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# DEVIN LEMAHIEU

## STATE SENATOR

**Senate Committee on Utilities and Housing  
Testimony on Senate Bill 689  
January 23, 2020**

Vice-Chair Feyen and Members:

Thank you for hearing testimony on Senate Bill 689. For each of the past few sessions, the Assembly and Senate utility chairs have collaborated on a PSC reform omnibus bill. These bills have worked to clean up inconsistencies in statute, remove redundant or antiquated regulations, and improve and streamline the overall regulation of Wisconsin's utilities. Senate Bill 689 is this session's PSC omnibus bill.

Among other regulatory clean-ups, the legislation:

- Creates a dedicated funding source for the Citizen's Utility Board, an organization that advocates for residential and small business utility customers in rate cases
- Allows the PSC to approve fuel cost plans contained in settlement agreements without a hearing
- Increases the threshold requiring a certificate of need to be issued by the PSC for a natural gas project from \$2.5 million to \$5 million
- Clarifies how a utility's post-employment benefit costs may be calculated
- Eliminates unnecessary and unused PSC oversight on telecommunications providers

Senate Bill 689 is the final product of months of discussion and negotiation. The proposal is meant to be a consensus document that will garner bipartisan support.

Thank you for your time and consideration.

# Mike Kuglitsch

STATE REPRESENTATIVE • 84<sup>TH</sup> ASSEMBLY DISTRICT

Thank you Vice-Chair Feyen and Members of the Committee for your consideration of 2019 Senate Bill 689, the PSC/Utility Omnibus Bill.

I am here to request your support for Senate Bill 689 and ensure Wisconsin continues leading in utility regulation by eliminating old and unnecessary statutes, codes and rules. The agreed-upon bill is a product of extensive discussions between the Chairs, the Investor Owned Utilities and the Public Service Commission and is being jointly proposed at their request.

As has been the tradition in the past, the chairs of the Energy & Utilities Committees in the Legislature are together authoring a PSC/Utility Omnibus bill, which is intended to streamline agency operations and interactions between the regulators and the regulated community.

The PSC solicited input from both staff and stakeholders on how to update and reform the regulatory process to cut costs and increase efficiency in the Commission's review of utility applications and other operations. The bill increases certainty and fairness to Wisconsin ratepayers and utilities.

The Citizen's Utility Board, or CUB, currently exists as a non-profit corporation and intervenes in contested cases, hires expert witnesses, and provides testimony to the Commission. CUB's statutory responsibility is to provide representation for the interests of residential and small business utility customers when changes affecting utility rates are proposed.

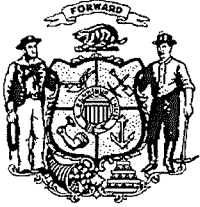
Adoption of SB 689 will create a stable and sustainable funding source for the Citizen's Utility Board, allowing CUB to hire more in-house expertise to intervene in rate cases before the PSC. It is important to have a solvent Citizen's Utility Board in Wisconsin to advocate for lower utility rates for residential and small businesses.

The following is a list of what the bill includes:

1. **Requiring the PSC to use escrow accounting for utility pension costs if requested by the utility.** This allows utilities with legacy Defined Benefit plans the flexibility to manage their pension costs, which are funded in rates, commensurate with advantageous market conditions and not be as vulnerable to extreme peaks and valleys due to market fluctuation;

