



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3150/22
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Add in - 3151 &
- 3152 and
sort

1 AN ACT *to repeal and recreate* 196.374; and *to create* 15.107 (17), 16.957,
2 20.505 (10), 25.17 (1) (xm), 25.96 and 196.378 of the statutes; **relating to:**
3 establishing programs for low-income energy assistance, improving energy
4 conservation and efficiency markets and encouraging the development and use
5 of renewable resources, creating a council on utility public benefits,
6 establishing a utility public benefits fund, requiring electric utilities and retail
7 electric cooperatives to charge public benefits fees to customers and members,
8 imposing requirements on the use of renewable resources by electric utilities
9 and cooperatives, requiring the exercise of rule-making authority, making
10 appropriations and providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

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.

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

20 (cm) "Council" means the council on utility public benefits created under s.
21 15.107 (17).

1 (d) “Customer application of renewable resources” means the generation of
2 electricity from renewable resources that takes place on the premises of a customer
3 of an electric provider.

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

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

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

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

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

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

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

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

22 (n) “Low-income need” means the amount obtained by subtracting from the
23 total low-income energy bills in a fiscal year the product of 2.2% of the estimated
24 average annual income of low-income households in this state in that fiscal year

1 multiplied by the estimated number of low-income households in this state in that
2 fiscal year.

3 (o) “Low-income need percentage” means the percentage that results from
4 dividing the sum of the following by the amount of low-income need in fiscal year
5 1998–99:

6 1. The total amount received by the department for low-income funding under
7 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in fiscal year 1997–98.

8 1m. The public benefits fees established for fiscal year 1999–2000 under sub.
9 (4) (c) 1.

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

11 3. Fifty percent of the public benefits fees charged by municipal utilities and
12 retail electric cooperatives.

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

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

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

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

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

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

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

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

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

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

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

18 (a) *Low-income programs.* After holding a hearing, establish programs to be
19 administered by the department of administration through the division of housing
20 for awarding grants from the appropriation under s. 20.505 (10) (r) to provide
21 low-income assistance. In each fiscal year, the amount awarded under this
22 paragraph in grants for weatherization and other energy conservation services shall
23 be sufficient to equal 47% of the sum of all moneys received from the federal
24 government under 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in a fiscal year and
25 50% of the moneys collected in public benefits fees under sub. (5).

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

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

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

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

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

22 1. *Eligibility requirements* for low-income assistance under programs
23 established under par. (a). The rules shall prohibit a person who receives
24 low-income assistance from a municipal utility or retail electric cooperative under

1 a program specified in sub. (5) (d) 2. b. or 3. a. from receiving low-income assistance
2 under programs established under par. (a).

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

5 2m. *Criteria for the selection of proposals by the corporation specified in sub.*
6 *(3) (b).*

7 2n. *Criteria for making the determination under par. (b) 2. Rules promulgated*
8 *under this subdivision shall require the department to determine whether the need*
9 *for a program established under par. (b) 1. is satisfied by the private sector market*
10 *and, if so, whether the program should be discontinued or reduced.*

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

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

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

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

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

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

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

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

14 c. The effectiveness of the programs under par. (b) in reducing demand for
15 electricity and increasing the use of customer-owned renewable resources.

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

18 **(3) CONTRACTS.** (a) The division of housing shall, on the basis of competitive
19 bids, contract with community action agencies described in s. 46.30 (2) (a) 1.,
20 nonstock, nonprofit corporations organized under ch. 181 or local units of
21 government to provide services under the programs established under sub. (2) (a).

22 (b) The department shall, on the basis of competitive bids, contract with a
23 nonstock, nonprofit corporation organized under ch. 181 to administer the programs
24 established under sub. (2) (b) 1., including soliciting proposals, processing grant
25 applications, selecting, based on criteria specified in rules promulgated under sub.

1 (2) (c) 2m., proposals for the department to make awards and distributing grants to
2 recipients.

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

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

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

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

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

23 2. No more than 70% of the total amount of fees charged by an electric provider
24 may be charged to residential customers and no more than 30% of the total may be
25 charged to nonresidential customers.

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

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

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

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

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

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

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

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

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

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

22 (b) *Election to contribute to department programs.* 1. No later than the first
23 day of the 12th month beginning after the effective date of this subdivision
24 [revisor inserts date], each municipal utility or retail electric cooperative shall notify

1 the department whether it has elected to contribute to the programs established
2 under sub. (2) (a) or (b) 1. for a 3-year period.

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

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

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

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

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

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

23 2. If the municipal utility or retail electric cooperative elects to contribute only
24 to the programs established under sub. (2) (b) 1., the municipal utility or retail

1 electric cooperative shall, in each fiscal year of the 3-year period for which it elects
2 to contribute under par. (b) 1. or 2., do all of the following:

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

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

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

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

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

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

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

24 2. Include an amount equal to the product of the municipal utility's or retail
25 electric cooperative's wholesale supply percentage and the amount that the

1 wholesale supplier has spent on energy conservation programs or customer
2 applications of renewable resources in a fiscal year in calculating the amount that
3 the municipal utility or retail electric cooperative has spent on energy conservation
4 programs under par. (d) 1. b. or 3. b.

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

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

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

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

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

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

1 1999-00 2000-01

2 **20.505 Administration, department of**

3 (10) UTILITY PUBLIC BENEFITS

4 (q) General program operations SEG A -0- -0-

5 **SECTION 4.** 20.505 (10) of the statutes is created to read:

6 20.505 (10) UTILITY PUBLIC BENEFITS. (q) *General program operations.* From
7 the utility public benefits fund, the amounts in the schedule for general program
8 operations.

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

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

14 **SECTION 5.** 25.17 (1) (xm) of the statutes is created to read:

15 25.17 (1) (xm) Utility public benefits fund (s. 25.96);

16 **SECTION 6.** 25.96 of the statutes is created to read:

17 **25.96 Utility public benefits fund.** There is established a separate
18 nonlapsible trust fund designated as the utility public benefits fund, consisting of
19 deposits by the public service commission under s. 196.374 (3), public benefits fees
20 received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions received under
21 s. 16.957 (2) (c) 4. and (d) 2.

22 **SECTION 7.** 196.374 of the statutes is repealed and recreated to read:

23 **196.374 Low-income assistance, energy efficiency and other**
24 **programs.** (1) In this section:

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

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

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

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

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

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

1 **SECTION 8.** 196.378 of the statutes is created to read:

2 **196.378 Renewable resources. (1) DEFINITIONS.** In this section:

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

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

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

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

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

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

22 (f) “Nonsystem renewable energy” means the amount of electricity that an
23 electric provider sells to its retail customers and that is supplied or allocated under
24 executed wholesale purchase contracts from renewable facilities that are not owned

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

3 (g) “Renewable resource” means any of the following:

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

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

6 b. Tidal or wave action.

7 c. Solar thermal electric or photovoltaic energy.

8 d. Wind power.

9 e. Geothermal technology.

10 g. Biomass.

11 1m. A resource with a capacity of less than 60 megawatts that derives
12 electricity from hydroelectric power.

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

15 (h) “Renewable facility” means an installed and operational electric generating
16 facility in which energy is derived from a renewable resource. “Renewable facility”
17 includes a facility the installation or operation of which is required under federal law,
18 but does not include a facility the installation or operation of which is required under
19 the laws of another state even if the installation or operation of the facility is also
20 required under federal law.

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

23 (j) “Resource” means a source of electric power generation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **(5) PENALTY.** Any person who violates sub. (2) or any wholesale supplier who
22 provides an electric provider with a false or misleading certification regarding the
23 sources or amounts of energy supplied to the electric provider shall forfeit not less
24 than \$5,000 nor more than \$500,000. Forfeitures under this subsection shall be
25 enforced by action on behalf of the state by the attorney general. A court imposing

1 a forfeiture under this subsection shall consider all of the following in determining
2 the amount of the forfeiture:

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

5 (b) The gravity of the violation.

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

8 **SECTION 9. Nonstatutory provisions.**

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

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

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

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

21 (2) PUBLIC SERVICE COMMISSION RULES.

22 (a) Using the procedure under section 227.24 of the statutes, the public service
23 commission shall promulgate the rules required under section 196.378 (3) (a) of the
24 statutes, as created by this act, for the period before the effective date of the
25 permanent rules promulgated under that section, but not to exceed the period

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

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

8 (3) DEPARTMENT OF ADMINISTRATION RULES.

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

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

20 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3150/P8
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 AN ACT *to repeal and recreate* 196.374; and *to create* 15.107 (17), 16.957,
2 20.505 (10), 25.17 (1) (xm), 25.96 and 196.378 of the statutes; **relating to:**
3 control of transmission facilities by a transmission company and a Midwest
4 independent system operator, ownership of nonutility assets by a public utility
5 holding company, investments in transmission facilities, offers of employment
6 to certain public utility and nonaffiliate employes, fees and approvals for
7 certain high-voltage transmission lines, construction of certain electric
8 transmission facilities, environmental reviews by the public service
9 commission, reports on reliability status of electric utilities, state participation
10 in a regional transmission need and siting compact, incentives for development
11 of certain generating facilities, study of market power and retail electric
12 competition, market-based compensation, rates and contracts for electric
13 customers, regulation of certain nitrogen oxide emissions, establishing
14 programs for low-income energy assistance, improving energy conservation
15 and efficiency markets and encouraging the development and use of renewable

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1 resources, creating a council on utility public benefits, establishing a utility
2 public benefits fund, requiring electric utilities and retail electric cooperatives
3 to charge public benefits fees to customers and members, imposing
4 requirements on the use of renewable resources by electric utilities and
5 cooperatives, requiring the exercise of rule-making authority, making
6 appropriations and providing a penalty.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.~~

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:

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

8 15.107 (17) COUNCIL ON UTILITY PUBLIC BENEFITS. There is created a council on
9 utility public benefits that is attached to the department of administration under s.
10 15.03. The council shall consist of the following members appointed for 3-year
11 terms:

- 12 (a) Two members appointed by the governor.
13 (b) Two members appointed by the senate majority leader.
14 (c) One member appointed by the senate minority leader.
15 (d) Two members appointed by the speaker of the assembly.
16 (e) One member appointed by the assembly minority leader.
17 (f) One member appointed by the secretary of natural resources.
18 (g) One member appointed by the secretary of administration.

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

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

3 **16.957 Utility public benefits. (1) DEFINITIONS.** In this section:

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

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

8 (cm) “Council” means the council on utility public benefits created under s.
9 15.107 (17).

10 (d) “Customer application of renewable resources” means the generation of
11 electricity from renewable resources that takes place on the premises of a customer
12 of an electric provider.

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

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

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

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

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

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

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

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

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

11 (o) "Low-income need percentage" means the percentage that results from
12 dividing the sum of the following by the amount of low-income need in fiscal year
13 1998-99:

14 1. The total amount received by the department for low-income funding under
15 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in fiscal year 1997-98.

16 1m. The public benefits fees established for fiscal year 1999-2000 under sub.
17 (4) (c) 1.

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

19 3. Fifty percent of the public benefits fees charged by municipal utilities and
20 retail electric cooperatives.

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

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

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

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

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

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

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

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

16 (w) “Wholesale supply percentage” means the percentage of a municipal
17 utility’s or retail electric cooperative’s retail capacity in a fiscal year that is supplied
18 by a wholesale supplier.

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

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

24 (a) *Low-income programs.* After holding a hearing, establish programs to be
25 administered by the department of administration through the division of housing

SECTION 2

1 for awarding grants from the appropriation under s. 20.505 (10) (r) to provide
2 low-income assistance. In each fiscal year, the amount awarded under this
3 paragraph in grants for weatherization and other energy conservation services shall
4 be sufficient to equal 47% of the sum of all moneys received from the federal
5 government under 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in a fiscal year and
6 50% of the moneys collected in public benefits fees under sub. (5).

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

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

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

22 2. For each fiscal year after fiscal year 2003–04, determine whether to continue,
23 discontinue or reduce any of the programs established under subd. 1. and determine
24 the total amount necessary to fund the programs that the department determines

1 to continue or reduce under this subdivision. The department shall notify the
2 commission if the department determines under this subdivision to reduce funding.

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

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

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

11 2m. Criteria for the selection of proposals by the corporation specified in sub.
12 (3) (b).

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

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

1 regarding use of the contributions. The department shall deposit all contributions
2 received under this paragraph in the utility public benefits fund.

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

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

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

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

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

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

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

20 c. The effectiveness of the programs under par. (b) in reducing demand for
21 electricity and increasing the use of customer-owned renewable resources.

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

24 (3) **CONTRACTS.** (a) The division of housing shall, on the basis of competitive
25 bids, contract with community action agencies described in s. 46.30 (2) (a) 1.,

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

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

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

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

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

23 (b) *Rules.* In consultation with the council, the department shall promulgate
24 rules that establish the amount of a public benefits fee under par. (a). Fees

1 established in rules under this paragraph may vary by class of customer, but shall
2 be uniform within each class, and shall satisfy each of the following:

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

5 2. No more than 70% of the total amount of fees charged by an electric provider
6 may be charged to residential customers and no more than 30% of the total may be
7 charged to nonresidential customers.

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

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

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

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

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

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

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

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

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

23 (am) *Public benefits fee restriction.* Notwithstanding par. (a), for the period
24 beginning on the effective date of this paragraph [revisor inserts date], and ending
25 on June 30, 2008, the total increase in a customer’s or member’s electric bills that is

1 based on the requirement to pay public benefits fees, including any increase
2 resulting from a retail electric cooperative's or municipal utility's compliance with
3 this section, may not exceed 3% of the total of every other charge for which the
4 member or customer is billed for that period or \$750 per month, whichever is less.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 **16.969 Fees for certain high-voltage transmission lines.** (1) In this
5 section:

6 (a) “Commission” means the public service commission.

7 (b) “High-voltage transmission line” means a high-voltage transmission line,
8 as defined in s. 196.491 (1) (f), that is designed for operation at a nominal voltage of
9 345 kilovolts or more.

10 (2) The department shall promulgate rules that require a person who is issued
11 a certificate of public convenience and necessity by the commission under s. 196.491

12 (3) for a high-voltage transmission line to pay the department the following fees:

13 (a) An annual impact fee in an amount equal to 0.03% of the cost of the
14 high-voltage transmission line, as determined by the commission under s. 196.491
15 (3) (gm).

16 (b) A one-time environmental impact fee in amount equal to 5% of the cost of
17 the high-voltage transmission line, as determined by the commission under s.
18 196.491 (3) (gm).

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

24 (b) The fee that is paid by a person under the rules promulgated under sub. (2)

25 (b) shall be distributed as follows:

INSERT 16-7

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

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

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

10 **1999-00** **2000-01**

11 **20.505 Administration, department of**

12 (10) UTILITY PUBLIC BENEFITS

13 (q) General program operations SEG A -0- -0-

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

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

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

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

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

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

1 20.505 (10) UTILITY PUBLIC BENEFITS. (q) *General program operations.* From
2 the utility public benefits fund, the amounts in the schedule for general program
3 operations.

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

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

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

10 25.17 (1) (xm) Utility public benefits fund (s. 25.96);

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

12 **25.96 Utility public benefits fund.** There is established a separate
13 nonlapsible trust fund designated as the utility public benefits fund, consisting of
14 deposits by the public service commission under s. 196.374 (3), public benefits fees
15 received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions received under
16 s. 16.957 (2) (c) 1. and (d) 2.

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

18 76.28 (1) (d) "Gross revenues" for a light, heat and power company other than
19 a qualified wholesale electric company or a transmission company means total
20 operating revenues as reported to the public service commission except revenues for
21 interdepartmental sales and for interdepartmental rents as reported to the public
22 service commission and deductions from the sales and use tax under s. 77.61 (4),
23 except that the company may subtract from revenues either the actual cost of power
24 purchased for resale, as reported to the public service commission, by a light, heat
25 and power company, except a municipal light, heat and power company, that

1 purchases under federal or state approved wholesale rates more than 50% of its
2 electric power from a person other than an affiliated interest, as defined in s. 196.52
3 (1), if the revenue from that purchased electric power is included in the seller's gross
4 revenues or the following percentages of the actual cost of power purchased for
5 resale, as reported to the public service commission, by a light, heat and power
6 company, except a municipal light, heat and power company that purchases more
7 than 90% of its power and that has less than \$50,000,000 of gross revenues: 10% for
8 the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50%
9 for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric
10 company, "gross revenues" means total business revenues from those businesses
11 included under par. (e) 1. to 4. For a transmission company, "gross revenues" means
12 total operating revenues as reported to the public service commission, except
13 revenues for transmission service that is provided to a public utility that is subject
14 to the license fee under sub. (2) (d) or to a public utility, as defined in s. 196.01 (5).

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

16 76.28 (1) (e) (intro.) "Light, heat and power companies" means any person,
17 association, company or corporation, including corporations described in s. 66.069 (2)
18 ~~and including~~, qualified wholesale electric companies and transmission companies
19 and except only business enterprises carried on exclusively either for the private use
20 of the person, association, company or corporation engaged in them, or for the private
21 use of a person, association, company or corporation owning a majority of all
22 outstanding capital stock or who control the operation of business enterprises and
23 except electric cooperatives taxed under s. 76.48 that engage in any of the following
24 businesses:

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

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

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

3 76.28 (1) (j) “Transmission company” has the meaning given in s. 196.485 (1)
4 (ge).

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

6 76.28 (2) (c) (intro.) ~~For~~ Except as provided under par. (e), for private light, heat
7 and power companies for 1986 and thereafter, an amount equal to the apportionment
8 factor multiplied by the sum of:

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

10 76.28 (2) (d) ~~For~~ Except as provided under par. (e), for municipal light, heat and
11 power companies, an amount equal to the gross revenues, except gross revenues from
12 operations within the municipality that operates the company, multiplied by the
13 rates under par. (b) or (c).

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

15 76.28 (2) (e) For transmission companies, an amount equal to the gross
16 revenues multiplied by the rates under par. (c).

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

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

19 196.025 (2) The commission shall promulgate rules establishing requirements
20 and procedures for the commission to carry out the duties under s. 1.11. Rules
21 promulgated under this subsection shall include requirements and procedures for
22 each of the following:

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

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

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

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

8 196.025 (3) The commission shall promulgate rules establishing requirements
9 and procedures for electric utilities, as defined under s. 196.491 (1) (d), to file reports
10 with the commission, on a frequency that the commission determines is reasonably
11 necessary, on their current reliability status, including the status of operating and
12 planning reserves, available transmission capacity and outages of major operational
13 units and transmission lines. A report filed under the rules promulgated under this
14 subsection is subject to inspection and copying under s. 19.35 (1), except that the
15 commission may withhold the report from inspection and copying for a period of time
16 that the commission determines is reasonably necessary to prevent an adverse
17 impact on the supply or price of energy in this state.

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

19 196.025 (4) (a) In consultation with the department of administration and the
20 department of revenue, the commission shall study the establishment of a program
21 for providing incentives for the development of high-efficiency, small-scale electric
22 generating facilities in this state that do either of the following:

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

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

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

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

9 196.025 (5) (a) The commission shall contract with an expert consultant in
10 economics to conduct a study on the potential for horizontal market power, including
11 the horizontal market power of electric generators, to frustrate the creation of an
12 effectively competitive retail electricity market in this state and to make
13 recommendations on measures to eliminate such market power on a sustainable
14 basis. The study shall include each of the following:

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

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

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

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

23 **196.192 Market-based compensation, rates and contracts.** (1) In this
24 section, “electric public utility” means a public utility whose purpose is the
25 generation, transmission, delivery or furnishing of electric power.

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

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

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

10 (3) (a) The commission shall establish market-based rates that are consistent
11 with market-based pricing options and individual contract options specified in sub.
12 (2) (b), except that the commission may not establish a market-based rate unless the
13 commission determines that the rate is not likely to harm shareholders of the
14 investor-owned electric public utility or customers who are not subject to the rate.

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

18 (4) Subject to the approval of the commission, an electric public utility that is
19 not an investor-owned electric public utility may implement market-based rates
20 established under sub. (3) (a) or implement market-based pricing or individual
21 contract options in filings under sub. (2) (b) that are approved by the commission.

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

23 196.31 (1) (intro.) In any proceeding before the commission, the commission
24 may shall compensate any participant in the proceeding who is not a public utility,

1 for some or all of the reasonable costs of participation in the proceeding if the
2 commission finds that:

3 **SECTION 24.** 196.374 of the statutes is repealed and recreated to read:

4 **196.374 Low-income assistance, energy efficiency and other**
5 **programs.** (1) In this section:

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

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

8 (c) "Utility" means a class A gas or electric utility, as defined by the commission,
9 but does not include a municipal utility, as defined in s. 16.957 (1) (q), a municipal
10 electric company, as defined in s. 66.073 (3) (d), or a cooperative association organized
11 under ch. 185.

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

16 (3) In 1999, 2000 and 2001, the commission shall require each utility to spend
17 a decreasing portion of the amount determined under sub. (2) on programs specified
18 in sub. (2) and contribute the remaining portion of the amount to the commission for
19 deposit in the fund. In each year after 2001, each utility shall contribute the entire
20 amount determined under sub. (2) to the commission for deposit in the fund. The
21 commission shall ensure in rate-making orders that a utility recovers from its
22 ratepayers the amounts spent on programs or contributed to the fund under this
23 subsection. The commission shall allow each utility the option of continuing to use,
24 until January 1, 2001, the moneys that it has recovered under s. 196.374 (3), 1997
25 stats., to administer the programs that it has funded under s. 196.374 (1), 1997 stats.

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

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

7 **196.378 Renewable resources. (1) DEFINITIONS.** In this section:

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

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

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

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

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

22 (e) “Excludable renewable capacity” means the portion of an electric provider’s
23 total renewable capacity that is supplied from renewable facilities that were placed
24 in service before January 1, 1998, and that, before January 1, 1998, derived

1 electricity from hydroelectric power, even if the output of the renewable facilities is
2 used to satisfy requirements under federal law.

3 (f) “Nonsystem renewable energy” means the amount of electricity that an
4 electric provider sells to its retail customers and that is supplied or allocated under
5 executed wholesale purchase contracts from renewable facilities that are not owned
6 or operated by the electric provider. “Nonsystem renewable energy” does not include
7 any electricity that is not used to satisfy the electric provider’s retail load obligations.

8 (g) “Renewable resource” means any of the following:

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

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

11 b. Tidal or wave action.

12 c. Solar thermal electric or photovoltaic energy.

13 d. Wind power.

14 e. Geothermal technology.

15 g. Biomass.

16 1m. A resource with a capacity of less than 60 megawatts that derives
17 electricity from hydroelectric power.

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

20 (h) “Renewable facility” means an installed and operational electric generating
21 facility in which energy is derived from a renewable resource. “Renewable facility”
22 includes a facility the installation or operation of which is required under federal law,
23 but does not include a facility the installation or operation of which is required under
24 the laws of another state even if the installation or operation of the facility is also
25 required under federal law.

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

3 (j) “Resource” means a source of electric power generation.

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

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

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

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

18 1. By December 31, 2000, 0.5%.

19 2. By December 31, 2002, 0.85%.

20 3. By December 31, 2004, 1.2%.

21 4. By December 31, 2006, 1.55%.

22 5. By December 31, 2008, 1.9%.

23 6. By December 31, 2010, 2.2%.

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

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

3 2. The amount of electricity supplied by a renewable facility in which biomass
4 and conventional fuels are fired together shall be equal to the product of the
5 maximum amount of electricity that the facility is capable of generating and the ratio
6 of the British thermal unit content of the biomass fuels to the British thermal unit
7 content of both the biomass and conventional resource fuels.

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

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

17 (d) The commission shall ensure in rate-making orders that an electric utility
18 recovers from ratepayers the cost of providing total renewable energy to its retail
19 customers in amounts that equal or exceed the percentages specified in par. (a).
20 Subject to any approval of the commission that is necessary, an electric utility may
21 recover costs under this paragraph by any of the following methods:

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

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

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

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

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

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

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

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

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

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

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

1 (5) PENALTY. Any person who violates sub. (2) or any wholesale supplier who
2 provides an electric provider with a false or misleading certification regarding the
3 sources or amounts of energy supplied to the electric provider shall forfeit not less
4 than \$5,000 nor more than \$500,000. Forfeitures under this subsection shall be
5 enforced by action on behalf of the state by the attorney general. A court imposing
6 a forfeiture under this subsection shall consider all of the following in determining
7 the amount of the forfeiture:

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

10 (b) The gravity of the violation.

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

13 **SECTION 26.** 196.485 (title) of the statutes is repealed and recreated to read:

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

15 **SECTION 27.** 196.485 (1) (am) of the statutes is created to read:

16 196.485 (1) (am) "Contribute a transmission facility" means to divest a person's
17 interest in the transmission facility and to transfer ownership of the transmission
18 facility and associated deferred tax reserves to another person.

19 **SECTION 28.** 196.485 (1) (be) of the statutes is created to read:

20 196.485 (1) (be) "Director" means, with respect to a transmission company
21 organized as a corporation under ch. 180, a member of the board of directors of the
22 transmission company.

23 **SECTION 29.** 196.485 (1) (bs) of the statutes is created to read:

24 196.485 (1) (bs) "Electric utility" has the meaning given in s. 196.491 (1) (d).

25 **SECTION 30.** 196.485 (1) (dm) (intro.) of the statutes is amended to read:

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

2 1m. Means a person that satisfies each of the following:

3 **SECTION 31.** 196.485 (1) (dm) 1. of the statutes is renumbered 196.485 (1) (dm)

4 1m. a.

5 **SECTION 32.** 196.485 (1) (dm) 2. of the statutes is created to read:

6 196.485 (1) (dm) 2. Does not include the transmission company.

7 **SECTION 33.** 196.485 (1) (dm) 3. of the statutes is renumbered 196.485 (1) (dm)

8 1m. b. and amended to read:

9 196.485 (1) (dm) 1m. b. The person is not an affiliated interest of a person
10 specified in subd. ~~1.~~ 1m. a.

11 **SECTION 34.** 196.485 (1) (do) of the statutes is created to read:

12 196.485 (1) (do) “Land right” means any right in real property, including fee
13 simple ownership or a right-of-way or easement, that has been acquired for a
14 transmission facility that is located or intended to be located on the real property.

15 **SECTION 35.** 196.485 (1) (dq) of the statutes is created to read:

16 196.485 (1) (dq) “Manager” means, with respect to a transmission company
17 organized as a limited liability company under ch. 183, a manager, as defined in s.
18 183.0102 (13), of the transmission company.

19 **SECTION 36.** 196.485 (1) (dr) of the statutes is created to read:

20 196.485 (1) (dr) “Merger enforcement policy” means the enforcement policy of
21 the federal department of justice and the federal trade commission regarding
22 horizontal acquisitions and mergers that are subject to 15 USC 1, 18 or 45.

23 **SECTION 37.** 196.485 (1) (ds) of the statutes is created to read:

24 196.485 (1) (ds) “Midwest independent system operator” means the
25 independent system operator the establishment of which the federal energy

1 regulatory commission has conditionally authorized in an order issued on September
2 16, 1998, or the successor to such independent system operator.

3 **SECTION 38.** 196.485 (1) (dt) of the statutes is created to read:

4 196.485 (1) (dt) “Nontransmission utility security holder” means a security
5 holder that is not a transmission utility security holder.

6 **SECTION 39.** 196.485 (1) (dv) of the statutes is created to read:

7 196.485 (1) (dv) “Organizational start-up date” means, with respect to a
8 transmission company that is organized as a limited liability company under ch. 183,
9 the date on which the articles of organization become effective under s. 183.0111 or,
10 with respect to a transmission company that is organized as a corporation under ch.
11 180, the date on which the articles of incorporation become effective under s.
12 180.0123.

13 **SECTION 40.** 196.485 (1) (em) of the statutes is created to read:

14 196.485 (1) (em) “Retail electric cooperative” means a cooperative that provides
15 retail electric service.

16 **SECTION 41.** 196.485 (1) (fe) of the statutes is created to read:

17 196.485 (1) (fe) “Security” means, with respect to a transmission company
18 organized as a corporation under ch. 180, a share, as defined in s. 180.0103 (15), and,
19 with respect to a transmission company organized as a limited liability company
20 under ch. 183, a limited liability company interest, as defined in s. 183.0102 (11).

21 **SECTION 42.** 196.485 (1) (ge) of the statutes is created to read:

22 196.485 (1) (ge) “Transmission company” means a corporation organized under
23 ch. 180 or a limited liability company organized under ch. 183 that has as its sole
24 purpose the planning, constructing, operating, maintaining and expanding of
25 transmission facilities that it owns to provide for an adequate and reliable

1 transmission system that meets the needs of all users that are dependent on the
2 transmission system and that supports effective competition in energy markets
3 without favoring any market participant.

4 **SECTION 43.** 196.485 (1) (gm) of the statutes is created to read:

5 196.485 (1) (gm) “Transmission dependent utility” means a public utility that
6 is dependent on the transmission system of another person for delivering electricity
7 to the public utility’s customers.

8 **SECTION 44.** 196.485 (1) (j) of the statutes is created to read:

9 196.485 (1) (j) “Transmission utility shareholder” means a person that is a
10 shareholder of a transmission company organized as a corporation under ch. 180, is
11 an investor-owned transmission utility in the transmission area and has
12 contributed its transmission facilities to the transmission company.

13 **SECTION 45.** 196.485 (1m) of the statutes is created to read:

14 196.485 (1m) DUTY TO PROVIDE TRANSMISSION SERVICE. (a) The duty of any
15 electric utility that has contributed its transmission facilities to the transmission
16 company to finance, construct, maintain or operate a transmission facility shall
17 terminate on the date, as determined by the commission under sub. (2) (d), that the
18 transmission company is authorized to begin operations.

19 (b) After beginning operations, the transmission company shall have the
20 exclusive duty to provide transmission service in the transmission area. The duty
21 under this paragraph shall terminate on the date, as determined by the commission
22 under sub. (2) (d), that the Midwest independent system operator is authorized to
23 begin operations.

24 (c) After beginning operations, the Midwest independent system operator shall
25 have the exclusive duty to provide transmission service in the transmission area and

1 shall ensure that each transmission facility in the transmission area that is under
2 its operational control is planned, constructed, operated, maintained and controlled
3 as part of a single transmission system.

4 **SECTION 46.** 196.485 (2) (a) (intro.) of the statutes is amended to read:

5 196.485 (2) (a) (intro.) By June 30, 2000, if a transmission utility has not
6 transferred control over its transmission facilities to an independent system
7 operator that is approved by the applicable federal agency or divested, with approval
8 of the applicable federal agency and, for a public utility, the commission, its interest
9 in its transmission facilities to an independent transmission owner, the commission
10 shall, subject to ~~par.~~ pars. (am) and (ar), order the transmission utility to apply to the
11 applicable federal agency to do one of the following:

12 **SECTION 47.** 196.485 (2) (ar) of the statutes is created to read:

13 196.485 (2) (ar) The commission shall waive the requirement to issue an order
14 against a transmission utility under par. (a) if the transmission utility shows, to the
15 satisfaction of the commission, that the transmission utility has proposed to transfer
16 control of its transmission facilities to the Midwest independent system operator and
17 that the proposed transfer may have the effect of jeopardizing the tax-exempt status
18 of the transmission utility or its securities under the Internal Revenue Code. A
19 waiver under this paragraph shall be in effect until the commission determines that
20 the proposed transfer does not have the effect described in this paragraph.

