2005 DRAFTING REQUEST

Senate Amendment (SA-SB79)

Received: **02/24/2005**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Cowles (608) 266-0484**

By/Representing: **Todd Stuart**

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

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Public Util. - electric**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Cowles@legis.state.wi.us**

Carbon copy (CC:) to: **todd.stuart@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Technical changes

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?							
/P1	mkunkel 02/25/2005	kfollett 02/25/2005	pgreensl 02/25/2005	_____ _____	lemery 02/25/2005		
/1	mkunkel 02/28/2005	jdyer 02/28/2005	pgreensl 02/28/2005	_____ _____	lnorthro 02/28/2005	lnorthro 02/28/2005	

FE Sent For:

<END>

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/1 2/28 jld 2/28 P8 2/28 P8 ms

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/?	mkunkel	/P11 2/25	2/25 PS	2/25 PS/B			

FE Sent For:

<END>

Kunkel, Mark

From: Stolzenberg, John
Sent: Thursday, February 24, 2005 3:28 PM
To: Kunkel, Mark
Cc: Lovell, David
Subject: SB 79 amendment

Mark,

Here's a draft of the amendment to SB 79 that we discussed this morning. Give some thought to the phrase "or the effects of the order" in item 2. If you feel that "consider the order" includes consideration of the effects of the order, then the effects language is not necessary. We felt it was worth including to make the intent clearer.

John

John Stolzenberg
Legislative Council
266-2988

++

Amend 2005 SB 79 as follows:

1. Page 2, line 3: delete the material beginning with the first "the" on line 3 and ending with line 5 and substitute "the requirements in s. 196.371 (3) (b) shall apply to all future rate-making proceedings regarding the public utility.".

2. Page 4, line 11: delete the material beginning with the first "the" on line 11 and ending with line 12 and substitute:

   "the following requirements shall apply to all future rate-making proceedings regarding the public utility:
   1. The order shall be binding on the commission in its treatment of the recovery of the capital costs of the facility subject to the order.
   2. The commission may not consider the order or the effects of the order in its treatment of the recovery of the costs of the public utility other than the capital costs of the facility subject to the order.

3. Page 4, line 13: insert "(bm)" before "If".

(End)

Stuart, Todd

From: Bill Skewes [bskewes@wisconsinutilities.com]
Sent: Thursday, February 24, 2005 9:07 AM
To: Stuart, Todd
Subject: Fixed ROE amendment

Spam: 0.180987017694776

Todd: Below is some suggested verbiage regarding the "comfort language" we spoke about yesterday, if you are interested in including it in the bill. To my knowledge, I am the only one speaking for the bill on behalf of the utlities. I'll have a finance expert with me from Alliant. I'll ask if there are more.

"If a utility has accepted an order issuedunder paragraph (2), the Commisssion shall not consider the impact of the order in determining the rate making principles for the utility
excluding the electric generating facilities covered by the order."

Bill

Kunkel, Mark

From: Bradley Johnson [BJOHNSO@wpsr.com]
Sent: Tuesday, February 22, 2005 7:30 AM
To: James Schott; Ronald Antonneau
Cc: Joseph O'Leary
Subject: Re: Fwd: Cowles & Montgomery/Short Deadline 2-23-05/CosponsorLRB-0336/2 Advance determination of rate-m

Ron and Jim, I was under the impression that under the Iowa approach you could also seek to lock in a capital structure for the generator. Is that covered by (2)(c) under which proposed financing mechanisms are offered? Should this be clear that this is an option?

****
Bradley A. Johnson
WPS Resources Corporation
P.O. Box 19001
Green Bay, WI 54307-9001
Phone: (920) 433-1662
FAX: (920) 433-1693
email: bjohnso@wpsr.com
****

>>> James Schott 2/17/2005 12:48:30 PM >>>
Ron, I don't see anything in here addressing the issue we discussed where they would lower the ROE for the rest of the utility if this methodology is elected. I would propose adding

196.371 (3) (d). If a utility has accepted an order issued under paragraph (2), the Commission shall not consider the impact of the order in determing the rate making principles for the utility excluding the electric generating facilities covered by the order.

