month period (and thus the target amount of revenues from the fees) is \$27,640,000. This amount is divided between \$19,350,000 from residential customers and \$8,290,000 from nonresidential customers.

Attachments

**NONMUNICIPAL ELECTRIC UTILITY PUBLIC BENEFITS FEES
FOR OCTOBER 2000 THROUGH JUNE 2001**

APPROVED BY THE DOA AS OF SEPTEMBER 22, 2000

Monthly Fee = Lesser of 3% of Electric Service Charges
or the Listed Maximum Fee ¹

----- CUSTOMER CLASS -----

Utility	<i>Residential (Including Farms)</i>	<i>Commercial & Small Industrial</i>	<i>Large Industrial</i>
	Maximum Monthly Fee	Maximum Monthly Fee ²	Maximum Monthly Fee
Consolidated Water Power Co	\$1.48	\$7.00 or 20.00	\$145.00
Dahlberg Light & Power Co		Fees not approved as of 9/22/00	
Madison Gas & Electric Co ³	1.48	2.55	75.00
North Central Power Co Inc ³	1.48	5.00 or 21.00	75.00
Northern States Power Co	1.48	2.50 or 10.00	82.50
Northwestern Wisconsin Elec Co ³	1.48	3.00 or 16.00	60.00
Pioneer Power & Light Co		Fees not approved as of 9/22/00	
Superior Water Light&Power Co ³	1.48	2.00, 5.00 or 6.00	75.00
Westfield Milling & El Lgt Co		Fees not approved as of 9/22/00	
Wisconsin Electric Power Co	1.48	3.50 or 11.00	100.00
Wisconsin Power & Light Co		Fees not approved as of 9/22/00	
Wisconsin Public Service Corp	1.48	5.00 or 21.00	75.00

Source: Data from personal communications with Department of Administration staff, September 15 and 22, 2000.

Notes:

1. A customer may also request a rebate so that no customer's cumulative fees exceed \$750/month.
2. Some utilities vary the maximum fee for their commercial and small industrial customers by the class of tariffed service that the customer receives.
3. The maximum monthly fee may be larger depending on how the utility allocates among its customer classes its reasonable and prudent expenses approved by the DOA that the utility will incur in collecting its fees. Utilities that do not have this note on their maximum fees did not request reimbursement of these expenses and thus are collecting the listed fees using existing staff and resources.