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1999 BILL

AN ACT ***to repeal*** 196.485 (3) (bm) and 196.795 (5) (pm) 1. (intro.); ***to renumber*** 196.025, 196.485 (1) (dm) 1., 196.795 (5) (p) l., 2., 3. and 4., 196.795 (5) (pm) 1. a., 196.795 (5) (pm) 1. b. and 196.795 (5) (pm) 1. ***c.; to renumber and amend*** 196.485 (1) (dm) 3., 196.795 (5) (pm) 2. and 196.795 (5) (pm) 3.; ***to amend 76.28*** (1) (d), 76.28 (1) (e) (intro.), 76.28 (2) (c)(intro.), 76.28 (2) (d), 196.31 (1) (intro.), 196.31 (1) (a), 196.485 (1) (dm) (intro.), 196.485 (2) (a) (intro.), 196.485 (4) (a) (intro.), 196.491 (3m) (b) 2., 196.494 (3), 196.52 (3) (a), 196.795 (1) (g) l., 196.795 (1) (g) 2., 196.795 (5) (i) l., 196.795 (11) (b) and 200.01 ***(2); to repeal and recreate*** 196.374 and 196.485 (title); and ***to create*** 15.107 (17), 16.957, 16.969, 20.505 (1) (ge), 20.505 (1) (gs), 20.505 (10), 25.17 (1) (xm), 25.96, 76.28 (1) (e) 5., 76.28 (1) (j), 76.28 (2) (e), 196.025 (2), 196.025 (3), 196.025 (4), 196.025 (5), 196.192, 196.378, 196.485 (1) (am), 196.485 (1) (be), 196.485 (1) (bs), 196.485 (1) (dm) 2., 196.485 (1) (do), 196.485 (1) (dq), 196.485 (1) (dr), 196.485 (1) (ds), 196.485 (1) (dt), 196.485 (1) (dv), 196.485 (1) (em), 196.485 (1) (fe), 196.485 (1)

(ge), 196.485 (1) (gm), 196.485 (1) (j), 196.485 (1m), 196.485 (2) (ar), 196.485 (2) (bx), 196.485 (2) (d), 196.485 (3m), 196.485 (4) (am), 196.485 (5), 196.485 (6), 196.485 (6m), 196.485 (7), 196.485 (8), 196.487, 196.491 (3) (d) 3r., 196.491 (3) (d) 3t., 196.491 (3) (gm), 196.491 (3g), 196.494 (5), 196.795 (1) (h) 3., 196.795 (1) (p), 196.795 (6m) (title), 196.795 (6m) (a) (intro.), 196.795 (6m) (a) l., 196.795 (6m) (a) 2., 196.795 (6m) (a) 4., 196.795 (6m) (b) (title), 196.795 (6m) (e), 196.795 (11) (c), 196.807 and 285.48 of the statutes; **relating to:** control and ownership of transmission facilities by a transmission company and a Midwest independent system operator, ownership of nonutility assets by a public utility holding company, investments in transmission facilities, offers of employment to certain public utility and nonutility affiliates employes, fees and approvals for certain high-voltage transmission lines, construction of certain electric transmission facilities, environmental reviews by the public service commission, reports on reliability status of electric utilities, state participation in a regional transmission need and siting compact, incentives for development of certain generating facilities, study of market power and retail electric competition, market-based compensation, rates and contracts for electric customers, regulation of certain nitrogen oxide emissions, establishing programs for low-income energy assistance, improving energy conservation and efficiency markets and encouraging the development and use of renewable resources, creating a council on utility public benefits, establishing a utility public benefits fund, requiring electric utilities and retail electric cooperatives to charge public benefits fees to customers and members, imposing requirements on the use of renewable resources by electric utilities and

cooperatives, requiring the exercise of rule-making authority, making appropriations and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill does each of the following: 1) establishes programs administered by the department of administration (DOA) for providing energy assistance to low-income households (low-income programs), for conservation and efficiency services (conservation programs) and for encouraging the development and use of renewable energy resources (renewables programs); 2) imposes certain requirements on the generation of electricity from renewable energy resources; 3) creates an exemption from the cap on investments of public utility holding companies in nonutility affiliate assets (asset cap); 4) changes requirements regarding the ownership and operation of the transmission system of the state; 5) imposes employment requirements with respect to the acquisition of certain energy business units; 6) changes the requirements for the approval of certain high-voltage transmission lines; and 7) imposes various other requirements, including changes to the duties of the public service commission (PSC), prohibitions on the authority of the department of natural resources (DNR) regarding nitrogen oxide emissions and requirements for an interstate compact on regional transmission need and siting.

Low-income, conservation and renewables programs

After consulting with a council on utility public benefits that is created under the bill, DOA is required to establish the low-income, conservation and renewables programs. DOA must hold a hearing before establishing the programs.

The bill requires the division of housing in DOA to contract with certain nonprofit or governmental entities for the administration of the low-income programs. DOA must also contract with a nonprofit corporation for the administration of the conservation and renewables programs.

The programs established by DOA are funded by a public benefits fee that DOA collects from nonmunicipal electric public utilities, which must charge the public benefits fees to their customers. Municipal electric public utilities and retail electric cooperatives (municipal utilities and cooperatives) are also required to charge a public benefits fee to their customers or members. Every three years, a municipal utility or cooperative may elect to contribute all or a specified portion of the public benefits fees to DOA for the programs established by DOA. A municipal utility or cooperative that does not elect to contribute all of the public benefits fees to DOA must spend specified portions of the fees on its own "commitment to community programs", which are defined as low-income assistance and conservation programs.

Each municipal utility and cooperative must charge a public benefits fee that is sufficient for the utility or cooperative to collect an annual average of $17 per meter. However, for the period ending on June 30, 2008, the amount of any increase to an electric bill that is based on the public benefits fee charged by a municipal

utility or cooperative may not exceed 3% of the total of every other charge billed during that period, or $750 per month, whichever is less.

For nonmunicipal utilities, the bill directs DOA to determine the amount of the public benefits fee, which consists of a portion suffkient to fund the low-income programs and a portion sufficient to fund the conservation and renewables programs. The bill allows DOA to reduce the amount that must be collected for the conservation and renewables programs after fiscal year 2003-04 if DOA determines to reduce or discontinue such programs. The public benefits fee paid by a customer of a nonmunicipal utility is subject to the same limit that applies to a municipal utility or cooperative for the period ending on June 30, 2008.

The bill also requires the PSC to determine the amount that an electric utility spent on low-income, energy conservation and renewables programs in 1998. Under the bill, an electric utility must spend a decreasing portion of such amount and contribute an increasing portion of such amount to the PSC for deposit in a utility public benefits fund, which is used to fund the programs established by DOA under the bill. This requirement replaces a requirement under current law that an electric utility annually spend a specified percentage of its annual operating revenues on energy conservation programs.

Renewable energy resources

Under this bill, specified percentages of the electricity generated by a public utility or retail cooperative must be generated from renewable energy resources. The percentage is calculated on the basis of a public utility's or retail cooperative's total retail energy sales. The bill allows public utilities and retail cooperatives to purchase credits from other public utilities and retail cooperatives that generate electricity from renewable energy resources in excess of the percentages required under the bill.

The bill also includes other requirements, including requirements for calculating the percentages and reporting compliance with the percentages to DOA.

Asset cap

With certain exceptions, current law prohibits the investments of a public utility holding company system (system) in nonutility affiliate assets from exceeding a specified asset cap.

This bill creates a new exception from this prohibition if the public utility affiliates in a system satisfy certain requirements, including the following: 1) petitioning the PSC and the federal energy regulatory commission for approval to transfer operational control of their electric transmission facilities that are located in the midwest region of the United States to a specific independent system operator; and 2) filing a commitment with the PSC to transfer ownership of transmission facilities and related land rights in this state to a transmission company that satisfies specified requirements. If the public utility affiliates satisfy the requirements for the exception, then certain nonutility affiliate assets are not included in calculating whether the system exceeds the asset cap. The assets that are not included in the calculation include the assets of a nonutility affiliate that are used for the following: 1) producing or selling gas, oil, electricity or steam energy; 2) providing energy management, conservation or efficiency products or services; 3) providing energy customer services; 4) recovering or producing energy from waste

materials; 5) processing waste materials; 6) manufacturing or selling certain filtration or fluid pumping products; and 7) providing telecommunications services.