I'm not an attorney so someone else can probably write this better. This provision will be hard to enforce although it would be nice to have this as the intention of the legislature. If we can get this in I think our support would be stronger.
Jim

James F. Schott
Vice President-Regulatory Affairs
Wisconsin Public Service Company
700 North Adams Street
P. O. Box 19001
Green Bay, WI 54307-9001
Office 920-433-1350
Cel 920-680-6806
Fax 920-433-5734

>>> "Sen.Cowles" <Sen.Cowles@noreply.legis.state.wi.us> 2/16/2005 3:03:20 PM >>>
To: All Legislators

From: Senator Cowles & Representative Montgomery

Date: February 16, 2005

Re: Cosponsorship of LRB-0336/2 - Relating to advance determination of rate-making principles for electric generation construction projects

We are submitting a bill to provide a new method for financing utility

capital projects.

Our bill has the potential to slow the rate of growth in electric rates by reducing the cost of building new power plants. This is because LRB-0336/2 helps provide greater regulatory certainty for the utility, and therefore lowers the cost of raising capital for new construction projects.

Wisconsin has recently started a major utility building cycle. The most recent Strategic Energy Assessment (SEA) submitted by the Public Service Commission forecasted that demand for energy would grow at approximately 2.5% annually. This is a growth of 375 megawatts per year or the equivalent of one major power plant every two years. On top of demand from population and economic growth, dirty and aging power plants will need to be retired in the coming decades. Even with conservation and efficiency measures in place, Wisconsin ratepayers will inevitably be paying more for new power plant construction - but we can take steps to mitigate these costs.

Under current law, there are two methods of financing power plants. LRB-0336/2 would create the option of a third form of financing, based on an Iowa law, which has successfully financed new construction projects under this approach.

The first method of financing under current law is called lease generation. Lease generation projects allow an unregulated utility to purchase a power plant and lease it back to the regulated utility. Lease generation sets the financial terms for the life of the lease, which gives the utility a steady rate of return and financial stability. Although lease generation provides financial stability, it is usually not the most cost effective financing option.

The second method of financing under current law is traditional rate base ratemaking. Most power plants in the state have been built using traditional ratemaking. It uses the new investment value, which is depreciated over the life of the plant. The advantage of the rate base technique is that it can be a lower cost than lease generation. The disadvantage is that future PSC decisions can reset the financial terms, which creates financial risk and regulatory uncertainty for the utility.

LRB-0336/2 would create a third option called fixed return on equity. Fixed return on equity would allow for lower costs than the lease generation method. LRB-0336/2 would allow a fixed rate of return over the life of the project for rate based financing. The bill helps provide greater financial and regulatory certainty for the utility, and therefore should lower the cost of raising capital for new construction projects. This will both increase Wisconsin's power supply and provide protection for ratepayers.

This alternative form of financing has been formally endorsed by all three Wisconsin Public Service Commissioners and has the support of most Wisconsin utilities and customer groups.

If you are interested in co-sponsoring LRB-0336/2, please contact Todd Stuart via email or phone at 266-0484 no later than February 23, 2005.

<<05-03362.pdf>>

Analysis by the Legislative Reference Bureau

Under current law, a public utility may not change its rates for electric service unless the Public Service Commission (PSC) has approved the change in a rate-making proceeding. This bill allows a public utility that proposes to purchase or construct an electric generating

facility to apply to the PSC for an order that specifies in advance the rate-making principles that the PSC will apply to facility costs in future rate-making proceedings.

The bill allows the PSC to issue such an order if the PSC determines both of the following: 1) that the order will provide a sufficient degree of certainty to the public utility investors, and rate payers with respect to future recovery of the facility's costs; and 2) that the order is otherwise in the public interest. If the PSC issues an order, the public utility has the option of accepting or waiving acceptance of the order. If the public utility accepts the order, the rate-making principles specified in the order are binding on the PSC in all future rate-making proceedings regarding the public utility. In addition, unlike other orders under current law, the PSC may not subsequently rescind or alter the order. If the public utility waives acceptance of the order, the PSC must withdraw the order and consider the costs of the facility in all future rate-making proceedings in the same manner as the PSC considers costs for which no such order has been issued.

The bill requires a public utility that applies for an order to describe the public utility's proposal for recovering the costs of the facility. The proposal must describe all of the following: 1) the facility's economic useful life; 2) the facility's proposed return on equity; 3) the facility's proposed financing mechanisms; 4) the proposed method for determining the costs that may be recovered in rates; 5) any other proposals or information that the public utility determines are necessary for providing certainty regarding cost recovery to the public utility, investors, and rate payers; and 6) any information specified by rule by the PSC.