21 **SECTION 48.** 196.485 (2) (bx) of the statutes is created to read:

22 196.485 (2) (bx) If the commission determines that the Midwest independent
23 system operator has failed to commence operations or has ceased operations, the
24 commission shall, by order, designate an independent system operator to fulfill the
25 duties of the Midwest independent system operator under this section. The

1 commission may not designate an independent system operator under this
2 paragraph unless the independent system operator is authorized under federal law
3 to operate in this state. In issuing an order under this paragraph, the commission
4 shall require that any transfer of transmission utilities to the designated
5 independent system operator satisfy the requirements of this section.

6 **SECTION 49.** 196.485 (2) (d) of the statutes is created to read:

7 196.485 (2) (d) The commission shall determine each of the following:

8 1. The date on which the transmission company is authorized to begin
9 operations.

10 2. Whether the Midwest independent system operator is authorized to begin
11 operations and the date on which such operations are authorized to begin.

12 **SECTION 50.** 196.485 (2) (e) of the statutes is created to read:

13 196.485 (2) (e) The commission shall determine the effective date of s. 196.807
14 as provided under s. 196.807 (5).

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

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

17 196.485 (3m) TRANSMISSION COMPANY. (a) *Duties.* 1. The transmission company
18 shall do each of the following:

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

21 b. Subject to any approval required under state or federal law, contract with
22 each transmission utility that has transferred transmission facilities to the
23 transmission company for the transmission utility to provide reasonable and
24 cost-effective operation and maintenance services to the transmission company
25 during the 3-year period after the transmission company first begins operations.

1 The transmission company and a transmission utility may agree to an extension of
2 such 3-year period. The transmission company shall provide notice to the
3 commission of any extension that is agreed to under this subd. 1. b.

4 c. Assume the obligation of a transmission utility that has transferred
5 ownership of its transmission facilities to the transmission company under any
6 agreement by the transmission utility to provide transmission service over its
7 transmission facilities or under any credit received by the transmission utility for the
8 use of its transmission facilities, except that the transmission company may modify
9 such an agreement or credit to the extent allowed under the agreement or credit and
10 to the extent allowed under state or federal law.

11 d. Apply for membership in the Midwest independent system operator as part
12 of a single zone that includes the transmission area and, upon a determination by
13 the commission under sub. (2) (d) that the Midwest independent system operator is
14 authorized to begin operations, transfer operational control of the transmission
15 company's transmission facilities to the Midwest independent system operator.

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

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

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

24 a. Sell or transfer its assets to, or merge its assets with, another person, unless
25 the assets are sold, transferred or merged on an integrated basis and in a manner

1 that ensures that the transmission facilities in the transmission area are planned,
2 constructed, operated, maintained and controlled as a single transmission system.

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

5 c. Own electric generation facilities or sell, market or broker electric capacity
6 or energy in a relevant wholesale or retail market as established under the merger
7 enforcement policy, except that, if authorized or required by the federal energy
8 regulatory commission, the transmission company may procure or resell ancillary
9 services from 3rd parties, engage in redispatch activities that are necessary to relieve
10 transmission constraints or take other actions related to operating a control area.

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

16 4. If the transmission costs of any transmission utility in the transmission area
17 are 10% or more below the average transmission costs of the transmission utilities
18 in the transmission area on the date, as determined by the commission, that the last
19 public utility affiliate files a commitment with the commission under sub. (5) (a) 2.,
20 the transmission company shall, after consulting with each public utility affiliate
21 that has filed a commitment under sub. (5) (a) 2., prepare a plan for phasing in a
22 combined single zone for the purpose of pricing network use by users of the
23 transmission system operated by the Midwest independent system operator and
24 shall seek plan approval by the federal energy regulatory commission and the
25 Midwest independent system operator. A plan under this subdivision shall phase in

1 an average-cost price for the combined single zone in equal increments over a 5-year
2 period, except that, under the plan, transmission service shall be provided to all
3 users of the transmission system on a single-zone basis during the phase-in period.

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

5 1. Subject to the approval of the commission under s. 196.491 (3), construct
6 transmission facilities, including high-voltage transmission lines, as defined in s.
7 196.491 (1) (f), in the transmission area or in any other area of the state in which
8 transmission facilities that have been contributed to the transmission company are
9 located. This subdivision does not affect the right or duty of an electric utility that
10 is not located in the transmission area or that has not contributed its transmission
11 facilities to the transmission company to construct transmission facilities.

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

15 (c) *Organization.* The articles of organization, as defined in s. 183.0102 (1), of
16 a transmission company that is organized as a limited liability company under ch.
17 183 or the bylaws of a transmission company that is organized as a corporation under
18 ch. 180 shall provide for each of the following:

19 1. That the transmission company has no less than 5 and no more than 14
20 managers or directors, except that the articles of incorporation or bylaws may allow
21 the requirements of this subdivision to be modified upon a unanimous vote of the
22 managers or directors during the 10-year period after the organizational start-up
23 date or upon a two-thirds vote of the board of directors after such 10-year period.

24 2. That at least 4 managers or directors of the transmission company have
25 staggered 4-year terms, are elected by a majority vote of the security holders and are

1 not employes or independent contractors of a person engaged in the production, sale,
2 marketing, transmission or distribution of electricity or natural gas or of an affiliate
3 of such a person.

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

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

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

19 c. Each person that receives at least 5% of the securities of the transmission
20 company under sub. (6) (a) or (b) may appoint one manager or director of the
21 transmission company for a one-year term if the person continues to hold at least a
22 5% equity interest in the transmission company during the one-year term.

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

1 4. That, during the 5-year period after the organizational start-up date, no
2 public utility affiliate that contributes transmission facility assets to the
3 transmission company under sub. (5) (b) and no affiliate of such a public utility
4 affiliate may increase its percentage share of the outstanding securities of the
5 transmission company prior to any initial issuance of securities by the transmission
6 company to any 3rd party other than a 3rd party exercising its right to purchase
7 securities under sub. (6) (b), except that this subdivision does not apply to securities
8 that are issued by the transmission company in exchange for transmission facilities
9 that are contributed in addition to the transmission facilities that are contributed
10 under sub. (5) (b) and except that the requirements of this subdivision may be
11 modified upon a unanimous vote of the managers or directors.

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

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

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

20 196.485 (4) (a) (intro.) ~~A~~ Except as provided in par. (am), a transmission utility
21 may not transfer control over, or divest its interest in, its transmission facilities to
22 an independent system operator or independent transmission owner unless, to the
23 satisfaction of the commission, each of the following requirements is satisfied:

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

1 196.485 (4) (am) If the commission determines under sub. (2) (d) 2. that the
2 Midwest independent system operator is authorized to begin operations, each
3 transmission utility in the transmission area that is a public utility shall transfer
4 operational control over its transmission facilities to the Midwest independent
5 system operator and each such transmission utility that has not contributed its
6 transmission facilities to the transmission company shall elect to become part of a
7 single zone within the Midwest independent system operator.

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

9 196.485 (5) PUBLIC UTILITY AFFILIATES. (a) *Asset cap exception.* Section 196.795
10 (6m) (e) does not apply to the eligible assets of a nonutility affiliate in a holding
11 company system unless each public utility affiliate in the holding company system
12 does each of the following:

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

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

23 3. Files with the commission an unconditional, irrevocable and binding
24 commitment to contribute, and to cause each entity into which it merges or
25 consolidates or to which it transfers substantially all of its assets to contribute, any

1 transmission facility in this state the ownership or control of which it acquires after
2 the effective date of this subdivision [revisor inserts date], and land rights, to the
3 transmission company.

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

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

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

19 a. The structure of the transfer minimizes the material adverse tax
20 consequences to the public utility affiliate that result from the transfer and any other
21 material adverse tax consequence that does not result from combining transmission
22 facilities into a single zone under the control of the Midwest independent system
23 operator.

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

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

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

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

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

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

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

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

23 (bm) *Lease of transmission facilities.* If a public utility affiliate is not able to
24 transfer ownership of its transmission facilities to the transmission company due to
25 merger-related accounting requirements, the public utility affiliate shall transfer

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

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

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

19 b. If the land right is jointly used, or is intended to be jointly used, for electric
20 and gas distribution facilities by the public utility affiliate, the public utility affiliate
21 shall enter into a contract with the transmission company that grants the
22 transmission company a right to place, maintain, modify or replace the transmission
23 company's transmission facilities on the real property that is subject to the land right
24 during the life of the transmission facilities and the life of any replacements of the
25 transmission facilities. A right granted in a contract under this subd. 1. b. shall be

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

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

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

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

17 196.485 (6) ELECTRIC UTILITIES, TRANSMISSION DEPENDENT UTILITIES AND RETAIL
18 ELECTRIC COOPERATIVES. No later than the first day of the 12th month beginning after
19 the first public utility affiliate files a commitment under sub. (5) (a) 2.:

20 (a) An electric utility may transfer all of its integrated transmission facilities
21 to the transmission company on the same terms and conditions as a contribution of
22 transmission facilities by a public utility affiliate under sub. (5) (b).

23 (b) A transmission-dependent utility or retail electric cooperative may
24 purchase equity interests in the transmission company at a price that is equivalent
25 to net book value and on terms and conditions that are comparable to those for public

1 utility affiliates that have contributed transmission facilities to the transmission
2 company. A purchaser under this paragraph shall contribute funds to the
3 transmission company that are no less than the value of its prorated shares based
4 on firm electric usage in this state in 1999.

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

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

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

12 196.485 (7) ENFORCEMENT. A wholesale or retail customer of a public utility
13 affiliate may petition the circuit court for Dane County for specific performance of
14 a commitment filed under sub. (5) (a) 2.

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

16 196.485 (8) PENALTIES. A public utility affiliate that fails to complete the
17 contribution of transmission facilities to the transmission company by the
18 completion date specified in the filing under sub. (5) (a) 2. shall forfeit \$25,000 for
19 each day that completion of the contribution is delayed if the transmission company
20 is legally able to accept the contribution.

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

22 **196.487 Reliability of electric service. (1) DEFINITIONS.** In this section:

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

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

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

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

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

14 196.491 (3) (d) 3r. For a high-voltage transmission line that is proposed to
15 increase the transmission import capability into this state, existing rights-of-way
16 are used to the extent practicable and the routing and design of the high-voltage
17 transmission line minimizes environmental impacts in a manner that is consistent
18 with achieving reasonable electric rates.

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

20 196.491 (3) (d) 3t. For a high-voltage transmission line that is designed for
21 operation at a nominal voltage of 345 kilovolts or more, the high-voltage
22 transmission line provides usage, service or increased regional reliability benefits to
23 the wholesale and retail customers in this state and the benefits of the high-voltage
24 transmission line are reasonable in relation to the cost of the high-voltage
25 transmission line.

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

2 196.491 (3) (gm) The commission may not approve an application under this
3 section for a certificate of public convenience and necessity for a high-voltage
4 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
5 or more unless the approval includes the condition that the applicant shall pay the
6 fees specified in sub. (3g). In a proceeding on such an application under this section,
7 the commission shall determine the cost of the high-voltage transmission line,
8 identify the counties, towns, villages and cities through which the high-voltage
9 transmission line is routed and allocate the amount of investment associated with
10 the high-voltage transmission line to each such county, town, village and city.

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

12 196.491 (3g) FEES FOR CERTAIN HIGH-VOLTAGE TRANSMISSION LINES. A person who
13 receives a certificate of public convenience and necessity for a high-voltage
14 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
15 or more under sub. (3) shall pay the department of administration an annual impact
16 fee as specified in the rules promulgated by the department of administration under
17 s. 16.969 (2) (a) and shall pay the department of administration a one-time
18 environmental impact fee as specified in the rules promulgated by the department
19 of administration under s. 16.969 (2) (b).

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

21 196.491 (3m) (b) 2. The analytical process specified in subd. 1. b. shall, to the
22 extent practicable, be consistent with the analytical process described in the merger
23 enforcement policy of the federal department of justice and the federal trade
24 commission regarding horizontal acquisitions and mergers that are subject to 15
25 USC 1, 18 or 45, as defined in s. 196.485 (1) (dr).

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

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

11 **SECTION 67.** 196.494 (4) of the statutes is amended to read:

12 196.494 (4) The commission shall allow ~~an electric~~ a public utility to recover
13 in its retail electric rates any costs that are prudently incurred by the public utility
14 in complying with an order under sub. (3).

15 **SECTION 68.** 196.494 (5) of the statutes is created to read:

16 196.494 (5) The governor may, on behalf of this state, enter into an interstate
17 compact that establishes a joint process for the states in the upper midwest region
18 of the United States to determine the need for and siting of regional electric
19 transmission facilities that may affect electric service in this state. The governor
20 may not enter into a compact under this subsection unless the compact includes
21 requirements and procedures for establishing each of the following:

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

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

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

3 **SECTION 69.** 196.52 (3) (a) of the statutes is amended to read:

4 196.52 (3) (a) In this subsection, “contract or arrangement” means a contract
5 or arrangement providing for the furnishing of management, supervisory,
6 construction, engineering, accounting, legal, financial or similar services and any
7 contract or arrangement for the purchase, sale, lease or exchange of any property,
8 right, or thing, or for the furnishing of any service, property, right, or thing, other
9 than management, supervisory, construction, engineering, accounting, legal,
10 financial or similar services, but “contract or arrangement” does not include a
11 contract or arrangement under which a transmission utility, as defined in s. 196.485
12 (1) (i), sells or transfers securities, as defined in s. 196.485 (1) (fe), that have been
13 issued by a transmission company, as defined in s. 196.485 (1) (ge). Except as
14 provided under par. (b), unless and until the commission gives its written approval,
15 any contract or arrangement is not valid or effective if the contract or arrangement
16 is made between a public utility and an affiliated interest after June 7, 1931. Every
17 public utility shall file with the commission a verified copy of any contract or
18 arrangement, a verified summary of any unwritten contract or arrangement, and
19 any contract or arrangement, written or unwritten, which was in effect on June 7,
20 1931. The commission shall approve a contract or arrangement made or entered into
21 after June 7, 1931, only if it shall clearly appear and be established upon
22 investigation that it is reasonable and consistent with the public interest. The
23 commission may not approve any contract or arrangement unless satisfactory proof
24 is submitted to the commission of the cost to the affiliated interest of rendering the
25 services or of furnishing the property or service to each public utility or of the cost

1 to the public utility of rendering the services or of furnishing the property or service
2 to each affiliated interest. No proof is satisfactory under this paragraph unless it
3 includes the original (or verified copies) of the relevant cost records and other
4 relevant accounts of the affiliated interest, or an abstract of the records and accounts
5 or a summary taken from the records and accounts if the commission deems the
6 abstract or summary adequate. The accounts shall be properly identified and duly
7 authenticated. The commission, where reasonable, may approve or disapprove a
8 contract or arrangement without submission of the cost records or accounts.

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

10 196.795 (1) (g) 1. As a beneficial owner, to take, hold or acquire 5% or more of
11 the outstanding voting securities of a public utility, other than a transmission
12 company, with the unconditional power to vote those securities.

13 **SECTION 71.** 196.795 (1) (g) 2. of the statutes is amended to read:

14 196.795 (1) (g) 2. To exchange or convert 50% or more of the outstanding voting
15 securities of a public utility, other than a municipality or other political subdivision
16 or a transmission company, for or into the voting securities of a company organized,
17 created, appointed or formed by or at the direction of the public utility or of a
18 subsidiary of such company.

19 **SECTION 72.** 196.795 (1) (h) 3. of the statutes is created to read:

20 196.795 (1) (h) 3. "Holding company" does not include a transmission company.

21 **SECTION 73.** 196.795 (1) (p) of the statutes is created to read:

22 196.795 (1) (p) "Transmission company" has the meaning given in s. 196.485
23 (1) (ge).

24 **SECTION 74.** 196.795 (5) (i) 1. of the statutes is amended to read:

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

5 **SECTION 75.** 196.795 (5) (p) 1., 2., 3. and 4. of the statutes are renumbered
6 196.795 (6m) (b) 1., 2., 3. and 4.

7 **SECTION 76.** 196.795 (5) (pm) 1. (intro.) of the statutes is repealed.

8 **SECTION 77.** 196.795 (5) (pm) 1. a. of the statutes is renumbered 196.795 (6m)
9 (a) 3.

10 **SECTION 78.** 196.795 (5) (pm) 1. b. of the statutes is renumbered 196.795 (6m)
11 (a) 5.

12 **SECTION 79.** 196.795 (5) (pm) 1. c. of the statutes is renumbered 196.795 (6m)
13 (a) 6.

14 **SECTION 80.** 196.795 (5) (pm) 2. of the statutes is renumbered 196.795 (6m) (c)
15 and amended to read:

16 196.795 (6m) (c) Wholesale merchant plants. The assets of a wholesale
17 merchant plant shall not be included in the sum of the assets of a public utility
18 affiliate under par. (p) (b) 1. a., b. or c. and shall not be included in a nonutility
19 affiliate's total assets under par. (p) (b) 2. a. if the requirements specified in s. 196.491
20 (3m) (a) 1. and 2. are satisfied or if the wholesale merchant plant qualifies for the
21 exemption under s. 196.491 (3m) (e).

22 **SECTION 81.** 196.795 (5) (pm) 3. of the statutes is renumbered 196.795 (6m) (d)
23 and amended to read:

24 196.795 (6m) (d) Foreign affiliates. The assets of a foreign affiliate shall be
25 included in the sum of the assets of a public utility affiliate under par. (p) (b) 1. a.,

1 b. or c. and shall not be included in a nonutility affiliate's total assets under par. (p)
2 (b) 2. a.

3 **SECTION 82.** 196.795 (6m) (title) of the statutes is created to read:

4 196.795 (6m) (title) ASSET CAP.

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

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

7 **SECTION 84.** 196.795 (6m) (a) 1. of the statutes is created to read:

8 196.795 (6m) (a) 1. "Contributor public utility affiliate" means a public utility
9 affiliate that has contributed its transmission facilities to the transmission company
10 under s. 196.485 (5) (b).

11 **SECTION 85.** 196.795 (6m) (a) 2. of the statutes is created to read:

12 196.795 (6m) (a) 2. "Eligible asset" means an asset of a nonutility affiliate that
13 is used for any of the following:

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

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

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

19 d. Recovering or producing energy from waste materials.

20 e. Processing waste materials.

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

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

25 **SECTION 86.** 196.795 (6m) (a) 4. of the statutes is created to read:

1 196.795 (6m) (a) 4. "Generation assets" means assets that are classified as
2 electric generation assets on the books of account of a public utility, as determined
3 by the commission.

4 **SECTION 87.** 196.795 (6m) (b) (title) of the statutes is created to read:

5 196.795 (6m) (b) *In general.*

6 **SECTION 88.** 196.795 (6m) (e) of the statutes is created to read:

7 196.795 (6m) (e) *Contributor public utility affiliates.* 1. The eligible assets of
8 a nonutility affiliate in a holding company system that includes a contributor public
9 utility affiliate shall not be included in the sum of the assets of the public utility
10 affiliates under par. (b) 1. a., b. or c. and shall not be included in the nonutility
11 affiliate's total assets under par. (b) 2. a.

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

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

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

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

24 4. The net book value of generation assets that a contributor public utility
25 affiliate has transferred to a person that is not affiliated with the public utility

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

6 **SECTION 89.** 196.795 (11) (b) of the statutes is amended to read:

7 196.795 (11) (b) This section shall be deemed to legalize and confirm the
8 formation, prior to November 28, 1985, of any holding company, which is not itself
9 a public utility, and shall be deemed to legalize and confirm the operations and
10 issuances of securities of the holding company, except that nothing in this section
11 shall be deemed to prevent the commission from imposing reasonable terms,
12 limitations or conditions on any holding company which are consistent with the
13 requirements of sub. ~~(5) (pm)~~ (6m) (c) or (d) or which are consistent with and
14 necessary to satisfy the requirements of sub. (5) (b) to (o) and (q) to (s) or which relate
15 to future investments by the holding company unless the holding company owns,
16 operates, manages or controls a telecommunications utility and does not also own,
17 operate, manage or control a public utility which is not a telecommunications utility.

18 **SECTION 90.** 196.795 (11) (c) of the statutes is created to read:

19 196.795 (11) (c) The commission may not impose upon a holding company the
20 formation of which is considered to be legalized and confirmed under par. (b) any
21 term, limitation or condition under par. (b) that establishes the sum of the holding
22 company's nonutility affiliate assets at less than 25% of the sum of the holding
23 company's utility affiliate assets. For purposes of this paragraph, any term,
24 limitation or condition on nonutility affiliate assets shall not apply to the ownership,
25 operation, management or control of any eligible asset, as defined under sub. (6m)

1 (a) 2., or an asset that is used for manufacturing, distributing or selling swimming
2 pools or spas.

3 SECTION 91. 196.807 of the statutes is created to read:

4 **196.807 Energy affiliate and utility employees. (1) DEFINITIONS.** In this
5 section:

6 (a) “Acquire an energy unit” means to lease, purchase or otherwise acquire
7 ownership or control of the energy unit.

8 (b) “Affiliate or utility” means a nonutility affiliate, as defined in s. 196.795 (1)
9 (j), a holding company system, as defined in s. 196.795 (1) (i), or an electric utility,
10 as defined in s. 196.491 (1) (d).

11 (c) “Energy unit” means a unit that is engaged in activities related to the
12 production, generation, transmission or distribution of electricity, gas or steam or the
13 recovery of energy from waste materials.

14 (d) “Holding company system” has the meaning given in s. 196.795 (1) (i).

15 (e) “Unit” means a division, department or other operational business unit of
16 an affiliate or utility.

17 **(2) OFFER OF EMPLOYMENT.** (a) Except as provided in par. (b), a person that
18 acquires an energy unit shall offer employment to the nonsupervisory employes who
19 are employed with the energy unit immediately prior to the acquisition and who are
20 necessary for the operation and maintenance of the energy unit.

21 (b) A nonutility affiliate that acquires an energy unit of a public utility affiliate
22 in the same holding company system shall offer employment to all of the
23 nonsupervisory employes who are employed with the energy unit immediately prior
24 to the acquisition.

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

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

6 2. Fringe benefits shall be substantially equivalent to the fringe benefits in
7 effect immediately prior to the acquisition.

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

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

13 **(4) COMMISSION APPROVAL.** No person may acquire an energy unit unless the
14 commission determines that the person has satisfied subs. (2) and (3).

15 **(5) APPLICABILITY.** This section does not apply until the expiration date of the
16 3-year period specified in s. 196.485 (3m) (a) 1. b., as determined by the commission,
17 or the expiration date of any extension of the 3-year period that is agreed to under
18 s. 196.485 (3m) (a) 1. b., as determined by the commission, whichever is later. The
19 commission shall publish a notice in the Wisconsin Administrative Register that
20 specifies the date that the commission determines is the effective date of this section.

21 **SECTION 92.** 200.01 (2) of the statutes is amended to read:

22 200.01 (2) "Public service corporation" means and embraces every corporation,
23 except municipalities and other political subdivisions, which is a public utility as
24 defined in s. 196.01, and every corporation which is a railroad as defined in s. 195.02,
25 but shall not include a public utility corporation receiving an annual gross revenue

1 of less than \$1,000 for the calendar year next preceding the issuance of any securities
2 by it. "Public service corporation" includes a holding company, as defined under s.
3 196.795 (1) (h), which is a public utility, as defined under s. 196.01 (5). "Public service
4 corporation" does not include a telecommunications utility, as defined in s. 196.01
5 (10). "Public service corporation" does not include any other holding company unless
6 the holding company was formed after November 28, 1985, and unless the
7 commission has determined, under s. 196.795 (7) (a), that each nonutility affiliate,
8 as defined under s. 196.795 (1) (j), does not and cannot reasonably be expected to do
9 at least one of the items specified in s. 196.795 (7) (a). "Public service corporation"
10 does not include a company, as defined in s. 196.795 (1) (f), which owns, operates,
11 manages or controls a telecommunications utility, as defined in s. 196.01 (10), unless
12 such company also owns, operates, manages or controls a public utility which is not
13 a telecommunications utility. "Public service corporation" does not include a
14 transmission company, as defined in s. 196.485 (1) (ge).

15 SECTION 93. 285.48 of the statutes is created to read:

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

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

5 **SECTION 94. Nonstatutory provisions.**

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

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

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

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

18 (2) PUBLIC SERVICE COMMISSION RULES.

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

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

5 (3) DEPARTMENT OF ADMINISTRATION RULES.

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

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

17 **SECTION 95. Appropriation changes.**

18 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
19 to the public service commission under section 20.155 (1) (j) of the statutes, as
20 affected by the acts of 1999, the dollar amount is increased by \$125,000 for fiscal year
21 1999–00 and the dollar amount is increased by \$125,000 for fiscal year 2000–01 for
22 the purpose for which the appropriation is made.

23 **SECTION 96. Initial applicability.**

24 (1) The treatment of sections 16.969, 20.505 (1) (ge) and (gs) and 196.491 (3)
25 (gm) and (3g) of the statutes first applies to certificates of public convenience and

1 necessity that are approved by the public service commission on the effective date of
2 this subsection.

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

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

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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), 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 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; 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 sufficient 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 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 certain electric utilities to make expenditures that are based on the percentage of annual operating revenues that the electric utilities are required to spend under current law on energy conservation programs. Under current law, the electric utilities are required to spend at least 0.5% of their annual operating revenues on such programs. This bill requires the ~~public service commission~~ ^{public service} PSC to determine the amount that an electric utility was required to spend on such programs in 1998. Under the bill, an electric utility must spend a decreasing portion of the amount determined by the PSC for 1998 on energy conservation programs and contribute an increasing portion of the 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.

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~~ ^{energy}. The bill allows public utilities and retail cooperatives to purchase credits from other public utilities and retail cooperatives that generate electricity from renewable 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 an independent system operator; and 2) filing a commitment with the PSC to transfer ownership of such transmission facilities and related land rights 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 January 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 ~~3~~ 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.

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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 ~~system'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.

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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. In addition, the bill exempts the property of the transmission company from the property tax.

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 employees 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 employees. 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. The fees must be paid to DOA, which is required to distribute the fees to counties, towns 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 service interruptions for 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.

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.

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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.

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(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 environmental offset programs, except that the county, town, village or city may not use the distribution for any mitigation measure that is required in an order by the commission under s. 196.491 (3) regarding the certificate of public convenience and necessity specified in sub. (2) (intro.)^(.).

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3150/1dn

MDK: *king*

Senator Chvala:

Please review this bill, which is based on comments from and discussions with Lee Cullen, very carefully to make sure that it achieves your intent. In particular, please note the following:

1. Due to time constraints, the bill does not incorporate some of the comments that were provided by Mr. Cullen last night. These comments may be incorporated into the next version of the bill or an amendment.

2. Please review in detail the portions of the bill that are based on the "CFC White Paper" provisions of the instructions. Due to time constraints, I was not able to resolve questions that arose regarding these instructions.

If you have any questions, please contact me.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3150/1dn
MDK:kmg:ch

June 8, 1999

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

Handwritten signature

1999 - 2000 LEGISLATURE

LRB-3150/1
MDK:kmg:ch

1999 BILL

① *Doc* Curt - I need June 7
final draft

② *no* We need to check June 7 *declined to see it all made it into this draft*

1 AN ACT to repeal 196.485 (3) (bm) and 196.795 (5) (pm) 1. (intro.); to renumber
2 196.025, 196.485 (1) (dm) 1., 196.795 (5) (p) 1., 2., 3. and 4., 196.795 (5) (pm) 1.
3 a., 196.795 (5) (pm) 1. b. and 196.795 (5) (pm) 1. c.; to renumber and amend
4 196.485 (1) (dm) 3., 196.795 (5) (pm) 2. and 196.795 (5) (pm) 3.; to amend 76.28
5 (1) (d), 76.28 (1) (e) (intro.), 76.28 (2) (c) (intro.), 76.28 (2) (d), 196.31 (1) (intro.),
6 196.485 (1) (dm) (intro.), 196.485 (2) (a) (intro.), 196.485 (4) (a) (intro.), 196.491
7 (3m) (b) 2., 196.494 (3), 196.494 (4), 196.52 (3) (a), 196.795 (1) (g) 1., 196.795 (1)
8 (g) 2., 196.795 (5) (i) 1., 196.795 (11) (b) and 200.01 (2); to repeal and recreate
9 196.374 and 196.485 (title); and to create 15.107 (17), 16.957, 16.969, 20.505
10 (1) (ge), 20.505 (1) (gs), 20.505 (10), 25.17 (1) (xm), 25.96, 76.28 (1) (e) 5., 76.28
11 (1) (j), 76.28 (2) (e), 196.025 (2), 196.025 (3), 196.025 (4), 196.025 (5), 196.192,
12 196.378, 196.485 (1) (am), 196.485 (1) (be), 196.485 (1) (bs), 196.485 (1) (dm) 2.,
13 196.485 (1) (do), 196.485 (1) (dq), 196.485 (1) (dr), 196.485 (1) (ds), 196.485 (1)
14 (dt), 196.485 (1) (dv), 196.485 (1) (em), 196.485 (1) (fe), 196.485 (1) (ge), 196.485

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

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1 exercise of rule-making authority , making appropriations and providing a
2 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 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.

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For nonmunicipal utilities, the bill directs DOA to determine the amount of the public benefits fee, which consists of a portion sufficient 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 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 certain electric utilities to make expenditures that are based on the percentage of annual operating revenues that the electric utilities are required to spend under current law on energy conservation programs. Under current law, the electric utilities are required to spend at least 0.5% of their annual operating revenues on such programs. This bill requires the PSC to determine the amount that an electric utility was required to spend on such programs in 1998. Under the bill, an electric utility must spend a decreasing portion of the amount determined by the PSC for 1998 on energy conservation programs and contribute an increasing portion of the 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.

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 an independent system operator; and 2) filing a commitment with the PSC to transfer ownership of such transmission facilities and related land rights 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)

other requirements

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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 January 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. In addition, the bill exempts the property of the transmission company from the property tax.

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 employees 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 employees. 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

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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 service interruptions for 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.

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.

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

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1 (cm) "Council" means the council on utility public benefits created under s.
2 15.107 (17).

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

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

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

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

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

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

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

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

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

24 (n) "Low-income need" means the amount obtained by subtracting from the
25 total low-income energy bills in a fiscal year the product of 2.2% of the estimated

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1 average annual income of low-income households in this state in that fiscal year
2 multiplied by the estimated number of low-income households in this state in that
3 fiscal year.

4 (o) "Low-income need percentage" means the percentage that results from
5 dividing the sum of the following by the amount of low-income need in fiscal year
6 1998-99:

7 1. The total amount received by the department for low-income funding under
8 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in fiscal year 1997-98.

9 1m. The public benefits fees established for fiscal year 1999-2000 under sub.
10 (4) (c) 1.

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

12 3. Fifty percent of the public benefits fees charged by municipal utilities and
13 retail electric cooperatives.

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

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

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

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

20 (s) "Retail capacity" means the total amount of electricity that an electric
21 provider is capable of delivering to its retail customers and that is supplied by electric
22 generating facilities owned or operated by the electric provider or any other person.
23 "Retail capacity" does not include any electricity that is not used to satisfy the electric
24 provider 's retail load obligations.