Transmission system operation

This bill allows transmission utilities to transfer ownership of their transmission facilities to a transmission company that satisfies certain requirements, including the requirements to apply for approval to begin operations no later than November 1, 2000. The bill requires the transmission utilities that make such a transfer to enter into contracts with the transmission company to provide operation and maintenance with respect to the transmission facilities for a period of at least three years. A transmission utility that is a public utility affiliate in a public utility holding company system must comply with these transfer requirements in order for the system to qualify for the exception from the asset cap that is described above.

The bill also provides that, after the transmission company begins operations, a transmission utility or cooperative that has transferred ownership of its transmission facilities to the transmission company no longer has a duty to provide transmission services. Instead, the transmission company has the exclusive duty to provide transmission service in a specified area of the state. The transmission company's duty terminates when a certain independent system operator begins operations. This independent system operator is a person that has received the conditional approval of the federal energy regulatory commission to provide transmission service in the midwest region of the United States.

Under the bill, after the independent system operator begins operations, it has the exclusive duty to provide transmission service in a specified area of the state and each public utility that provides transmission service in that area must transfer operational control over its transmission facilities to the independent system operator. In addition, as noted above, a public utility affiliate must make such a transfer to qualify for the exception to the asset cap exception described above.

The bill imposes other requirements on the organization, formation and operation of the transmission company.

Under current law, a utility company's property is exempt from the property tax and the utility company pays a license fee that is based on a percentage of the company's gross revenues. Under this bill, the transmission company's property is also exempt from the property tax and the transmission company is required to pay the license fee.

Employment requirements for acquired energy units

The bill imposes certain employment requirements on a person who acquires an energy unit, which is defined as a business unit of a nonutility affiliate in a public utility holding company system or a public utility or cooperative association in which the business unit engages in certain energy-related activities. A person who acquires an energy unit must offer employment to the energy unit's nonsupervisory employes who are necessary for the operation and maintenance of the energy unit. If a nonutility affiliate acquires an energy unit in the same holding company system, the nonutility affiliate must offer employment to all of the energy unit's nonsupervisory employes. A person or nonutility affiliate that is subject to the bill's

requirements must, during the 30-month period after the acquisition, offer employment at wage rates that are no less than the wage rates in effect immediately prior to the acquisition. In addition, during the same 30-month period, the terms and conditions of employment, including fringe benefits, must be substantially similar to the terms and conditions in effect immediately prior to the acquisition.

Approval of high-voltage transmission lines

Under current law, with certain exceptions, a person may not construct a high-voltage transmission line, which is defined as a line that is designed for operation at 100 kilovolts or more, unless the PSC issues a certificate of public convenience and necessity (certificate) to the person. The PSC may not issue a certificate unless it makes certain specified findings regarding the high-voltage transmission line.

Under this bill, the PSC may not issue a certificate for a high-voltage transmission line that is proposed to increase transmission capacity into this state unless, in addition to the findings under current law, the PSC also makes specified findings regarding the use of existing rights-of-way and the routing and design of the line. In addition, the PSC may not issue a certificate for a high-voltage transmission line that is designed for operation at 345 kilovolts or more unless the PSC finds that certain benefits are reasonable in relation to the cost of the line.

The bill also imposes fees on persons who are issued certificates for high-voltage transmission lines that are designed for operation at 345 kilovolts or more. Such a person must pay an annual impact fee and a one-time environmental impact fee. The fees are based on the cost of the high-voltage transmission line. The fees must be paid to DOA, which is required to distribute the fees to counties, towns, cities and villages through which the high-voltage transmission line is routed.

Other requirements

The bill imposes the following duties on the PSC:

1. Requires the PSC to promulgate rules for carrying out the PSC's duties under current law regarding the consideration of environmental impact of certain actions.

2. Requires the PSC to promulgate rules requiring certain electric utilities and cooperative associations to submit reports on their electric reliability status.

3. Requires the PSC to study and report to the legislature on the establishment of a program for providing incentives for the development of certain high-efficiency, small-scale electric generating facilities.

4. Requires the PSC to contract for a study and submit a report to the legislature on the potential for horizontal market power of electric generators to frustrate the creation of effectively competitive retail electric markets.

5. Requires the PSC to approve certain market-based rates, individual contract options and market-based compensation for voluntary service interruptions for certain customers of certain electric public utilities.

6. Requires the PSC to order a public utility affiliate or the transmission company described above to make certain investments in its facilities if the PSC determines that the public utility affiliate or transmission company is not making investments that are sufficient to ensure reliable electric service.

BILL

The bill allows the governor, on behalf of the state, to enter into an interstate compact on the need for and siting of regional electric transmission facilities. A compact under the bill must include certain requirements, including a mechanism for resolving transmission conflicts between states.

The bill prohibits DNR from establishing certain reductions in nitrogen oxide emissions from electric generating facilities in specified counties.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.107 (17) of the statutes is created to read:

2 15.107 (17) **COUNCIL ON UTILITY PUBLIC BENEFITS.** There is created a council on
3 utility public benefits that is attached to the department of administration under s.
4 15.03. The council shall consist of the following members appointed for 3-year
5 terms:

6 (a) Two members appointed by the governor.

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

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

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

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

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

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

13 (h) One member appointed by the chairperson of the public service commission.

14 **SECTION** 2. 16.957 of the statutes is created to read:

15 **16.957 Utility public benefits. (1) DEFINITIONS.** In this section:

16 (bm) "Commission" means the public service commission.

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

(cm) "Council" means the council on utility public benefits created under s. 15.107 (17).

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

(e) "Division of housing" means the division of housing in the department.

(f) "Electric provider" means an electric utility or retail electric cooperative.

(g) "Electric utility" means a public utility that owns or operates a retail electric distribution system.

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

(i) "Fiscal year" has the meaning given in s. 655.001 (6).

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

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

(m) "Low-income household" means any individual or group of individuals in this state who are living together as one economic unit and for whom residential electricity is customarily purchased in common or who make undesignated

payments for electricity in the form of rent, and whose household income is not more than 150% of the poverty line as determined under 42 USC 9902 (2).

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

(o) "Low-income need percentage" means the percentage that results from dividing the sum of the following by the amount of low-income need in fiscal year 1998-99:

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

lm. The public benefits fees established for fiscal year 1999-2000 under sub. (4) (c) 1.

2. The total amount expended by utilities under s. **196.374.**

3. Fifty percent of the public benefits fees established for fiscal year 1999-2000 that are charged by municipal utilities and retail electric cooperatives.

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

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

(qm) "Public utility" has the meaning given in s. 196.01 (5).

(r) "Renewable resource" has the meaning given in s. 196.378 (1) (h).

(s) "Retail capacity" means the total amount of electricity that an electric provider is capable of delivering to its retail customers or members and that is

supplied by electric generating facilities owned or operated by the electric provider or any other person. "Retail capacity" does not include any electricity that is not used to satisfy the electric provider's retail load obligations.

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

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

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

(w) "Wholesale supply percentage" means the percentage of a municipal utility's or retail electric cooperative's retail capacity in a fiscal year that is supplied by a wholesale supplier.

(x) "Wholesale supplier" means a wholesale electric cooperative or a municipal electric company, as defined in s. 66.073 (3) (d), that supplies electricity at wholesale to a municipal utility or retail electric cooperative.