The bill requires the PSC to hold a hearing on an application for an order. The hearing requirements depend on whether the public utility has proposed to purchase or construct the facility. If the public utility proposes to purchase the facility, the PSC must hold a hearing and determine whether to issue an order within 180 days after determining that the application for the order is complete. If the public utility proposes to construct the facility, current law requires the public utility to apply to the PSC for a certificate approving the construction. Depending on the generating capacity of the facility, current law may also require the PSC to hold a hearing on the application for the construction certificate. The bill allows the PSC to hold a hearing on an application for an order in conjunction with the hearing, if any, that is required under current law for the construction certificate. In addition, the PSC must determine whether to issue the order no later than the date the PSC is required to take final action on the construction certificate.

The bill also does the following: 1) prohibits the PSC from requiring that a public utility apply for an order under the bill or that a public utility accept or waive acceptance of the order; and 2) requires the PSC to promulgate rules for administering the bill's requirements.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

State of Wisconsin
2005 – 2006 LEGISLATURE

LRBa0240/P1
MDK:

D-NOTE

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO 2005 SENATE BILL 79

Today by 3pm

At the locations indicated, amend the bill as follows:

1. Page 2, line 4: delete "the rate–making principles specified in".

2. Page 3, line 8: delete "facility costs" and substitute "the capital costs of the facility".

Change component

3. Page 3, line 9: ~~before the comma~~ after "facility" insert "at the time of the purchase".

4. Page 3, line 11: delete "cost recovery" and substitute "the recovery of such costs".

5. Page 3, line 13: delete "return on equity" and substitute "rate of return".

6. Page 3, line 17: delete "facility" and substitute "the ~~costs~~".

7. Page 3, line 20: delete "by rule".

8. Page 4, line 9: on lines 9, 14 and 16, before "costs" insert "capital".

9. Page 4, line 9: after that line insert:

"(am) 1. Except as provided in subd. 2., no later than 90 days after the commission issues an order to a public utility under this section, the public utility shall notify the commission that the public utility has accepted or waived acceptance of the order.

2. If an action for judicial review of an order issued under this section is commenced within the 90–day period specified in subd. 1., the public utility shall, no later than 90 days after the final decision of the court, notify the commission that the public utility has accepted or waived acceptance of the order.".

10. Page 4, line 11: delete lines 11 to 12 and substitute:

"accepted the order, then, in all future rate–making proceedings regarding the public utility, the order shall be binding on the commission in its treatment of the recovery of the capital costs of the facility that is subject to the order and the commission may not consider the order or the effects of the order in its treatment of the recovery of any other cost of the public utility.".

change component

11. Page 4, line 13: ~~before~~ delete "If" ~~insert~~ and substitute: "(bm) If ". after "section"

change component

12. Page 4, line 21: ~~before the period~~ insert ", including rules specifying the information that must be included in an application for an order under this section".

(END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0240/P1dn
MDK:

Date

Sen. Cowles:

I made this a preliminary draft because I understand that the PSC may have some concerns about item 9 of the amendment. After those concerns (and any other issues) are addressed, I will prepare a version of the amendment that can be introduced.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266–0131
E–mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0240/P1dn
MDK:kjf:pg

February 25, 2005

Sen. Cowles:

I made this a preliminary draft because I understand that the PSC may have some concerns about item 9 of the amendment. After those concerns (and any other issues) are addressed, I will prepare a version of the amendment that can be introduced.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266–0131
E–mail: mark.kunkel@legis.state.wi.us

Kunkel, Mark

From: Stuart, Todd
Sent: Friday, February 25, 2005 1:00 PM
To: Lorence, John PSC; 'Bill Jordahl'; 'Theresa Hottenroth'; Lovell, David; Stolzenberg, John; Kunkel, Mark; Ebert, Dan PSC; Raschka, Adam
Subject: FW: MEUW WPPI WFC DPC Comments on SB 79

Spam: 9.16502034560294E-02

MEUW WPPI WFC
DPC Comments on ..

Just looking this over now to see if it lines up with the changes we awere already looking at.