2. **Eliminating the EIS in the SEA.** Since the Strategic Energy Assessment is a snapshot of the energy picture and is not an energy planning document, requiring an Environmental Impact Statement is unnecessary and would be duplicative of any specifically proposed project's EIS. Eliminating it would reduce staff time and allow them to work on more time-sensitive issues;
3. **Extending the due date by one month for the utility Annual Reports to PSCW.** This would coincide with the issuance of utilities' annual reports to shareholders and eliminate the need to request filing extensions from the PSC;
4. **Eliminating the requirement for review of fuel cost plans if the parties have settled.** Once parties in a contested case have settled, there is no need to hold a repetitive proceeding on the fuel cost element of that case to approve what has already been agreed upon. This would save staff time both for the PSC and at the utilities;
5. **Increasing the threshold for Certificate of Necessity for gas projects from \$2.5 million to \$5 million.** This level has not been adjusted since 2011 and most of these cases already exceed \$2.5 million. The effect would be to reduce the number of routine, non-controversial cases that the PSC would have to process, further freeing staff time;
6. **Extending the deadline for agency review of CAs by 15 days which currently applies to CPCNs if the applicant agrees.** This would give both the applicant and the agency additional time to review an application if they both agree. This already exists for CPCN applications. (CPCNs are for large power plants, transmission lines and CAs are for smaller projects, interconnection, etc.)
7. **Gen-Tie.** Allows an applicant who proposes to construct a large electric generating facility and an associated high-voltage transmission line to submit a single application that covers the two PSC-issued certificates that are required, instead of submitting one application for the certificate for the facility and a separate application for the certificate for the line as required under current law. If a person submits a single application, the PSC must conduct a single proceeding for issuing the two certificates.
8. **Removes language relating to debt collection practices for the PSC**  
Currently, the PSC is required to confirm debts from utilities to the Department of Administration for collection. DOA does not have a collection process in place, nor the resources to implement a collection process. The PSC currently handles past due collections.
9. **Eliminates outdated 196.209 of the State Statutes - Privacy considerations.**  
WISCONSIN STATUTE 196.209 requires the PSC to establish guidelines applicable to telecommunications services. The PSC has not completed rulemaking pursuant to this section because state and federal laws and rules supersede it and rulemaking is no longer relevant. In addition, the PSC no longer regulates telecommunications companies.
10. **CUB Funding** –The Citizens Utility Board receives up to \$900K annually through assessments on Investor Owned Utilities. CUB may also apply for up to \$100,000 in Intervenor Compensation through the PSC per year. Funds could not be used to intervene in municipal cases or be used for lobbying. Finally, PSC would have oversight of the CUB budget.

Thank you Mr. Chair and Committee Members for your time and I ask for your support of this legislation, which stabilizes the Citizen's Utility Board and streamlines the regulatory process. I am happy to take any questions.



# Public Service Commission of Wisconsin

Rebecca Cameron Valcq, Chairperson

4822 Madison Yards Way  
P.O. Box 7854  
Madison, WI 53707-7854

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## Testimony of Public Service Commission Chairperson Rebecca Cameron Valcq before the Senate Committee on Utilities and Housing on Senate Bill 689

January 23, 2020

Chairman LeMahieu and committee members, I would like to start by thanking you for holding this hearing and allowing me to testify in support of Senate Bill 689. I'm Becky Valcq, Chairperson of the Public Service Commission of Wisconsin (PSC). As you know, we are an independent state agency that regulates more than 1,100 of Wisconsin's public utilities. SB-689 is the result of a collaborative effort between the PSC, the Citizen's Utility Board, and Wisconsin's investor-owned electric and natural gas utilities. I would like to personally thank you, Senator LeMahieu, and Representative Kuglitsch for introducing it on behalf of the PSC.

SB-689 primarily contains a number of technical tweaks to state statute provisions where we could find efficiencies for both the PSC and utilities. I am going to briefly touch on those in a bit, but first I would like to talk about another piece of the bill that I am excited that we were able to find agreement on from our group of stakeholders. This provision provides a reasonable, stable, and predictable funding mechanism for the Citizen's Utility Board.

Let's take a step back and let me describe our process at the PSC and where CUB fits in. When a utility comes to us to adjust rates, or build a power plant, my fellow commissioners and I take an impartial, judicial review of the request. And for that reason, we are somewhat limited in what we are able to consider when making that decision. Like judges, we are limited by state statute and what the state legislature has told us to look at. And also, like a judge or jury, we are limited to the evidence that is presented before us in the official written record.

That official record is compiled by our staff, usually over many months, and contains legal briefs by attorneys for all sides, evidence and testimony from experts, public comments, and information from our staff. When the record is complete, the three Commissioners meet and make a decision. "Is the utility's request to raise rates justified and reasonable? Is that power plant necessary to ensure customers are receiving electricity safely and reliably at a reasonable price? What will the impact of this project be on customers and is it in the public interest?" That's where CUB comes in.

As Wisconsin's only consumer advocate, CUB intervenes in cases before the PSC on behalf of residential and small business utility customers. CUB plays the critical role of leveling the playing field when utility companies come to us to change rates or construct large projects. CUB provides the counterargument, the evidence, and the balance that makes our

record more robust. That is good because then we have the information to make good decisions that benefit the public.