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

(a) *Low-income programs.* After holding a hearing, establish programs to be administered by the department of administration through the division of housing for awarding grants from the appropriation under s. 20.505 (10) (r) to provide low-income assistance. In each fiscal year, the amount awarded under this

paragraph in grants for weatherization and other energy conservation services shall be sufficient to equal 47% of the sum of the following:

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

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

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

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

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

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

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

2. For each fiscal year after fiscal year 2003-04, determine whether to continue, discontinue or reduce any of the programs established under subd. 1. and determine the total amount necessary to fund the programs that the department determines to continue or reduce under this subdivision. The department shall notify the commission if the department determines under this subdivision to reduce funding.

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

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

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

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

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

4. Requirements for electric utilities to allow customers or members to include voluntary contributions to assist in funding a commitment to community program or a program established under par. (a) or (b) 1. with bill payments for electric service. The rules may require an electric utility to provide a space on an electric bill in which a customer or member may indicate the amount of a voluntary contribution and the customer's or member's preference regarding whether a contribution should be used

for a program established under par. (a) or (b) 1. a. or b. The rules shall establish requirements and procedures for electric utilities to pay to the department any voluntary contributions included with bill payments and to report to the department customer or member preferences regarding use of the contributions. The department shall deposit all contributions received under this paragraph in the utility public benefits fund.

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

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

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

3. Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in the utility public benefits fund.

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

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

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

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

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

(3) **CONTRACTS.** (a) The division of housing shall, on the basis of competitive bids, contract with community action agencies described in s. 46.30 (2) (a) l., nonstock, nonprofit corporations organized under ch. 181 or local units of government to provide services under the programs established under sub. (2) (a).

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

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

(4) **ELECTRIC UTILITIES.** (a) ***Requirement to charge public benefits fees.*** Each electric utility, except for a municipal utility, shall charge each customer a public benefits fee in an amount established in rules promulgated by the department under par. (b). An electric utility, except for a municipal utility, shall collect and pay the fees to the department in accordance with the rules promulgated under par. (b).

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

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

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

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

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

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

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

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

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

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

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

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

(5) **MUNICIPALUTILITIESANDRETAILELECTRICCOOPERATIVES.** (a) *Requirement to charge public benefits fees.* Each retail electric cooperative and municipal utility shall charge a monthly public benefits fee to each customer or member in amount that is sufficient for the retail electric cooperative or municipal utility to collect an annual average of $17 per meter. A retail electric cooperative or municipal utility

may determine the amount that a particular class of customers or members is required to pay under this paragraph and may charge different fees to different classes of customers or members.

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

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

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

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

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

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

a. Pay no less than 50% of the public benefits fees that it charges under par. (a) to the department.

b. Spend no less than 50% of the public benefits fees that it charges under par. (a) on energy conservation programs.

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

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

b. Spend no less than 50% of the public benefits fees that it charges under par. (a) on programs for low-income assistance.

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

a. Spend no less than 50% of the public benefits fees that it charges under par. (a) on programs for low-income assistance.

b. Spend no less than 50% of the public benefits fees that it charges under par. (a) on energy conservation programs.

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

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

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

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

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

a. An accounting of public benefits fees charged to customers or members under par. (a) in the fiscal year and expenditures on commitment to community programs under par. (d), including any amounts included in the municipal utility's or retail electric cooperative's calculations under par. (e).

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

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

SECTION 3. 16.969 of the statutes is created to read:

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

			1999-00	2000-01
20.505 Administration, department of				
(10) UTILITY PUBLIC BENEFITS				
(q) General program operations	SEG	A	–0–	–0–

SECTION 5. 20.505 (1) (ge) of the statutes is created to read:

20.505 **(1)** (ge) *High-voltage transmission line annual impact fee distributions.* All moneys received from the payment of fees under the rules promulgated under s. 16.969 (2) (a) for distributions to to towns, villages and cities under s. 16.969 (3) (a).

SECTION 6. 20.505 (1) (gs) of the statutes is created to read:

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

SECTION 7. 20.505 (10) of the statutes is created to read:

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

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

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

SECTION 8. 25.17 (1) (xm) of the statutes is created to read:

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

SECTION 9. 25.96 of the statutes is created to read:

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

SECTION 10. 76.28 (1) (d) of the statutes is amended to read:

76.28 (1) (d) "Gross revenues" for a light, heat and power company other than a qualified wholesale electric company or a transmission comnanv means total operating revenues as reported to the public service commission except revenues for interdepartmental sales and for interdepartmental rents as reported to the public service commission and deductions from the sales and use tax under s. 77.61 (4), except that the company may subtract from revenues either the actual cost of power purchased for resale, as reported to the public service commission, by a light, heat and power company, except a municipal light, heat and power company, that purchases under federal or state approved wholesale rates more than 50% of its electric power from a person other than an affiliated interest, as defined in s. 196.52 (l), if the revenue from that purchased electric power is included in the seller's gross revenues or the following percentages of the actual cost of power purchased for resale, as reported to the public service commission, by a light, heat and power company, except a municipal light, heat and power company that purchases more than 90% of its power and that has less than $50,000,000 of gross revenues: 10% for the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50% for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric company, "gross revenues" means total business revenues from those businesses included under par. (e) 1. to 4. For a transmission comnanv, "gross revenues" means total operating revenues as renorted to the public service commission, except revenues for transmission service that is nrovided to a nublic utilitv that is subject to the license fee under sub. (2) (d), to a nublic utilitv, as defined in s. 196.01 (5). or to a cooperative association organized under ch. 185 for the purpose of nroviding electricity to its members onlv.

SECTION 11. 76.28 (1) (e) (intro.) of the statutes is amended to read:

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

SECTION 12. 76.28 (1) (e) 5. of the statutes is created to read:

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

SECTION 13. 76.28 (1) (j) of the statutes is created to read:

76.28 **(1)** (j) "Transmission company" has the meaning given in s. 196.485 (1) (ge).

SECTION 14. 76.28 (2) (c) (intro.) of the statutes is amended to read:

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

SECTION 15. 76.28 (2) (d) of the statutes is amended to read:

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

SECTION 16. 76.28 (2) (e) of the statutes is created to read:

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

SECTION 17. 196.025 of the statutes is renumbered 196.025 (1).

SECTION 18. 196.025 (2) of the statutes is created to read:

196.025 (2) The commission shall promulgate rules establishing requirements and procedures for the commission to carry out the duties under s. 1.11. Rules promulgated under this subsection shall include requirements and procedures for each of the following:

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

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

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

SECTION 19. 196.025 (3) of the statutes is created to read:

196.025 (3) The commission shall promulgate rules establishing requirements and procedures for electric utilities, as defined under s. 196.491 (1) (d), to file reports with the commission, on a frequency that the commission determines is reasonably necessary, on their current reliability status, including the status of operating and planning reserves, available transmission capacity and outages of major operational units and transmission lines, A report filed under the rules promulgated under this subsection is subject to inspection and copying under s. 19.35 (l), except that the commission may withhold the report from inspection and copying for a period of time

that the commission determines is reasonably necessary to prevent an adverse impact on the supply or price of energy in this state.

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

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

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

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

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

SECTION 21. 196.025 (5) of the statutes is created to read:

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

1. An assessment of the effect of each recommendation on public utility workers and shareholders and on rates for each class of public utility customers.

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

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

SECTION 22. 196.192 of the statutes is created to read:

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

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

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

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

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

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

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

SECTION 23. 196.31 (1) (intro.) of the statutes is amended to read:

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

SECTION 24. 196.31 (1) (a) of the statutes is amended to read:

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

SECTION 25. 196.374 of the statutes is repealed and recreated to read:

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

(a) "Department" means the department of administration.

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

(c) "Utility" means a Class A gas or electric utility, as defined by the commission, but does not include a municipal utility, as defined in s. 16.957 (1) (q),

a municipal electric company, as defined in s. 66.073 (3) (d), or a cooperative association organized under ch. 185.

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

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

(4) If the department notifies the commission under s. 16.957 (2) (b) 2. that the department has reduced funding for energy conservation and efficiency and renewable resource programs, the commission shall reduce the amount that a utility is required to spend on programs or contribute to the fund under sub. (3) by the percentage by which the department has reduced the funding.

SECTION 26. 196.378 of the statutes is created to read:

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

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

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

(bm) "Department" means the department of administration.