-----Original Message-----
From: David J. Benforado [mailto:dbenforado@meuw.org]
Sent: Friday, February 25, 2005 12:52 PM
To: Stuart, Todd
Subject: MEUW WPPI WFC DPC Comments on SB 79

Todd:
Attached is a PDF copy of an (yet unsigned) joint letter to Senator Cowles and Rep. Montgomery with comments from MEUW, WPPI, WFC and DPC on Senate Bill 79. A signed original will be dropped off to both your office and Montgomery's in 30 minutes.
Thanks.
Dave

--
David J. Benforado, Executive Director
Municipal Electric Utilities of Wisconsin
725 Lois Drive
Sun Prairie, WI 53590-1177
Tele.: 608-837-2263/FAX: 608-837-0206
Pager: 608-303-7733
E-mail: dbenforado@meuw.org
Visit us at http://www.meuw.org

Municipal Electric Utilities of Wisconsin
725 Lois Drive
Sun Prairie, WI 53590
608-837-2263

Wisconsin Public Power Inc.
1425 Corporate Center Drive
Sun Prairie, WI 53590
608-834-4500

Wisconsin Federation of Cooperatives
131 West Wilson, Suite 400
Madison, WI 53703
608-258-4400

Dairyland Power Cooperative
3200 East Avenue South
La Crosse, WI 54602
608-787-1320

February 25, 2005

The Honorable Robert L. Cowles
Wisconsin Senate
Room 122 South
State Capitol
P.O. Box 7882
Madison 53707-7882

The Honorable Phil Montgomery
Wisconsin Assembly
Room 129 West
State Capitol
P.O. Box 8953
Madison, WI 53708-8953

RE: Joint Comments from MEUW, WPPI, WFC and DPC on 2005 Senate Bill 79 (LRB-0336/2) Relating to Advance Determination of Ratemaking Principles for Electric Generation Construction Projects.

Dear Senator Cowles and Representative Montgomery:

The Municipal Electric Utilities of Wisconsin (MEUW), Wisconsin Public Power Inc. (WPPI), the Wisconsin Federation of Cooperatives (WFC) and Dairyland Power Cooperative (DPC) (collectively "Municipal/Cooperative Commenters") submit these comments on Senate Bill 79 (LRB-0336/2) relating to advance determination by the Public Service Commission of Wisconsin (PSC) of ratemaking principles for electric generation projects. The Municipal/ Cooperative Commenters believe such legislation would be very desirable if directed to providing the regulatory certainty necessary to encourage the development of major baseload facilities using clean coal technology, including coal gasification. Encouraging the development of such generation will help to ensure reliable and cost-effective electric service to Wisconsin industries, businesses and citizens in the future.

Baseload units are the workhorse of Wisconsin's generation fleet. They provide the great bulk of the energy and economic value to customers. Wisconsin has not placed major new baseload units in service for more than 20 years. The existing baseload units will not last forever. We will need new major baseload investment to replace units when they are retired and to meet future load growth. These investments will require billions of dollars of new capital commitments. Future investments also may involve significant capital commitments to environmentally attractive new technologies that do not have a long-term track record when developed on a large commercial scale.

Regulatory certainty will incent investment in new large-scale generation using clean coal technology or coal gasification by minimizing financial risk. This certainty should benefit ratepayers. We are concerned that without regulatory certainty utilities may instead minimize financial risk by investing only in gas-fired generation with lower capital requirements. Limiting future investment primarily to gas technology would be extremely short-sighted and create significant upward rate pressure to Wisconsin's economic detriment.

The Municipal/Cooperative Commenters therefore would support efforts to create a mechanism that provides the PSC with a new means, considerably less complicated than the leased generation statute, to provide regulatory certainty for major new investments in coal-fired baseload generation. We do not believe it would be wise to use this system for generation or other improvements, which are not likely to face problems raising capital under existing regulatory treatments. This would unnecessarily create a complex system that vintaged ratemaking treatment for a wide variety of assets.

With this background, the Municipal/Cooperative Commenters offer the following comments on Senate Bill 79 (LRB 0336/2):

1. Financial certainty is imperative when financing generation that requires extraordinary investment or innovative technology that has not been demonstrated over a long-term on a large commercial scale. These projects typically involve very large capital investment and long lead times from commencement of engineering, to construction application and finally to construction approval. Wisconsin would be well-served to create a mechanism for providing regulatory certainty for such projects.

   Not all generation investment, however, come with risks that require special ratemaking treatment. We believe the goal of legislation should be directed to encouraging the development of major baseload plants using clean coal technologies, including coal gasification projects. We also would support use of rate certainty for major environmental retrofits and improvement projects for which environmental trust bonds are not a practical alternative.