Without CUB's input as an intervenor in PSC cases, we would lack that counterbalance and leave residential and small business consumers without an equal advocate. This bill will ensure that CUB's funding will be more stable and sustainable, and keep CUB solvent and focused on its mission of advocating for the little guy who doesn't have an army of attorneys at his disposal.

As for the other parts of the bill, I will talk about some that we brought to the table and briefly touch on some of the utilities' items.

Collection of past due assessments. Currently, when a utility fails to pay its assessment to the PSC, statute requires us to go through a collection process at the Department of Administration, which has never been used. We would like to continue to collect through our own process at the PSC as we work regularly with the utilities and know our subject matter best.

Privacy guidelines for telecommunications services. This eliminates the PSC rulemaking requirement to establish privacy guidelines applicable to telecommunications services. State and Federal wiretap statutes already provide privacy guidelines and requirements for telecommunications companies. They already supersede any rule that the Commission could promulgate.

The remainder of the bill are suggestions from the utilities that we can support.

Changing due dates for utility annual reports. Adjusts the due date by one month to coincide with federal reporting requirements. That will eliminate the utilities' need to ask us for due date extensions every year. Utilities are already filing their annual reports on the due date in the bill.

Escrow accounting for pension recovery. This is the most appropriate method for accounting for pension costs and serves in the interests of all involved.

No longer requiring an environmental assessment on the PSC's strategic energy report. This is a report that the PSC produces every two years that describes the availability, reliability, and sustainability of Wisconsin's electric energy capacity and supply. It is not a prescriptive document that describes a particular project or activity. So the environmental analysis provides no value to the report. Projects before the PSC would still receive a thorough environmental analysis.

Construction approval with one application. This allows for a power plant and the line tying it to the grid to be considered under one application and one proceeding at the PSC. Currently,

each are considered separately. The Commission still must evaluate the tie-line and the plant as they would if the proceedings were separate.

Natural gas project threshold. Currently, any gas project with a cost estimate exceeding \$2.5 million must be approved by the PSC. This dollar amount was set in 2011. Increasing this number to \$5.0 million to account for inflation and higher construction costs makes sense.

Fuel cost plans. If a utility's fuel cost plan is part of a settlement agreement, the PSC can approve the plan for the first year of a 2-year settlement without holding a redundant hearing.

DNR permit extension. This gives both the DNR and the applicant requesting a transmission line additional time to review an application if they both agree to the extension. This is already in place for larger utility projects, and would extend it to smaller projects.

Many of the utilities' suggestions also save the PSC time and money without interfering with our mission, which is why we are in support of them.

Again, I'd like to thank Senator LeMahieu and Representative Kuglitsch for their leadership and I respectfully ask for your support of SB-689.

Thank you.

PSC Omnibus Bill

Testimony for the Senate Utilities & Housing Committee

January 23, 2020

Tom Content, Executive Director, Citizens Utility Board

Good morning, Chairman LeMahieu and members of the committee. I'm Tom Content, executive director at the Citizens Utility Board. I'm here today in favor of SB 689 -- specifically the provision creating a stable and sustainable funding model for a consumer advocate representing millions of your constituents -- and a half million small businesses -- across Wisconsin. I'm joined today by Corey Singletary, CUB's utility analyst.

CUB is the only voice representing every homeowner, renter and Main Street business in proceedings before the PSC. CUB is independent, nonpartisan, nonprofit -- working to ensure reliable, safe and affordable utility service for Wisconsin ratepayers.

Every year, the PSC makes decisions with multi-billion-dollar implications for ratepayers and balances the interests of utilities and their shareholders, against the interests of customers footing the bill.

For 40 years CUB has sought to level an uneven playing field so that small customers have a voice: the Grandmother on a Fixed Income, the Farmer struggling to make ends

meet as dairy prices fall, and the Main Street shop owner trying to keep the doors open another year. None of these can advocate effectively for themselves at the PSC.

We focus on the bottom line, and we've delivered. We've helped save customers \$170 for every dollar received: \$3.5 billion in customer savings since 2006, including \$159 million in 2019 alone. All for less than a penny per month from a typical utility customer.

SB 689 would provide funding stability for CUB, at a cost of just another penny per month on small customers' electric bills.

Two years ago, the Legislature enacted a law encouraging utilities to negotiate settlements of PSC cases – working across the table with customer groups – rather than litigating tooth and nail for months on end.