(c) "Electric provider" means an electric utility or retail electric cooperative.

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

(e) "Excludable renewable capacity" means the portion of an electric provider's total renewable capacity that is supplied from renewable facilities that were placed in service before January 1, 1998, and that, before January 1, 1998, derived electricity from hydroelectric power, even if the output of the renewable facilities is used to satisfy requirements under federal law.

(f) "Nonsystem renewable energy" means the amount of electricity that an electric provider sells to its retail customers or members and that is supplied or allocated under executed wholesale purchase contracts from renewable facilities that are not owned or operated by the electric provider. "Nonsystem renewable

energy" does not include any electricity that is not used to satisfy the electric provider's retail load obligations.

(g) "Renewable facility" means an installed and operational electric generating facility in which energy is derived from a renewable resource. "Renewable facility" includes a facility the installation or operation ofwhich is required under federal law, but does not include a facility the installation or operation of which is required under the laws of another state even if the installation or operation of the facility is also required under federal law.

(h) "Renewable resource" means any of the following:

1. A resource that derives electricity from any of the following:

a. A fuel cell that uses, as determined by the commission, a renewable fuel.

b. Tidal or wave action.

c. Solar thermal electric or photovoltaic energy:

d. Wind power.

e. Geothermal technology.

g. Biomass.

lm. A resource with a capacity of less than 60 megawatts that derives electricity from hydroelectric power.

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

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

(j) "Resource" means a source of electric power; generation.

(k) "Retail electric cooperative" means a cooperative association organized under ch. 185 that sells electricity at retail to its members only. For purposes of this

paragraph, a cooperative association is not considered to sell electricity at retail solely on the basis of its ownership or operation of a retail electric distribution system.

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

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

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

1. By December 31, 2000, 0.5%.

2. By December 31, 2002, 0.85%.

3. By December 31, 2004, 1.2%.

4. By December 31, 2006, 1.55%.

5. By December 31, 2008, 1.9%.

6. By December 31, 2010, 2.2%.

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

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

2. The amount of electricity supplied by a renewable facility in which biomass and conventional fuels are fired together shall be equal to the product of the maximum amount of electricity that the facility is capable of generating and the ratio

of the British thermal unit content of the biomass fuels to the British thermal unit content of both the biomass and conventional resource fuels.

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

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

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

1. Allocating the costs equally to all customers or members on a kilowatt-hour basis.

2. Establishing alternative price structures, including price structures under which customers or members pay a premium for renewable energy.

3. Any combination of the methods specified in subds. 1. and 2.

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

a. An electric provider that provides more than 16% of its summer peak demand in this state from renewable facilities.

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

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

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

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

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

(4) RULES. The commission may promulgate rules that designate a resource, except for a conventional resource, as a renewable resource in addition to the resources specified in sub. (1) (g) 1. and lm.

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

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

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

(b) The gravity of the violation.

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

SECTION 27. 196.485 (title) of the statutes is repealed and recreated to read:

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

SECTION 28. 196.485 (1) (am) of the statutes is created to read:

196.485 (1) (am) "Contribute a transmission facility" means to divest a person's interest in the transmission facility and to transfer ownership of the transmission facility and associated deferred tax reserves to another person.

SECTION 29. 196.485 (1) (be) of the statutes is created to read:

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

SECTION 30. 196.485 (1) (bs) of the statutes is created to read:

196.485 (1) (bs) "Electric utility" has the meaning given in s. 196.491 (1) (d).

SECTION 31. 196.485 (1) (dm) (intro.) of the statutes is amended to read:

196.485 (1) (dm) (intro.) "Independent transmission owner" means;

lm. Means a person that satisfies each of the following:

SECTION 32. 196.485 (1) (dm) 1. of the statutes is renumbered 196.485 (1) (dm) lm. a.

SECTION 33. 196.485 (1) (dm) 2. of the statutes is created to read:

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

SECTION 34. 196.485 (1) (dm) 3. of the statutes is renumbered 196.485 (1) (dm) lm. b. and amended to read:

196.485 (1) (dm) lm. b. The person is not an affiliated interest of a person specified in subd. ~~1.~~ lm. a.

SECTION 35. 196.485 (1) (do) of the statutes is created to read:

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

SECTION 36. 196.485 (1) (dq) of the statutes is created to read:

196.485 (1) (dq) "Manager" means, with respect to a transmission company organized as a limited liability company under ch. 183, a manager, as defined in s. 183.0102 (13), of the transmission company.

SECTION 37. 196.485 (1) (dr) of the statutes is created to read:

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

SECTION 38. 196.485 (1) (ds) of the statutes is created to read:

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

SECTION 39. 196.485 (1) (dt) of the statutes is created to read:

196.485 (1) (dt) "Nontransmission utility security holder" means a security holder that is not a transmission utility security holder.

SECTION 40. 196.485 (1) (dv) of the statutes is created to read:

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

SECTION 41. 196.485 (1) (em) of the statutes is created to read:

196.485 (1) (em) "Retail electric cooperative" means a cooperative that provides retail electric service to its members.

SECTION 42. 196.485 (1) (fe) of the statutes is created to read:

196.485 (1) (fe) "Security" means, with respect to a transmission company organized as a corporation under ch. 180, a share, as defined in s. 180.0103 (15), and, with respect to a transmission company organized as a limited liability company under ch. 183, a limited liability company interest, as defined in s. 183.0102 (11).

SECTION 43. 196.485 (1) (ge) of the statutes is created to read:

196.485 (1) (ge) "Transmission company" means a corporation organized under ch. 180 or a limited liability company organized under ch. 183 that has as its sole purpose the planning, constructing, operating, maintaining and expanding of transmission facilities that it owns to provide for an adequate and reliable transmission system that meets the needs of all users that are dependent on the

transmission system and that supports effective competition in energy markets without favoring any market participant.

SECTION 44. 196.485 (1) (gm) of the statutes is created to read:

196.485 (1) (gm) "Transmission dependent utility,' means an electric utility that is not a transmission utility and that is dependent on the transmission system of another person for delivering electricity to the public utility's customers.

SECTION 45. 196.485 (1) (j) of the statutes is created to read:

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

SECTION 46. 196.485 (lm) of the statutes is created to read:

196.485 **(lm)** DUTY **TO PROVIDE TRANSMISSION** SERVICE. (a) The duty of any electric utility that has contributed its transmission facilities to the transmission company to finance, construct, maintain or operate a transmission facility shall terminate on the date, as determined by the commissioni under sub. (2) (d), that the transmission company begins operations.

(b) After beginning operations, the transmission company shall have the exclusive duty to provide transmission service in those areas in which transmission facilities have been contributed. The duty under this paragraph shall terminate on the date, as determined by the commission under sub. (2) (d), that the Midwest independent system operator begins operations.

(c) After beginning operations, the Midwest independent system operator shall have the exclusive duty to provide transmission service in the transmission area and shall ensure that each transmission facility in the transmission area that is under

its operational control is planned, constructed, operated, maintained and controlled as part of a single transmission system.

SECTION 47. 196.485 (2) (a) (intro.) of the statutes is amended to read:

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

SECTION 48. 196.485 (2) (ar) of the statutes is created to read:

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

SECTION 49. 196.485 (2) (bx) of the statutes is created to read:

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

facilities to such independent system operator or regional transmission organization satisfies the requirements of this section.

SECTION 50. 196.485 (2) (d) of the statutes is created to read:

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

1. The date on which the transmission company begins operations.

2. Whether the Midwest independent system operator has begun operations and the date on which such operations have begun.

SECTION 51. 196.485 (3) (bm) of the statutes is repealed.

SECTION 52. 196.485 (3m) of the statutes is created to read:

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

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

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

c. Assume the obligations of a transmission utility that has transferred ownership of its transmission facilities to the transmission company under any agreement by the transmission utility to provide transmission service over its transmission facilities or credits for the use of transmission facilities, except that the

transmission company may modify such an agreement to the extent allowed under the agreement and to the extent allowed under state or federal law.