   We do not believe special ratemaking treatment is necessary or should be available for the acquisition of existing facilities. Nor should it be available for gas-fired projects, which require much lower capital investment and involve less financial risk.

2. The bill provides that the rate-making principles specified in the order be binding on the Commission in all future rate-making proceedings. We believe the intent is to have the rate-making principles also binding on the public utility, and that should be explicitly stated. The special ratemaking treatment should be limited to the fixed costs of the generating project, including return, depreciation and taxes. Taxes may need to be dealt with on a formula basis since the tax rate may change over time. We would not include operation and maintenance expenses or fuel expenses among the components that would be fixed. These variable expenses have long been, and can easily be, handled by the PSC in rate cases. Because such costs are highly variable, it is not practical for them to be fixed in advance.

3. We believe that the bill needs a clear eligibility requirement. The special ratemaking

treatment should be available only if a project is (a) owned by a regulated public utility in Wisconsin, (b) included in the utility's ratebase and © dedicated to providing service to Wisconsin retail and wholesale customers. We should not incentivize utilities to construct through corporate vehicles that could evade PSC regulation in the future or serve as a means to avoid the normal requirement that new generation is dedicated to serve Wisconsin retail and wholesale customers.

4. We think the standard upon which the PSC can approve the special ratemaking treatment should be described in more detail. The PSC should be authorized to fix the key ratemaking provisions only after a finding that such treatment will (a) reduce risk for the utility and its customers, (b) enable financing on favorable terms, and © result in ratepayer benefits compared to standard ratemaking treatment and (d) otherwise be in the public interest.

5. The draft bill currently provides that an order fixing the ratemaking terms must be issued no later than the date on which final certificate is issued. However, the final certificate may be conditional or require that the utility obtain other permits before the certificate is fully valid. This requirement thus may unnecessarily tie the PSC's hands.

6. Finally, we do not understand why an emergency rule would be required and suggest that it is unnecessary if the bill is enacted.

Since it is our understanding that a substitute amendment to the bill is being drafted, we may also submit comments to you once we have reviewed that substitute amendment. We look forward to working with you and your respective Committees on this bill.

Very truly yours,

David J. Benforado
Executive Director
Municipal Electric Utilities of Wisconsin

Michael G. Stuart
Sr. Vice President —
Legal & Regulatory Affairs
Wisconsin Public Power Inc.

David Jenkins
Electric Division Manager
Wisconsin Federation of Cooperatives

Brian Rude
Director, External Relations
Dairyland Power Cooperative

Kunkel, Mark

From: Stuart, Todd
Sent: Monday, February 28, 2005 8:53 AM
To: Stuart, Todd; 'Theresa Hottenroth'; Lorence, John PSC
Cc: 'Bill Jordahl'; 'Enrique Bacalao'; Raschka, Adam; Lovell, David; Stolzenberg, John; Kunkel, Mark; Ebert, Dan PSC
Subject: RE: changes to 0240/P1 of SB 79

Mark, one last thing for clarification. These changes will be in addition to (and slightly modify in relation to item #9) the drafting instructions issued by John Stolzenberg earlier on Friday. I will list below:

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

From: Stolzenberg, John

Sent: Friday, February 25, 2005 3:24 PM

To: Kunkel, Mark

Subject: Changes in LRBa0240/P1

Mark,

Here are instructions that I just received from Todd Stuart for changes in LRBa0240/P1, an amendment to SB 79:

1. Page 1, line 2: delete that line and insert "1. Page 2, line 1: delete lines 1 to 5.". ✓

[Note: After further discussion, it was determined that SECTION 1 is not needed. Furthermore, when the environmental trust financing law, 2003 WI Act 152, was enacted last session, it contained comparable restrictions on PSC rate making in s. 196.027 (3) which were not referenced in general duties and powers of the PSC in statutes like s. 196.37.]

2. Page 1, line 8: delete that line and insert "5. Page 3, line 13: insert "and rate of return" after "equity". ✓

[Note: Though "rate of return" incorporates the "return on equity," Alliant Energy requested that "return on equity" be explicitly included in the bill, and Todd accepted the request.]

3. Page 2, line 1: delete lines 1 to 9. → superceded by instructions below

[Note: PSC staff requested this deletion to provide flexibility to the PSC. The PSC can issue conditional orders under s. 196.395, which could include a condition on an order under proposed s. 196.371 which requires the public utility to accept the order by a specified date. Todd accepted this request.]