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

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

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

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

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

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

18 (a) *Low-income programs.* After holding a hearing, establish programs to be
19 administered by the department of administration through the division of housing
20 for awarding grants from the appropriation under s. 20.505 (10) (r) to provide
21 low-income assistance. In each fiscal year, the amount awarded under this
22 paragraph in grants for weatherization and other energy conservation services shall
23 be sufficient to equal 47% of the sum of all moneys received from the federal
24 government under 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in a fiscal year and
25 50% of the moneys collected in public benefits fees under sub. (5).

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- 1 (b) *Energy conservation and efficiency and renewable resource programs.* 1.
- 2 Subject to subd. 2., after holding a hearing, establish programs for awarding grants
- 3 from the appropriation under s. 20.505 (10) (s) for each of the following:
- 4 a. Proposals for providing energy conservation or efficiency services. In
- 5 awarding grants under this subd. 1. a., the department shall give priority to
- 6 proposals directed at the sectors of energy conservation or efficiency markets that
- 7 are least competitive and at promoting environmental protection, electric system
- 8 reliability or rural economic development. In each fiscal year, 1.75% of the
- 9 appropriation under s. 20.505 (10) (s) shall be awarded in grants for research and
- 10 development proposals regarding the environmental impacts of the electric industry .
- 11 b. Proposals for encouraging the development or use of customer applications
- 12 of renewable resources, including educating customers about renewable resources
- 13 or encouraging uses of renewable resources by customers or encouraging research
- 14 technology transfers. In each fiscal year, the department shall ensure that 4.5% of
- 15 the appropriation under s. 20.505 (10) (s) is awarded in grants under this subd. 1. b.
- 16 2. For each fiscal year after fiscal year 2003–04, determine whether to continue,
- 17 discontinue or reduce any of the programs established under subd. 1. and determine
- 18 the total amount necessary to fund the programs that the department determines
- 19 to continue or reduce under this subdivision. The department shall notify the
- 20 commission if the department determines under this subdivision to reduce funding.
- 21 (c) *Rules.* Promulgate rules establishing all of the following:
- 22 1. Eligibility requirements for low-income assistance under programs
- 23 established under par. (a). The rules shall prohibit a person who receives
- 24 low-income assistance from a municipal utility or retail electric cooperative under

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1 a program specified in sub. (5) (d) 2. b. or 3. a. from receiving low-income assistance
2 under programs established under par. (a).

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

5 2m. Criteria for the selection of proposals by the corporation specified in sub.
6 (3) (b).

7 2n. Criteria for making the determination under par. (b) 2. Rules promulgated
8 under this subdivision shall require the department to determine whether the need
9 for a program established under par. (b) 1. is satisfied by the private sector market
10 and, if so, whether the program should be discontinued or reduced.

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

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

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- 1 (d) *Other duties.* 1. For each fiscal year after fiscal year 1998-99, determine
2 the low-income need target for that fiscal year.
- 3 2. Encourage customers to make voluntary contributions to assist in funding
4 the programs established under pars. (a) and (b) 1. The department shall deposit all
5 contributions received under this paragraph in the utility public benefits fund.
- 6 3. Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in the utility
7 public benefits fund.
- 8 4. Conduct an annual independent audit and submit an annual report to the
9 legislature under s. 13.172 (2) that describes each of the following:
- 10 a. The expenses of the department, other state agencies and grant recipients
11 in administering or participating in the programs under pars. (a) and (b).
- 12 b. The effectiveness of the programs under par. (a) in providing assistance to
13 low-income individuals.
- 14 c. The effectiveness of the programs under par. (b) in reducing demand for
15 electricity and increasing the use of customer-owned renewable resources.
- 16 d. Any other issue identified by the governor, speaker of the assembly or
17 majority leader of the senate.
- 18 **(3) CONTRACTS.** (a) The division of housing shall, on the basis of competitive
19 bids, contract with community action agencies described in s. 46.30 (2) (a) 1.,
20 nonstock, nonprofit corporations organized under ch. 181 or local units of
21 government to provide services under the programs established under sub. (2) (a).
- 22 (b) The department shall, on the basis of competitive bids, contract with a
23 nonstock, nonprofit corporation organized under ch. 181 to administer the programs
24 established under sub. (2) (b) 1., including soliciting proposals, processing grant
25 applications, selecting, based on criteria specified in rules promulgated under sub.

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1 (2) (c) 2m., proposals for the department to make awards and distributing grants to
2 recipients.

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

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

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

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

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

23 2. No more than 70% of the total amount of fees charged by an electric provider
24 may be charged to residential customers and no more than 30% of the total may be
25 charged to nonresidential customers.

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

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

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

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

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

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

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

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

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

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

22 (b) *Election to contribute to department programs.* 1. No later than the first
23 day of the 12th month beginning after the effective date of this subdivision
24 [revisor inserts date], each municipal utility or retail electric cooperative shall notify

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1 the department whether it has elected to contribute to the programs established
2 under sub. (2) (a) or (b) 1. for a 3-year period.

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

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

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

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

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

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

23 2. If the municipal utility or retail electric cooperative elects to contribute only
24 to the programs established under sub. (2) (b) 1., the municipal utility or retail

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1 electric cooperative shall, in each fiscal year of the 3-year period for which it elects
2 to contribute under par. (b) 1. or 2., do all of the following:

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

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

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

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

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

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

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

24 2. Include an amount equal to the product of the municipal utility' s or retail
25 electric cooperative' s wholesale supply percentage and the amount that the

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1 wholesale supplier has spent on energy conservation programs or customer
2 applications of renewable resources in a fiscal year in calculating the amount that
3 the municipal utility or retail electric cooperative has spent on energy conservation
4 programs under par. (d) 1. b. or 3. b.

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

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

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

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

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

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

22 **16.969 Fees for certain high-voltage transmission lines. (1)** In this
23 section:

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

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1 (b) "High-voltage transmission line" means a high-voltage transmission line,
2 as defined in s. 196.491 (1) (f), that is designed for operation at a nominal voltage of
3 345 kilovolts or more.

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

7 (a) An annual impact fee in an amount equal to 0.03% of the cost of the
8 high-voltage transmission line, as determined by the commission under s. 196.491
9 (3) (gm).

10 (b) A one-time environmental impact fee in amount equal to 5% of the cost of
11 the high-voltage transmission line, as determined by the commission under s.
12 196.491 (3) (gm).

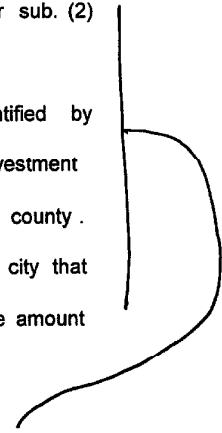
13 (3) (a) The department shall distribute the fees that are paid by a person under
14 the rules promulgated under sub. (2) (a) to each town, village and city that is
15 identified by the commission under s. 196.491 (3) (gm) in proportion to the amount
16 of investment that is allocated by the commission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

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

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

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

*Note: not many cities or
villages affected; towns
do great*



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1 of investment that is allocated by the commission under s. 196.491 (3) (gm) to each
2 such town, village and city .

3 (4) A county , town, village or city that receives a distribution under sub. (3) (b)
4 may use the distribution only for park, conservancy , wetland or other environmental
5 offset programs, except that the county , town, village or city may not use the
6 distribution for any mitigation measure that is required in an order by the
7 commission under s. 196.491 (3) regarding the certificate of public convenience and
8 necessity specified in sub. (2) (intro.).

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

11 1999-00 2000-01

12 **20.505 Administration, department of**

13 (10) UTILITY PUBLIC BENEFITS

14 (q) General program operations SEG A -0- -0-

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

16 20.505 (1) (ge) *High-voltage transmission line annual impact fee distributions.*

17 All moneys received from the payment of fees under the rules promulgated under s.
18 16.969 (2) (a) for distributions to to towns, villages and cities under s. 16.969 (3) (a).

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

20 20.505 (1) (gs) *High-voltage transmission line environmental impact fee*
21 *distributions.* All moneys received from the payment of fees under the rules

22 promulgated under s. 16.969 (2) (b) for distributions to to counties, towns, villages
23 and cities under s. 16.969 (3) (b).

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

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SECTION 7

1 20.505 (10) U TILITY PUBLIC BENEFITS. (q) *General program operations.* From
2 the utility public benefits fund, the amounts in the schedule for general program
3 operations.

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

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

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

10 25.17 (1) (xm) Utility public benefits fund (s. 25.96);

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

12 **25.96 Utility public benefits fund.** There is established a separate
13 nonlapsible trust fund designated as the utility public benefits fund, consisting of
14 deposits by the public service commission under s. 196.374 (3), public benefits fees
15 received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions received under
16 s. 16.957 (2) (c) 4. and (d) 2.

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

18 76.28 (1) (d) "Gross revenues" for a light, heat and power company other than
19 a qualified wholesale electric company or a transmission company means total
20 operating revenues as reported to the public service commission except revenues for
21 interdepartmental sales and for interdepartmental rents as reported to the public
22 service commission and deductions from the sales and use tax under s. 77.61 (4),
23 except that the company may subtract from revenues either the actual cost of power
24 purchased for resale, as reported to the public service commission, by a light, heat
25 and power company, except a municipal light, heat and power company, that

only utility

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1 purchases under federal or state approved wholesale rates more than 50% of its
 2 electric power from a person other than an affiliated interest, as defined in s. 196.52
 3 (1), if the revenue from that purchased electric power is included in the seller's gross
 4 revenues or the following percentages of the actual cost of power purchased for
 5 resale, as reported to the public service commission, by a light, heat and power
 6 company, except a municipal light, heat and power company that purchases more
 7 than 90% of its power and that has less than \$50,000,000 of gross revenues: 10% for
 8 the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50%
 9 for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric
 10 company, "gross revenues" means total business revenues from those businesses
 11 included under par. (e) 1. to 4. For a transmission company, "gross revenues" means
 12 total operating revenues as reported to the public service commission, except
 13 revenues for transmission service that is provided to a public utility that is subject
 14 to the license fee under sub. (2) (d) or to a public utility, as defined in s. 196.01 (5).

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

16 76.28 (1) (e) (intro.) "Light, heat and power companies" means any person,
 17 association, company or corporation, including corporations described in s. 66.069 (2)
 18 and including qualified wholesale electric companies and transmission companies
 19 and except only business enterprises carried on exclusively either for the private use
 20 of the person, association, company or corporation engaged in them, or for the private
 21 use of a person, association, company or corporation owning a majority of all
 22 outstanding capital stock or who control the operation of business enterprises and
 23 except electric cooperatives taxed under s. 76.48 that engage in any of the following
 24 businesses:

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

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

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

3 76.28 (1) (j) "Transmission company" has the meaning given in s. 196.485 (1)
4 (ge).

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

6 76.28 (2) (c) (intro.) For Except as provided under par. (e), for private light, heat
7 and power companies for 1986 and thereafter , an amount equal to the apportionment
8 factor multiplied by the sum of:

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

10 76.28 (2) (d) For Except as provided under par. (e), for municipal light, heat and
11 power companies, an amount equal to the gross revenues, except gross revenues from
12 operations within the municipality that operates the company , multiplied by the
13 rates under par. (b) or (c).

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

15 76.28 (2) (e) For transmission companies, an amount equal to the gross
16 revenues multiplied by the rates under par. (c).

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

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

19 196.025 (2) The commission shall promulgate rules establishing requirements
20 and procedures for the commission to carry out the duties under s. 1.11. Rules
21 promulgated under this subsection shall include requirements and procedures for
22 each of the following:

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

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

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

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

8 196.025 (3) The commission shall promulgate rules establishing requirements
9 and procedures for electric utilities, as defined under s. 196.491 (1) (d), to file reports
10 with the commission, on a frequency that the commission determines is reasonably
11 necessary, on their current reliability status, including the status of operating and
12 planning reserves, available transmission capacity and outages of major operational
13 units and transmission lines. A report filed under the rules promulgated under this
14 subsection is subject to inspection and copying under s. 19.35 (1), except that the
15 commission may withhold the report from inspection and copying for a period of time
16 that the commission determines is reasonably necessary to prevent an adverse
17 impact on the supply or price of energy in this state.

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

19 196.025 (4) (a) In consultation with the department of administration and the
20 department of revenue, the commission shall study the establishment of a program
21 for providing incentives for the development of high-efficiency, small-scale electric
22 generating facilities in this state that do either of the following:

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

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

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

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

9 196.025 (5) (a) The commission shall contract with an expert consultant in
10 economics to conduct a study on the potential for horizontal market power, including
11 the horizontal market power of electric generators, to frustrate the creation of an
12 effectively competitive retail electricity market in this state and to make
13 recommendations on measures to eliminate such market power on a sustainable
14 basis. The study shall include each of the following:

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

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

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

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

23 **196.192 Market-based compensation, rates and contracts.** (1) In this
24 section, "electric public utility" means a public utility whose purpose is the
25 generation, transmission, delivery or furnishing of electric power.

Handwritten notes:
- A circle around "transmission" in line 25.
- A circle around "public utility" in line 24.
- A large handwritten note: "this captures more than JOLLS?" with a question mark and a slash through it.

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options and options for

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

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

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

10 (3) (a) The commission shall establish market-based rates that are consistent
11 with market-based pricing options and individual contract options specified in sub.

12 (2) (b), except that the commission may not establish a market-based rate unless the
13 commission determines that the rate is not likely to harm shareholders of the
14 investor-owned electric public utility or customers who are not subject to the rate.

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

18 (4) Subject to the approval of the commission, an electric public utility that is
19 not an investor-owned electric public utility may ~~implement market-based rates~~
20 established under sub. (3) (a) or implement market-based pricing or individual
21 contract options in filings under sub. (2) (b) that are approved by the commission.

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

23 196.31 (1) (intro.) In any proceeding before the commission, the commission
24 may shall compensate any participant in the proceeding who is not a public utility,

options for individual contracts

no.

Please make this change

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1 for some or all of the reasonable costs of participation in the proceeding if the
2 commission finds that:

3 SECTION 24. 196.374 of the statutes is repealed and recreated to read:

4 **196.374 Low-income assistance, energy efficiency and other**
5 **programs. (1)** In this section:

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

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

8 (c) "Utility" means a class A gas or electric utility, as defined by the commission,
9 but does not include a municipal utility, as defined in s. 16.957 (1) (q), a municipal
10 electric company, as defined in s. 66.073 (3) (d), or a cooperative association organized
11 under ch. 185.

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

16 (3) In 1999, 2000 and 2001, the commission shall require each utility to spend
17 a decreasing portion of the amount determined under sub. (2) on programs specified
18 in sub. (2) and contribute the remaining portion of the amount to the commission for
19 deposit in the fund. In each year after 2001, each utility shall contribute the entire
20 amount determined under sub. (2) to the commission for deposit in the fund. The
21 commission shall ensure in rate-making orders that a utility recovers from its
22 ratepayers the amounts spent on programs or contributed to the fund under this
23 subsection. The commission shall allow each utility the option of continuing to use,
24 until January 1, 2001, the moneys that it has recovered under s. 196.374 (3), 1997
25 stats., to administer the programs that it has funded under s. 196.374 (1), 1997 stats.

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

6 SECTION 25. 196.378 of the statutes is created to read:

7 **196.378 Renewable resources. (1) DEFINITIONS.** In this section:

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

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

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

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

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

22 (e) "Excludable renewable capacity" means the portion of an electric provider's
23 total renewable capacity that is supplied from renewable facilities that were placed
24 in service before January 1, 1998, and that, before January 1, 1998, derived

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1 electricity from hydroelectric power, even if the output of the renewable facilities is
2 used to satisfy requirements under federal law.

3 (f) "Nonsystem renewable energy" means the amount of electricity that an
4 electric provider sells to its retail customers and that is supplied or allocated under
5 executed wholesale purchase contracts from renewable facilities that are not owned
6 or operated by the electric provider. "Nonsystem renewable energy" does not include
7 any electricity that is not used to satisfy the electric provider's retail load obligations.

8 (g) "Renewable resource" means any of the following:

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

- 10 a. A fuel cell that uses, as determined by the commission, a renewable fuel.
- 11 b. Tidal or wave action.
- 12 c. Solar thermal electric or photovoltaic energy.
- 13 d. Wind power.
- 14 e. Geothermal technology.
- 15 g. Biomass.

16 1m. A resource with a capacity of less than 60 megawatts that derives
17 electricity from hydroelectric power.

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

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

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

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

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

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

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

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

18 1. By December 31, 2000, 0.5%.

19 2. By December 31, 2002, 0.85%.

20 3. By December 31, 2004, 1.2%.

21 4. By December 31, 2006, 1.55%.

22 5. By December 31, 2008, 1.9%.

23 6. By December 31, 2010, 2.2%.

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

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

3 2. The amount of electricity supplied by a renewable facility in which biomass
4 and conventional fuels are fired together shall be equal to the product of the
5 maximum amount of electricity that the facility is capable of generating and the ratio
6 of the *British thermal unit content of the biomass fuels to the British thermal unit*
7 *content of both the biomass and conventional resource fuels.*

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

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

17 (d) The commission shall ensure in rate-making orders that an electric utility
18 recovers from ratepayers the cost of providing total renewable energy to its retail
19 customers in amounts that equal or exceed the percentages specified in par. (a).
20 *Subject to any approval of the commission that is necessary , an electric utility may*
21 *recover costs under this paragraph by any of the following methods:*

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

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

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

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SECTION 25**BILL**

- 1 (e) 1. This subsection does not apply to any of the following:
- 2 a. An electric provider that provides more than 10% of its summer peak demand
- 3 in this state from renewable facilities.
- 4 b. An electric provider that provides more than 10% of its summer peak demand
- 5 from renewable resources.
- 6 2. For purposes of calculating the percentages under subd. 1., an electric
- 7 provider may include renewable facilities located in this or another state and
- 8 renewable facilities located on its or another electric provider 's system.
- 9 3. Notwithstanding subd. 1., this subsection applies to an electric provider
- 10 unless the electric provider provides documentation to the commission that
- 11 establishes, to the satisfaction of the commission, that the electric provider satisfies
- 12 the requirements under subd. 1. a. or b.
- 13 (3) RENEWABLE RESOURCE CREDITS. (a) An electric provider that provides total
- 14 renewable energy to its retail electric customers in excess of the percentages
- 15 specified in sub. (2) (a) 1. to 6. may, in the applicable year, sell to any other electric
- 16 provider a renewable resource credit or a portion of a renewable resource credit at
- 17 any negotiated price. Alternatively, an electric provider may use a renewable
- 18 resource credit or portion of a renewable resource credit in a subsequent year to
- 19 establish compliance with sub. (2) (a). The commission shall promulgate rules that
- 20 establish requirements for calculating the amount of a renewable resource credit.
- 21 (b) The commission may promulgate rules that establish requirements and
- 22 procedures for a sale under par. (a).
- 23 (4) RULES. The commission may promulgate rules that designate a resource,
- 24 except for a conventional resource, as a renewable resource in addition to the
- 25 resources specified in sub. (1) (g) 1. and 1m.

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1 **(5) PENAL TY.** Any person who violates sub. (2) or any wholesale supplier who
2 provides an electric provider with a false or misleading certification regarding the
3 sources or amounts of energy supplied to the electric provider shall forfeit not less
4 than \$5,000 nor more than \$500,000. Forfeitures under this subsection shall be
5 enforced by action on behalf of the state by the attorney general. A court imposing
6 a forfeiture under this subsection shall consider all of the following in determining
7 the amount of the forfeiture:

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

10 (b) The gravity of the violation.

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

13 **SECTION 26.** 196.485 (title) of the statutes is repealed and recreated to read:

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

15 **SECTION 27.** 196.485 (1) (am) of the statutes is created to read:

16 196.485 (1) (am) "Contribute a transmission facility" means to divest a person's
17 interest in the transmission facility and to transfer ownership of the transmission
18 facility and associated deferred tax reserves to another person.

19 **SECTION 28.** 196.485 (1) (be) of the statutes is created to read:

20 196.485 (1) (be) "Director" means, with respect to a transmission company
21 organized as a corporation under ch. 180, a member of the board of directors of the
22 transmission company.

23 **SECTION 29.** 196.485 (1) (bs) of the statutes is created to read:

24 196.485 (1) (bs) "Electric utility" has the meaning given in s. 196.491 (1) (d).

25 **SECTION 30.** 196.485 (1) (dm) (intro.) of the statutes is amended to read:

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

2 1m. Means a person that satisfies each of the following:

3 SECTION 31. 196.485 (1) (dm) 1. of the statutes is renumbered 196.485 (1) (dm)

4 1m. a.

5 SECTION 32. 196.485 (1) (dm) 2. of the statutes is created to read:

6 196.485 (1) (dm) 2. Does not include the transmission company .

7 SECTION 33. 196.485 (1) (dm) 3. of the statutes is renumbered 196.485 (1) (dm)

8 1m. b. and amended to read:

9 196.485 (1) (dm) 1m. b. The person is not an affiliated interest of a person
10 specified in subd. 1. 1m. a.

11 SECTION 34. 196.485 (1) (do) of the statutes is created to read:

12 196.485 (1) (do) "Land right" means any right in real property , including fee
13 simple ownership or a right-of-way or easement, that has been acquired for a
14 transmission facility that is located or intended to be located on the real property .

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

16 196.485 (1) (dq) "Manager" means, with respect to a transmission company
17 organized as a limited liability company under ch. 183, a manager , as defined in s.
18 183.0102 (13), of the transmission company .

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

20 196.485 (1) (dr) "Merger enforcement policy" means the enforcement policy of
21 the federal department of justice and the federal trade commission regarding
22 horizontal acquisitions and mergers that are subject to 15 USC 1, 18 or 45.

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

24 196.485 (1) (ds) "Midwest independent system operator" means the
25 independent system operator the establishment of which the federal energy

~~independent system operator~~
RTO
No

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NO

BILL

1 regulatory commission has conditionally authorized in an order issued on September
2 16, 1998, or the successor to such independent ^{RTO} system operator .

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

4 196.485 (1) (dt) "Nontransmission utility security holder" means a security
5 holder that is not a transmission utility security holder .

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

7 196.485 (1) (dv) "Organizational start-up date" means, with respect to a
8 transmission company that is organized as a limited liability company under ch. 183,
9 the date on which the articles of organization become effective under s. 183.0111 or,
10 with respect to a transmission company that is organized as a corporation under ch.
11 180, the date on which the articles of incorporation become effective under s.
12 180.0123.

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

14 196.485 (1) (em) "Retail electric cooperative" means a cooperative that provides
15 retail electric service.

16 SECTION 41. 196.485 (1) (fe) of the statutes is created to read.

17 196.485 (1) (fe) "Security" means, with respect to a transmission company
18 organized as a corporation under ch. 180, a share, as defined in s. 180.0103 (15), and,
19 with respect to a transmission company organized as a limited liability company
20 under ch. 183, a limited liability company interest, as defined in s. 183.0102 (11).

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

22 196.485 (1) (ge) "Transmission company" means a corporation organized under
23 ch. 180 or a limited liability company organized under ch. 183 that has as its sole
24 purpose the planning, constructing, operating, maintaining and expanding of
25 transmission facilities that it owns to provide for an adequate and reliable

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1 transmission system that meets the needs of all users that are dependent on the
2 transmission system and that supports effective competition in energy markets
3 without favoring any market participant.

4 SECTION 43. 196.485 (1) (gm) of the statutes is created to read.

5 196.485 (1) (gm) "Transmission dependent utility" means a public utility that
6 is dependent on the transmission system of another person for delivering electricity
7 to the public utility's customers. *and that does not own a transmission system*

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

9 196.485 (1) (j) "Transmission utility shareholder" means a person that is a
10 shareholder of a transmission company organized as a corporation under ch. 180, is
11 an investor-owned transmission utility in the transmission area and has
12 contributed its transmission facilities to the transmission company.

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

14 196.485 (1m) D UTY TO PROVIDE TRANSMISSION SERVICE. (a) The duty of any
15 electric utility that has contributed its transmission facilities to the transmission
16 company to finance, construct, maintain, or operate a transmission facility shall
17 terminate on the date, as determined by the commission under sub. (2) (d), that the
18 transmission company is authorized to begin operations.

19 (b) After beginning operations, the transmission company shall have the
20 exclusive duty to provide transmission service in the transmission area. The duty
21 under this paragraph shall terminate on the date, as determined by the commission
22 under sub. (2) (d), that the Midwest independent system operator is authorized to
23 begin operations.

24 (c) After beginning operations, the Midwest independent system operator shall
25 have the exclusive duty to provide transmission service in the transmission area and

these must change; it is wrong as drafted

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1 shall ensure that each transmission facility in the transmission area that is under
2 its operational control is planned, constructed, operated, maintained and controlled
3 as part of a single transmission system.

4 SECTION 46. 196.485 (2) (a) (intro.) of the statutes is amended to read.

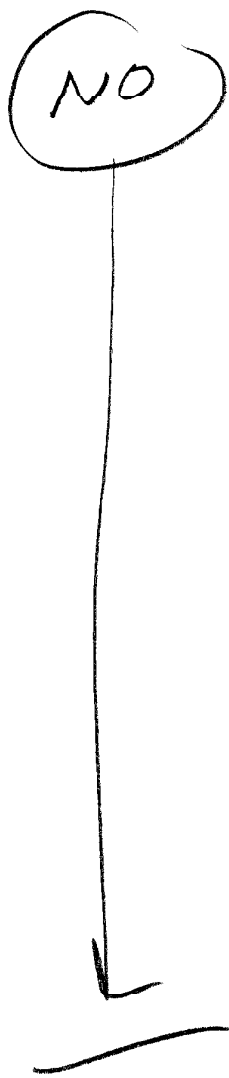
5 196.485 (2) (a) (intro.) By June 30, 2000, if a transmission utility has not
6 transferred control over its transmission facilities to an ~~independent~~ ^{RTO} system
7 operator that is approved by the applicable federal agency or divested, with approval
8 of the applicable federal agency and, for a public utility ^{RTO} the commission, its interest
9 in its transmission facilities to an ~~independent transmission owner~~ ^{RTO}, the commission
10 shall, subject to ~~par. pars.~~ (am) and (ar), order the transmission utility to apply to the
11 applicable federal agency to do one of the following:

12 SECTION 47. 196.485 (2) (ar) of the statutes is created to read:

13 196.485 (2) (ar) The commission shall waive the requirement to issue an order
14 against a transmission utility under par. (a) if the transmission utility shows, to the
15 satisfaction of the commission, that the transmission utility has proposed to transfer
16 control of its transmission facilities to the Midwest independent system operator and
17 that the proposed transfer may have the effect of jeopardizing the tax-exempt status
18 of the transmission utility or its securities under the Internal Revenue Code. A
19 waiver under this paragraph shall be in effect until the commission determines that
20 the proposed transfer does not have the effect described in this paragraph.

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

22 196.485 (2) (bx) If the commission determines that the Midwest independent
23 system operator has failed to commence operations or has ceased operations, the
24 commission shall, by order, designate an ~~independent~~ ^{RTO} system operator to fulfill the
25 duties of the Midwest independent system operator under this section. The



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BILL

1 commission may not designate an independent system operator under this
 2 paragraph unless the independent system operator is authorized under federal law
 3 to operate in this state. In issuing an order under this paragraph, the commission
 4 shall require that any transfer of transmission utilities to the designated
 5 independent system operator satisfy the requirements of this section.

RTO

NO

SECTION 49. 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 ~~is authorized~~ ^{they are already} to begin
 operations.

2. Whether the Midwest independent system operator ~~is authorized~~ ^{authorized;} to begin
 operations and the date on which such operations ~~are authorized~~ ^{question for} to begin.

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

196.485 (2) (e) The commission shall determine the effective date of s. 196.807 as provided under s. 196.807 (5).

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.

this is FERC

they are already authorized; question for PSC is to determine if MSD has commenced operation

has begun

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1 The transmission company and a transmission utility may agree to an extension of
2 such 3-year period. The transmission company shall provide notice to the
3 commission of any extension that is agreed to under this subd. 1. b.

4 c. Assume the obligation ³ of a transmission utility that has transferred
5 ownership of its transmission facilities to the transmission company under any
6 agreement by the transmission utility to provide transmission service over its
7 transmission facilities or under any credit received by the transmission utility for the
8 use of its transmission facilities, except that the transmission company may modify
9 such an agreement or credit to the extent allowed under the agreement or credit and
10 to the extent allowed under state or federal law.

11 d. Apply for membership in the Midwest independent system operator as part
12 of a single zone ^{for pricing purposes} that includes the transmission area and, upon a determination by
13 the commission under sub. (2) (d) that the Midwest independent system operator ~~is~~
14 ~~authorized~~ ^{has ~~been~~ begun} to begin operations, transfer operational control of the transmission
15 company's transmission facilities to the Midwest independent system operator.

16 e. Remain a member of the Midwest independent system operator, or any
17 independent system operator ^{that has been approved under federal law to succeed}
18 the Midwest independent ^{system} operator, for at least the 6-year transition period that is
19 specified in the agreement conditionally approved by the federal energy regulatory
20 commission that establishes the Midwest independent system operator.

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

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

24 a. Sell or transfer its assets to, or merge its assets with, another person, unless
25 the assets are sold, transferred or merged on an integrated basis and in a manner

Preemptive
seek FERC
&
MISO
approval
to
be included
in a
single
zone

Rll I.

1 that ensures that the transmission facilities in the transmission area are planned,
2 constructed, operated, maintained and controlled as a single transmission system.

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

5 c. Own electric generation facilities or sell, market or broker electric capacity
6 or energy in a relevant wholesale or retail market as established under the merger

7 ~~enforcement policy~~ except that, if authorized or required by the federal energy
8 regulatory commission, the transmission company may procure or resell ancillary

9 services from 3rd parties, engage in redispatch activities that are necessary to relieve
10 transmission constraints or take other actions related to operating a control area.

11 3. Notwithstanding subd. 1. a., the transmission company may not begin
12 operations until it provides an opinion to the commission from a nationally

13 recognized investment banking firm that the transmission company is able to
14 finance, at a reasonable cost, its start-up costs, working capital and operating

15 expenses and the cost of any new facilities that are planned.

16 4. If the transmission ~~rate~~ of any transmission utility in the transmission area
17 are 10% or more below the average transmission ~~rate~~ of the transmission utilities

18 in the transmission area on the date, as determined by the commission, that the last
19 public utility affiliate files a commitment with the commission under sub. (5) (a) 2.,

20 the transmission company shall, after consulting with each public utility affiliate
21 that has filed a commitment under sub. (5) (a) 2., prepare a plan for phasing in a

22 combined single zone ~~rate~~ for the purpose of pricing network use by users of the
23 transmission system operated by the Midwest independent system operator and

24 shall seek plan approval by the federal energy regulatory commission and the
25 Midwest independent system operator. A plan under this subdivision shall phase in

electric

determined by the commission

obtained

changes or rates

rate

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1 an average-cost price for the combined single zone in equal increments over a 5-year
2 period, except that, under the plan, transmission service shall be provided to all
3 users of the transmission system on a single-zone basis during the phase-in period.