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

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

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

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

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

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

c. Own electric generation facilities or sell, market or broker electric capacity or energy in a relevant wholesale or retail market as determined by the commission,

except that, if authorized or required by the federal energy regulatory commission, the transmission company may procure or resell ancillary services obtained from 3rd parties, engage in redispatch activities that are necessary to relieve transmission constraints or operate a control area.

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

4. If the transmission charges or rates of any transmission utility in the transmission area are 10% or more below the average transmission charges or rates of the transmission utilities in the transmission area on the date, as determined by the commission, that the last public utility affiliate files a commitment with the commission under sub. (5) (a) 2., the transmission company shall, after consulting with each public utility affiliate that has filed a commitment under sub. (5) (a) 2., prepare a plan for phasing in a combined single zone rate for the purpose of pricing network use by users of the transmission system operated by the Midwest independent system operator and shall seek plan approval by the federal energy regulatory commission and the Midwest independent system operator. A plan under this subdivision shall phase in an average-cost price for the combined single zone in equal increments over a 5-year period, except that, under the plan, transmission service shall be provided to all users of the transmission system on a single-zone basis during the phase-in period.

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

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

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

(c) *Organization.* The articles of organization, as defined in s. 183.0102 (1), of a transmission company that is organized as a limited liability company under ch. 183 or the bylaws of a transmission company that is organized as a corporation under ch. 180 shall provide for each of the following:

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

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

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

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

b. Each group of nontransmission utility security holders that, as a group, owns 10% or more of the outstanding voting securities of the transmission company may appoint one manager or director of the transmission company for a one-year term if the group has entered into a written agreement regarding the appointment and the group files the agreement with the secretary of the transmission company, except that the requirements of this subd. 3. b. may be modified upon a unanimous vote of the managers or directors.

c. Each person that receives at least 5% of the voting securities of the transmission company under sub. (6) (a) or (b) may appoint one manager or director of the transmission company for a one-year term if the person continues to hold at least a 5% equity interest in the transmission company during the one-year term.

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

4. That, during the 5-year period after the organizational start-up date, no public utility affiliate that contributes transmission facility assets to the transmission company under sub. (5) (b) and no affiliate of such a public utility affiliate may increase its percentage share of the outstanding securities of the

transmission company prior to any initial issuance of securities by the transmission company to any 3rd party other than a 3rd party exercising its right to purchase securities under sub. (6) (b), except that this subdivision does not apply to securities that are issued by the transmission company in exchange for transmission facilities that are contributed in addition to 'the transmission facilities that are contributed under sub. (5) (b) and except that the requirements of this subdivision may be modified upon a unanimous vote of the managers or directors.

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

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

SECTION 53. 196.485 (4) (a) (intro.) of the statutes is amended to read:

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

SECTION 54. 196.485 (4) (am) of the statutes is created to read:

196.485 (4) (am) Each transmission utility in the transmission area that is a public utility shall become a member of the Midwest independent system operator no later than June 30, 2000, and shall transfer! operational control over its transmission facilities to the Midwest independent system operator. Each such transmission utility that has not contributed its transmission facilities to the

transmission company shall elect to become part of the single zone for pricing purposes within the Midwest independent system operator and any phase-in plan prepared under sub. (3m) (a) 4.

SECTION 55. 196.485 (5) of the statutes is created to read:

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

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

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

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

4. Notifies the commission in writing that the public utility affiliate has become a member of the Midwest independent system operator, has agreed to transfer its transmission facilities to the Midwest independent system operator and has committed not to withdraw its membership prior to the date on which the public utility affiliate contributes transmission facilities to the transmission company under par. (b).

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

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

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

a. The structure of the transfer avoids or minimizes the material adverse tax consequences to the public utility affiliate that result from the transfer and avoids or minimizes material adverse consequences on public utility rates that do not arise

out of combining the transmission company's facilities' into a single zone in the Midwest independent system operator.

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

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

4. If the transfer of transmission assets under this paragraph results in a capital structure of the transmission company in which the percentage of common equity is materially higher than that of the public utility affiliates who made the transfer, or if the cost of the fixed-cost portion of the capital structure of the transmission company is materially higher than that of the public utility affiliates who made the transfer, the public utility affiliates shall enter into a contract with the transmission company under which the public utility affiliates agree to accept from the transmission company a return on common equity based upon the equity rate of return approved by the federal energy regulatory commission and upon an imputed capital structure that assigns to a portion of the public utility affiliates' common equity holdings an imputed debt return that is consistent with the requirements of this subdivision. A contract under this subdivision shall specify that the public utility affiliates shall be required to accept the return on common equity described in this subdivision only until such time that the federal energy regulatory commission determines that the actual capital structure and capital costs of the

transmission company are appropriate and consistent with industry practice for a regulated public utility that provides electric transmission service in interstate commerce.

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

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

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

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

7. Any transmission facilities that are contributed to the transmission company shall be valued at net book value at the time of the transfer.

(bm) *Lease of transmission facilities.* If a public utility affiliate is not able to contribute its transmission facilities to the transmission company as required under par. (b) due to merger-related accounting requirements; the public utility affiliate shall transfer the transmission facilities to the transmission company under a lease for the period of time during which the accounting requirements are in effect and, after such requirements are no longer in effect, contribute the transmission facilities to the transmission company under par. (b). A public utility affiliate that transfers transmission facilities under a lease under this paragraph does not qualify for the asset cap exception under par. (a) unless, during the term of the lease, the public utility affiliate does not receive any voting interest in the transmission company.

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

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

b. If the land right is jointly used, or is intended to be jointly used, for electric and gas distribution facilities by the public utility affiliate, the public utility affiliate shall enter into a contract with the transmission company that grants the transmission company a right to place, maintain, modify or replace the transmission

company's transmission facilities on the real property that is subject to the land right during the life of the transmission facilities and the life of any replacements of the transmission facilities. A right granted in a contract under this subd. 1. b. shall be paramount to the right of any other user of the land right, except that a right granted in such a contract shall be on par with the right of the public utility affiliate to use the land right for electric or gas distribution facilities.

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

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

SECTION 56. 196.485 (6) of the statutes is created to read:

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

(a) An electric utility, other than a public utility affiliate, may transfer all of its integrated transmission facilities to the transmission company on the same terms

and conditions as a contribution of transmission facilities and land rights by a public utility affiliate under sub. (5) (b) and (c).

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

SECTION 57. 196.485 (6m) of the statutes is created to read:

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

SECTION 58. 196.485 (7) of the statutes is created to read:

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

SECTION 59. 196.485 (8) of the statutes is created to read:

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

SECTION 60. 196.487 of the statutes is created to read:

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

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

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

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

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

SECTION 61. 196.491 (3) (d) 3r. of the statutes is created to read:

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

SECTION 62. 196.491 (3) (d) 3t. of the statutes is created to read:

196.491 (3) (d) 3t. For a high-voltage transmission line that is designed for operation at a nominal voltage of 345 kilovolts or more, the high-voltage

transmission line provides usage, service or increased regional reliability benefits to the wholesale and retail customers or members in this state and the benefits of the high-voltage transmission line are reasonable in relation to the cost of the high-voltage transmission line.

SECTION 63. 196.491 (3) (gm) of the statutes is created to read:

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

SECTION 64. 196.491 (3g) of the statutes is created to read:

196.491 (3g) FEES FOR CERTAIN HIGH-VOLTAGE TRANSMISSION LINES. (a) A person who receives a certificate of public convenience and necessity for a high-voltage transmission line that is designed for operation at a nominal voltage of 345 kilovolts or more under sub. (3) shall pay the department of administration an annual impact

fee as specified in the rules promulgated by the department of administration under s. 16.969 (2) (a) and shall pay the department of administration a one-time environmental impact fee as specified in the rules promulgated by the department of administration under s. 16.969 (2) (b).