Let me know if you have any questions on these changes.

John

-----Original Message-----
From: Stuart, Todd
Sent: Monday, February 28, 2005 8:20 AM
To: 'Theresa Hottenroth'; Lorence, John PSC

Cc: Bill Jordahl; Enrique Bacalao; Raschka, Adam; Lovell, David; Stolzenberg, John; Kunkel, Mark; Ebert, Dan PSC
Subject: RE: changes to 0240/P1 of SB 79

OK, I think we should be ready to go. I think the "in writing" suggestion is fine and we should do the rest of the suggestions from late last Friday.

Mark could you get this incorporated into a new amendment this morning? Thanks so much to everyone for their patience on Friday.

-TS

-----Original Message-----
From: Theresa Hottenroth [mailto:theresahottenroth@alliantenergy.com]
Sent: Sunday, February 27, 2005 7:50 PM
To: Stuart, Todd; Lorence, John PSC
Cc: Bill Jordahl; Enrique Bacalao; Raschka, Adam; Lovell, David; Stolzenberg, John; Kunkel, Mark; Ebert, Dan PSC
Subject: RE: changes to 0240/P1 of SB 79

I agree with John's suggested addition and with the rest of the language. Thanks.

Terry Hottenroth

Theresa M. Hottenroth
Regulatory Attorney
Alliant Energy Corporation
Phone: (608) 458-3265
Fax: (608) 458-4820
****
NOTICE: This e-mail, and any attachments thereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, distribution or copying of this e-mail, and any attachments thereto, is strictly prohibited. If you have received this e-mail in error, please notify me by replying to this message and permanently delete the original and any copy of this e-mail and any printout thereof.
****

theresahottenroth@alliantenergy.com

>>> "Lorence, John PSC" <John.Lorence@psc.state.wi.us> 2/27/2005 11:53:38 AM >>>
Todd:

I would only suggest one small addition; the utility receiving the order should notify the Commission in writing of its decision to accept or waive the order.

The rest of the proposal in this e-mail looks OK to me.

John

From: Stuart, Todd [mailto:Todd.Stuart@legis.state.wi.us]
Sent: Friday, February 25, 2005 5:17 PM
To: Stuart, Todd; Lorence, John PSC; Bill Jordahl; Theresa Hottenroth; Lovell, David; Stolzenberg, John; Kunkel, Mark; Ebert, Dan PSC; Raschka, Adam; EnriqueBacalao@alliantenergy.com
Subject: changes to 0240/P1 of SB 79

Hi folks:

OK, here are some changes I think we all agreed to on late Friday. Let's look at these Monday morning with fresh eyes to see if it still looks like a go.

1. To the issue of a deadline (item 9 on page two). Here is some suggested language:
196.371(3) PROCEDURE.
(d) The commission shall specify in the order a date certain, at least sixty days from the date on which the order is issued, by which the utility must accept the order. If the utility does not notify the commission that it accepts or waives acceptance of the order by the date specified in the order, the utility shall be deemed to waive the order.

2. on page 4 of the orginal bill, line 17 it should read: "to apply for or accept an order under this section." (delete rest of line 18 and 19.

3. Section 4 on the original bill. Delete emergency rules provision.

I think this is what we all agreed to. Let me know if I missed something.

Talk to you on Monday morning.

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SENATE AMENDMENT ,

TO 2005 SENATE BILL 79

INSERT 1-2

At the locations indicated, amend the bill as follows:

1. Page 2, line 4: delete "the rate–making principles specified in".

2. Page 3, line 8: delete "facility costs" and substitute "the capital costs of the facility".

3. Page 3, line 9: after "facility" insert "at the time of the purchase".

4. Page 3, line 11: delete "cost recovery" and substitute "the recovery of such costs".

5. Page 3, line 13: delete "return on equity" and substitute "rate of return".

6. Page 3, line 17: delete "facility" and substitute "the".

7. Page 3, line 20: delete "by rule".

8. Page 4, line 9: on lines 9, 14 and 16, before "costs" insert "capital".

INSERT 2-2

9. Page 4, line 9: after that line insert:

"(am) 1. Except as provided in subd. 2., no later than 90 days after the commission issues an order to a public utility under this section, the public utility shall notify the commission that the public utility has accepted or waived acceptance of the order.