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

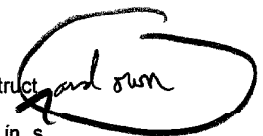
5 1. Subject to the approval of the commission under s. 196.491 (3), construct
6 transmission facilities, including high-voltage transmission lines, as defined in s.
7 196.491 (1) (f), in the transmission area or in any other area of the state in which
8 transmission facilities that have been contributed to the transmission company are
9 located. This subdivision does not affect the right or duty of an electric utility that
10 is not located in the transmission area or that has not contributed its transmission
11 facilities to the transmission company to construct transmission facilities.

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

15 (c) *Organization.* The articles of organization, as defined in s. 183.0102 (1), of
16 a transmission company that is organized as a limited liability company under ch.
17 183 or the bylaws of a transmission company that is organized as a corporation under
18 ch. 180 shall provide for each of the following:

19 1. That the transmission company has no less than 5 and no more than 14
20 managers or directors, except that the articles of incorporation or bylaws may allow
21 the requirements of this subdivision to be modified upon a unanimous vote of the
22 managers or directors during the 10-year period after the organizational start-up
23 date or upon a two-thirds vote of the board of directors after such 10-year period.

24 2. That at least 4 managers or directors of the transmission company have
25 staggered 4-year terms, are elected by a majority vote of the security holders and are

A handwritten note in black ink, consisting of the words "and own" written in a cursive style, enclosed within a hand-drawn circle. A checkmark is visible to the left of the circle.

BILL

1 not employes or independent contractors of a person engaged in the production, sale,
2 marketing, transmission or distribution of electricity or natural gas or of an affiliate
3 of such a person.

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

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

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

19 c. Each person that receives at least 5% of the securities of the transmission
20 company under sub. (6) (a) or (b) may appoint one manager or director of the
21 transmission company for a one-year term if the person continues to hold at least a
22 5% equity interest in the transmission company during the one-year term.

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

voting

voting

as a group

~~by unanimous vote of the managers or directors~~

voting

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1 4. That, during the 5-year period after the organizational start-up date, no
 2 public utility affiliate that contributes transmission facility assets to the
 3 transmission company under sub. (5) (b) and no affiliate of such a public utility
 4 affiliate may increase its percentage share of the outstanding securities of the
 5 transmission company prior to any initial issuance of securities by the transmission
 6 company to any 3rd party other than a 3rd party exercising its right to purchase
 7 securities under sub. (6) (b), except that this subdivision does not apply to securities
 8 that are issued by the transmission company in exchange for transmission facilities
 9 that are contributed in addition to the transmission facilities that are contributed
 10 under sub. (5) (b) and except that the requirements of this subdivision may be
 11 modified upon a unanimous vote of the managers or directors.

*No -
 need to
 make clear
 5 yr.
 standstill
 trumps
 this.*

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

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

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

20 196.485 (4) (a) (intro.) A. Except as provided in par. (am), a transmission utility
 21 may not transfer control over, or divest its interest in its transmission facilities to
 22 an independent system operator or independent transmission owner unless, to the
 23 satisfaction of the commission, each of the following requirements is satisfied:

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

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What is this? plus utility cannot elect; can seek approval from MISO + FERC

has begun

to become part of zone

1 196.485 (4) (am) ~~If the commission determines under sub. (2) (a) 2. that the~~
2 Midwest independent system operator ~~is authorized to begin operations,~~ each
3 transmission utility in the transmission area that is a public utility shall transfer
4 operational control over its transmission facilities to the Midwest independent
5 system operator and each such transmission utility that has not contributed its
6 transmission facilities to the transmission company shall elect to become part of a
7 single zone for pricing purposes within the Midwest independent system operator.

when

?

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

9 196.485 (5) PUBLIC UTILITY AFFILIATES. (a) *Asset cap exception.* Section 196.795
10 (6m) (e) does not apply to the eligible assets of a nonutility affiliate in a holding
11 company system unless each public utility affiliate in the holding company system
12 does each of the following:

13 1. Petitions the commission and the federal energy regulatory commission to
14 approve the transfer of operational control of all the public utility affiliate's
15 transmission facilities in this state and in Iowa, Michigan, Minnesota and Illinois to
16 the Midwest independent system operator ~~or successors~~ *RTB*

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

23 3. Files with the commission an unconditional, irrevocable and binding
24 commitment to contribute, and to cause each entity into which it merges or
25 consolidates or to which it transfers substantially all of its assets to contribute, any

~~this is transfer date, not filing date~~

BILL

1 transmission facility in this state the ownership or control of which it acquires after
2 the effective date of this subdivision [revisor inserts date], and land rights, to the
3 transmission company .

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

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

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

19 a. The structure of the transfer minimizes the material adverse tax
20 consequences to the public utility affiliate that result from the transfer and any other
21 material adverse tax consequence that does not result from combining transmission
22 facilities into a single zone under the control of the Midwest independent system

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

Fix if necessary

no - do the entire transfer part of act

avoids or

also minimize adverse rate impacts

BILL

1 3. The requirements under subd. 2. b. shall, if practicable, be satisfied by the
2 transmission company's issuance of a preferred class of securities that provides the
3 fixed-cost portion of the resulting capital structure of the transmission company .

4 The transmission company shall issue preferred securities under this subdivision on
5 a basis that does not dilute the voting rights of the initial security holders relative
6 to their initial contributions.

the value of

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

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

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

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

NO
by
PSC,
whichever
is less,

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

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

NO

23 (bm) *Lease of transmission facilities.* If a public utility affiliate is not able to
24 transfer ownership of its transmission facilities to the transmission company due to
25 merger-related accounting requirements, the public utility affiliate shall transfer

NO
and if it want asset cap relief,

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

NO

during the term of the lease

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

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

has been

NO

?

gas or electric distributor utility

NO

19 b. If the land right is jointly used, or is intended to be jointly used, for electric
 20 and gas distribution facilities by the public utility affiliate, the public utility affiliate
 21 shall enter into a contract with the transmission company that grants the
 22 transmission company a right to place, maintain, modify or replace the transmission
 23 company's transmission facilities on the real property that is subject to the land right
 24 during the life of the transmission facilities and the life of any replacements of the
 25 transmission facilities. A right granted in a contract under this subd. 1. b. shall be

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

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

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

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

17 196.485 (6) ELECTRIC UTILITIES, TRANSMISSION DEPENDENT UTILITIES AND RETAIL
18 ELECTRIC COOPERATIVES. No later than the first day of the 12th month beginning after
19 the first public utility affiliate files a commitment under sub. (5) (a) 2.:

20 (a) An electric utility may transfer all of its integrated transmission facilities
21 to the transmission company on the same terms and conditions as a contribution of
22 transmission facilities by a public utility affiliate under sub. (5) (b).

23 (b) A transmission-dependent utility *or retail electric cooperative* may
24 purchase equity interests in the transmission company at a price that is equivalent
25 to net book value and on terms and conditions that are comparable to those for public

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1 utility affiliates that have contributed transmission facilities to the transmission
 2 company. A purchaser under this paragraph shall contribute funds to the
 3 transmission company that are no less than the value of its prorated shares based
 4 on firm electric usage in this state in 1999

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greater

DO

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

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

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

12 196.485 (7) ENFORCEMENT. A wholesale or retail customer of a public utility
 13 affiliate may petition the circuit court for Dane County for specific performance of
 14 a commitment filed under sub. (5) (a) 2.

and
3.

all of 5(a)?

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

16 196.485 (8) PENALTIES. A public utility affiliate that fails to complete the
 17 contribution of transmission facilities to the transmission company by the
 18 completion date specified in the filing under sub. (5) (a) 2. shall forfeit \$25,000 for
 19 each day that completion of the contribution is delayed if the transmission company
 20 is legally able to accept the contribution.

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

22 196.487 Reliability of electric service. (1) DEFINITIONS. In this section:

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

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

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

10 (3) C O S T R E C O V E R Y. The commission shall allow a public utility affiliate that is
11 subject to an order under sub. (2) to recover in its retail electric rates the costs that
12 are prudently incurred in complying with the order .

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

14 196.491 (3) (d) 3r. For a high-voltage transmission line that is proposed to
15 increase the transmission import capability into this state, existing rights-of-way
16 are used to the extent practicable and the routing and design of the high-voltage
17 transmission line minimizes environmental impacts in a manner that is consistent
18 with achieving reasonable electric rates.

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

20 196.491 (3) (d) 3t. For a high-voltage transmission line that is designed for
21 operation at a nominal voltage of 345 kilovolts or more, the high-voltage
22 transmission line provides usage, service or increased regional reliability benefits to
23 the wholesale and retail customers in this state and the benefits of the high-voltage
24 transmission line are reasonable in relation to the cost of the high-voltage
25 transmission line.

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

2 196.491 (3) (gm) The commission may not approve an application under this
3 section for a certificate of public convenience and necessity for a high-voltage
4 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
5 or more unless the approval includes the condition that the applicant shall pay the
6 fees specified in sub. (3g). In a proceeding on such an application under this section,
7 the commission shall determine the cost of the high-voltage transmission line,
8 identify the counties, towns, villages and cities through which the high-voltage
9 transmission line is routed and allocate the amount of investment associated with
10 the high-voltage transmission line to each such county, town, village and city.

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

12 196.491 (3g) FEES FOR CERTAIN HIGH-VOLTAGE TRANSMISSION LINES. A person who
13 receives a certificate of public convenience and necessity for a high-voltage
14 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
15 or more under sub. (3) shall pay the department of administration an annual impact
16 fee as specified in the rules promulgated by the department of administration under
17 s. 16.969 (2) (a) and shall pay the department of administration a one-time
18 environmental impact fee as specified in the rules promulgated by the department
19 of administration under s. 16.969 (2) (b).

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

21 196.491 (3m) (b) 2. The analytical process specified in subd. 1. b. shall, to the
22 extent practicable, be consistent with the analytical process described in the merger
23 enforcement policy of the federal department of justice and the federal trade
24 commission regarding horizontal acquisitions and mergers that are subject to 15
25 USC 1, 18 or 45, as defined in s. 196.485 (1) (dr).

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1 SECTION 66. 196.494 (3) of the statutes is amended to read:
 2 196.494 (3) ~~No later than December 31, 2004, the~~ The commission ~~may shall~~ ,
 3 under this subsection, issue an order requiring ~~an electric a public~~ utility to construct
 4 or procure, on a competitive basis, the construction of transmission facilities
 5 specified by the commission in its order if the commission determines that, ~~based on~~
 6 ~~the results of the study under sub. (2).~~ such construction is necessary to relieve a
 7 constraint on a transmission system and the construction will materially benefit the
 8 customers of the ~~electric public~~ utility or ~~other~~ electric utilities or of an independent
 9 system operator , as defined in s. 196.485 (1) (d), or independent transmission owner ,
 10 as defined in s. 196.485 (1) (dm).



11 SECTION 67. 196.494 (4) of the statutes is amended to read:
 12 196.494 (4) The commission shall allow ~~an electric a public~~ utility to recover
 13 in its retail electric rates any costs that are prudently incurred by the ~~public~~ utility
 14 in complying with an order under sub. (3).

15 SECTION 68. 196.494 (5) of the statutes is created to read:
 16 196.494 (5) The governor may , on behalf of this state, enter into an interstate
 17 compact that establishes a joint process for the states in the upper midwest region
 18 of the United States to determine the need for and siting of regional electric
 19 transmission facilities that may affect electric service in this state. The governor
 20 may not enter into a compact under this subsection unless the compact includes
 21 requirements and procedures for establishing each of the following:

- 22 (a) Compliance with each state's environmental and siting standards for
- 23 transmission facilities.
- 24 (b) A regional need determination for transmission facilities.

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

3 SECTION 69. 196.52 (3) (a) of the statutes is amended to read:

4 196.52 (3) (a) In this subsection, "contract or arrangement" means a contract
5 or arrangement providing for the furnishing of management, supervisory,
6 construction, engineering, accounting, legal, financial or similar services and any
7 contract or arrangement for the purchase, sale, lease or exchange of any property,
8 right, or thing, or for the furnishing of any service, property, right, or thing, other
9 than management, supervisory, construction, engineering, accounting, legal,
10 financial or similar services, but "contract or arrangement" does not include a
11 contract or arrangement under which a transmission utility, as defined in s. 196.485
12 (1) (i), sells or transfers securities, as defined in s. 196.485 (1) (fe), that have been
13 issued by a transmission company, as defined in s. 196.485 (1) (ge). Except as
14 provided under par. (b), unless and until the commission gives its written approval,
15 any contract or arrangement is not valid or effective if the contract or arrangement
16 is made between a public utility and an affiliated interest after June 7, 1931. Every
17 public utility shall file with the commission a verified copy of any contract or
18 arrangement, a verified summary of any unwritten contract or arrangement, and
19 any contract or arrangement, written or unwritten, which was in effect on June 7,
20 1931. The commission shall approve a contract or arrangement made or entered into
21 after June 7, 1931, only if it shall clearly appear and be established upon
22 investigation that it is reasonable and consistent with the public interest. The
23 commission may not approve any contract or arrangement unless satisfactory proof
24 is submitted to the commission of the cost to the affiliated interest of rendering the
25 services or of furnishing the property or service to each public utility or of the cost

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1 to the public utility of rendering the services or of furnishing the property or service
2 to each affiliated interest. No proof is satisfactory under this paragraph unless it
3 includes the original (or verified copies) of the relevant cost records and other
4 relevant accounts of the affiliated interest, or an abstract of the records and accounts
5 or a summary taken from the records and accounts if the commission deems the
6 abstract or summary adequate. The accounts shall be properly identified and duly
7 authenticated. The commission, where reasonable, may approve or disapprove a
8 contract or arrangement without submission of the cost records or accounts.

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

10 196.795 (1) (g) 1. As a beneficial owner, to take, hold or acquire 5% or more of
11 the outstanding voting securities of a public utility, other than a transmission
12 company, with the unconditional power to vote those securities.

13 **SECTION 71.** 196.795 (1) (g) 2. of the statutes is amended to read:

14 196.795 (1) (g) 2. To exchange or convert 50% or more of the outstanding voting
15 securities of a public utility, other than a municipality or other political subdivision
16 or a transmission company, for or into the voting securities of a company organized,
17 created, appointed or formed by or at the direction of the public utility or of a
18 subsidiary of such company.

19 **SECTION 72.** 196.795 (1) (h) 3. of the statutes is created to read:

20 196.795 (1) (h) 3. "Holding company" does not include a transmission company.

21 **SECTION 73.** 196.795 (1) (p) of the statutes is created to read:

22 196.795 (1) (p) "Transmission company" has the meaning given in s. 196.485
23 (1) (ge).

24 **SECTION 74.** 196.795 (5) (i) 1. of the statutes is amended to read:

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

5 SECTION 75. 196.795 (5) (p) 1., 2., 3. and 4. of the statutes are renumbered
6 196.795 (6m) (b) 1., 2., 3. and 4.

7 SECTION 76. 196.795 (5) (pm) 1. (intro.) of the statutes is repealed.

8 SECTION 77. 196.795 (5) (pm) 1. a. of the statutes is renumbered 196.795 (6m)
9 (a) 3.

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

12 SECTION 79. 196.795 (5) (pm) 1. c. of the statutes is renumbered 196.795 (6m)
13 (a) 6.

14 SECTION 80. 196.795 (5) (pm) 2. of the statutes is renumbered 196.795 (6m) (c)
15 and amended to read:

16 196.795 (6m) (c) wholesale merchant plants. The assets of a wholesale
17 merchant plant shall not be included in the sum of the assets of a public utility
18 affiliate under par. (p) (b) 1. a., b. or c. and shall not be included in a nonutility
19 affiliate' s total assets under par. (p) (b) 2. a. if the requirements specified in s. 196.491
20 (3m) (a) 1. and 2. are satisfied or if the wholesale merchant plant qualifies for the
21 exemption under s. 196.491 (3m) (e).

22 SECTION 81. 196.795 (5) (pm) 3. of the statutes is renumbered 196.795 (6m) (d)
23 and amended to read:

24 196.795 (6m) (d) Foreign affiliates . The assets of a foreign affiliate shall be
25 included in the sum of the assets of a public utility affiliate under par. (p) (b) 1. a.,

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1 b. or c. and shall not be included in a nonutility affiliate' s total assets under par. (p).

2 (b) 2. a.

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

4 196.795 (6m) (title) ASSET CAP.

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

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

7 SECTION 84. 196.795 (6m) (a) 1. of the statutes is created to read:

8 196.795 (6m) (a) 1. "Contributor public utility affiliate" means a public utility
9 affiliate that has contributed its transmission facilities to the transmission company
10 under s. 196.485 (5) (b).

11 SECTION 85. 196.795 (6m) (a) 2. of the statutes is created to read:

12 196.795 (6m) (a) 2. "Eligible asset" means an asset of a nonutility affiliate that
13 is used for any of the following:

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

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

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

19 d. Recovering or producing energy from waste materials.

20 e. *Processing waste materials.*

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

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

25 SECTION 86. 196.795 (6m) (a) 4. of the statutes is created to read:

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1 196.795 (6m) (a) 4. "Generation assets" means assets that are classified as
2 electric generation assets on the books of account of a public utility , as determined
3 by the commission.

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

5 196.795 (6m) (b) *In general.*

6 SECTION 88. 196.795 (6m) (e) of the statutes is created to read:

7 196.795 (6m) (e) *Contributor public utility affiliates.* 1. The eligible assets of
8 a nonutility affiliate in a holding company system that includes a contributor public
9 utility affiliate shall not be included in the sum of the assets of the public utility
10 affiliates under par. (b) 1. a., b. or c. and shall not be included in the nonutility
11 affiliate' s total assets under par. (b) 2. a.

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

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

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

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

24 4. The net book value of generation assets that a contributor public utility
25 affiliate has transferred to a person that is not affiliated with the public utility

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

6 SECTION 89. 196.795 (11) (b) of the statutes is amended to read:

7 196.795 (11) (b) This section shall be deemed to legalize and confirm the
8 formation, prior to November 28, 1985, of any holding company, which is not itself
9 a public utility, and shall be deemed to legalize and confirm the operations and
10 issuances of securities of the holding company, except that nothing in this section
11 shall be deemed to prevent the commission from imposing reasonable terms,
12 limitations or conditions on any holding company which are consistent with the
13 requirements of sub. (5) ~~(pm)~~ (6m) (c) or (d) or which are consistent with and
14 necessary to satisfy the requirements of sub. (5) (b) to (o) and (q) to (s) or which relate
15 to future investments by the holding company unless the holding company owns,
16 operates, manages or controls a telecommunications utility and does not also own,
17 operate, manage or control a public utility which is not a telecommunications utility.

18 SECTION 90. 196.795 (11) (c) of the statutes is created to read:

19 196.795 (11) (c) The commission may not impose upon a holding company the
20 formation of which is considered to be legalized and confirmed under par. (b) any
21 term, limitation or condition under par. (b) that establishes the sum of the holding
22 company's nonutility affiliate assets at less than 25% of the sum of the holding
23 company's utility affiliate assets. For purposes of this paragraph, any term,
24 limitation or condition on nonutility affiliate assets shall not apply to the ownership,
25 operation, management or control of any eligible asset, as defined under sub. (6m)

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1 (a) 2., or an asset that is used for manufacturing, distributing or selling swimming
2 pools or spas.

3 SECTION 91. 196.807 of the statutes is created to read:

4 196.807 Energy affiliate and utility employes. (1) DEFINITIONS. In this
5 section:

6 (a) "Acquire an energy unit" means to lease, purchase or otherwise acquire
7 ownership or control of the energy unit.

8 (b) "Affiliate or utility" means a nonutility affiliate, as defined in s. 196.795 (1)
9 (j), a holding company system, as defined in s. 196.795 (1) (i), or an electric utility ,
10 as defined in s. 196.491 (1) (d).

11 (c) "Energy unit" means a unit that is engaged in activities related to the
12 production, generation, transmission or distribution of electricity , gas or steam or the
13 recovery of energy from waste materials.

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

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

17 (2) OFFER OF EMPLOYMENT . (a) Except as provided in par. (b), a person that
18 acquires an energy unit shall offer employment to the nonsupervisory employes who
19 are employed with the energy unit immediately prior to the acquisition and who are
20 necessary for the operation and maintenance of the energy unit.

21 (b) A nonutility affiliate that acquires an energy unit of a public utility affiliate
22 in the same holding company system shall offer employment to all of the
23 nonsupervisory employes who are employed with the energy unit immediately prior
24 to the acquisition.

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

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

6 2. Fringe benefits shall be substantially equivalent to the fringe benefits in
7 effect immediately prior to the acquisition.

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

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

13 (4) COMMISSION APPROVAL. No person may acquire an energy unit unless the
14 commission determines that the person has satisfied subs. (2) and (3).

15 (5) APPLICABILITY. This section does not apply until the expiration date of the
16 3-year period specified in s. 196.485 (3m) (a) 1. b., as determined by the commission,
17 or the expiration date of any extension of the 3-year period that is agreed to under
18 s. 196.485 (3m) (a) 1. b., as determined by the commission, whichever is later. The
19 commission shall publish a notice in the Wisconsin Administrative Register that
20 specifies the date that the commission determines is the effective date of this section.

21 SECTION 92. 200.01 (2) of the statutes is amended to read:

22 200.01 (2) "Public service corporation" means and embraces every corporation,
23 except municipalities and other political subdivisions, which is a public utility as
24 defined in s. 196.01, and every corporation which is a railroad as defined in s. 195.02,
25 but shall not include a public utility corporation receiving an annual gross revenue

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1 of less than \$1,000 for the calendar year next preceding the issuance of any securities
2 by it. "Public service corporation" includes a holding company, as defined under s.
3 196.795 (1) (h), which is a public utility, as defined under s. 196.01 (5). "Public service
4 corporation" does not include a telecommunications utility, as defined in s. 196.01
5 (10). "Public service corporation" does not include any other holding company unless
6 the holding company was formed after November 28, 1985, and unless the
7 commission has determined, under s. 196.795 (7) (a), that each nonutility affiliate,
8 as defined under s. 196.795 (1) (j), does not and cannot reasonably be expected to do
9 at least one of the items specified in s. 196.795 (7) (a). "Public service corporation"
10 does not include a company, as defined in s. 196.795 (1) (f), which owns, operates,
11 manages or controls a telecommunications utility, as defined in s. 196.01 (10), unless
12 such company also owns, operates, manages or controls a public utility which is not
13 a telecommunications utility. "Public service corporation" does not include a
14 transmission company, as defined in s. 196.485 (1) (ge).

15 SECTION 93. 285.48 of the statutes is created to read:

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

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

5 **SECTION 94. Nonstatutory provisions.**

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

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

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

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

18 (2) PUBLIC SERVICE COMMISSION RULES .

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

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

5 (3) DEPARTMENT OF ADMINISTRATION RULES .

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

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

17 **SECTION 95. Appropriation changes.**

18 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
19 to the public service commission under section 20.155 (1) (j) of the statutes, as
20 affected by the acts of 1999, the dollar amount is increased by \$125,000 for fiscal year
21 1999-00 and the dollar amount is increased by \$125,000 for fiscal year 2000-01 for
22 the purpose for which the appropriation is made.

23 **SECTION 96. Initial applicability .**

24 (1) The treatment of sections 16.969, 20.505 (1) (ge) and (gs) and 196.491 (3)
25 (gm) and (3g) of the statutes first applies to certificates of public convenience and

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1 necessity that are approved by the public service commission on the effective date of
2 this subsection.

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

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

13

(END)

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

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1 average annual income of low-income households in this state in that fiscal year
2 multiplied by the estimated number of low-income households in this state in that
3 fiscal year.

4 (o) "Low-income need percentage" means the percentage that results from
5 dividing the sum of the following by the amount of low-income need in fiscal year
6 1998-99:

7 1. The total amount received by the department for low-income funding under
8 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in fiscal year 1997-98.

9 1m. The public benefits fees established for fiscal year 1999-2000 under sub.
10 (4) (c) 1.

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

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

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

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

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

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

20 (s) "Retail capacity" means the total amount of electricity that an electric
21 provider is capable of delivering to its retail customers and that is supplied by electric
22 generating facilities owned or operated by the electric provider or any other person.

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

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

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

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

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

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

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

18 (a) *Low-income programs.* After holding a hearing, establish programs to be
19 administered by the department of administration through the division of housing
20 for awarding grants from the appropriation under s. 20.505 (10) (r) to provide
21 low-income assistance. In each fiscal year, the amount awarded under this
22 paragraph in grants for weatherization and other energy conservation services shall
23 be sufficient to equal 47% of the sum of all moneys received from the federal
24 government under 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in a fiscal year and
25 50% of the moneys collected in public benefits fees under sub. (5).

in a fiscal year spent for low income programs established under s. 196.374
Programs established under this paragraph
Division of Housing

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(5) A person making payments under this section

1 of investment that is allocated by the commission under s. 196.491 (3) (gm) to each
2 such town, village and city.

may not use
the payments

3 (4) A county, town, village or city that receives a distribution under sub. (3) (b)
4 may use the distribution only for park, conservancy, wetland or other environmental
5 offset programs, ~~except that the county, town, village or city may not use the~~
6 ~~distribution for any mitigation measure that is required in an order by the~~
7 commission under s. 196.491 (3) regarding the certificate of public convenience and
8 necessity specified in sub. (2) (intro.).

~~except that the county, town, village or city may not use the~~

to offset other

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

11 1999-00 2000-01

12 20.505 Administration, department of

13 (10) UTILITY PUBLIC BENEFITS

14 (q) General program operations SEG A -0- -0-

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

16 20.505 (1) (ge) *High-voltage transmission line annual impact fee distributions.*

17 All moneys received from the payment of fees under the rules promulgated under s.
18 16.969 (2) (a) for distributions to to towns, villages and cities under s. 16.969 (3) (a).

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

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

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

~~leave out of appropriation in 2000~~

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1 regulatory commission has conditionally authorized in an order issued on September
2 16, 1998, or the successor to such independent system operator.

3 **SECTION 38.** 196.485 (1) (dt) of the statutes is created to read:

4 196.485 (1) (dt) “Nontransmission utility security holder” means a security
5 holder that is not a transmission utility security holder.

6 **SECTION 39.** 196.485 (1) (dv) of the statutes is created to read:

7 196.485 (1) (dv) “Organizational start-up date” means, with respect to a
8 transmission company that is organized as a limited liability company under ch. 183,
9 the date on which the articles of organization become effective under s. 183.0111 or,
10 with respect to a transmission company that is organized as a corporation under ch.
11 180, the date on which the articles of incorporation become effective under s.
12 180.0123.

13 **SECTION 40.** 196.485 (1) (em) of the statutes is created to read:

14 196.485 (1) (em) “Retail electric cooperative” means a cooperative that provides
15 retail electric service to its members.

16 **SECTION 41.** 196.485 (1) (fe) of the statutes is created to read:

17 196.485 (1) (fe) “Security” means, with respect to a transmission company
18 organized as a corporation under ch. 180, a share, as defined in s. 180.0103 (15), and,
19 with respect to a transmission company organized as a limited liability company
20 under ch. 183, a limited liability company interest, as defined in s. 183.0102 (11).

21 **SECTION 42.** 196.485 (1) (ge) of the statutes is created to read:

22 196.485 (1) (ge) “Transmission company” means a corporation organized under
23 ch. 180 or a limited liability company organized under ch. 183 that has as its sole
24 purpose the planning, constructing, operating, maintaining and expanding of
25 transmission facilities that it owns to provide for an adequate and reliable

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

5 (3) DEPARTMENT OF ADMINISTRATION RULES.

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

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

17 **SECTION 95. Appropriation changes.**

18 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
19 to the public service commission under section 20.155 (1) (j) of the statutes, as
20 affected by the acts of 1999, the dollar amount is increased by ~~\$125,000~~^{250,000} for fiscal year
21 1999-00 and the dollar amount is increased by ~~\$125,000~~^{250,000} for fiscal year 2000-01 for
22 the purpose for which the appropriation is made.

Handwritten notes:
KEY
CIV?

23 **SECTION 96. Initial applicability.**

24 (1) The treatment of sections 16.969, 20.505 (1) (ge) and (gs) and 196.491 (3)
25 (gm) and (3g) of the statutes first applies to certificates of public convenience and

Handwritten note in a circle:
750K each
Fiscal year

Now

D-NOTE

1999 BILL

2

AM NOT
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1 **AN ACT to repeal** 196.485 (3) (bm) and 196.795 (5) (pm) 1. (intro.); **to renumber**
2 196.025, 196.485 (1) (dm) 1., 196.795 (5) (p) 1., 2., 3. and 4., 196.795 (5) (pm) 1.
3 a., 196.795 (5) (pm) 1. b. and 196.795 (5) (pm) 1. c.; **to renumber and amend**
4 196.485 (1) (dm) 3., 196.795 (5) (pm) 2. and 196.795 (5) (pm) 3.; **to amend** 76.28
5 (1) (d), 76.28 (1) (e) (intro.), 76.28 (2) (c) (intro.), 76.28 (2) (d), 196.31 (1) (intro.),
6 196.485 (1) (dm) (intro.), 196.485 (2) (a) (intro.), 196.485 (4) (a) (intro.), 196.491
7 (3m) (b) 2., 196.494 (3), 196.494 (4), 196.52 (3) (a), 196.795 (1) (g) 1., 196.795 (1)
8 (g) 2., 196.795 (5) (i) 1., 196.795 (11) (b) and 200.01 (2); **to repeal and recreate**
9 196.374 and 196.485 (title); and **to create** 15.107 (17), 16.957, 16.969, 20.505
10 (1) (ge), 20.505 (1) (gs), 20.505 (10), 25.17 (1) (xm), 25.96, 76.28 (1) (e) 5., 76.28
11 (1) (j), 76.28 (2) (e), 196.025 (2), 196.025 (3), 196.025 (4), 196.025 (5), 196.192,
12 196.378, 196.485 (1) (am), 196.485 (1) (be), 196.485 (1) (bs), 196.485 (1) (dm) 2.,
13 196.485 (1) (do), 196.485 (1) (dq), 196.485 (1) (dr), 196.485 (1) (ds), 196.485 (1)
14 (dt), 196.485 (1) (dv), 196.485 (1) (em), 196.485 (1) (fe), 196.485 (1) (ge), 196.485

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

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1 exercise of rule-making authority, making appropriations and providing a
2 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 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.

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For nonmunicipal utilities, the bill directs DOA to determine the amount of the public benefits fee, which consists of a portion sufficient 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 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 certain electric utilities to make expenditures that are based on the percentage of annual operating revenues that the electric utilities are required to spend under current law on energy conservation programs. Under current law, the electric utilities are required to spend at least 0.5% of their annual operating revenues on such programs. This bill requires the PSC to determine the amount that an electric utility was required to spend on such programs in 1998. Under the bill, an electric utility must spend a decreasing portion of the amount determined by the PSC for 1998 on energy conservation programs and contribute an increasing portion of the 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.

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 an independent system operator; and 2) filing a commitment with the PSC to transfer ownership of such transmission facilities and related land rights 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)

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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 January 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. In addition, the bill exempts the property of the transmission company from the property tax.

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 employees 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 employees. 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

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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 service interruptions for 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.

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.

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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.

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

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1 (cm) “Council” means the council on utility public benefits created under s.
2 15.107 (17).