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

SECTION 65. 196.491 (3m) (b) 2. of the statutes is amended to read:

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

SECTION 66. 196.494 (3) of the statutes is amended to read:

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

SECTION 67. 196.494 (5) of the statutes is created to read:

196.494 (5) The governor may, on behalf of this state, enter into an interstate compact that establishes a joint process for the states in the upper midwest region of the United States to determine the need for and 'siting of regional electric transmission facilities that may affect electric service in this state. The governor may not enter into a compact under this subsection unless the compact includes requirements and procedures for establishing each of the following:

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

(b) A regional need determination for transmission facilities.

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

SECTION 68. 196.52 (3) (a) of the statutes is amended to read:

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

public utility shall file with the commission a verified copy of any contract or arrangement, a verified summary of any unwritten contract or arrangement, and any contract or arrangement, written or unwritten, which was in effect on June 7, 1931. The commission shall approve a contract or arrangement made or entered into after June 7, 1931, only if it shall clearly appear and be established upon investigation that it is reasonable and consistent with the public interest. The commission may not approve any contract or arrangement unless satisfactory proof is submitted to the commission of the cost to the affiliated interest of rendering the services or of furnishing the property or service to each public utility or of the cost to the public utility of rendering the services or of furnishing the property or service to each affiliated interest. No proof is satisfactory under this paragraph unless it includes the original (or verified copies) of the relevant cost records and other relevant accounts of the affiliated interest, or an abstract of the records and accounts or a summary taken from the records and accounts1 if the commission deems the abstract or summary adequate. The accounts shall be properly identified and duly authenticated. The commission, where reasonable, may approve or disapprove a contract or arrangement without submission of the cost records or accounts.

SECTION 69. 196.795 (1) (g) 1. of the statutes is amended to read:

196.795 (1) (g) 1. As a beneficial owner, to take, hold or acquire 5% or more of the outstanding voting securities of a public utility, <u>other than a transmission comnanv</u>, with the unconditional power to vote those: securities.

SECTION 70. 196.795 (1) (g) 2. of the statutes is amended to read:

196.795 (1) (g) 2. To exchange or convert 50% or more of the outstanding voting securities of a public utility, other than a municipality or other political subdivision <u>or a transmission comnanv</u>, for or into the voting securities of a company organized,

created, appointed or formed by or at the direction of the public utility or of a subsidiary of such company.

SECTION 71. 196.795 (1) (h) 3. of the statutes is created to read:

196.795 **(1)** (h) 3. "Holding company" does not include a transmission company.

SECTION 72. 196.795 (1) (p) of the statutes is created to read:

196.795 **(1)** (p) "Transmission company" has the meaning given in s. 196.485 (1) (ge).

SECTION 73. 196.795 (5) (i) 1. of the statutes is amended to read:

196.795 (5) (i) 1. Shall consider the public utility affiliate as a wholly independent corporation and shall imnute a capital structure to the public utilitv affiliate and establish a cost of capital for the public utilitv affiliate on a stand-alone basis*;

SECTION 74. 196.795 (5) (p) l., 2., 3. and 4. of the statutes are renumbered 196.795 (6m) (b) l., 2., 3. and 4.

SECTION 75. 196.795 (5) (pm) 1. (intro.) of the statutes is repealed.

SECTION 76. 196.795 (5) (pm) 1. a. of the statutes is renumbered 196.795 (6m) (a) 3.

SECTION 77. 196.795 (5) (pm) 1. b. of the statutes is renumbered 196.795 (6m) (a) 5.

SECTION 78. 196.795 (5) (pm) 1. c. of the statutes is renumbered 196.795 (6m) (a) 6.

SECTION 79. 196.795 (5) (pm) 2. of the statutes is renumbered 196.795 (6m) (c) and amended to read:

196.795 (6m) (c) *Wholesale merchant plants.* The assets of a wholesale merchant plant shall not be included in the sum of the assets of a public utility

affiliate under par. ~~(p)~~ (b) 1. a., b. or c. and shall not be included in a nonutility affiliate's total assets under par. ~~(p)~~ (b) 2. a. if the requirements specified in s. 196.491 (3m) (a) 1. and 2. are satisfied or if the wholesale merchant plant qualifies for the exemption under s. 196.491 (3m) (e).

SECTION 80. 196.795 (5) (pm) 3. of the statutes is renumbered 196.795 (6m) (d) and amended to read:

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

SECTION 81. 196.795 (6m) (title) of the statutes is created to read:

196.795 (6m) (title) ASSET CAP.

SECTION 82. 196.795 (6m) (a) (intro.) of the statutes is created to read:

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

SECTION 83. 196.795 (6m) (a) 1. of the statutes is created to read:

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

SECTION 84. 196.795 (6m) (a) 2. of the statutes is created to read:

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

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

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

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

d. Recovering or producing energy from waste materials.

e. Processing waste materials.

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

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

SECTION 85. 196.795 (6m) (a) 4. of the statutes is dreated to read:

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

SECTION 86. 196.795 (6m) (b) (title) of the statutes1 is created to read:

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

SECTION 87. 196.795 (6m) (e) of the statutes is created to read:

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

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

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

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

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

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

SECTION 88. 196.795 (11) (b) of the statutes is amended to read:

196.795 **(11)** (b) This section shall be deemed to legalize and confirm the formation, prior to November 28, 1985, of any holding company, which is not itself a public utility, and shall be deemed to legalize and confirm the operations and issuances of securities of the holding company, except that nothing in this section shall be deemed to prevent the commission from, imposing reasonable terms, limitations or conditions on any holding company which are consistent with the requirements of sub. ~~(5) (pm)~~ (6m) (c) or (d) or which are consistent with and necessary to satisfy the requirements of sub. (5) (b) to (o) and (q) to (s) or which relate to future investments by the holding company unless the holding company owns,

operates, manages or controls a telecommunications utility and does not also own, operate, manage or control a public utility which is not a telecommunications utility.

SECTION 89. 196.795 (11) (c) of the statutes is created to read:

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

SECTION 90. 196.807 of the statutes is created to read:

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

(a) "Affiliate or utility" means a nonutility affiliate, a holding company system or an electric utility, as defined in s. 196.491 (1) (d).

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) COMMISSION APPROVAL. Except for a cooperative association, as defined in s. 196.491 (1) (bm), no person may sell an energy unit unless the commission determines that the person has satisfied subs. (2) and (3).

SECTION 91. 200.01 (2) of the statutes is amended to read:

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

SECTION 92. 285.48 of the statutes is created to read:

285.48 Nitrogen oxide emissions from certain electric generation facilities. (1) In establishing nitrogen oxide emission reductions for the control of

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

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

SECTION 93. Nonstatutory provisions.

(1) INITIAL APPOINTMENTS TO COUNCIL ON UTILITY PUBLIC BENEFITS. Notwithstanding section 15.107 (17) (intro.) of the statutes, as created by this act, the initial members of the council on utility public benefits shall be appointed for the following terms:

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

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

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

(2) **PUBLIC SERVICE COMMISSION RULES.**

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

(b) The pub1ic service commission shall submit in proposed form the rules required under section 196.378 (3) (a) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 6th month beginning after the effective date of this paragraph.

(3) **DEPARTMENT OF ADMINISTRATION RULES.**

(a) Using the procedure under section 227.24 of the statutes, the department of administration shall promulgate the rules required under section 16.957 (2) (c) and (4) (b) of the statutes, as created by this act, for the period before the effective date of the permanent rules promulgated under that section, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) and (3) of the statutes, the department is not required to make a finding of emergency.

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

SECTION 94. Appropriation changes.

(1) In the schedule under section 20.005 (3) of the statutes for the appropriation to the public service commission under section 20.155 (1) (j) of the statutes, as affected by the acts of 1999, the dollar amount is increased by $250,000 for fiscal year 1999-00 and the dollar amount is increased by $250,000 for fiscal year 2000-01 for the purpose for which the appropriation is made.

SECTION 95. Initial applicability.

(1) The treatment of section 196.491 (3) (d) 3r. and 3t. of the statutes first applies to applications for certificates of public convenience and necessity that are filed with the public service commission on the effective date of this subsection.