The settlements law has achieved savings for customers. However, an unintended consequence is addressed in this bill before you. CUB's relied for years on national experts to testify in PSC cases. But settlement cases have new rules and timelines too short for CUB to get PSC approval to hire those national experts.

SB 689 empowers the PSC to approve ratepayer funding for CUB, about 19 cents a year and less than two cents a month on a typical utility bill. It will enable CUB to employ technical experts who can meet these new timelines – and advocate for customers more completely and effectively.



When a utility files a major case, they spare no expense. A typical case may be hundreds of pages long and include testimony from up to a dozen experts advocating for the utility at a cost to ratepayers of more than \$4 million each year.

CUB is David against the utilities' Goliath. Even under SB 689 CUB will still be outspent at least 4-to-1 by utilities. But CUB is confident that with added technical knowhow on staff, we will deliver more savings for customers.

A close look at utility finances from our team of experts will save ratepayers at least \$12 million a year, a healthy return on the additional \$400,000 CUB would be eligible to receive under this bill.

Just a penny extra a month is a wise investment to help make Wisconsin's energy rates affordable. And we have more work to do. Wisconsin's electric rates are above the national average. Second highest in the Midwest in fact.

Even if this funding increase is approved, Wisconsin ratepayers will spend less for small customer advocacy than states that border us. Those states will spend nearly three times as much as the maximum allowed under SB 689.

A word about small business. I'm appreciative that groups representing small manufacturers and small business – the National Federation of Independent Business and Wisconsin Manufacturers and Commerce – are supporting SB 689.

Finally, we heard concerns raised during the Assembly hearing about CUB and transparency. Our books are open for review. We are efficient stewards of funding from ratepayers. CUB is prepared to take the following voluntary steps to enhance public awareness of and participation in our work:

- Our annual reports, IRS 990 Forms and Annual Audits are posted on our website and going forward we will provide all three reports each year to the clerks of this committee and your counterpart in the Assembly.
- We will provide public notice to members and all ratepayers of CUB board meetings, and will allow public participation at those meetings, whether in person or via electronic means.

Ratepayers that provide the funding deserve to have a voice at the CUB table. That participation will enhance our ability to be an effective voice for them at the PSC. I will put these commitments in writing in a letter to Chairs LeMahieu and Kuglitsch in the coming days.

Thank you, and now we would be happy to respond to your questions.



**Wisconsin**

**Statement Before the  
Senate Committee on Utilities and Housing**

**By**

**Bill G. Smith  
State Director  
National Federation of Independent Business  
Wisconsin**

**Thursday, January 23, 2020**

**Senate Bill 689**

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Mr. Chairman and members of the committee, my name is Bill G. Smith, Wisconsin State Director for the National Federation of Independent Business, The Voice of Small Business for over 75 years.

Senate Bill 689 would require investor owned utilities to provide funding for a consumer advocate who would represent and protect the interests of residential, small commercial, and small industrial energy utility ratepayers in proceedings before the Public Service Commission.

Since 1979, the Citizens Utility Board has been an aggressive, effective advocate on behalf of the Wisconsin Public Service Commission, saving consumers millions of dollars in energy costs.

During the debate in the early 80's over legislation to allow utility diversification, NFIB was closely allied with CUB to ensure the diversification legislation was fair to small business, would preserve and protect affordable energy costs, and promote reliable energy supplies.

Senate Bill 689 would establish a stable funding mechanism, and an important operational structure for consumer advocacy at the PSC.

**Statement Before the Senate Committee on Utilities and Housing**  
**Thursday, January 23, 2020**  
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While a consumer advocate will have the expertise and presence at the Public Service Commission, NFIB will partner with the advocate whenever it is helpful toward producing the desired outcome on behalf of our state's small business ratepayers.

Our small businesses employ nearly half of the state's workforce, they have a vital role creating jobs, and strengthening the economies of communities throughout the state. These entrepreneurs and dedicated small business owners depend on energy supplies at affordable prices to operate and effectively run their businesses. According to NFIB's Energy Consumption Poll, energy costs are one of the top three business expenses for 35 percent of small businesses participating in the study.

The consumer advocate position, as proposed and described in this legislation, is important to small business, and **I respectfully urge members of the committee to support passage of Senate Bill 689.**

On behalf of our state's small and independent business community, thank you for your consideration.