3 (d) “Customer application of renewable resources” means the generation of
4 electricity from renewable resources that takes place on the premises of a customer
5 of an electric provider.

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

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

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

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

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

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

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

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

24 (n) “Low-income need” means the amount obtained by subtracting from the
25 total low-income energy bills in a fiscal year the product of 2.2% of the estimated

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1 average annual income of low-income households in this state in that fiscal year
2 multiplied by the estimated number of low-income households in this state in that
3 fiscal year.

4 (o) "Low-income need percentage" means the percentage that results from
5 dividing the sum of the following by the amount of low-income need in fiscal year
6 1998-99:

7 1. The total amount received by the department for low-income funding under
8 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in fiscal year 1997-98.

9 1m. The public benefits fees established for fiscal year 1999-2000 under sub.

10 (4) (c) 1.

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

12 3. Fifty percent of the public benefits fees charged by municipal utilities and
13 retail electric cooperatives.

*established for fiscal year
1999-2000 that are*

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

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

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

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

20 (s) "Retail capacity" means the total amount of electricity that an electric
21 provider is capable of delivering to its retail customers and that is supplied by electric
22 generating facilities owned or operated by the electric provider or any other person.

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

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

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

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

10 (w) “Wholesale supply percentage” means the percentage of a municipal
11 utility’s or retail electric cooperative’s retail capacity in a fiscal year that is supplied
12 by a wholesale supplier.

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

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

18 (a) *Low-income programs.* After holding a hearing, establish programs to be
19 administered by the department of administration through the division of housing
20 for awarding grants from the appropriation under s. 20.505 (10) (r) to provide
21 low-income assistance. In each fiscal year, the amount awarded under this
22 paragraph in grants for weatherization and other energy conservation services shall
23 be sufficient to equal 47% of the sum of all moneys received from the federal
24 government under 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in a fiscal year and
25 50% of the moneys collected in public benefits fees under sub. (5).

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1 (b) *Energy conservation and efficiency and renewable resource programs.* 1.

2 Subject to subd. 2., after holding a hearing, establish programs for awarding grants

3 from the appropriation under s. 20.505 (10) (s) for each of the following:

4 a. Proposals for providing energy conservation or efficiency services. In

5 awarding grants under this subd. 1. a., the department shall give priority to

6 proposals directed at the sectors of energy conservation or efficiency markets that

7 are least competitive and at promoting environmental protection, electric system

8 reliability or rural economic development. In each fiscal year, 1.75% of the

9 appropriation under s. 20.505 (10) (s) shall be awarded in grants for research and

10 development proposals regarding the environmental impacts of the electric industry.

11 b. Proposals for encouraging the development or use of customer applications

12 of renewable resources, including educating customers about renewable resources

13 or encouraging uses of renewable resources by customers or encouraging research

14 technology transfers. In each fiscal year, the department shall ensure that 4.5% of

15 the appropriation under s. 20.505 (10) (s) is awarded in grants under this subd. 1. b.

16 2. For each fiscal year after fiscal year 2003–04, determine whether to continue,

17 discontinue or reduce any of the programs established under subd. 1. and determine

18 the total amount necessary to fund the programs that the department determines

19 to continue or reduce under this subdivision. The department shall notify the

20 commission if the department determines under this subdivision to reduce funding.

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

22 1. Eligibility requirements for low-income assistance under programs

23 established under par. (a). The rules shall prohibit a person who receives

24 low-income assistance from a municipal utility or retail electric cooperative under

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1 a program specified in sub. (5) (d) 2. b. or 3. a. from receiving low-income assistance
2 under programs established under par. (a).

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

5 2m. Criteria for the selection of proposals by the corporation specified in sub.
6 (3) (b).

7 2n. Criteria for making the determination under par. (b) 2. Rules promulgated
8 under this subdivision shall require the department to determine whether the need
9 for a program established under par. (b) 1. is satisfied by the private sector market
10 and, if so, whether the program should be discontinued or reduced.

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

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

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

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

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

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

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

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

14 c. The effectiveness of the programs under par. (b) in reducing demand for
15 electricity and increasing the use of customer-owned renewable resources.

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

18 (3) **CONTRACTS.** (a) The division of housing shall, on the basis of competitive
19 bids, contract with community action agencies described in s. 46.30 (2) (a) 1.,
20 nonstock, nonprofit corporations organized under ch. 181 or local units of
21 government to provide services under the programs established under sub. (2) (a).

22 (b) The department shall, on the basis of competitive bids, contract with a
23 nonstock, nonprofit corporation organized under ch. 181 to administer the programs
24 established under sub. (2) (b) 1., including soliciting proposals, processing grant
25 applications, selecting, based on criteria specified in rules promulgated under sub.

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1 (2) (c) 2m., proposals for the department to make awards and distributing grants to
2 recipients.

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

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

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

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

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

23 2. No more than 70% of the total amount of fees charged by an electric provider
24 may be charged to residential customers and no more than 30% of the total may be
25 charged to nonresidential customers.

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

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

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

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

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

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

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

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

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

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

22 (b) *Election to contribute to department programs.* 1. No later than the first
23 day of the 12th month beginning after the effective date of this subdivision
24 [revisor inserts date], each municipal utility or retail electric cooperative shall notify

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1 the department whether it has elected to contribute to the programs established
2 under sub. (2) (a) or (b) 1. for a 3-year period.

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

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

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

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

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

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

23 2. If the municipal utility or retail electric cooperative elects to contribute only
24 to the programs established under sub. (2) (b) 1., the municipal utility or retail

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1 electric cooperative shall, in each fiscal year of the 3–year period for which it elects
2 to contribute under par. (b) 1. or 2., do all of the following:

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

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

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

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

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

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

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

24 2. Include an amount equal to the product of the municipal utility’s or retail
25 electric cooperative’s wholesale supply percentage and the amount that the

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1 wholesale supplier has spent on energy conservation programs or customer
2 applications of renewable resources in a fiscal year in calculating the amount that
3 the municipal utility or retail electric cooperative has spent on energy conservation
4 programs under par. (d) 1. b. or 3. b.

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

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

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

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

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

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

22 **16.969 Fees for certain high-voltage transmission lines.** (1) In this
23 section:

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

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1 (b) “High-voltage transmission line” means a high-voltage transmission line,
2 as defined in s. 196.491 (1) (f), that is designed for operation at a nominal voltage of
3 345 kilovolts or more.

4 (2) The department shall promulgate rules that require a person who is issued
5 a certificate of public convenience and necessity by the commission under s. 196.491

6 (3) for a high-voltage transmission line to pay the department the following fees:

7 (a) An annual impact fee in an amount equal to 0.03% of the cost of the
8 high-voltage transmission line, as determined by the commission under s. 196.491
9 (3) (gm).

10 (b) A one-time environmental impact fee in amount equal to 5% of the cost of
11 the high-voltage transmission line, as determined by the commission under s.
12 196.491 (3) (gm).

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

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

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

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

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1 of investment that is allocated by the commission under s. 196.491 (3) (gm) to each
2 such town, village and city.

3 (4) A county, town, village or city that receives a distribution under sub. (3) (b)
4 may use the distribution only for park, conservancy, wetland or other environmental
5 offset programs, except that the county, town, village or city may not use the
6 distribution for any mitigation measure that is required in an order by the
7 commission under s. 196.491 (3) regarding the certificate of public convenience and
8 necessity specified in sub. (2) (intro)

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

| | | |
|--|----------------|----------------|
| | 1999-00 | 2000-01 |
|--|----------------|----------------|

12 **20.505 Administration, department of**

13 (10) **UTILITY PUBLIC BENEFITS**

| | | | | |
|--------------------------------|-----|---|-----|-----|
| (q) General program operations | SEG | A | -0- | -0- |
|--------------------------------|-----|---|-----|-----|

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

16 20.505 (1) (ge) *High-voltage transmission line annual impact fee distributions.*
17 All moneys received from the payment of fees under the rules promulgated under s.
18 16.969 (2) (a) for distributions to to towns, villages and cities under s. 16.969 (3) (a).

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

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

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

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1 20.505 (10) UTILITY PUBLIC BENEFITS. (q) *General program operations*. From
2 the utility public benefits fund, the amounts in the schedule for general program
3 operations.

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

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

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

10 25.17 (1) (xm) Utility public benefits fund (s. 25.96);

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

12 **25.96 Utility public benefits fund.** There is established a separate
13 nonlapsible trust fund designated as the utility public benefits fund, consisting of
14 deposits by the public service commission under s. 196.374 (3), public benefits fees
15 received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions received under
16 s. 16.957 (2) (c) 4. and (d) 2.

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

18 76.28 (1) (d) “Gross revenues” for a light, heat and power company other than
19 a qualified wholesale electric company or a transmission company means total
20 operating revenues as reported to the public service commission except revenues for
21 interdepartmental sales and for interdepartmental rents as reported to the public
22 service commission and deductions from the sales and use tax under s. 77.61 (4),
23 except that the company may subtract from revenues either the actual cost of power
24 purchased for resale, as reported to the public service commission, by a light, heat
25 and power company, except a municipal light, heat and power company, that

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1 purchases under federal or state approved wholesale rates more than 50% of its
2 electric power from a person other than an affiliated interest, as defined in s. 196.52
3 (1), if the revenue from that purchased electric power is included in the seller's gross
4 revenues or the following percentages of the actual cost of power purchased for
5 resale, as reported to the public service commission, by a light, heat and power
6 company, except a municipal light, heat and power company that purchases more
7 than 90% of its power and that has less than \$50,000,000 of gross revenues: 10% for
8 the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50%
9 for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric
10 company, "gross revenues" means total business revenues from those businesses
11 included under par. (e) 1. to 4. For a transmission company, "gross revenues" means
12 total operating revenues as reported to the public service commission, except
13 revenues for transmission service that is provided to a public utility that is subject
14 to the license fee under sub. (2) (d) or to a public utility, as defined in s. 196.01 (5).

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

16 76.28 (1) (e) (intro.) "Light, heat and power companies" means any person,
17 association, company or corporation, including corporations described in s. 66.069 (2)
18 and including, qualified wholesale electric companies and transmission companies
19 and except only business enterprises carried on exclusively either for the private use
20 of the person, association, company or corporation engaged in them, or for the private
21 use of a person, association, company or corporation owning a majority of all
22 outstanding capital stock or who control the operation of business enterprises and
23 except electric cooperatives taxed under s. 76.48 that engage in any of the following
24 businesses:

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

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

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

3 76.28 (1) (j) “Transmission company” has the meaning given in s. 196.485 (1)
4 (ge).

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

6 76.28 (2) (c) (intro.) ~~For~~ Except as provided under par. (e), for private light, heat
7 and power companies for 1986 and thereafter, an amount equal to the apportionment
8 factor multiplied by the sum of:

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

10 76.28 (2) (d) ~~For~~ Except as provided under par. (e), for municipal light, heat and
11 power companies, an amount equal to the gross revenues, except gross revenues from
12 operations within the municipality that operates the company, multiplied by the
13 rates under par. (b) or (c).

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

15 76.28 (2) (e) For transmission companies, an amount equal to the gross
16 revenues multiplied by the rates under par. (c).

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

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

19 196.025 (2) The commission shall promulgate rules establishing requirements
20 and procedures for the commission to carry out the duties under s. 1.11. Rules
21 promulgated under this subsection shall include requirements and procedures for
22 each of the following:

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

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

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

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

8 196.025 (3) The commission shall promulgate rules establishing requirements
9 and procedures for electric utilities, as defined under s. 196.491 (1) (d), to file reports
10 with the commission, on a frequency that the commission determines is reasonably
11 necessary, on their current reliability status, including the status of operating and
12 planning reserves, available transmission capacity and outages of major operational
13 units and transmission lines. A report filed under the rules promulgated under this
14 subsection is subject to inspection and copying under s. 19.35 (1), except that the
15 commission may withhold the report from inspection and copying for a period of time
16 that the commission determines is reasonably necessary to prevent an adverse
17 impact on the supply or price of energy in this state.

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

19 196.025 (4) (a) In consultation with the department of administration and the
20 department of revenue, the commission shall study the establishment of a program
21 for providing incentives for the development of high-efficiency, small-scale electric
22 generating facilities in this state that do either of the following:

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

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

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

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

9 196.025 (5) (a) The commission shall contract with an expert consultant in
10 economics to conduct a study on the potential for horizontal market power, including
11 the horizontal market power of electric generators, to frustrate the creation of an
12 effectively competitive retail electricity market in this state and to make
13 recommendations on measures to eliminate such market power on a sustainable
14 basis. The study shall include each of the following:

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

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

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

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

23 **196.192 Market-based compensation, rates and contracts.** (1) In this
24 section, “electric public utility” means a public utility whose purpose is the
25 generation, transmission, delivery or furnishing of electric power.

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

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

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

10 (3) (a) The commission shall establish market-based rates that are consistent
11 with ^{the} ~~market-based pricing options and individual contract options~~ specified in sub.
12 (2) (b), except that the commission may not establish a market-based rate unless the
13 commission determines that the rate is not likely to harm shareholders of the
14 investor-owned electric public utility or customers who are not subject to the rate.

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

18 (4) Subject to the approval of the commission, an electric public utility that is
19 not an investor-owned electric public utility may implement market-based rates
20 established under sub. (3) (a) or implement ^{the options} ~~market-based pricing or individual~~
21 ~~contract options~~ in filings under sub. (2) (b) that are approved by the commission.

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

22 196.31 (1) (intro.) In any proceeding before the commission, the commission
23 may ~~shall~~ compensate any participant in the proceeding who is not a public utility,
24

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1 for some or all of the reasonable costs of participation in the proceeding if the
2 commission finds that:

3 **SECTION 24.** 196.374 of the statutes is repealed and recreated to read:

4 **196.374 Low-income assistance, energy efficiency and other**
5 **programs.** (1) In this section:

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

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

8 (c) "Utility" means a class A gas or electric utility, as defined by the commission,
9 but does not include a municipal utility, as defined in s. 16.957 (1) (q), a municipal
10 electric company, as defined in s. 66.073 (3) (d), or a cooperative association organized
11 under ch. 185.

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

16 (3) In 1999, 2000 and 2001, the commission shall require each utility to spend
17 a decreasing portion of the amount determined under sub. (2) on programs specified
18 in sub. (2) and contribute the remaining portion of the amount to the commission for
19 deposit in the fund. In each year after 2001, each utility shall contribute the entire
20 amount determined under sub. (2) to the commission for deposit in the fund. The
21 commission shall ensure in rate-making orders that a utility recovers from its
22 ratepayers the amounts spent on programs or contributed to the fund under this
23 subsection. The commission shall allow each utility the option of continuing to use,
24 until January 1, 2001, the moneys that it has recovered under s. 196.374 (3), 1997
25 stats., to administer the programs that it has funded under s. 196.374 (1), 1997 stats.

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

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

7 **196.378 Renewable resources. (1) DEFINITIONS.** In this section:

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

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

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

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

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

22 (e) “Excludable renewable capacity” means the portion of an electric provider’s
23 total renewable capacity that is supplied from renewable facilities that were placed
24 in service before January 1, 1998, and that, before January 1, 1998, derived

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1 electricity from hydroelectric power, even if the output of the renewable facilities is
2 used to satisfy requirements under federal law.

3 (f) “Nonsystem renewable energy” means the amount of electricity that an
4 electric provider sells to its retail customers and that is supplied or allocated under
5 executed wholesale purchase contracts from renewable facilities that are not owned
6 or operated by the electric provider. “Nonsystem renewable energy” does not include
7 any electricity that is not used to satisfy the electric provider’s retail load obligations.

8 (g) “Renewable resource” means any of the following:

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

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

11 b. Tidal or wave action.

12 c. Solar thermal electric or photovoltaic energy.

13 d. Wind power.

14 e. Geothermal technology.

15 g. Biomass.

16 1m. A resource with a capacity of less than 60 megawatts that derives
17 electricity from hydroelectric power.

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

20 (h) “Renewable facility” means an installed and operational electric generating
21 facility in which energy is derived from a renewable resource. “Renewable facility”
22 includes a facility the installation or operation of which is required under federal law,
23 but does not include a facility the installation or operation of which is required under
24 the laws of another state even if the installation or operation of the facility is also
25 required under federal law.

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

3 (j) “Resource” means a source of electric power generation.

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

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

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

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

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

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

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

3 2. The amount of electricity supplied by a renewable facility in which biomass
4 and conventional fuels are fired together shall be equal to the product of the
5 maximum amount of electricity that the facility is capable of generating and the ratio
6 of the British thermal unit content of the biomass fuels to the British thermal unit
7 content of both the biomass and conventional resource fuels.

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

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

17 (d) The commission shall ensure in rate-making orders that an electric utility
18 recovers from ratepayers the cost of providing total renewable energy to its retail
19 customers in amounts that equal or exceed the percentages specified in par. (a).
20 Subject to any approval of the commission that is necessary, an electric utility may
21 recover costs under this paragraph by any of the following methods:

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

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

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

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

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

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

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

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

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

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

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

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1 (5) PENALTY. Any person who violates sub. (2) or any wholesale supplier who
2 provides an electric provider with a false or misleading certification regarding the
3 sources or amounts of energy supplied to the electric provider shall forfeit not less
4 than \$5,000 nor more than \$500,000. Forfeitures under this subsection shall be
5 enforced by action on behalf of the state by the attorney general. A court imposing
6 a forfeiture under this subsection shall consider all of the following in determining
7 the amount of the forfeiture:

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

10 (b) The gravity of the violation.

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

13 **SECTION 26.** 196.485 (title) of the statutes is repealed and recreated to read:

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

15 **SECTION 27.** 196.485 (1) (am) of the statutes is created to read:

16 196.485 (1) (am) "Contribute a transmission facility" means to divest a person's
17 interest in the transmission facility and to transfer ownership of the transmission
18 facility and associated deferred tax reserves to another person.

19 **SECTION 28.** 196.485 (1) (be) of the statutes is created to read:

20 196.485 (1) (be) "Director" means, with respect to a transmission company
21 organized as a corporation under ch. 180, a member of the board of directors of the
22 transmission company.

23 **SECTION 29.** 196.485 (1) (bs) of the statutes is created to read:

24 196.485 (1) (bs) "Electric utility" has the meaning given in s. 196.491 (1) (d).

25 **SECTION 30.** 196.485 (1) (dm) (intro.) of the statutes is amended to read:

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

2 1m. Means a person that satisfies each of the following:

3 **SECTION 31.** 196.485 (1) (dm) 1. of the statutes is renumbered 196.485 (1) (dm)

4 1m. a.

5 **SECTION 32.** 196.485 (1) (dm) 2. of the statutes is created to read:

6 196.485 (1) (dm) 2. Does not include the transmission company.

7 **SECTION 33.** 196.485 (1) (dm) 3. of the statutes is renumbered 196.485 (1) (dm)

8 1m. b. and amended to read:

9 196.485 (1) (dm) 1m. b. The person is not an affiliated interest of a person
10 specified in subd. ~~1.~~ 1m. a.

11 **SECTION 34.** 196.485 (1) (do) of the statutes is created to read:

12 196.485 (1) (do) “Land right” means any right in real property, including fee
13 simple ownership or a right-of-way or easement, that has been acquired for a
14 transmission facility that is located or intended to be located on the real property.

15 **SECTION 35.** 196.485 (1) (dq) of the statutes is created to read:

16 196.485 (1) (dq) “Manager” means, with respect to a transmission company
17 organized as a limited liability company under ch. 183, a manager, as defined in s.
18 183.0102 (13), of the transmission company.

19 **SECTION 36.** 196.485 (1) (dr) of the statutes is created to read:

20 196.485 (1) (dr) “Merger enforcement policy” means the enforcement policy of
21 the federal department of justice and the federal trade commission regarding
22 horizontal acquisitions and mergers that are subject to 15 USC 1, 18 or 45.

23 **SECTION 37.** 196.485 (1) (ds) of the statutes is created to read:

24 196.485 (1) (ds) “Midwest independent system operator” means the
25 independent system operator the establishment of which the federal energy

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1 regulatory commission has conditionally authorized in an order issued on September
2 16, 1998, or the successor to such independent system operator.

3 **SECTION 38.** 196.485 (1) (dt) of the statutes is created to read:

4 196.485 (1) (dt) "Nontransmission utility security holder" means a security
5 holder that is not a transmission utility security holder.

6 **SECTION 39.** 196.485 (1) (dv) of the statutes is created to read:

7 196.485 (1) (dv) "Organizational start-up date" means, with respect to a
8 transmission company that is organized as a limited liability company under ch. 183,
9 the date on which the articles of organization become effective under s. 183.0111 or,
10 with respect to a transmission company that is organized as a corporation under ch.
11 180, the date on which the articles of incorporation become effective under s.
12 180.0123.

13 **SECTION 40.** 196.485 (1) (em) of the statutes is created to read:

14 196.485 (1) (em) "Retail electric cooperative" means a cooperative that provides
15 retail electric service. *to its members*

16 **SECTION 41.** 196.485 (1) (fe) of the statutes is created to read:

17 196.485 (1) (fe) "Security" means, with respect to a transmission company
18 organized as a corporation under ch. 180, a share, as defined in s. 180.0103 (15), and,
19 with respect to a transmission company organized as a limited liability company
20 under ch. 183, a limited liability company interest, as defined in s. 183.0102 (11).

21 **SECTION 42.** 196.485 (1) (ge) of the statutes is created to read:

22 196.485 (1) (ge) "Transmission company" means a corporation organized under
23 ch. 180 or a limited liability company organized under ch. 183 that has as its sole
24 purpose the planning, constructing, operating, maintaining and expanding of
25 transmission facilities that it owns to provide for an adequate and reliable

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1 transmission system that meets the needs of all users that are dependent on the
2 transmission system and that supports effective competition in energy markets
3 without favoring any market participant.

4 **SECTION 43.** 196.485 (1) (gm) of the statutes is created to read:

5 196.485 (1) (gm) "Transmission dependent utility" means a public utility that
6 is dependent on the transmission system of another person for delivering electricity
7 to the public utility's customers.

8 **SECTION 44.** 196.485 (1) (j) of the statutes is created to read:

9 196.485 (1) (j) "Transmission utility shareholder" means a person that is a
10 shareholder of a transmission company organized as a corporation under ch. 180, is
11 an investor-owned transmission utility in the transmission area and has
12 contributed its transmission facilities to the transmission company.

13 **SECTION 45.** 196.485 (1m) of the statutes is created to read:

14 196.485 (1m) DUTY TO PROVIDE TRANSMISSION SERVICE. (a) The duty of any
15 electric utility that has contributed its transmission facilities to the transmission
16 company to finance, construct, maintain or operate a transmission facility shall
17 terminate on the date, as determined by the commission under sub. (2) (d), that the
18 transmission company is authorized to begin operations.

19 (b) After beginning operations, the transmission company shall have the
20 exclusive duty to provide transmission service in the transmission area. The duty
21 under this paragraph shall terminate on the date, as determined by the commission
22 under sub. (2) (d), that the Midwest independent system operator is authorized to
23 begin operations.

24 (c) After beginning operations, the Midwest independent system operator shall
25 have the exclusive duty to provide transmission service in the transmission area and

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1 shall ensure that each transmission facility in the transmission area that is under
2 its operational control is planned, constructed, operated, maintained and controlled
3 as part of a single transmission system.

4 **SECTION 46.** 196.485 (2) (a) (intro.) of the statutes is amended to read:

5 196.485 (2) (a) (intro.) By June 30, 2000, if a transmission utility has not
6 transferred control over its transmission facilities to an independent system
7 operator that is approved by the applicable federal agency or divested, with approval
8 of the applicable federal agency and, for a public utility, the commission, its interest
9 in its transmission facilities to an independent transmission owner, the commission
10 shall, subject to ~~par. pars.~~ (am) and (ar), order the transmission utility to apply to the
11 applicable federal agency to do one of the following:

12 **SECTION 47.** 196.485 (2) (ar) of the statutes is created to read:

13 196.485 (2) (ar) The commission shall waive the requirement to issue an order
14 against a transmission utility under par. (a) if the transmission utility shows, to the
15 satisfaction of the commission, that the transmission utility has proposed to transfer
16 control of its transmission facilities to the Midwest independent system operator and
17 that the proposed transfer may have the effect of jeopardizing the tax-exempt status
18 of the transmission utility or its securities under the Internal Revenue Code. A
19 waiver under this paragraph shall be in effect until the commission determines that
20 the proposed transfer does not have the effect described in this paragraph.

21 **SECTION 48.** 196.485 (2) (bx) of the statutes is created to read:

22 196.485 (2) (bx) If the commission determines that the Midwest independent
23 system operator has failed to commence operations or has ceased operations, the
24 commission shall, by order, designate an independent system operator to fulfill the
25 duties of the Midwest independent system operator under this section. The

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1 commission may not designate an independent system operator under this
2 paragraph unless the independent system operator is authorized under federal law
3 to operate in this state. In issuing an order under this paragraph, the commission
4 shall require that any transfer of transmission utilities to the designated
5 independent system operator satisfy the requirements of this section.

6 **SECTION 49.** 196.485 (2) (d) of the statutes is created to read:

7 196.485 (2) (d) The commission shall determine each of the following:

8 1. The date on which the transmission company is authorized to begin
9 operations. *has begun*

10 2. Whether the Midwest independent system operator is authorized to begin
11 operations and the date on which such operations are authorized to begin. *have begun*

12 ~~**SECTION 50.** 196.485 (2) (e) of the statutes is created to read:~~

13 ~~196.485 (2) (e) The commission shall determine the effective date of s. 196.507~~
14 ~~as provided under s. 196.507 (b).~~

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

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

17 196.485 (3m) TRANSMISSION COMPANY. (a) *Duties.* 1. The transmission company
18 shall do each of the following:

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

21 b. Subject to any approval required under state or federal law, contract with
22 each transmission utility that has transferred transmission facilities to the
23 transmission company for the transmission utility to provide reasonable and
24 cost-effective operation and maintenance services to the transmission company
25 during the 3 year period after the transmission company first begins operations.

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1 The transmission company and a transmission utility may agree to an extension of
2 such 3-year period. The transmission company shall provide notice to the
3 commission of any extension that is agreed to under this subd. 1. b.

4 c. Assume the obligation of a transmission utility that has transferred
5 ownership of its transmission facilities to the transmission company under any
6 agreement by the transmission utility to provide transmission service over its
7 transmission facilities or under any credit received by the transmission utility for the
8 use of its transmission facilities, except that the transmission company may modify
9 such an agreement or credit to the extent allowed under the agreement or credit and
10 to the extent allowed under state or federal law.

11 d. Apply for membership in the Midwest independent system operator as ^{for pricing purposes} ~~any~~
12 a single zone that includes the transmission area and, upon a determination by
13 the commission under sub. (2) (d) that the Midwest independent system operator ^{has begun} ~~is~~
14 ~~authorized to begin~~ operations, transfer operational control of the transmission
15 company's transmission facilities to the Midwest independent system operator.

16 e. Remain a member of the Midwest independent system operator, or any
17 independent system operator that has been approved under federal law to succeed
18 the Midwest independent ^{system} operator, for at least the 6-year transition period that is
19 specified in the agreement conditionally approved by the federal energy regulatory
20 commission that establishes the Midwest independent system operator.

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

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

24 a. Sell or transfer its assets to, or merge its assets with, another person, unless
25 the assets are sold, transferred or merged on an integrated basis and in a manner

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1 that ensures that the transmission facilities in the transmission area are planned,
2 constructed, operated, maintained and controlled as a single transmission system.

3 b. Bypass the distribution facilities of an electric utility or provide ^{electric} service
4 directly to a retail customer. *determined by the commission*

5 c. Own electric generation facilities or sell, market or broker electric capacity
6 or energy in a relevant wholesale or retail market as established under the merger
7 ~~enforcement policy~~, except that, if authorized or required by the federal energy
8 regulatory commission, the transmission company may procure or resell ancillary
9 ^{obtained} services from 3rd parties, engage in redispatch activities that are necessary to relieve
10 transmission constraints or take other actions related to operating a control area.

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

16 4. If the transmission ~~costs~~ ^{charges or rates} of any transmission utility in the transmission area
17 are 10% or more below the average transmission ~~costs~~ ^{charges or rates} of the transmission utilities
18 in the transmission area on the date, as determined by the commission, that the last
19 public utility affiliate files a commitment with the commission under sub. (5) (a) 2.,
20 the transmission company shall, after consulting with each public utility affiliate
21 that has filed a commitment under sub. (5) (a) 2., prepare a plan for phasing in a
22 combined single zone ^{rate} for the purpose of pricing network use by users of the
23 transmission system operated by the Midwest independent system operator and
24 shall seek plan approval by the federal energy regulatory commission and the
25 Midwest independent system operator. A plan under this subdivision shall phase in

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1 an average-cost price for the combined single zone in equal increments over a 5-year
2 period, except that, under the plan, transmission service shall be provided to all
3 users of the transmission system on a single-zone basis during the phase-in period.

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

5 1. Subject to the approval of the commission under s. 196.491 (3), construct
6 transmission facilities, including high-voltage transmission lines, as defined in s.
7 196.491 (1) (f), in the transmission area or in any other area of the state in which
8 transmission facilities that have been contributed to the transmission company are
9 located. This subdivision does not affect the right or duty of an electric utility that
10 is not located in the transmission area or that has not contributed its transmission
11 facilities to the transmission company to construct ^{and own} ~~transmission~~ facilities.

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

15 (c) *Organization.* The articles of organization, as defined in s. 183.0102 (1), of
16 a transmission company that is organized as a limited liability company under ch.
17 183 or the bylaws of a transmission company that is organized as a corporation under
18 ch. 180 shall provide for each of the following:

19 1. That the transmission company has no less than 5 and no more than 14
20 managers or directors, except that the articles of incorporation or bylaws may allow
21 the requirements of this subdivision to be modified upon a unanimous vote of the
22 managers or directors during the 10-year period after the organizational start-up
23 date or upon a two-thirds vote of the board of directors after such 10-year period.

24 2. That at least 4 managers or directors of the transmission company have
25 staggered 4-year terms, are elected by a majority vote of the security holders and are

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1 not employes or independent contractors of a person engaged in the production, sale,
2 marketing, transmission or distribution of electricity or natural gas or of an affiliate
3 of such a person.

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

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

as a group

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

19 c. Each person that receives at least 5% of the ^{voting} securities of the transmission
20 company under sub. (6) (a) or (b) may appoint one manager or director of the
21 transmission company for a one-year term if the person continues to hold at least a
22 5% equity interest in the transmission company during the one-year term.

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

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1 4. That, during the 5-year period after the organizational start-up date, no
2 public utility affiliate that contributes transmission facility assets to the
3 transmission company under sub. (5) (b) and no affiliate of such a public utility
4 affiliate may increase its percentage share of the outstanding securities of the
5 transmission company prior to any initial issuance of securities by the transmission
6 company to any 3rd party other than a 3rd party exercising its right to purchase
7 securities under sub. (6) (b), except that this subdivision does not apply to securities
8 that are issued by the transmission company in exchange for transmission facilities
9 that are contributed in addition to the transmission facilities that are contributed
10 under sub. (5) (b) and except that the requirements of this subdivision may be
11 modified upon a unanimous vote of the managers or directors.