(2) The treatment of sections 76.28 (1) (d), (e) (intro.) and 5. and (j) and (2) (c) (intro.), (d) and (e) and 196.485 (1) (ge) of the statutes first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 the treatment of sections 76.28 (1) (d), (e) (intro.) and 5. and (j) and (2) (c) (intro.), (d) and (e) of the statutes first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–3200/3dn
MDK:...:...

Representative Hoven:

This version is identical to LRB-315013.

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

DRAFTER'S NOTE
FROMTHE
LEGISLATIVE REFERENCE BUREAU

LRB–3200/3dn
MDK:kmg:jf

June 15, 1999

Representative Hoven:

This version is identical to LRB–3150/3.

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

Reports Required: &-STATE, FE-LOCAL, TAX

1999 ASSEMBLY BILL 389

LRB 3200

ASSEMBLY

relating to: control of transmission facilities by a transmission company and a Midwest independent system operator, ownership of nonutility assets by a public utility holding company, investments in transmission facilities, offers of employment to certain public utility and nonaffiliate employes, fees and approvals for certain high-voltage transmission lines, construction of certain electric transmission facilities, environmental reviews by the public service commission, reports on reliability status of electric utilities, state participation in a regional transmission need and siting compact, incentives for development of certain generating facilities, study of market power and retail electric competition, market-based compensation, rates and contracts for electric customers, regulation of certain nitrogen oxide emissions, establishing programs for low-income energy assistance, improving energy conservation and efficiency markets and encouraging the development and use of renewable resources, creating a council on utility public benefits, establishing a utility public benefits fund, requiring electric utilities and retail electric cooperatives to charge public benefits fees to customers and members, imposing requirements on the use of renewable resources by electric utilities and cooperatives, requiring the exercise of rule-making authority, making appropriations and providing a penalty.

Introduced by Representative HOVEN (PRINCIPAL AUTHOR) Cosponsored by Senator MOEN

(BY REQUEST OF) GOVERNOR TOMMY G. THOMPSON

(CONTINUE HERE FOR ADDITIONAL REPRESENTATIVES) (CONTINUE HERE FOR ADDITIONAL SENATORS)

PLALE

MEYERHOFER

Jacket Destroyed 06-15-99

"12" Jacket

Relating to: Changed "12" → "13"

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. 0. BOX 2037
MADISON, WI 53701-2037

STEPHEN R MILLER
CHIEF

LEGAL SECTION (608) 266-3561
LEGAL FAX (608) 264-6522

REFERENCE SECTION (608) 266-0341
REFERENCE FAX (608) 266-5648

Date: June , 1999

To: **Representative Hoven**

From: Mike Barman
LRB Legal Section - Front Office

Subject: ***Copy Of h-Introduced Fiscal Estimate***

Bill Number: 1999 (Un-Introduced)

LRB Number: 99–3200/3
2

Agency/Prepared By: PSC

Enclosed is a copy of a draft your office was the primary author of.

This copy is for your review and for later release.

If you have any questions you can contact me at 266–3561.

1999 Session

LRB or Bill No./Adm. Rule No.
LRB 3200/3

Amendment No. if Applicable

☒ ORIGINAL ☐ UPDATED
☐ CORRECTED ☐ SUPPLEMENTED

FISCAL ESTIMATE
DOA-2048 N(R10/96)

Subject

Changes in Regulation of the Electric Industry

Fiscal Effect

State: ☐ No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

☒ Increase Existing Appropriation ☐ increase Existing Revenues
☐ Decrease Existing Appropriation ☐ Decrease Existing Revenues
☐ Create New Appropriation

☒ Increase Costs - May be possible to Absorb Within Agency's Budget ☐ Yes ☒ No

☐ Decrease Costs

Local: ☒ No local government costs

1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs ☐ Permissive Cl Mandatory
3. ☐ Increase Revenues ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenues ☐ Permissive ☐ Mandatory
5. Types of Local Governmental Units Affected:
☐ Towns ☐ Villages ☐ Cities
☐ 'Counties ☐ Others _____
☐ 'School Districts ☐ WTCS Districts

Fund Sources Affected
☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

Affected Ch. 20 Appropriations
20.155(l)(g)

Assumptions Used in Arriving at Fiscal Estimate

This bill requires the Public Service Commission (PSC) to participate in and direct a number of changes in the electric utility industry. The PSC will initiate several proceedings to write the rules and determine the appropriate processes that are required in the provisions of this bill. The PSC conducts some 400-500 proceedings per year. The staffing resources necessary to conduct these new proceedings would be determined after an implementation plan is developed. However, it is not anticipated that any additional resources would be required.

One provision of this bill requires the PSC to hire an expert consultant in economics to study the potential for horizontal market power and other market related issues. The one-time cost to hire a consultant cannot be determined until after a request for proposal bid process is conducted{ Upon conclusion of the bid process, the PSC would request the appropriate program revenue expenditure authority at a s. 13.10 quarterly meeting.

Another provision of the bill increases the PSC appropriation for intervenor compensation by $250,000 per year from the current base of $250,000 to a new base of $500,000. These funds would provide sufficient resources for public interest groups to participate in the proceedings of the PSC, if they meet the requirements of the statutes and rules governing intervenor compensation.

Local Government Costs: It is anticipated that no local government costs would be incurred as a result of this bill.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
PSC/Gordon Grant 267-9086		6/15/99

FISCAL ESTIMATE WORKSHEET **1999 Session**

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/96)

☒ ORIGINAL ☐ UPDATED
☐ CORRECTED ☐ SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.: LRB 3200/3

Amendment No.:

Subject

Changes in Regulation of the Electric industry

1. **One-time Costs or Revenue Impacts for State and/or Local Government (do riot include in annualized fiscal effect):**

II. **Annualized Costs:**	Annualized Fiscal impact on State funds from:	
	Increased Costs	**Decreased Costs**
A. State Costs by Category		
State Operations - Salaries and Fringes	$	$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations	250,000	
TOTAL State Costs by Category	$ 250,000	$ -
B. State Costs by Source of Funds	**Increased Costs**	**Decreased Costs**
GPR	$	$ -
FED		-
PRO/PRS	250,000	-
SEG/SEG-S		-
State Revenues Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	**Increased Rev.**	**Decreased Rev.**
GPR Taxes	$	$ -
GPR Earned		-
FED		-
PRO/PRS	250,000	-
SEG/SEG-S		-
TOTAL State Revenues	$ 250,000	$ -

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	$ 250,000	$
NET CHANGE IN REVENUES	$ 250,000	$

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
PSC/Gordon Grant 267-9086		6/15/99

1999 Session

LRB or Bill No./Adm. Rule No.
99-3200/3

Amendment No. if Applicable

☒ ORIGINAL ☐ UPDATED
☐ CORRECTED ☐ SUPPLEMENTAL

FISCAL ESTIMATE
DOA-2048 N(R10/94)

Subject
Nitrogen oxide emission reduction restrictions

Fiscal Effect

State: ☒ No State Fiscal Effect
Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

☐ Increase Existing Appropriation ☐ Increase Existing Revenues
☐ Decrease Existing Appropriation ☐ Decrease Existing Revenues
☐ Create New Appropriation

☐ Increase Costs - May be possible to Absorb Within Agency's Budget ☐ Yes ☐ No
☐ Decrease Costs

Local: ☒ No local government costs

1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs U Permissive ☐ Mandatory
3. ☐ Increase Revenues ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenues ☐ Permissive ☐ Mandatory
5. Types of Local Government Units Affected:
☐ Towns ☐ Villages ☐ Cities
☐ Counties ☐ WTCS Districts
☐ School Districts ☐ Others_____

Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arnving at Fiscal Estimate

SUMMARY OF BILL This bill includes a section which prohibits the Department of Natural Resources from restricting nitrogen oxide emissions in 25 northwestern Wisconsin counties to meet nitrogen oxide emission reduction requirements for controlling ozone in another state. The section further prohibits the Department from requiring more stringent nitrogen oxide reductions on electric utilities in the remainder of the state or on sources defined by USEPA as large industrial core sources anywhere in the state.