2. If an action for judicial review of an order issued under this section is commenced within the 90–day period specified in subd. 1., the public utility shall, no later than 90 days after the final decision of the court, notify the commission that the public utility has accepted or waived acceptance of the order.".

10. Page 4, line ~~11~~ 10: delete lines ~~11~~ 10 to 12 and substitute "~~accepted~~ (b) If the public utility accepts the order, then, in all future rate–making proceedings regarding the public utility, the order shall be binding on the commission in its treatment of the recovery of the capital costs of the facility that is subject to the order and the commission may not consider the order or the effects of the order in its treatment of the recovery of any other cost of the public utility.".

~~**11.** Page 4, line 13: delete "If" and substitute:~~

~~"(bm) If".~~

12. Page 4, line 21: after "section" insert ", including rules specifying the information that must be included in an application for an order under this section".

(END)

INSERT 2-15

INSERT 2-19

INSERT 1–2:

1. Page 1, line 3: delete "providing an exemption from emergency rule procedures,".

2. Page 2, line 1: delete lines 1 to 5.

INSERT 1–8:

3. Page 3, line 13: after "equity" insert "and rate of return".

INSERT 2–2:

The commission shall specify in an order under this section a deadline at least 60 days after the date of issuance of the order for the public utility to notify the commission in writing about whether the public utility accepts or waives acceptance of the order. If public utility does not make the notification by the deadline specified in the order, the public utility is considered to have waived acceptance of the order.".

INSERT 2–15:

4. Page 4, line 10: delete lines 10 to 13 and substitute:

"(b) If the public utility accepts the order, then, in all future rate–making proceedings regarding the public utility, the order shall be binding on the commission in its treatment of the recovery of the capital costs of the facility that is subject to the order and the commission may not consider the order or the effects of the order in its treatment of the recovery of any other cost of the public utility.

(bm) If the public utility waives or is considered to have waived acceptance".

5. Page 4, line 17: delete lines 17 to 19 and substitute:

"(c) The commission may not require a public utility to apply for or accept an order under this section.".

INSERT 2–19:

6. Page 5, line 1: delete lines 1 to 11.

#. Page 5, line 19: delete "Section 4 (1) and (2)" and substitute "SECTION 4 (2)".

(CS)

(end ins 2-19)

a0240
(-0336)

STATE OF WISCONSIN – **LEGISLATIVE REFERENCE BUREAU** – LEGAL SECTION
(608–266–3561)

MDK

CCC to SA1 to SB-79

Page 2, line 6: before "public" insert "the".

END

WLJ/3/1

State of Wisconsin
2005–2006 LEGISLATURE

CORRECTIONS IN:

SENATE AMENDMENT 1,

TO 2005 SENATE BILL 79

Prepared by the Legislative Reference Bureau
(March 1, 2005)

1. Page 2, line 6: before "public" insert "the".

(END)

LRBa0240/1ccc–1
WLJ:ch

Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31; Assembly Rule 36; and Joint Rule 56.

CCC

SENATE AMENDMENT 1,
to 2005 Senate Bill 79 -0376

(April 6, 2005)

In enrolling, the following correction was made:

~~#~~ ~~#~~. Page 1, line 2: delete "providing" and substitute ", providing".

(End)

LRB a0240/1 ccc-2
KJF

SENATE AMENDMENT 1,

TO 2005 SENATE BILL 79

February 28, 2005 – Offered by Senator COWLES.

At the locations indicated, amend the bill as follows:

1. Page 1, line 3: delete "providing an exemption from emergency rule procedures,".

2. Page 2, line 1: delete lines 1 to 5.

3. Page 3, line 8: delete "facility costs" and substitute "the capital costs of the facility".

4. Page 3, line 9: after "facility" insert "at the time of the purchase".

5. Page 3, line 11: delete "cost recovery" and substitute "the recovery of such costs".

6. Page 3, line 13: after "equity" insert "and rate of return".

7. Page 3, line 17: delete "facility" and substitute "the".

8. Page 3, line 20: delete "by rule".

State of Wisconsin
2005–2006 LEGISLATURE

CORRECTIONS IN:

SENATE AMENDMENT 1,

TO 2005 SENATE BILL 79

Prepared by the Legislative Reference Bureau
(April 7, 2005)

In enrolling, the following correction was made:

1. Page 1, line 2: delete "providing" and substitute ", providing".

(END)

LRBa0240/1ccc–2
KJF:ch

Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31; Assembly Rule 36; and Joint Rule 56.