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

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

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

20 196.485 (4) (a) (intro.) ~~A~~ Except as provided in par. (am), a transmission utility
21 may not transfer control over, or divest its interest in, its transmission facilities to
22 an independent system operator or independent transmission owner unless, to the
23 satisfaction of the commission, each of the following requirements is satisfied:

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

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When

1 196.485 (4) (am) ~~if the commission determines under sub. (2)(d) 2 that the~~
 2 Midwest independent system operator is ~~authorized to begin~~ *has begun* operations, each
 3 transmission utility in the transmission area that is a public utility shall transfer
 4 operational control over its transmission facilities to the Midwest independent
 5 system operator and each such transmission utility that has not contributed its
 6 transmission facilities to the transmission company shall elect to become part of a
 7 *for pricing purposes* single zone within the Midwest independent system operator.

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

9 196.485 (5) PUBLIC UTILITY AFFILIATES. (a) *Asset cap exception.* Section 196.795
 10 (6m) (e) does not apply to the eligible assets of a nonutility affiliate in a holding
 11 company system unless each public utility affiliate in the holding company system
 12 does each of the following:

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

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

23 3. Files with the commission an unconditional, irrevocable and binding
 24 commitment to contribute, and to cause each entity into which it merges or
 25 consolidates or to which it transfers substantially all of its assets to contribute, any

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1 transmission facility in this state the ownership or control of which it acquires after
2 the effective date of this subdivision [revisor inserts date], and land rights, to the
3 transmission company.

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

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

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

19 a. The structure of the transfer ^{avoids or} minimizes the material adverse tax
20 consequences to the public utility affiliate that result from the transfer and any other
21 material adverse tax consequence that does not result from combining transmission
22 facilities into a single zone under the control of the Midwest independent system
23 operator.

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

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

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

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

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

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

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

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

23 (bm) *Lease of transmission facilities.* If a public utility affiliate is not able to
24 transfer ownership of its transmission facilities to the transmission company due to
25 merger-related accounting requirements, the public utility affiliate shall transfer

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

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

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

19 b. If the land right is jointly used, or is intended to be jointly used, for electric
20 and gas distribution facilities by the public utility affiliate, the public utility affiliate
21 shall enter into a contract with the transmission company that grants the
22 transmission company a right to place, maintain, modify or replace the transmission
23 company's transmission facilities on the real property that is subject to the land right
24 during the life of the transmission facilities and the life of any replacements of the
25 transmission facilities. A right granted in a contract under this subd. 1. b. shall be

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

distribution

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

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

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

17 196.485 (6) ELECTRIC UTILITIES, TRANSMISSION DEPENDENT UTILITIES AND RETAIL
18 ELECTRIC COOPERATIVES. No later than the first day of the 12th month beginning after
19 the first public utility affiliate files a commitment under sub. (5) (a) 2.:

20 (a) An electric utility may transfer all of its integrated transmission facilities
21 to the transmission company on the same terms and conditions as a contribution of
22 transmission facilities by a public utility affiliate under sub. (5) (b).

23 (b) A *transmission-dependent utility or retail electric cooperative* may
24 purchase equity interests in the transmission company at a price that is equivalent
25 to net book value and on terms and conditions that are comparable to those for public

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1 utility affiliates that have contributed transmission facilities to the transmission
 2 company. A purchaser under this paragraph ~~shall~~ ^{may} contribute funds to the
 3 transmission company that are no ~~less~~ ^{more} than the value of its prorated shares based
 4 on firm electric usage in this state in 1999.

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

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

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

12 196.485 (7) ENFORCEMENT. A wholesale or retail customer of a public utility
 13 affiliate may petition the circuit court for Dane County for specific performance of
 14 a commitment filed under sub. (5) (a) 2. ^{or 3.}

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

16 196.485 (8) PENALTIES. A public utility affiliate that fails to complete the
 17 contribution of transmission facilities to the transmission company by the
 18 completion date specified in the filing under sub. (5) (a) 2. shall forfeit \$25,000 for
 19 each day that completion of the contribution is delayed if the transmission company
 20 is legally able to accept the contribution.

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

22 **196.487 Reliability of electric service. (1) DEFINITIONS.** In this section:

23 (a) "Public utility affiliate" has the meaning given in s. 196.795 (1) (L).

24 (b) "Transmission company" has the meaning given in s. 196.485 (1) (ge).

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1 (2) COMMISSION ORDER. If the commission determines that a public utility
2 affiliate or the transmission company is not making investments in the facilities
3 under its control that are sufficient to ensure reliable electric service, the commission
4 shall order the public utility affiliate or transmission company to make adequate
5 investments in its facilities that are sufficient to ensure reliable electric service. An
6 order under this subsection shall require the public utility affiliate or transmission
7 company to provide security in an amount and form that, to the satisfaction of the
8 commission, is sufficient to ensure that the public utility affiliate or transmission
9 company expeditiously makes any investment that is ordered.

10 (3) COST RECOVERY. The commission shall allow a public utility affiliate that is
11 subject to an order under sub. (2) to recover in its retail electric rates the costs that
12 are prudently incurred in complying with the order.

13 **SECTION 61.** 196.491 (3) (d) 3r. of the statutes is created to read:

14 196.491 (3) (d) 3r. For a high-voltage transmission line that is proposed to
15 increase the transmission import capability into this state, existing rights-of-way
16 are used to the extent practicable and the routing and design of the high-voltage
17 transmission line minimizes environmental impacts in a manner that is consistent
18 with achieving reasonable electric rates.

19 **SECTION 62.** 196.491 (3) (d) 3t. of the statutes is created to read:

20 196.491 (3) (d) 3t. For a high-voltage transmission line that is designed for
21 operation at a nominal voltage of 345 kilovolts or more, the high-voltage
22 transmission line provides usage, service or increased regional reliability benefits to
23 the wholesale and retail customers in this state and the benefits of the high-voltage
24 transmission line are reasonable in relation to the cost of the high-voltage
25 transmission line.

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1 **SECTION 63.** 196.491 (3) (gm) of the statutes is created to read:

2 196.491 (3) (gm) The commission may not approve an application under this
3 section for a certificate of public convenience and necessity for a high-voltage
4 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
5 or more unless the approval includes the condition that the applicant shall pay the
6 fees specified in sub. (3g). In a proceeding on such an application under this section,
7 the commission shall determine the cost of the high-voltage transmission line,
8 identify the counties, towns, villages and cities through which the high-voltage
9 transmission line is routed and allocate the amount of investment associated with
10 the high-voltage transmission line to each such county, town, village and city.

11 **SECTION 64.** 196.491 (3g) of the statutes is created to read:

12 196.491 (3g) FEES FOR CERTAIN HIGH-VOLTAGE TRANSMISSION LINES (A person who
13 receives a certificate of public convenience and necessity for a high-voltage
14 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
15 or more under sub. (3) shall pay the department of administration an annual impact
16 fee as specified in the rules promulgated by the department of administration under
17 s. 16.969 (2) (a) and shall pay the department of administration a one-time
18 environmental impact fee as specified in the rules promulgated by the department
19 of administration under s. 16.969 (2) (b).

INSEAT 53-19

20 **SECTION 65.** 196.491 (3m) (b) 2. of the statutes is amended to read:

21 196.491 (3m) (b) 2. The analytical process specified in subd. 1. b. shall, to the
22 extent practicable, be consistent with the analytical process described in the merger
23 enforcement policy of the federal department of justice and the federal trade
24 commission regarding horizontal acquisitions and mergers that are subject to 15
25 USC 1, 18 or 45, as defined in s. 196.485 (1) (dr).

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1 **SECTION 66.** 196.494 (3) of the statutes is amended to read:

2 196.494 (3) ~~No later than December 31, 2004, the~~ The commission may shall,
3 under this subsection, issue an order requiring ~~an electric~~ a public utility to construct
4 or procure, on a competitive basis, the construction of transmission facilities
5 specified by the commission in its order if the commission determines that, ~~based on~~
6 ~~the results of the study under sub. (2),~~ such construction is necessary to relieve a
7 constraint on a transmission system and the construction will materially benefit the
8 customers of the ~~electric~~ public utility or ~~other~~ electric utilities or of an independent
9 system operator, as defined in s. 196.485 (1) (d), or independent transmission owner,
10 as defined in s. 196.485 (1) (dm).

11 **SECTION 67.** 196.494 (4) of the statutes is amended to read:

12 196.494 (4) The commission shall allow ~~an electric~~ a public utility to recover
13 in its retail electric rates any costs that are prudently incurred by the public utility
14 in complying with an order under sub. (3).

15 **SECTION 68.** 196.494 (5) of the statutes is created to read:

16 196.494 (5) The governor may, on behalf of this state, enter into an interstate
17 compact that establishes a joint process for the states in the upper midwest region
18 of the United States to determine the need for and siting of regional electric
19 transmission facilities that may affect electric service in this state. The governor
20 may not enter into a compact under this subsection unless the compact includes
21 requirements and procedures for establishing each of the following:

22 (a) Compliance with each state's environmental and siting standards for
23 transmission facilities.

24 (b) A regional need determination for transmission facilities.

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1 (c) A mechanism for resolving conflicts between the states regarding the siting
2 of transmission facilities.

3 **SECTION 69.** 196.52 (3) (a) of the statutes is amended to read:

4 196.52 (3) (a) In this subsection, “contract or arrangement” means a contract
5 or arrangement providing for the furnishing of management, supervisory,
6 construction, engineering, accounting, legal, financial or similar services and any
7 contract or arrangement for the purchase, sale, lease or exchange of any property,
8 right, or thing, or for the furnishing of any service, property, right, or thing, other
9 than management, supervisory, construction, engineering, accounting, legal,
10 financial or similar services, but “contract or arrangement” does not include a
11 contract or arrangement under which a transmission utility, as defined in s. 196.485
12 (1) (i), sells or transfers securities, as defined in s. 196.485 (1) (fe), that have been
13 issued by a transmission company, as defined in s. 196.485 (1) (ge). Except as
14 provided under par. (b), unless and until the commission gives its written approval,
15 any contract or arrangement is not valid or effective if the contract or arrangement
16 is made between a public utility and an affiliated interest after June 7, 1931. Every
17 public utility shall file with the commission a verified copy of any contract or
18 arrangement, a verified summary of any unwritten contract or arrangement, and
19 any contract or arrangement, written or unwritten, which was in effect on June 7,
20 1931. The commission shall approve a contract or arrangement made or entered into
21 after June 7, 1931, only if it shall clearly appear and be established upon
22 investigation that it is reasonable and consistent with the public interest. The
23 commission may not approve any contract or arrangement unless satisfactory proof
24 is submitted to the commission of the cost to the affiliated interest of rendering the
25 services or of furnishing the property or service to each public utility or of the cost

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1 to the public utility of rendering the services or of furnishing the property or service
2 to each affiliated interest. No proof is satisfactory under this paragraph unless it
3 includes the original (or verified copies) of the relevant cost records and other
4 relevant accounts of the affiliated interest, or an abstract of the records and accounts
5 or a summary taken from the records and accounts if the commission deems the
6 abstract or summary adequate. The accounts shall be properly identified and duly
7 authenticated. The commission, where reasonable, may approve or disapprove a
8 contract or arrangement without submission of the cost records or accounts.

9 **SECTION 70.** 196.795 (1) (g) 1. of the statutes is amended to read:

10 196.795 (1) (g) 1. As a beneficial owner, to take, hold or acquire 5% or more of
11 the outstanding voting securities of a public utility, other than a transmission
12 company, with the unconditional power to vote those securities.

13 **SECTION 71.** 196.795 (1) (g) 2. of the statutes is amended to read:

14 196.795 (1) (g) 2. To exchange or convert 50% or more of the outstanding voting
15 securities of a public utility, other than a municipality or other political subdivision
16 or a transmission company, for or into the voting securities of a company organized,
17 created, appointed or formed by or at the direction of the public utility or of a
18 subsidiary of such company.

19 **SECTION 72.** 196.795 (1) (h) 3. of the statutes is created to read:

20 196.795 (1) (h) 3. "Holding company" does not include a transmission company.

21 **SECTION 73.** 196.795 (1) (p) of the statutes is created to read:

22 196.795 (1) (p) "Transmission company" has the meaning given in s. 196.485
23 (1) (ge).

24 **SECTION 74.** 196.795 (5) (i) 1. of the statutes is amended to read:

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1 196.795 (5) (i) 1. Shall consider the public utility affiliate as a wholly
2 independent corporation and shall impute a capital structure to the public utility
3 affiliate and establish a cost of capital for the public utility affiliate on a stand-alone
4 basis;

5 **SECTION 75.** 196.795 (5) (p) 1., 2., 3. and 4. of the statutes are renumbered
6 196.795 (6m) (b) 1., 2., 3. and 4.

7 **SECTION 76.** 196.795 (5) (pm) 1. (intro.) of the statutes is repealed.

8 **SECTION 77.** 196.795 (5) (pm) 1. a. of the statutes is renumbered 196.795 (6m)
9 (a) 3.

10 **SECTION 78.** 196.795 (5) (pm) 1. b. of the statutes is renumbered 196.795 (6m)
11 (a) 5.

12 **SECTION 79.** 196.795 (5) (pm) 1. c. of the statutes is renumbered 196.795 (6m)
13 (a) 6.

14 **SECTION 80.** 196.795 (5) (pm) 2. of the statutes is renumbered 196.795 (6m) (c)
15 and amended to read:

16 196.795 (6m) (c) Wholesale merchant plants. The assets of a wholesale
17 merchant plant shall not be included in the sum of the assets of a public utility
18 affiliate under par. (p) (b) 1. a., b. or c. and shall not be included in a nonutility
19 affiliate's total assets under par. (p) (b) 2. a. if the requirements specified in s. 196.491
20 (3m) (a) 1. and 2. are satisfied or if the wholesale merchant plant qualifies for the
21 exemption under s. 196.491 (3m) (e).

22 **SECTION 81.** 196.795 (5) (pm) 3. of the statutes is renumbered 196.795 (6m) (d)
23 and amended to read:

24 196.795 (6m) (d) Foreign affiliates. The assets of a foreign affiliate shall be
25 included in the sum of the assets of a public utility affiliate under par. (p) (b) 1. a.,

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1 b. or c. and shall not be included in a nonutility affiliate's total assets under par. (p)

2 (b) 2. a.

3 **SECTION 82.** 196.795 (6m) (title) of the statutes is created to read:

4 196.795 (6m) (title) ASSET CAP.

5 **SECTION 83.** 196.795 (6m) (a) (intro.) of the statutes is created to read:

6 196.795 (6m) (a) *Definitions.* (intro.) In this subsection:

7 **SECTION 84.** 196.795 (6m) (a) 1. of the statutes is created to read:

8 196.795 (6m) (a) 1. "Contributor public utility affiliate" means a public utility
9 affiliate that has contributed its transmission facilities to the transmission company
10 under s. 196.485 (5) (b).

11 **SECTION 85.** 196.795 (6m) (a) 2. of the statutes is created to read:

12 196.795 (6m) (a) 2. "Eligible asset" means an asset of a nonutility affiliate that
13 is used for any of the following:

14 a. Producing, generating, transmitting, delivering, selling or furnishing gas,
15 oil, electricity or steam energy.

16 b. Providing an energy management, conservation or efficiency product or
17 service or a demand-side management product or service.

18 c. Providing an energy customer service, including metering or billing.

19 d. Recovering or producing energy from waste materials.

20 e. Processing waste materials.

21 f. Manufacturing, distributing or selling products for filtration, pumping water
22 or other fluids, processing or heating water, handling fluids or other related
23 activities.

24 g. Providing a telecommunications service, as defined in s. 196.01 (9m).

25 **SECTION 86.** 196.795 (6m) (a) 4. of the statutes is created to read:

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1 196.795 (6m) (a) 4. “Generation assets” means assets that are classified as
2 electric generation assets on the books of account of a public utility, as determined
3 by the commission.

4 **SECTION 87.** 196.795 (6m) (b) (title) of the statutes is created to read:

5 196.795 (6m) (b) *In general.*

6 **SECTION 88.** 196.795 (6m) (e) of the statutes is created to read:

7 196.795 (6m) (e) *Contributor public utility affiliates.* 1. The eligible assets of
8 a nonutility affiliate in a holding company system that includes a contributor public
9 utility affiliate shall not be included in the sum of the assets of the public utility
10 affiliates under par. (b) 1. a., b. or c. and shall not be included in the nonutility
11 affiliate’s total assets under par. (b) 2. a.

12 2. For purposes of subd. 1., all of the assets of a nonutility affiliate shall be
13 considered eligible assets if each of the following is satisfied:

14 a. The bylaws of the nonutility affiliate or a resolution adopted by its board of
15 directors specifies that the business of the nonutility affiliate is limited to activities
16 involving eligible assets.

17 b. Substantially all of the assets of the nonutility affiliate are eligible assets.

18 3. The net book value of transmission facility assets that a contributor public
19 utility affiliate has contributed to a transmission company under s. 196.485 (5) (b)
20 shall be included in the sum of the assets of the public utility affiliate under par. (b)
21 1. a., b. and c. In determining net book value under this subdivision, accumulated
22 depreciation shall be calculated as if the contributor public utility affiliate had not
23 contributed the assets.

24 4. The net book value of generation assets that a contributor public utility
25 affiliate has transferred to a person that is not affiliated with the public utility

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1 affiliate pursuant to the order of the commission, a court or a federal regulatory
2 agency shall be included in the sum of the assets of the public utility affiliate under
3 par. (b) 1. a., b. and c. In determining net book value under this subdivision,
4 accumulated depreciation shall be calculated as if the contributor public utility
5 affiliate had not transferred the assets.

6 **SECTION 89.** 196.795 (11) (b) of the statutes is amended to read:

7 196.795 (11) (b) This section shall be deemed to legalize and confirm the
8 formation, prior to November 28, 1985, of any holding company, which is not itself
9 a public utility, and shall be deemed to legalize and confirm the operations and
10 issuances of securities of the holding company, except that nothing in this section
11 shall be deemed to prevent the commission from imposing reasonable terms,
12 limitations or conditions on any holding company which are consistent with the
13 requirements of sub. ~~(5) (pm)~~ (6m) (c) or (d) or which are consistent with and
14 necessary to satisfy the requirements of sub. (5) (b) to (o) and (q) to (s) or which relate
15 to future investments by the holding company unless the holding company owns,
16 operates, manages or controls a telecommunications utility and does not also own,
17 operate, manage or control a public utility which is not a telecommunications utility.

18 **SECTION 90.** 196.795 (11) (c) of the statutes is created to read:

19 196.795 (11) (c) The commission may not impose upon a holding company the
20 formation of which is considered to be legalized and confirmed under par. (b) any
21 term, limitation or condition under par. (b) that establishes the sum of the holding
22 company's nonutility affiliate assets at less than 25% of the sum of the holding
23 company's utility affiliate assets. For purposes of this paragraph, any term,
24 limitation or condition on nonutility affiliate assets shall not apply to the ownership,
25 operation, management or control of any eligible asset, as defined under sub. (6m)

BILL

1 (a) 2., or an asset that is used for manufacturing, distributing or selling swimming
2 pools or spas. transfer

3 **SECTION 91.** 196.807 of the statutes is created to read:

4 **196.807 Energy affiliate and utility employes.** (1) **DEFINITIONS.** In this

5 section:

6 ~~f~~ ^{Sell} "Energy unit" means to lease, purchase or otherwise ^{sell, offer by} acquire
7 ownership or control of the energy unit. transfer

8 (b) "Affiliate or utility" means a nonutility affiliate, as defined in s. 196.795 (1)
9 a holding company system, as defined in s. 196.795 (1) (i) or an electric utility,
10 as defined in s. 196.491 (1) (d).

11 (c) "Energy unit" means a unit that is engaged in activities related to the
12 production, generation, transmission or distribution of electricity, gas or steam or the
13 recovery of energy from waste materials. INSERT 61-14

14 (d) "Holding company system" has the meaning given in s. 196.795 (1) (i).

15 (9) (e) "Unit" means a division, department or other operational business unit of
16 an affiliate or utility. INSERT 61-18 may not

17 (2) **OFFER OF EMPLOYMENT.** (a) Except as provided in par. (b), a person ~~may~~
18 ~~acquire~~ ^{Sell} an energy unit ~~shall~~ offer employment to the nonsupervisory employes who
19 are employed with the energy unit immediately prior to the ~~acquisition~~ ^{transfer} and who are
20 necessary for the operation and maintenance of the energy unit.

21 (b) ~~A~~ ⁹ nonutility affiliate that acquires an energy unit of a public utility affiliate
22 in the same holding company system ~~shall~~ offer employment to all of the
23 nonsupervisory employes who are employed with the energy unit immediately prior
24 to the ~~acquisition~~ ^{transfer}.

INSERT 61-21 ✓

INSERT 61-22 ✓

BILL

1 (3) EMPLOYMENT TERMS AND CONDITIONS. (a) Except as provided in par. (b), the
2 employment that is offered under sub. (2) shall satisfy each of the following during
3 the 30-month period beginning immediately after the ~~acquisition~~ transfer

4 1. Wage rates shall be no less than the wage rates in effect immediately prior
5 to the ~~acquisition~~ transfer

6 2. Fringe benefits shall be substantially equivalent to the fringe benefits in
7 effect immediately prior to the ~~acquisition~~ transfer

8 3. Terms and conditions of employment, other than wage rates and fringe
9 benefits, shall be substantially equivalent to the terms and conditions in effect
10 immediately prior to the ~~acquisition~~ transfer

11 (b) A collective bargaining agreement may modify or waive a requirement
12 specified in par. (a).

INSERT 62-13 ✓ sell

13 (4) COMMISSION APPROVAL. No person may ~~acquire~~ an energy unit unless the
14 commission determines that the person has satisfied subs. (2) and (3).
~~to keep~~

15 (5) APPLICABILITY. This section does not apply until the expiration date of the
16 3-year period specified in s. 196.485 (3m) (a) 1. b., as determined by the commission,
17 or the expiration date of any extension of the 3-year period that is agreed to under
18 s. 196.485 (3m) (a) 1. b., as determined by the commission, whichever is later. The
19 commission shall publish a notice in the Wisconsin Administrative Register that
20 specifies the date that the commission determines is the effective date of this section.

21 SECTION 92. 200.01 (2) of the statutes is amended to read:

22 200.01 (2) "Public service corporation" means and embraces every corporation,
23 except municipalities and other political subdivisions, which is a public utility as
24 defined in s. 196.01, and every corporation which is a railroad as defined in s. 195.02,
25 but shall not include a public utility corporation receiving an annual gross revenue

BILL

1 of less than \$1,000 for the calendar year next preceding the issuance of any securities
2 by it. “Public service corporation” includes a holding company, as defined under s.
3 196.795 (1) (h), which is a public utility, as defined under s. 196.01 (5). “Public service
4 corporation” does not include a telecommunications utility, as defined in s. 196.01
5 (10). “Public service corporation” does not include any other holding company unless
6 the holding company was formed after November 28, 1985, and unless the
7 commission has determined, under s. 196.795 (7) (a), that each nonutility affiliate,
8 as defined under s. 196.795 (1) (j), does not and cannot reasonably be expected to do
9 at least one of the items specified in s. 196.795 (7) (a). “Public service corporation”
10 does not include a company, as defined in s. 196.795 (1) (f), which owns, operates,
11 manages or controls a telecommunications utility, as defined in s. 196.01 (10), unless
12 such company also owns, operates, manages or controls a public utility which is not
13 a telecommunications utility. “Public service corporation” does not include a
14 transmission company, as defined in s. 196.485 (1) (ge).

15 **SECTION 93.** 285.48 of the statutes is created to read:

16 **285.48 Nitrogen oxide emissions from certain electric generation**
17 **facilities.** (1) In establishing nitrogen oxide emission reductions for the control of
18 atmospheric ozone in another state pursuant to a call for a state implementation plan
19 issued prior to the effective date of this subsection [revisor inserts date], the
20 department may not, in an implementation plan under s. 285.11 (6), by rule or
21 through the adoption of control strategies, regulate nitrogen oxide emissions from
22 electric generation facilities that are located in Ashland, Barron, Bayfield, Buffalo,
23 Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, La Crosse,
24 Monroe, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Trempealeau,
25 Vernon or Washburn county.

BILL

1 (2) The department may not, based solely on the prohibition under sub. (1),
2 require more stringent nitrogen oxide emission reductions for any electric utility, as
3 defined in s. 196.491 (1) (d), or large industrial core source in this state that is
4 identified by the federal environmental protection agency.

SECTION 94. Nonstatutory provisions.

5 (1) INITIAL APPOINTMENTS TO COUNCIL ON UTILITY PUBLIC BENEFITS.
6 Notwithstanding section 15.107 (17) (intro.) of the statutes, as created by this act,
7 the initial members of the council on utility public benefits shall be appointed for the
8 following terms:
9

10 (a) One of the members under section 15.107 (17) (a), (b) and (d) of the statutes,
11 as created by this act, for terms expiring on July 1, 2001.

12 (b) One of the members under section 15.107 (17) (a) of the statutes, as created
13 by this act, and the members under section 15.107 (17) (c), (e) and (f) of the statutes,
14 as created by this act, for terms expiring on July 1, 2002.

15 (c) One of the members under section 15.107 (17) (b) and (d) of the statutes, as
16 created by this act, and the members under section 15.107 (17) (g) and (h) of the
17 statutes, as created by this act, for terms expiring on July 1, 2003.

(2) PUBLIC SERVICE COMMISSION RULES.

18 (a) Using the procedure under section 227.24 of the statutes, the public service
19 commission shall promulgate the rules required under section 196.378 (3) (a) of the
20 statutes, as created by this act, for the period before the effective date of the
21 permanent rules promulgated under that section, but not to exceed the period
22 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding
23 section 227.24 (1) and (3) of the statutes, the commission is not required to make a
24 finding of emergency.
25

BILL

1 (b) The public service commission shall submit in proposed form the rules
2 required under section 196.378 (3) (a) of the statutes, as created by this act, to the
3 legislative council staff under section 227.15 (1) of the statutes no later than the first
4 day of the 6th month beginning after the effective date of this paragraph.

5 (3) DEPARTMENT OF ADMINISTRATION RULES.

6 (a) Using the procedure under section 227.24 of the statutes, the department
7 of administration shall promulgate the rules required under section 16.957 (2) (c)
8 and (4) (b) of the statutes, as created by this act, for the period before the effective
9 date of the permanent rules promulgated under that section, but not to exceed the
10 period authorized under section 227.24 (1) (c) and (2) of the statutes.
11 Notwithstanding section 227.24 (1) and (3) of the statutes, the department is not
12 required to make a finding of emergency.

13 (b) The department of administration shall submit in proposed form the rules
14 required under section 16.957 (2) (c) and (4) (b) of the statutes, as created by this act,
15 to the legislative council staff under section 227.15 (1) of the statutes no later than
16 the first day of the 6th month beginning after the effective date of this paragraph.

17 **SECTION 95. Appropriation changes.**

18 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
19 to the public service commission under section 20.155 (1) (j) of the statutes, as
20 affected by the acts of 1999, the dollar amount is increased by ~~425,000~~ for fiscal year
21 1999-00 and the dollar amount is increased by ~~425,000~~ for fiscal year 2000-01 for
22 the purpose for which the appropriation is made.

\$250,000

\$250,000

23 **SECTION 96. Initial applicability.**

24 (1) The treatment of sections 16.969, 20.505 (1) (ge) and (gs) and 196.491 (3)
25 (gm) and (3g) of the statutes first applies to certificates of public convenience and

BILL

1 necessity that are approved by the public service commission on the effective date of
2 this subsection.

3 (2) The treatment of section 196.491 (3) (d) 3r. and 3t. of the statutes first
4 applies to applications for certificates of public convenience and necessity that are
5 filed with the public service commission on the effective date of this subsection.

6 (3) The treatment of sections 76.28 (1) (d), (e) (intro.) and 5. and (j) and (2) (c)
7 (intro.), (d) and (e) and 196.485 (1) (ge) of the statutes first applies to taxable years
8 beginning on January 1 of the year in which this subsection takes effect, except that
9 if this subsection takes effect after July 31 the treatment of sections 76.28 (1) (d), (e)
10 (intro.) and 5. and (j) and (2) (c) (intro.), (d) and (e) of the statutes first applies to
11 taxable years beginning on January 1 of the year following the year in which this
12 subsection takes effect.

13

(END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3150/2ins
MDK:.....

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INSERT 10-23:

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. ~~50%~~ ^{Fifty percent} of the moneys collected in public benefits fees under sub. (5).

INSERT 53-19:

(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.

(b).
(a)

INSERT 61-14:

- (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).

INSERT 61-18:

unless the terms of the transfer require the person to which the energy unit is transferred to

INSERT 61-21:

A public utility affiliate may not sell an energy unit to a

INSERT 61-22:

1 unless the terms of the transfer require the nonutility affiliate to

2 **INSERT 62-13:**

3 Except for a cooperative association, as defined in s. 196.491 (1) (bm),

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3150/2dn

MDK:.....



Senator Chvala:

This version is identical to LRB-3150/1, except for the following:

1. There is a minor change to the relating clause.

2. The following provisions contain minor revisions: ^{AD} proposed ss. 16.957 (1) (o) 3. and (2) (a), 196.192 (2) (b), (3) (a) and (4), 196.485 (1) (em), (1m) (a) and (b), (2) (d) 1. and 2., (3m) (a) 1. c., d., e. and f., 2. b. and c. and 4., (b) 1., (c) 3. a., b., c., (4) (am), (5) (b) 1., 2. a., 3., (c) 1. b., (6) (b) and (7). _x ^{and}

3. The last phrase of proposed s. 16.969 (4) is eliminated and new language is added to proposed s. 196.491 (3g) regarding mitigation offsets. ^{and}

4. Proposed s. 196.807 has been substantially revised. As a result, proposed s. 196.485 (2) (e) ~~for~~ the prior version is eliminated.

5. The dollar amounts in the appropriation changes have been revised to \$250,000 per year. ^{and}

Note also that the references to "securities" in proposed s. 196.485 (3m) (c) 4. and 5. have *not* been revised to refer to "voting securities". Is this okay?

Mark D. Kunkel
Legislative Attorney
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E-mail: Mark.Kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3150/2dn
MDK:...:jf

June 9, 1999

Senator Chvala:

This version is identical to LRB-3150/1, except for the following:

1. There is a minor change to the relating clause.
2. The following provisions contain minor revisions: proposed ss. 16.957 (1) (o) 3. and (2) (a), 196.192 (2) (b), (3) (a) and (4), 196.485 (1) (em), (1m) (a) and (b), (2) (d) 1. and 2., (3m) (a) 1. c., d., e. and f., 2. b. and c. and 4., (b) 1., and (c) 3. a., b., c., (4) (am), (5) (b) 1., 2. a. and 3. and (c) 1. b., (6) (b) and (7).
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3150/2dn
MDK:...jf

June 9, 1999

CFC Mark-up by CC
6/11
Please call 924 3471 or
fax 924 1376 if any
questions

Senator Chvala:

This version is identical to LRB-3150/1, except for the following:

1. There is a minor change to the relating clause.
2. The following provisions contain minor revisions: proposed ss. 16.957 (1) (o) 3. and (2) (a), 196.192 (2) (b), (3) (a) and (4), 196.485 (1) (em), (1m) (a) and (b), (2) (d) 1. and 2., (3m) (a) 1. c., d., e. and f., 2. b. and c. and 4., (b) 1., and (c) 3. a., b., c., (4) (am), (5) (b) 1., 2. a. and 3. and (c) 1. b., (6) (b) and (7).
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Note also that the references to "securities" in proposed s. 196.485 (3m) (c) 4. and 5. have *not* been revised to refer to "voting securities". Is this okay?