FISCAL IMPACT- It is assumed that if this bill is adopted, the Department may need to regulate nitrogen oxide emissions from smaller industrial and institutional boilers and/or reduce such emissions from motor vehicles by requiring repairs on vehicles that are identified as having high nitrogen oxide emissions in the motor vehicle inspection and maintenance program in southeastern Wisconsin.

The inspection and maintenance program already tests vehicles for nitrogen oxide emissions. The costs for this testing are already part of the existing contract. While it is-assumed that citizens that must repair their vehicles will incure a cost, it is assumed that most vehicles in state and local government fleets, being relatively new vehicles and being relatively well maintained, will not have a significant need for additional repair.

State and local governments do own some medium sized boilers. Most of these boilers have relatively few nitrogen oxide emissions. It is assumed that most of the medium boiler nitrogen oxide emission reductions, if required, would come from boilers owned by the private sector.

Long-Range Fiscal Implications

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
DNR	Joe Polasek	(608) 266-2794	FOR J.P.	(608) 266-2794	06/14/1999

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (RI 0194)

☒ ORIGINAL ☐ UPDATED
☐ CORRECTED ☐ SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.	Amendment No.
99-3200/3	

Subject
Nitrogen oxide emission reduction restrictions

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	**Annualized Fiscal impact on State funds from:**	
A. State Costs by Category	**Increased Costs**	**Decreased Costs**
State Operations - Salaries and Fringes	$0	$0
(FTE Position Changes)	0.00	0.00
State Operations - Other Costs	$0	$0
Local Assistance	$0	$0
Aids to Individuals or Organizations	$0	$0
TOTAL State Costs by Category	**$0**	**$0**
B. State Costs by Source of Funds	**Increased Costs**	**Decreased Costs**
GPR	$0	$0
FED	$0	$0
PRO/PRS	$0	$0
SEG/SEG-S	**$0**	**$0**
III. State Revenues: Complete this only when proposal will Increase or decrease state revenues (e.g., tax Increase. decrease in license fee, etc)	**Increased Rev.**	**Decreased Rev.**
GPR Taxes	**$0**	**$0**
GPR Earned	$0	$0
FED	$0	$0
PRO/PRS	**$0**	**$0**
SEG/SEG-S	**$0**	**$0**
TOTAL State Revenues	$0	$0

NET ANNUALIZED IMPACT

	STATE	**LOCAL**
NET CHANGE IN COSTS	**$0**	**$0**
NET CHANGE IN REVENUES	**$ 0**	**$0**

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
DNR	Joe Polasek	(608) 266-2794	Sue Vergile FOR J.P.	(608) 266-2794	06/14/1999

FISCAL ESTIMATE FORM **1999 Session**

☐ ORIGINAL ☐ UPDATED

☐ CORRECTED ☐ SUPPLEMENTAL

LRB # 3200/3

INTRODUCTION #

Admin. Rule #

Subject

Creation of an Electric Transmission Company

Fiscal Effect

State: ☐ No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

☐ Increase Existing Appropriation ☐ Increase Existing Revenues

☐ Decrease Existing Appropriation ☐ Decrease Existing Revenues

☐ Create New Appropriation

☐ Increase Costs - May be Possible to Absorb Within Agency's Budget ☐ Yes ☐ No

☐ Decrease Costs

Local: ☐ No Local Government Costs

1. ☐ Increase Costs
   ☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs
   ☐ Permissive ☐ Mandatory
3. ☐ Increase Revenues
   ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenues
   ☐ Permissive ☐ Mandatory
5. Types of Local Governmental Units Affected:
   ☐ Towns ☐ Villages ☐ Cities
   ☐ Counties ☐ Others _____
   ☐ School Districts ☐ WTCS Districts

Fund Sources Affected

☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

Affected Ch. 20 Apprcipriations

Assumptions Used in Arriving at Fiscal Estimate:

Electric utilities are subject to a tax of 3.19% on their gross revenuesiallocatecl to Wisconsin and are exempt from local property taxes. The bill anticipates creation of a new type of electric utility, called a transmission company, which would operate and/or own the electric transmission system. A transmission company would be subject to the gross revenues tax, however nearly all of its revenues would be exempt from the tax. Only revenues for transmission services to out-of-state utilities might be taxable under the bill.

Generation, transmission and distribution of electricity are all typically, provided by the same public utility, which charges a single price for the bundled services. Since transmission services are not purchased, information does not exist on charges for transmission so there is no factual basis for estimating prospective gross revenues of a transmission company, nor the exemptions from gross revenues for transmission services provided to public utilities.

So long as the gross revenues of utility companies are not affected by the bill, state tax collections will not be affected.

The fiscal estimate assumes that, under the bill, electric customers would continue to purchase a bundled service, including transmission services, from traditional public utilities. However, if customers in the future purchase each of the bundled services separately, taxable gross revenues of a transmission company under the bill would be higher, but revenues of utility companies would be lower.

The fiscal effects of the other provisions of the bill are dealt with in the fiscal estimates of other agencies.

Long-Range Fiscal Implications:

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue Daniel P. Huegel, (606) 266-5705	Yeang-Eng Braun (606) 266-2700	8/12/99

FISCAL ESTIMATE WORKSHEET

☐ ORIGINAL ☐ UPDATED

☐ CORRECTED ☐ SUPPLEMENTAL

Detailed Estimate of Annual Fiscal Effect

LRB # 3200/3 | **1999 Session** | **Adm[redacted] #**

INTRODUCTION #

Subject

Creation of an Electric Transmission Company

I. One-Time **Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

II. Annualized Costs:	**Annualized Fiscal impact on State funds from:**	
A. State Costs by Category	**Increased Costs**	**Decreased Costs**
State Operations - Salaries and Fringe	$	$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations-Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	$	$ -
B. State Costs by Source of Funds	**Increased Costs**	**Decreased Costs**
GPR		$ -
FED		
PRO/PRS		-
SEGISEG-S		-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license Fee, etc.)	**Increased Rev.**	**Decreased Rev.**
GPR Taxes	$	$ -
GPR Earned		
FED		
PRO/PRS		
SEGISEG-S		-
TOTAL State Revenues	$	$ -

NET ANNUALIZED FISCAL IMPACT

	STATE	**LOCAL**
NET CHANGE IN COSTS	$	$
NET CHANGE IN REVENUES	$ See Text of Fiscal Note	$

Agency/Prepared by: (Name 8 Phone No.)	**Authorized Signature/Telephone No.**	**Date**
Wisconsin Department of Revenue	**Yeang-Eng Braun** Yeang Eng Braun	8/12/99
Daniel P. Huegel, (606) 266-5705	(606) 266-2700	

DRAFTER'S NOTE
FROMTHE
LEGISLATIVE REFERENCE BUREAU

LRB–3200/4dn
MDK:kmg:ch

Jun 15, 1999

Representative Hoven:

This version is identical to LRB–3150/3. Due to a computer problem, the prior version (LRB–3200/3) was not identical to LRB–3150/3. Please discard the prior version.

Mark D. Kunkel
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State of Wisconsin

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STEPHEN R MILLER
CHIEF

LRB

June 17, 1999

MEMORANDUM

To: Representative Hoven

From: Mark D. Knukel, Legislative Attorney, (608) 266–013 1

Subject: Technical Memorandum to **1999 AB 389** (LRB 99–3200/4)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

Technical Note to the drafter regarding LRB-3200/4

1. Based on the fiscal estimate provided by the department, the following changes are needed (or equivalent changes by the drafter):

- The appropriation schedule on page 21, line 14, should be increased to show $218,500 in 1999-00 and $83 1,000 in 2000-O 1.

- In Section 95, a paragraph should be added that authorizes FTE under s.20.505(10)(q) at 2.00 SEG FTE in 1999-00 and 4.00 FTE in 2000-01.

Prepared by: Paul McMahon (266-1359)
Department of Administration
June 14, 1999