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1999 BILL

1 **AN ACT** *to repeal* 196.485 (3) (bm) and 196.795 (5) (pm) 1. (intro.); *to renumber*
2 196.025, 196.485 (1) (dm) 1., 196.795 (5) (p) 1., 2., 3. and 4., 196.795 (5) (pm) 1.
3 a., 196.795 (5) (pm) 1. b. and 196.795 (5) (pm) 1. c.; *to renumber and amend*
4 196.485 (1) (dm) 3., 196.795 (5) (pm) 2. and 196.795 (5) (pm) 3.; *to amend* 76.28
5 (1) (d), 76.28 (1) (e) (intro.), 76.28 (2) (e) (intro.), 76.28 (2) (d), 196.31 (1) (intro.),
6 196.485 (1) (dm) (intro.), 196.485 (2) (a) (intro.), 196.485 (4) (a) (intro.), 196.491
7 (3m) (b) 2., 196.494 (3), 196.494 (4), 196.52 (3) (a), 196.795 (1) (g) 1., 196.795 (1)
8 (g) 2., 196.795 (5) (i) 1., 196.795 (11) (b) and 200.01 (2); *to repeal and recreate*
9 196.374 and 196.485 (title); and *to create* 15.107 (17), 16.957, 16.969, 20.505
10 (1) (ge), 20.505 (1) (gs), 20.505 (10), 25.17 (1) (xm), 25.96, 76.28 (1) (e) 5., 76.28
11 (1) (j), 76.28 (2) (e), 196.025 (2), 196.025 (3), 196.025 (4), 196.025 (5), 196.192,
12 196.378, 196.485 (1) (am), 196.485 (1) (be), 196.485 (1) (bs), 196.485 (1) (dm) 2.,
13 196.485 (1) (do), 196.485 (1) (dq), 196.485 (1) (dr), 196.485 (1) (ds), 196.485 (1)
14 (dt), 196.485 (1) (dv), 196.485 (1) (em), 196.485 (1) (fe), 196.485 (1) (ge), 196.485

BILL

1 (1) (gm), 196.485 (1) (j), 196.485 (1m), 196.485 (2) (ar), 196.485 (2) (bx), 196.485
2 (2) (d), 196.485 (3m), 196.485 (4) (am), 196.485 (5), 196.485 (6), 196.485 (6m),
3 196.485 (7), 196.485 (8), 196.487, 196.491 (3) (d) 3r., 196.491 (3) (d) 3t., 196.491
4 (3) (gm), 196.491 (3g), 196.494 (5), 196.795 (1) (h) 3., 196.795 (1) (p), 196.795
5 (6m) (title), 196.795 (6m) (a) (intro.), 196.795 (6m) (a) 1., 196.795 (6m) (a) 2.,
6 196.795 (6m) (a) 4., 196.795 (6m) (b) (title), 196.795 (6m) (e), 196.795 (11) (c),
7 196.807 and 285.48 of the statutes; **relating to:** control and ownership of
8 transmission facilities by a transmission company and a Midwest independent
9 system operator, ownership of nonutility assets by a public utility holding
10 company, investments in transmission facilities, offers of employment to
11 certain public utility and nonaffiliate employees, fees and approvals for certain
12 high-voltage transmission lines, construction of certain electric transmission
13 facilities, environmental reviews by the public service commission, reports on
14 reliability status of electric utilities, state participation in a regional
15 transmission need and siting compact, incentives for development of certain
16 ~~generating~~ ^{transmission} facilities, study of market power and retail electric competition,
17 market-based compensation, rates and contracts for electric customers,
18 regulation of certain nitrogen oxide emissions, establishing programs for
19 low-income energy assistance, improving energy conservation and efficiency
20 markets and encouraging the development and use of renewable resources,
21 creating a council on utility public benefits, establishing a utility public benefits
22 fund, requiring electric utilities and retail electric cooperatives to charge public
23 benefits fees to customers and members, imposing requirements on the use of
24 renewable resources by electric utilities and cooperatives, requiring the

NO - refers to
incentive
program

BILL

1 exercise of rule-making authority, making appropriations and providing a
2 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 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.

Transfer
not mentioned
ownership and
discussed
under
no. 4

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.

BILL

For nonmunicipal utilities, the bill directs DOA to determine the amount of the public benefits fee, which consists of a portion sufficient 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 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.

after 2003-2004

The bill also requires certain electric utilities to make expenditures that are based on the percentage of annual operating revenues that the electric utilities are required to spend under current law on energy conservation programs. Under current law, the electric utilities are required to spend at least 0.5% of their annual operating revenues on such programs. This bill requires the PSC to determine the amount that an electric utility was required to spend on such programs in 1998. Under the bill, an electric utility must spend a decreasing portion of the amount determined by the PSC for 1998 on energy conservation programs and contribute an increasing portion of the 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.

low-income, energy conservation, and renewables [87, p. 25]

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 an independent system operator; and 2) filing a commitment with the PSC to transfer ownership of such transmission facilities and related land rights 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)

a specific in this state (p.3)

BILL

processing waste materials; 6) manufacturing or selling certain filtration or fluid pumping products; and 7) providing telecommunications services.

Transmission system operation

November 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 ~~January~~ 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. In addition, the bill ^{provides that} exempts the property of the transmission company ~~from the property tax.~~ *Not be subject to double*

Employment requirements for acquired energy units *gross-receipts taxation.*

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 employees 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 employees. 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

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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 ~~service~~ ^{voluntary service} interruptions for 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.

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.

*Certain**l.c.
firm commitment**p. 59*

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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.

17 (c) "Commitment to community program" means a program by a municipal
18 utility or retail electric cooperative for low-income assistance or an energy
19 conservation program by a municipal utility or retail electric cooperative.

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1 (cm) “Council” means the council on utility public benefits created under s.
2 15.107 (17).

3 (d) “Customer application of renewable resources” means the generation of
4 electricity from renewable resources that takes place on the premises of a customer
5 of an electric provider.

6 (e) “Division of housing” means the division of housing in the department.

7 (f) “Electric provider” means an electric utility or retail electric cooperative.

8 (g) “Electric utility” means a public utility that owns or operates a retail electric
9 distribution system.

10 (h) “Energy conservation program” means a program for reducing the demand
11 for natural gas or electricity or improving the efficiency of its use during any period.

12 (i) “Fiscal year” has the meaning given in s. 655.001 (6).

13 (k) “Local unit of government” means the governing body of any county, city,
14 town, village or county utility district or the elected tribal governing body of a
15 federally recognized American Indian tribe or band.

16 (L) “Low-income assistance” means assistance to low-income households for
17 weatherization and other energy conservation services, payment of energy bills or
18 early identification or prevention of energy crises.

19 (m) “Low-income household” means any individual or group of individuals in
20 this state who are living together as one economic unit and for whom residential
21 electricity is customarily purchased in common or who make undesignated
22 payments for electricity in the form of rent, and whose household income is not more
23 than 150% of the poverty line as determined under 42 USC 9902 (2).

24 (n) “Low-income need” means the amount obtained by subtracting from the
25 total low-income energy bills in a fiscal year the product of 2.2% of the estimated

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1 average annual income of low-income households in this state in that fiscal year
2 multiplied by the estimated number of low-income households in this state in that
3 fiscal year.

4 (o) “Low-income need percentage” means the percentage that results from
5 dividing the sum of the following by the amount of low-income need in fiscal year
6 1998–99:

7 1. The total amount received by the department for low-income funding under
8 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in fiscal year 1997–98.

9 1m. The public benefits fees established for fiscal year 1999–2000 under sub.
10 (4) (c) 1.

11 2. The total amount expended by utilities under s. 196.374.

12 3. Fifty percent of the public benefits fees established for fiscal year 1999–2000
13 that are charged by municipal utilities and retail electric cooperatives.

14 (p) “Low-income need target” means the product of the low-income need
15 percentage multiplied by low-income need in a fiscal year.

16 (q) “Municipal utility” means an electric utility that is owned wholly by a
17 municipality and that owns a retail distribution system.

18 (qm) “Public utility” has the meaning given in s. 196.01 (5).

19 (r) “Renewable resource” has the meaning given in s. 196.378 (1) (g).

20 (s) “Retail capacity” means the total amount of electricity that an electric
21 provider is capable of delivering to its retail customers and that is supplied by electric
22 generating facilities owned or operated by the electric provider or any other person.

23 “Retail capacity” does not include any electricity that is not used to satisfy the electric
24 provider’s retail load obligations.

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1 (t) “Retail electric cooperative” means a cooperative association that is
2 organized under ch. 185 for the purpose of providing electricity at retail to its
3 members only and that owns or operates a retail electric distribution system.

4 (u) “Total low-income energy bills” means the total estimated amount that all
5 low-income households are billed for residential electricity, natural gas and heating
6 fuel in a fiscal year.

7 (v) “Wholesale electric cooperative” means a cooperative association that is
8 organized under ch. 185 for the purpose of providing electricity at wholesale to its
9 members only.

10 (w) “Wholesale supply percentage” means the percentage of a municipal
11 utility’s or retail electric cooperative’s retail capacity in a fiscal year that is supplied
12 by a wholesale supplier.

13 (x) “Wholesale supplier” means a wholesale electric cooperative or a municipal
14 electric company, as defined in s. 66.073 (3) (d), that supplies electricity at wholesale
15 to a municipal utility or retail electric cooperative.

16 (2) DEPARTMENT DUTIES. In consultation with the council, the department shall
17 do all of the following:

18 (a) *Low-income programs.* After holding a hearing, establish programs to be
19 administered by the department of administration through the division of housing
20 for awarding grants from the appropriation under s. 20.505 (10) (r) to provide
21 low-income assistance. In each fiscal year, the amount awarded under this
22 paragraph in grants for weatherization and other energy conservation services shall
23 be sufficient to equal 47% of the sum of the following:

24 1. All moneys received from the federal government under 42 USC 6861 to 6873
25 and 42 USC 8621 to 8629 in a fiscal year.

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1 2. All moneys spent in a fiscal year for low-income programs established under
2 s. 196.374.

3 3. All moneys spent in a fiscal year on programs established under this
4 paragraph.

5 4. Fifty percent of the moneys collected in public benefits fees under sub. (5).

6 (b) *Energy conservation and efficiency and renewable resource programs.* 1.
7 Subject to subd. 2., after holding a hearing, establish programs for awarding grants
8 from the appropriation under s. 20.505 (10) (s) for each of the following:

9 a. Proposals for providing energy conservation or efficiency services. In
10 awarding grants under this subd. 1. a., the department shall give priority to
11 proposals directed at the sectors of energy conservation or efficiency markets that
12 are least competitive and at promoting environmental protection, electric system
13 reliability or rural economic development. In each fiscal year, 1.75% of the
14 appropriation under s. 20.505 (10) (s) shall be awarded in grants for research and
15 development proposals regarding the environmental impacts of the electric industry.

16 b. Proposals for encouraging the development or use of customer applications
17 of renewable resources, including educating customers about renewable resources
18 or encouraging uses of renewable resources by customers or encouraging research
19 technology transfers. In each fiscal year, the department shall ensure that 4.5% of
20 the appropriation under s. 20.505 (10) (s) is awarded in grants under this subd. 1. b.

21 2. For each fiscal year after fiscal year 2003–04, determine whether to continue,
22 discontinue or reduce any of the programs established under subd. 1. and determine
23 the total amount necessary to fund the programs that the department determines
24 to continue or reduce under this subdivision. The department shall notify the
25 commission if the department determines under this subdivision to reduce funding.

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1 (c) *Rules.* Promulgate rules establishing all of the following:

2 1. Eligibility requirements for low-income assistance under programs
3 established under par. (a). The rules shall prohibit a person who receives
4 low-income assistance from a municipal utility or retail electric cooperative under
5 a program specified in sub. (5) (d) 2. b. or 3. a. from receiving low-income assistance
6 under programs established under par. (a).

7 2. Requirements and procedures for applications for grants awarded under
8 programs established under par. (a) or (b) 1.

9 2m. Criteria for the selection of proposals by the corporation specified in sub.
10 (3) (b).

11 2n. Criteria for making the determination under par. (b) 2. Rules promulgated
12 under this subdivision shall require the department to determine whether the need
13 for a program established under par. (b) 1. is satisfied by the private sector market
14 and, if so, whether the program should be discontinued or reduced.

15 4. Requirements for electric utilities to allow customers to include voluntary
16 contributions to assist in funding a commitment to community program or a program
17 established under par. (a) or (b) 1. with bill payments for electric service. The rules
18 may require an electric utility to provide a space on an electric bill in which a
19 customer may indicate the amount of a voluntary contribution and the customer's
20 preference regarding whether a contribution should be used for a program
21 established under par. (a) or (b) 1. a. or b. The rules shall establish requirements and
22 procedures for electric utilities to pay to the department any voluntary contributions
23 included with bill payments and to report to the department customer preferences
24 regarding use of the contributions. The department shall deposit all contributions
25 received under this paragraph in the utility public benefits fund.

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1 5. A method for estimating total low-income energy bills, average annual
2 income of low-income households and the number of low-income households in a
3 fiscal year for the purpose of determining the amount of low-income need in the fiscal
4 year.

5 (d) *Other duties.* 1. For each fiscal year after fiscal year 1998–99, determine
6 the low-income need target for that fiscal year.

7 2. Encourage customers to make voluntary contributions to assist in funding
8 the programs established under pars. (a) and (b) 1. The department shall deposit all
9 contributions received under this paragraph in the utility public benefits fund.

10 3. Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in the utility
11 public benefits fund.

12 4. *Conduct an annual independent audit and submit an annual report to the*
13 *legislature under s. 13.172 (2) that describes each of the following:*

14 a. The expenses of the department, other state agencies and grant recipients
15 in administering or participating in the programs under pars. (a) and (b).

16 b. The effectiveness of the programs under par. (a) in providing assistance to
17 low-income individuals.

18 c. The effectiveness of the programs under par. (b) in reducing demand for
19 electricity and increasing the use of customer-owned renewable resources.

20 d. Any other issue identified by the governor, speaker of the assembly or
21 majority leader of the senate.

22 (3) **CONTRACTS.** (a) The division of housing shall, on the basis of competitive
23 bids, contract with community action agencies described in s. 46.30 (2) (a) 1.,
24 nonstock, nonprofit corporations organized under ch. 181 or local units of
25 government to provide services under the programs established under sub. (2) (a).

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1 (b) The department shall, on the basis of competitive bids, contract with a
2 nonstock, nonprofit corporation organized under ch. 181 to administer the programs
3 established under sub. (2) (b) 1., including soliciting proposals, processing grant
4 applications, selecting, based on criteria specified in rules promulgated under sub.
5 (2) (c) 2m., proposals for the department to make awards and distributing grants to
6 recipients.

7 (c) In selecting proposals and awarding grants under sub. (2) (b), the
8 department or the nonprofit corporation specified in par. (b) may not discriminate
9 against an electric provider or its affiliate or a wholesale electric supplier or its
10 affiliate solely on the basis of its status as an electric provider, wholesale electric
11 supplier or affiliate.

12 (4) **ELECTRIC UTILITIES.** (a) *Requirement to charge public benefits fees.* Each
13 electric utility, except for a municipal utility, shall charge each customer a public
14 benefits fee in an amount established in rules promulgated by the department under
15 par. (b). An electric utility, except for a municipal utility, shall collect and pay the fees
16 to the department in accordance with the rules promulgated under par. (b).

17 (am) *Electric bills.* An electric utility shall include a public benefits fee in a
18 customer's bill and shall provide the customer with an annual statement that
19 identifies the annual charges for public benefits fees and describes the programs for
20 which fees are used.

21 (b) *Rules.* In consultation with the council, the department shall promulgate
22 rules that establish the amount of a public benefits fee under par. (a). Fees
23 established in rules under this paragraph may vary by class of customer, but shall
24 be uniform within each class, and shall satisfy each of the following:

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1 1. The fees may not be based on the kilowatt-hour consumption of electricity
2 by customers.

3 2. No more than 70% of the total amount of fees charged by an electric provider
4 may be charged to residential customers and no more than 30% of the total may be
5 charged to nonresidential customers.

6 3. The fees shall allow an electric provider to recover the reasonable and
7 prudent expenses incurred by the electric provider in complying with this section.

8 (c) *Amount of public benefits fees.* A fee established in rules promulgated under
9 par. (b) shall satisfy each of the following:

10 1. 'Low-income funding.' In fiscal year 1999–2000, a portion of the public
11 benefits fee shall be an amount that, when added to 50% of the estimated public
12 benefits fees charged by municipal utilities and retail electric cooperatives under
13 sub. (5) (a) for that fiscal year, shall equal \$27,000,000. In each fiscal year after fiscal
14 year 1999–2000, a portion of the public benefits fee shall be an amount that, when
15 added to the sum of the following shall equal the low-income need target for that
16 fiscal year determined by the department under sub. (2) (d) 1.:

17 a. Fifty percent of the estimated public benefits fees charged by municipal
18 utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year.

19 b. All moneys received under 42 USC 6861 to 6873 and 42 USC 8621 to 8629
20 for that fiscal year.

21 c. The total amount spent on programs or contributed to the commission by
22 utilities under s. 196.374 (3) for that fiscal year.

23 2. 'Energy conservation and efficiency and renewable resource funding.' For
24 fiscal year 1999–2000, a portion of the public benefits fee shall be in an amount that,
25 when added to 50% of the estimated public benefits fees charged by municipal

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1 utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year, shall
2 equal \$20,000,000. In each fiscal year after fiscal year 1999–2000, a portion of the
3 public benefits fee shall be the amount determined under this subdivision for fiscal
4 year 1999–2000, except that if the department determines to reduce or discontinue
5 a program under sub. (2) (b) 2., the department shall reduce the amount accordingly.

6 3. *‘Limitation on electric bill increases.’ For the period beginning on the*
7 *effective date of this subdivision [revisor inserts date], and ending on June 30,*
8 *2008, the total increase in a customer’s electric bills that is based on the requirement*
9 *to pay public benefits fees, including any increase resulting from an electric utility’s*
10 *compliance with this section, may not exceed 3% of the total of every other charge for*
11 *which the customer is billed for that period or \$750 per month, whichever is less.*

12 (5) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES. (a) *Requirement to*
13 *charge public benefits fees.* Each retail electric cooperative and municipal utility
14 shall charge a monthly public benefits fee to each customer or member in amount
15 that is sufficient for the retail electric cooperative or municipal utility to collect an
16 annual average of \$17 per meter. A retail electric cooperative or municipal utility
17 may determine the amount that a particular class of customers or members is
18 required to pay under this paragraph and may charge different fees to different
19 classes of customers or members.

20 (am) *Public benefits fee restriction.* Notwithstanding par. (a), for the period
21 beginning on the effective date of this paragraph [revisor inserts date], and ending
22 on June 30, 2008, the total increase in a customer’s or member’s electric bills that is
23 based on the requirement to pay public benefits fees, including any increase
24 resulting from a retail electric cooperative’s or municipal utility’s compliance with

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1 this section, may not exceed 3% of the total of every other charge for which the
2 member or customer is billed for that period or \$750 per month, whichever is less.

3 (b) *Election to contribute to department programs.* 1. No later than the first
4 day of the 12th month beginning after the effective date of this subdivision ...
5 [revisor inserts date], each municipal utility or retail electric cooperative shall notify
6 the department whether it has elected to contribute to the programs established
7 under sub. (2) (a) or (b) 1. for a 3-year period.

8 2. No later than every 3rd year after the date specified in subd. 1., each
9 municipal utility or retail electric cooperative shall notify the department whether
10 it has elected to contribute to the programs established under sub. (2) (a) or (b) 1. for
11 a 3-year period.

12 (c) *Full contribution.* If a municipal utility or retail electric cooperative elects
13 under par. (b) 1. or 2. to contribute to the programs established both under sub. (2)
14 (a) and under sub. (2) (b) 1., it shall pay 100% of the public benefits fees that it charges
15 under par. (a) to the department in each fiscal year of the 3-year period for which it
16 has made the election.

17 (d) *Partial contributions and commitment to community spending.* A
18 municipal utility or retail electric cooperative not specified in par. (c) shall do one of
19 the following:

20 1. If the municipal utility or retail electric cooperative elects to contribute only
21 to the programs established under sub. (2) (a), the municipal utility or retail electric
22 cooperative shall, in each fiscal year of the 3-year period for which it elects to
23 contribute under par. (b) 1. or 2., do all of the following:

24 a. Pay no less than 50% of the public benefits fees that it charges under par.
25 (a) to the department.

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1 b. Spend no less than 50% of the public benefits fees that it charges under par.
2 (a) on energy conservation programs.

3 2. If the municipal utility or retail electric cooperative elects to contribute only
4 to the programs established under sub. (2) (b) 1., the municipal utility or retail
5 electric cooperative shall, in each fiscal year of the 3-year period for which it elects
6 to contribute under par. (b) 1. or 2., do all of the following:

7 a. Pay 50% of the public benefits fees that it charges under par. (a) to the
8 department.

9 b. Spend no less than 50% of the public benefits fees that it charges under par.
10 (a) on programs for low-income assistance.

11 3. If the municipal utility or retail electric cooperative elects not to contribute
12 to any of the programs established under sub. (2) (a) or (b) 1., the municipal utility
13 or retail electric cooperative shall, in each fiscal year of the 3-year period for which
14 it elects not to contribute under par. (b) 1. or 2., do all of the following:

15 a. Spend no less than 50% of the public benefits fees that it charges under par.
16 (a) on programs for low-income assistance.

17 b. Spend no less than 50% of the public benefits fees that it charges under par.
18 (a) on energy conservation programs.

19 (e) *Wholesale supplier credit.* If a wholesale supplier has established a program
20 for low-income assistance or an energy conservation program, a municipal utility or
21 retail electric cooperative that is a customer of the wholesale supplier may do any of
22 the following:

23 1. Include an amount equal to the product of the municipal utility's or retail
24 electric cooperative's wholesale supply percentage and the amount that the
25 wholesale supplier has spent on low-income assistance in a fiscal year in calculating

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1 the amount that the municipal utility or retail electric cooperative has spent on
2 low-income assistance in that fiscal year under par. (d) 2. b. or 3. a.

3 2. Include an amount equal to the product of the municipal utility's or retail
4 electric cooperative's wholesale supply percentage and the amount that the
5 wholesale supplier has spent on energy conservation programs or customer
6 applications of renewable resources in a fiscal year in calculating the amount that
7 the municipal utility or retail electric cooperative has spent on energy conservation
8 programs under par. (d) 1. b. or 3. b.

9 (f) *Joint programs.* Municipal utilities or retail electric cooperatives may
10 establish joint commitment to community programs, except that each municipal
11 utility or retail electric cooperative that participates in a joint program is required
12 to comply with the spending requirements under par. (d).

13 (g) *Reports.* 1. For each fiscal year, each municipal utility and retail electric
14 cooperative that does not pay 100% of the public benefits fee that it charges under
15 par. (a) to the department under par. (c) shall file a report with the department that
16 describes each of the following:

17 a. An accounting of public benefits fees charged to customers or members under
18 par. (a) in the fiscal year and expenditures on commitment to community programs
19 under par. (d), including any amounts included in the municipal utility's or retail
20 electric cooperative's calculations under par. (e).

21 b. A description of commitment to community programs established by the
22 municipal utility or retail electric cooperative in the fiscal year.

23 2. The department shall maintain reports filed under subd. 1. for at least 6
24 years.

25 **SECTION 3.** 16.969 of the statutes is created to read:

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1 **16.969 Fees for certain high-voltage transmission lines.** (1) In this
2 section:

3 (a) "Commission" means the public service commission.

4 (b) "High-voltage transmission line" means a high-voltage transmission line,
5 as defined in s. 196.491 (1) (f), that is designed for operation at a nominal voltage of
6 345 kilovolts or more.

7 (2) The department shall promulgate rules that require a person who is issued
8 a certificate of public convenience and necessity by the commission under s. 196.491
9 (3) for a high-voltage transmission line to pay the department the following fees:

10 (a) An annual impact fee in an amount equal to ~~0.08%~~ of the cost of the
11 high-voltage transmission line, as determined by the commission under s. 196.491
12 (3) (gm).

.3%
[3 Mills]
[i.e..003]

13 (b) A one-time environmental impact fee in amount equal to 5% of the cost of
14 the high-voltage transmission line, as determined by the commission under s.
15 196.491 (3) (gm).

16 (3) (a) The department shall distribute the fees that are paid by a person under
17 the rules promulgated under sub. (2) (a) to each town, village and city that is
18 identified by the commission under s. 196.491 (3) (gm) in proportion to the amount
19 of investment that is allocated by the commission under s. 196.491 (3) (gm) to each
20 such town, village and city.

21 (b) The fee that is paid by a person under the rules promulgated under sub. (2)
22 (b) shall be distributed as follows:

23 1. The department shall pay 50% of the fee to each county that is identified by
24 the commission under s. 196.491 (3) (gm) in proportion to the amount of investment
25 that is allocated by the commission under s. 196.491 (3) (gm) to each such county.

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1 2. The department shall pay 50% of the fee to each town, village and city that
2 is identified by the commission under s. 196.491 (3) (gm) in proportion to the amount
3 of investment that is allocated by the commission under s. 196.491 (3) (gm) to each
4 such town, village and city.

5 (4) A county, town, village or city that receives a distribution under sub. (3) (b)
6 may use the distribution only for park, conservancy, wetland or other environmental
7 offset programs.

8 **SECTION 4.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
9 the following amounts for the purposes indicated:

| | | |
|--|----------------|----------------|
| | 1999-00 | 2000-01 |
|--|----------------|----------------|

11 **20.505 Administration, department of**

12 (10) UTILITY PUBLIC BENEFITS

| | | | | |
|--------------------------------|-----|---|-----|-----|
| (q) General program operations | SEG | A | -0- | -0- |
|--------------------------------|-----|---|-----|-----|

14 **SECTION 5.** 20.505 (1) (ge) of the statutes is created to read:

15 20.505 (1) (ge) *High-voltage transmission line annual impact fee distributions.*

16 All moneys received from the payment of fees under the rules promulgated under s.
17 16.969 (2) (a) for distributions to to towns, villages and cities under s. 16.969 (3) (a).

18 **SECTION 6.** 20.505 (1) (gs) of the statutes is created to read:

19 20.505 (1) (gs) *High-voltage transmission line environmental impact fee*
20 *distributions.* All moneys received from the payment of fees under the rules

21 promulgated under s. 16.969 (2) (b) for distributions to ~~to~~ counties, towns, villages
22 and cities under s. 16.969 (3) (b). ✕

23 **SECTION 7.** 20.505 (10) of the statutes is created to read:

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1 20.505 (10) UTILITY PUBLIC BENEFITS. (q) *General program operations.* From
2 the utility public benefits fund, the amounts in the schedule for general program
3 operations.

4 (r) *Low-income assistance grants.* From the utility public benefits fund, a sum
5 sufficient for low-income assistance grants under s. 16.957 (2) (a).

6 (s) *Energy conservation and efficiency and renewable resource grants.* From the
7 utility public benefits fund, a sum sufficient for energy conservation and efficiency
8 and renewable resource grants under s. 16.957 (2) (b) 1.

9 **SECTION 8.** 25.17 (1) (xm) of the statutes is created to read:

10 25.17 (1) (xm) Utility public benefits fund (s. 25.96);

11 **SECTION 9.** 25.96 of the statutes is created to read:

12 **25.96 Utility public benefits fund.** *There is established a separate*
13 *nonlapsible trust fund designated as the utility public benefits fund, consisting of*
14 *deposits by the public service commission under s. 196.374 (3), public benefits fees*
15 *received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions received under*
16 *s. 16.957 (2) (c) 4. and (d) 2.*

17 **SECTION 10.** 76.28 (1) (d) of the statutes is amended to read:

18 76.28 (1) (d) "Gross revenues" for a light, heat and power company other than
19 a qualified wholesale electric company or a transmission company means total
20 operating revenues as reported to the public service commission except revenues for
21 interdepartmental sales and for interdepartmental rents as reported to the public
22 service commission and deductions from the sales and use tax under s. 77.61 (4),
23 except that the company may subtract from revenues either the actual cost of power
24 purchased for resale, as reported to the public service commission, by a light, heat
25 and power company, except a municipal light, heat and power company, that

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1 purchases under federal or state approved wholesale rates more than 50% of its
 2 electric power from a person other than an affiliated interest, as defined in s. 196.52
 3 (1), if the revenue from that purchased electric power is included in the seller's gross
 4 revenues or the following percentages of the actual cost of power purchased for
 5 resale, as reported to the public service commission, by a light, heat and power
 6 company, except a municipal light, heat and power company that purchases more
 7 than 90% of its power and that has less than \$50,000,000 of gross revenues: 10% for
 8 the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50%
 9 for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric
 10 company, "gross revenues" means total business revenues from those businesses
 11 included under par. (e) 1. to 4. For a transmission company, "gross revenues" means
 12 total operating revenues as reported to the public service commission, except
 13 revenues for transmission service that is provided to a public utility that is subject
 14 to the license fee under sub. (2) (d) or to a public utility, as defined in s. 196.01 (5).

15 *OR TO A COOPERATIVE ASSOCIATION ORGANIZED UNDER CH 185 FOR THE PURPOSE*
 SECTION 11. 76.28 (1) (e) (intro.) of the statutes is amended to read: *of providing*
 16 76.28 (1) (e) (intro.) "Light, heat and power companies" means any person, *electricity to its*
 17 association, company or corporation, including corporations described in s. 66.069 (2) *members*
 18 ~~and including~~, qualified wholesale electric companies and transmission companies *only.*

19 and except only business enterprises carried on exclusively either for the private use
 20 of the person, association, company or corporation engaged in them, or for the private
 21 use of a person, association, company or corporation owning a majority of all
 22 outstanding capital stock or who control the operation of business enterprises and
 23 except electric cooperatives taxed under s. 76.48 that engage in any of the following
 24 businesses:

25 SECTION 12. 76.28 (1) (e) 5. of the statutes is created to read:

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1 76.28 (1) (e) 5. Transmitting electric current for light, heat or power.

2 **SECTION 13.** 76.28 (1) (j) of the statutes is created to read:

3 76.28 (1) (j) "Transmission company" has the meaning given in s. 196.485 (1)
4 (ge).

5 **SECTION 14.** 76.28 (2) (c) (intro.) of the statutes is amended to read:

6 76.28 (2) (c) (intro.) ~~For~~ Except as provided under par. (e), for private light, heat
7 and power companies for 1986 and thereafter, an amount equal to the apportionment
8 factor multiplied by the sum of:

9 **SECTION 15.** 76.28 (2) (d) of the statutes is amended to read:

10 76.28 (2) (d) ~~For~~ Except as provided under par. (e), for municipal light, heat and
11 power companies, an amount equal to the gross revenues, except gross revenues from
12 operations within the municipality that operates the company, multiplied by the
13 rates under par. (b) or (c).

14 **SECTION 16.** 76.28 (2) (e) of the statutes is created to read:

15 76.28 (2) (e) For transmission companies, an amount equal to the gross
16 revenues multiplied by the rates under par. (c).

17 **SECTION 17.** 196.025 of the statutes is renumbered 196.025 (1).

18 **SECTION 18.** 196.025 (2) of the statutes is created to read:

19 196.025 (2) The commission shall promulgate rules establishing requirements
20 and procedures for the commission to carry out the duties under s. 1.11. Rules
21 promulgated under this subsection shall include requirements and procedures for
22 each of the following:

23 (a) Standards for determining the necessity of preparing an environmental
24 impact statement.

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1 (b) Adequate opportunities for interested persons to be heard on environmental
2 impact statements, including adequate time for the preparation and submission of
3 comments.

4 (c) Deadlines that allow thorough review of environmental issues without
5 imposing unnecessary delays in addressing the need for additional electric
6 transmission capacity in this state.

7 **SECTION 19.** 196.025 (3) of the statutes is created to read:

8 196.025 (3) The commission shall promulgate rules establishing requirements
9 and procedures for electric utilities, as defined under s. 196.491 (1) (d), to file reports
10 with the commission, on a frequency that the commission determines is reasonably
11 necessary, on their current reliability status, including the status of operating and
12 planning reserves, available transmission capacity and outages of major operational
13 units and transmission lines. A report filed under the rules promulgated under this
14 subsection is subject to inspection and copying under s. 19.35 (1), except that the
15 commission may withhold the report from inspection and copying for a period of time
16 that the commission determines is reasonably necessary to prevent an adverse
17 impact on the supply or price of energy in this state.

18 **SECTION 20.** 196.025 (4) of the statutes is created to read:

19 196.025 (4) (a) In consultation with the department of administration and the
20 department of revenue, the commission shall study the establishment of a program
21 for providing incentives for the development of high-efficiency, small-scale electric
22 generating facilities in this state that do either of the following:

23 1. Provide benefits in the form of support for electric distribution or
24 transmission systems, power quality or environmental performance.

BILL

SECTION 20

1 2. Employ technologies such as combined heat and power systems, fuel cells,
2 microturbines or photovoltaic systems that may be situated in, on or next to
3 buildings or other electric load centers.

4 (b) No later than January 1, 2001, the commission shall submit a report of its
5 findings and recommendations under par. (a) to the chief clerk of each house of the
6 legislature for distribution to the appropriate standing committees under s. 13.172
7 (3).

8 **SECTION 21.** 196.025 (5) of the statutes is created to read:

9 196.025 (5) (a) The commission shall contract with an expert consultant in
10 economics to conduct a study on the potential for horizontal market power, including
11 the horizontal market power of electric generators, to frustrate the creation of an
12 effectively competitive retail electricity market in this state and to make
13 recommendations on measures to eliminate such market power on a sustainable
14 basis. The study shall include each of the following:

15 1. An assessment of the effect of each recommendation on public utility workers
16 and shareholders and on rates for each class of public utility customers.

17 2. An evaluation of the impact of transmission constraints on the market power
18 of electric generators in local areas.

19 (b) No later than January 1, 2001, the commission shall submit a report of the
20 results of the study under par. (a) to the chief clerk of each house of the legislature
21 for distribution to the appropriate standing committees under s. 13.172 (3).

22 **SECTION 22.** 196.192 of the statutes is created to read:

23 **196.192 Market-based compensation, rates and contracts.** (1) In this
24 section, "electric public utility" means a public utility whose purpose is the
25 generation, ~~transmission, delivery or furnishing of electric power.~~ *distribution and sale of electric energy*

[11 196.991 (1)(2)]
[excludes Trans & ISO]

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1 (2) No later than March 1, 2000, each investor-owned electric public utility
2 shall do each of the following:

3 (a) File with the commission rates that result in customers receiving
4 market-based compensation for voluntary interruptions of firm load during peak
5 periods of electric use.

6 (b) File with the commission market-based pricing options and options for
7 individual contracts that allow a retail customer, through service from its existing
8 public utility, to receive market benefits and subject itself to market risks for the
9 customer's purchases of capacity or energy.

10 (3) (a) The commission shall ^{approve} ~~establish~~ market-based rates that are consistent
11 with the options specified in sub. (2) ~~///~~, except that the commission may not
12 ^{approve} ~~establish~~ a market-based rate unless the commission determines that the rate ^{will not} ~~is not~~
13 ~~likely~~ to harm shareholders of the investor-owned electric public utility or customers
14 who are not subject to the rate.

p. 55

15 (b) Nothing in s. 196.20, 196.21, 196.22, 196.37, 196.60 or 196.604 prohibits the
16 commission from approving a filing under sub. (2) or ^{approving} ~~establishing~~ market-based
17 rates under par. (a).

18 (4) Subject to the approval of the commission, an electric public utility that is
19 not an investor-owned electric public utility may implement market-based rates
20 established under sub. (3) (a) or implement the options in filings under sub. (2) ~~///~~
21 that are approved by the commission.

22 **SECTION 23.** 196.31 (1) (intro.) of the statutes is amended to read:

23 196.31 (1) (intro.) In any proceeding before the commission, the commission
24 may shall compensate any participant in the proceeding who is not a public utility,

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1 for some or all of the reasonable costs of participation in the proceeding if the
2 commission finds that:

~~(a) ... would not be possible occur~~

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3 SECTION 24. 196.374 of the statutes is repealed and recreated to read:

4 **196.374 Low-income assistance, energy efficiency and other**
5 **programs. (1) In this section:**

- 6 (a) "Department" means the department of administration.
- 7 (b) "Fund" means the utility public benefits fund.
- 8 (c) "Utility" means a class A gas or electric utility, as defined by the commission,
- 9 but does not include a municipal utility, as defined in s. 16.957 (1) (q), a municipal
- 10 electric company, as defined in s. 66.073 (3) (d), or a cooperative association organized
- 11 under ch. 185.

12 (2) The commission shall determine the amount that each utility spent in 1998
13 on programs for low-income assistance, including writing off uncollectibles and
14 arrearages, low-income weatherization, energy conservation and efficiency,
15 environmental research and development, and renewable resources.

16 (3) In 1999, 2000 and 2001, the commission shall require each utility to spend
17 a decreasing portion of the amount determined under sub. (2) on programs specified
18 in sub. (2) and contribute the remaining portion of the amount to the commission for
19 deposit in the fund. In each year after 2001, each utility shall contribute the entire
20 amount determined under sub. (2) to the commission for deposit in the fund. The
21 commission shall ensure in rate-making orders that a utility recovers from its
22 ratepayers the amounts spent on programs or contributed to the fund under this
23 subsection. The commission shall allow each utility the option of continuing to use,
24 until January 1, 2001, the moneys that it has recovered under s. 196.374 (3), 1997
25 stats., to administer the programs that it has funded under s. 196.374 (1), 1997 stats.

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The commission may permit each utility to continue to spend
monies on the programs set forth in (2), provided that
the utility is complying with this section and sec. 196.196(4).

(6)

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1 (4) If the department notifies the commission under s. 16.957 (2) (b) 2. that the
2 department has reduced funding for energy conservation and efficiency and
3 renewable resource programs, the commission shall reduce the amount that a utility
4 is required to spend on programs or contribute to the fund under sub. (3) by the
5 percentage by which the department has reduced the funding.

6 **SECTION 25.** 196.378 of the statutes is created to read:

7 **196.378 Renewable resources. (1) DEFINITIONS.** In this section:

8 (a) “Biomass” means a resource that derives energy from wood or plant
9 material or residue, biological waste, crops grown for use as a resource or landfill
10 gases. “Biomass” does not include garbage, as defined in s. 289.01 (9), or
11 nonvegetation-based industrial, commercial or household waste, except that
12 “biomass” includes refuse-derived fuel used for a renewable facility that was in
13 service in this state before January 1, 1998.

14 (b) “Conventional resource” means a resource that derives energy from coal, oil,
15 nuclear power or natural gas, except for natural gas used in a fuel cell.

16 (bm) “Department” means the department of administration.

17 (c) “Electric provider” means an electric utility or retail electric cooperative.

18 (d) “Electric utility” means a public utility that sells electricity at retail. For
19 purposes of this paragraph, a public utility is not considered to sell electricity at
20 retail solely on the basis of its ownership or operation of a retail electric distribution
21 system.

22 (e) “Excludable renewable capacity” means the portion of an electric provider’s
23 total renewable capacity that is supplied from renewable facilities that were placed
24 in service before January 1, 1998, and that, before January 1, 1998, derived

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1 electricity from hydroelectric power, even if the output of the renewable facilities is
2 used to satisfy requirements under federal law.

3 (f) “Nonsystem renewable energy” means the amount of electricity that an
4 electric provider sells to its retail customers and that is supplied or allocated under
5 executed wholesale purchase contracts from renewable facilities that are not owned
6 or operated by the electric provider. “Nonsystem renewable energy” does not include
7 any electricity that is not used to satisfy the electric provider’s retail load obligations.

8 (g) “Renewable resource” means any of the following:

9 1. A resource that derives electricity from any of the following:

- 10 a. A fuel cell that uses, as determined by the commission, a renewable fuel.
11 b. Tidal or wave action.
12 c. Solar thermal electric or photovoltaic energy.
13 d. Wind power.
14 e. Geothermal technology.
15 g. Biomass.

16 1m. A resource with a capacity of less than 60 megawatts that derives
17 electricity from hydroelectric power.

18 2. Any other resource, except a conventional resource, that the commission
19 designates as a renewable resource in rules promulgated under sub. (4).

20 (h) “Renewable facility” means an installed and operational electric generating
21 facility in which energy is derived from a renewable resource. “Renewable facility”
22 includes a facility the installation or operation of which is required under federal law,
23 but does not include a facility the installation or operation of which is required under
24 the laws of another state even if the installation or operation of the facility is also
25 required under federal law.

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1 (i) "Renewable resource credit" means a credit calculated in accordance with
2 rules promulgated under sub. (3) (a).

3 (j) "Resource" means a source of electric power generation.

4 (k) "Retail electric cooperative" means a cooperative association organized
5 under ch. 185 that sells electricity at retail to its members only. For purposes of this
6 paragraph, a cooperative association is not considered to sell electricity at retail
7 solely on the basis of its ownership or operation of a retail electric distribution
8 system.

9 (n) "System renewable energy" means the amount of electricity that an electric
10 provider sells to its retail customers and that is supplied by renewable facilities
11 owned or operated by the electric provider.

12 (o) "Total renewable energy" means the sum of an electric provider's system and
13 nonsystem renewable energy.

14 **(2) RENEWABLE RESOURCE ENERGY.** (a) Each electric provider shall provide to its
15 retail electric customers total renewable energy in at least the following percentages
16 of its total retail energy sales, either directly or through renewable resource credits
17 from another electric provider:

- 18 1. By December 31, 2000, 0.5%.
- 19 2. By December 31, 2002, 0.85%.
- 20 3. By December 31, 2004, 1.2%.
- 21 4. By December 31, 2006, 1.55%.
- 22 5. By December 31, 2008, 1.9%.
- 23 6. By December 31, 2010, 2.2%.

24 (b) For purposes of determining compliance with par. (a):

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1 1. Total retail energy sales shall be calculated on the basis of an average of an
2 electric provider's retail energy sales in this state during the prior 3 years.

3 2. The amount of electricity supplied by a renewable facility in which biomass
4 and conventional fuels are fired together shall be equal to the product of the
5 maximum amount of electricity that the facility is capable of generating and the ratio
6 of the British thermal unit content of the biomass fuels to the British thermal unit
7 content of both the biomass and conventional resource fuels.

8 3. Any excludable renewable energy that exceeds 0.6% of an electric provider's
9 total retail energy sales shall be excluded from the electric provider's total renewable
10 energy.

11 (c) No later than April 15 annually, an electric provider shall submit a report
12 to the department that describes the electric provider's compliance with par. (a).
13 Reports under this paragraph may include certifications from wholesale suppliers
14 regarding the sources and amounts of energy supplied to an electric provider. The
15 department may specify the documentation that is required to be included with
16 reports submitted under this paragraph.

17 (d) The commission shall ~~ensure in rate-making orders that~~ ^{allow} an electric utility
18 ^{to} recover ~~from ratepayers the cost of providing total renewable energy to its retail~~
19 customers in amounts that equal or exceed the percentages specified in par. (a).
20 Subject to any approval of the commission that is necessary, an electric utility may
21 recover costs under this paragraph by any of the following methods:

- 22 1. Allocating the costs equally to all customers on a kilowatt-hour basis.
- 23 2. Establishing alternative price structures, including price structures under
- 24 which customers pay a premium for renewable energy.
- 25 3. Any combination of the methods specified in subds. 1. and 2.

[permissive
Not
Mandatory
i.e. if U
requests]
[p. 30]

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1 (e) 1. This subsection does not apply to any of the following:

2 a. An electric provider that provides more than 10% of its summer peak demand
3 in this state from renewable facilities.

4 b. An electric provider that provides more than 10% of its summer peak demand
5 from renewable resources.

6 2. For purposes of calculating the percentages under subd. 1., an electric
7 provider may include renewable facilities located in this or another state and
8 renewable facilities located on its or another electric provider's system.

9 3. Notwithstanding subd. 1., this subsection applies to an electric provider
10 unless the electric provider provides documentation to the commission that
11 establishes, to the satisfaction of the commission, that the electric provider satisfies
12 the requirements under subd. 1. a. or b.

13 (3) RENEWABLE RESOURCE CREDITS. (a) An electric provider that provides total
14 renewable energy to its retail electric customers in excess of the percentages
15 specified in sub. (2) (a) 1. to 6. may, in the applicable year, sell to any other electric
16 provider a renewable resource credit or a portion of a renewable resource credit at
17 any negotiated price. Alternatively, an electric provider may use a renewable
18 resource credit or portion of a renewable resource credit in a subsequent year to
19 establish compliance with sub. (2) (a). The commission shall promulgate rules that
20 establish requirements for calculating the amount of a renewable resource credit.

21 (b) The commission may promulgate rules that establish requirements and
22 procedures for a sale under par. (a).

23 (4) RULES. The commission may promulgate rules that designate a resource,
24 except for a conventional resource, as a renewable resource in addition to the
25 resources specified in sub. (1) (g) 1. and 1m.

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1 **(5) PENALTY.** Any person who violates sub. (2) or any wholesale supplier who
2 provides an electric provider with a false or misleading certification regarding the
3 sources or amounts of energy supplied to the electric provider shall forfeit not less
4 than \$5,000 nor more than \$500,000. Forfeitures under this subsection shall be
5 enforced by action on behalf of the state by the attorney general. A court imposing
6 a forfeiture under this subsection shall consider all of the following in determining
7 the amount of the forfeiture:

8 (a) The appropriateness of the forfeiture to the person's or wholesale supplier's
9 volume of business.

10 (b) The gravity of the violation.

11 (c) Whether a violation of sub. (2) is due to circumstances beyond the violator's
12 control.

13 **SECTION 26.** 196.485 (title) of the statutes is repealed and recreated to read:

14 **196.485 (title) Transmission system requirements.**

15 **SECTION 27.** 196.485 (1) (am) of the statutes is created to read:

16 196.485 (1) (am) "Contribute a transmission facility" means to divest a person's
17 interest in the transmission facility and to transfer ownership of the transmission
18 facility and associated deferred tax reserves to another person.

19 **SECTION 28.** 196.485 (1) (be) of the statutes is created to read:

20 196.485 (1) (be) "Director" means, with respect to a transmission company
21 organized as a corporation under ch. 180, a member of the board of directors of the
22 transmission company.

23 **SECTION 29.** 196.485 (1) (bs) of the statutes is created to read:

24 196.485 (1) (bs) "Electric utility" has the meaning given in s. 196.491 (1) (d).

25 **SECTION 30.** 196.485 (1) (dm) (intro.) of the statutes is amended to read:

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1 196.485 (1) (dm) (intro.) “Independent transmission owner” means:

2 1m. Means a person that satisfies each of the following:

3 **SECTION 31.** 196.485 (1) (dm) 1. of the statutes is renumbered 196.485 (1) (dm)

4 1m. a.

5 **SECTION 32.** 196.485 (1) (dm) 2. of the statutes is created to read:

6 196.485 (1) (dm) 2. Does not include the transmission company.

7 **SECTION 33.** 196.485 (1) (dm) 3. of the statutes is renumbered 196.485 (1) (dm)

8 1m. b. and amended to read:

9 196.485 (1) (dm) 1m. b. The person is not an affiliated interest of a person
10 specified in subd. ~~1.~~ 1m. a.

11 **SECTION 34.** 196.485 (1) (do) of the statutes is created to read:

12 196.485 (1) (do) “Land right” means any right in real property, including fee
13 simple ownership or a right-of-way or easement, that has been acquired for a
14 transmission facility that is located or intended to be located on the real property.

15 **SECTION 35.** 196.485 (1) (dq) of the statutes is created to read:

16 196.485 (1) (dq) “Manager” means, with respect to a transmission company
17 organized as a limited liability company under ch. 183, a manager, as defined in s.
18 183.0102 (13), of the transmission company.

19 **SECTION 36.** 196.485 (1) (dr) of the statutes is created to read:

20 196.485 (1) (dr) “Merger enforcement policy” means the enforcement policy of
21 the federal department of justice and the federal trade commission regarding
22 horizontal acquisitions and mergers that are subject to 15 USC 1, 18 or 45.

23 **SECTION 37.** 196.485 (1) (ds) of the statutes is created to read:

24 196.485 (1) (ds) “Midwest independent system operator” means the
25 independent system operator the establishment of which the federal energy

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1 regulatory commission has conditionally authorized in an order issued on September
2 16, 1998, or the successor to such independent system operator.

3 **SECTION 38.** 196.485 (1) (dt) of the statutes is created to read:

4 196.485 (1) (dt) “Nontransmission utility security holder” means a security
5 holder that is not a transmission utility security holder.

6 **SECTION 39.** 196.485 (1) (dv) of the statutes is created to read:

7 196.485 (1) (dv) “Organizational start-up date” means, with respect to a
8 transmission company that is organized as a limited liability company under ch. 183,
9 the date on which the articles of organization become effective under s. 183.0111 or,
10 with respect to a transmission company that is organized as a corporation under ch.
11 180, the date on which the articles of incorporation become effective under s.
12 180.0123.

13 **SECTION 40.** 196.485 (1) (em) of the statutes is created to read:

14 196.485 (1) (em) “Retail electric cooperative” means a cooperative that provides
15 retail electric service to its members.

16 **SECTION 41.** 196.485 (1) (fe) of the statutes is created to read:

17 196.485 (1) (fe) “Security” means, with respect to a transmission company
18 organized as a corporation under ch. 180, a share, as defined in s. 180.0103 (15), and,
19 with respect to a transmission company organized as a limited liability company
20 under ch. 183, a limited liability company interest, as defined in s. 183.0102 (11).

21 **SECTION 42.** 196.485 (1) (ge) of the statutes is created to read:

22 196.485 (1) (ge) “Transmission company” means a corporation organized under
23 ch. 180 or a limited liability company organized under ch. 183 that has as its sole
24 purpose the planning, constructing, operating, maintaining and expanding of
25 transmission facilities that it owns to provide for an adequate and reliable

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1 transmission system that meets the needs of all users that are dependent on the
2 transmission system and that supports effective competition in energy markets
3 without favoring any market participant.

4 SECTION 43. 196.485 (1) (gm) of the statutes is created to read:

5 196.485 (1) (gm) "Transmission dependent utility" means a public utility that
6 is dependent on the transmission system of another person for delivering electricity
7 to the public utility's customers.

*that is not a transmission utility and
an electric
[i.e. includes
distribution corps; does not include
ownership
transmission systems]*

8 SECTION 44. 196.485 (1) (j) of the statutes is created to read:

9 196.485 (1) (j) "Transmission utility shareholder" means a person that is a
10 shareholder of a transmission company organized as a corporation under ch. 180, is
11 an investor-owned transmission utility in the transmission area and has
12 contributed its transmission facilities to the transmission company.

13 SECTION 45. 196.485 (1m) of the statutes is created to read:

14 196.485 (1m) DUTY TO PROVIDE TRANSMISSION SERVICE. (a) The duty of any
15 electric utility that has contributed its transmission facilities to the transmission
16 company to finance, construct, maintain or operate a transmission facility shall
17 terminate on the date, as determined by the commission under sub. (2) (d), that the
18 transmission company begins operations.

19 (b) After beginning operations, the transmission company shall have the
20 exclusive duty to provide transmission service in the transmission area. The duty
21 under this paragraph shall terminate on the date, as determined by the commission
22 under sub. (2) (d), that the Midwest independent system operator begins operations.

23 (c) After beginning operations, the Midwest independent system operator shall
24 have the exclusive duty to provide transmission service in the transmission area and
25 shall ensure that each transmission facility in the transmission area that is under

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1 its operational control is planned, constructed, operated, maintained and controlled
2 as part of a single transmission system.

3 **SECTION 46.** 196.485 (2) (a) (intro.) of the statutes is amended to read:

4 196.485 (2) (a) (intro.) By June 30, 2000, if a transmission utility has not
5 transferred control over its transmission facilities to an independent system
6 operator that is approved by the applicable federal agency or divested, with approval
7 of the applicable federal agency and, for a public utility, the commission, its interest
8 in its transmission facilities to an independent transmission owner, the commission
9 shall, subject to ~~par. pars.~~ par. (am) and (ar), order the transmission utility to apply to the
10 applicable federal agency to do one of the following:

11 **SECTION 47.** 196.485 (2) (ar) of the statutes is created to read:

12 196.485 (2) (ar) The commission shall waive the requirement to issue an order
13 against a transmission utility under par. (a) if the transmission utility shows, to the
14 satisfaction of the commission, that ^{a transfer} ~~the transmission utility has proposed to transfer~~
15 ~~control~~ of its transmission facilities to the Midwest independent system operator ^{p. 56} ~~and~~
16 ~~that the proposed transfer~~ may have the effect of jeopardizing the tax-exempt status
17 of the transmission utility or its securities under the Internal Revenue Code. A
18 waiver under this paragraph shall be in effect until the commission determines that
19 the proposed transfer does not have the effect described in this paragraph.

20 **SECTION 48.** 196.485 (2) (bx) of the statutes is created to read:

21 196.485 (2) (bx) If the commission determines that the Midwest independent
22 system operator has failed to commence operations or has ceased operations, the
23 commission shall, by order, designate an independent system operator to fulfill the
24 duties of the Midwest independent system operator under this section. The
25 commission may not designate an independent system operator under this

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1 paragraph unless the independent system operator is authorized under federal law
2 to operate in this state. In issuing an order under this paragraph, the commission
3 shall require that any transfer of transmission utilities to the designated
4 independent system operator satisfy the requirements of this section.

5 **SECTION 49.** 196.485 (2) (d) of the statutes is created to read:

6 196.485 (2) (d) The commission shall determine each of the following:

- 7 1. The date on which the transmission company begins operations.
- 8 2. Whether the Midwest independent system operator has begun operations
9 and the date on which such operations have begun.

10 **SECTION 50.** 196.485 (3) (bm) of the statutes is repealed.

11 **SECTION 51.** 196.485 (3m) of the statutes is created to read:

12 196.485 (3m) TRANSMISSION COMPANY. (a) *Duties.* 1. The transmission company
13 shall do each of the following:

14 a. Apply for any approval under state or federal law that is necessary for the
15 transmission company to begin operations no later than November 1, 2000.

16 b. Subject to any approval required under state or federal law, contract with
17 each transmission utility that has transferred transmission facilities to the
18 transmission company for the transmission utility to provide reasonable and
19 cost-effective operation and maintenance services to the transmission company
20 during the 3-year period after the transmission company first begins operations.

21 The transmission company and a transmission utility may agree to an extension of
22 such 3-year period, ~~The transmission company shall provide notice to the~~

23 ~~commission of any extension that is agreed to under this subd. 1. b.~~

24 c. Assume the obligations of a transmission utility that has transferred
25 ownership of its transmission facilities to the transmission company under any

Subject to any approval required under State or federal law.

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1 agreement by the transmission utility to provide transmission service over its
 2 transmission facilities or ~~under any credit received by the transmission utility~~ for the
 3 use of ~~its~~ transmission facilities, except that the transmission company may modify
 4 such an agreement ~~or credit~~ to the extent allowed under the agreement ~~or credit~~ and
 5 to the extent allowed under state or federal law.

*i.e. the
 TU provides
 the credit to
 Munit for
 use of their
 transmission
 facilities*

6 d. Apply for membership in the Midwest independent system operator as a
 7 single zone for pricing purposes that includes the transmission area and, upon a
 8 determination by the commission under sub. (2) (d) that the Midwest independent
 9 system operator has begun operations, transfer operational control of the
 10 transmission company's transmission facilities to the Midwest independent system
 11 operator.

12 e. Remain a member of the Midwest independent system operator, or any
 13 independent system operator that has been approved under federal law to succeed
 14 the Midwest independent system operator, for at least the 6-year transition period
 15 that is specified in the agreement conditionally approved by the federal energy
 16 regulatory commission that establishes the Midwest independent system operator.

17 f. Except as provided in subd. 4., elect to be included in a single zone for the
 18 purpose of any tariff administered by the Midwest independent system operator.

19 2. The transmission company may not do any of the following:

20 a. Sell or transfer its assets to, or merge its assets with, another person, unless
 21 the assets are sold, transferred or merged on an integrated basis and in a manner
 22 that ensures that the transmission facilities in the transmission area are planned,
 23 constructed, operated, maintained and controlled as a single transmission system.

24 b. Bypass the distribution facilities of an electric utility or provide electric
 25 service directly to a retail customer.

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1 c. Own electric generation facilities or sell, market or broker electric capacity
2 or energy in a relevant wholesale or retail market as determined by the commission,
3 except that, if authorized or required by the federal energy regulatory commission,
4 the transmission company may procure or resell ancillary services obtained from 3rd
5 parties, engage in redispatch activities that are necessary to relieve transmission
6 constraints or take other actions related to operating a control area.

7 3. Notwithstanding subd. 1. a., the transmission company may not begin
8 operations until it provides an opinion to the commission from a nationally
9 recognized investment banking firm that the transmission company is able to
10 finance, at a reasonable cost, its start-up costs, working capital and operating
11 expenses and the cost of any new facilities that are planned.

12 4. If the transmission charges or rates of any transmission utility in the
13 transmission area are 10% or more below the average transmission charges or rates
14 of the transmission utilities in the transmission area on the date, as determined by
15 the commission, that the last public utility affiliate files a commitment with the
16 commission under sub. (5) (a) 2., the transmission company shall, after consulting
17 with each public utility affiliate that has filed a commitment under sub. (5) (a) 2.,
18 prepare a plan for phasing in a combined single zone rate for the purpose of pricing
19 network use by users of the transmission system operated by the Midwest
20 independent system operator and shall seek plan approval by the federal energy
21 regulatory commission and the Midwest independent system operator. A plan under
22 this subdivision shall phase in an average-cost price for the combined single zone in
23 equal increments over a 5-year period, except that, under the plan, transmission
24 service shall be provided to all users of the transmission system on a single-zone
25 basis during the phase-in period.

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1 (b) *Powers.* The transmission company may do any of the following:

2 1. Subject to the approval of the commission under s. 196.491 (3), construct and
3 own transmission facilities, including high-voltage transmission lines, as defined in
4 s. 196.491 (1) (f), in the transmission area or in any other area of the state in which
5 transmission facilities that have been contributed to the transmission company are
6 located. This subdivision does not affect the right or duty of an electric utility that
7 is not located in the transmission area or that has not contributed its transmission
8 facilities to the transmission company to construct or own transmission facilities.

9 2. Subject to any approval required under federal law, purchase or acquire
10 transmission facilities in addition to the transmission facilities contributed under
11 sub. (5) (b).

12 (c) *Organization.* The articles of organization, as defined in s. 183.0102 (1), of
13 a transmission company that is organized as a limited liability company under ch.
14 183 or the bylaws of a transmission company that is organized as a corporation under
15 ch. 180 shall provide for each of the following:

16 1. That the transmission company has no less than 5 and no more than 14
17 managers or directors, except that the articles of incorporation or bylaws may allow
18 *the requirements of this subdivision to be modified upon a unanimous vote of the*
19 *managers or directors during the 10-year period after the organizational start-up*
20 *date or upon a two-thirds vote of the board of directors after such 10-year period.*

21 2. That at least 4 managers or directors of the transmission company have
22 staggered 4-year terms, are elected by a majority vote of the security holders and are
23 not employes or independent contractors of a person engaged in the production, sale,
24 marketing, transmission or distribution of electricity or natural gas or of an affiliate
25 of such a person.

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1 3. That, during the 10-year period after the organizational start-up date, each
2 of the following is satisfied, subject to the limitation on the number of managers or
3 directors under subd. 1.:

4 a. Each nontransmission utility security holder that owns 10% or more of the
5 outstanding voting securities of the transmission company may appoint one
6 manager or director of the transmission company for a one-year term, except that
7 the requirements of this subd. 3. a. may be modified upon a unanimous vote of the
8 managers or directors.

9 b. Each group of nontransmission utility security holders that, as a group, owns
10 10% or more of the outstanding voting securities of the transmission company may
11 appoint one manager or director of the transmission company for a one-year term
12 if the group has entered into a written agreement regarding the appointment and the
13 group files the agreement with the secretary of the transmission company, except
14 that the requirements of this subd. 3. b. may be modified upon a unanimous vote of
15 the managers or directors.

16 c. Each person that receives at least 5% of the voting securities of the
17 transmission company under sub. (6) (a) or (b) may appoint one manager or director
18 of the transmission company for a one-year term if the person continues to hold at
19 least a 5% equity interest in the transmission company during the one-year term.

20 d. Each transmission utility security holder may appoint one manager or
21 director of the transmission company for a one-year term.

22 4. That, during the 5-year period after the organizational start-up date, no
23 public utility affiliate that contributes transmission facility assets to the
24 transmission company under sub. (5) (b) and no affiliate of such a public utility
25 affiliate may increase its percentage share of the outstanding securities of the

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[i.e. all EWM utilities in the MID, which maintain the EWM as a single system]

(p.20)

1 become part of a single zone for pricing purposes within the Midwest independent
2 system operator.

The MID shall ensure that the transmission facilities in the transmission area are planned, constructed, operated, maintained, and controlled as a single system.

3 SECTION 54. 196.485 (5) of the statutes is created to read:

4 196.485 (5) PUBLIC UTILITY AFFILIATES. (a) *Asset cap exception.* Section 196.795

5 (6m) (e) does not apply to the eligible assets of a nonutility affiliate in a holding
6 company system unless each public utility affiliate in the holding company system
7 does each of the following:

O-NOTE

8 1. Petitions the commission and the federal energy regulatory commission to
9 approve the transfer of operational control of all the public utility affiliate's
10 transmission facilities in this state and in Iowa, Michigan, Minnesota and Illinois to
11 the Midwest independent system operator.

12 2. Files with the commission an unconditional, irrevocable and binding
13 commitment to contribute, no later than June 30, 2000, all of the transmission
14 facilities that the public utility affiliate owns or operates in this state on the effective
15 date of this subdivision [revisor inserts date], and land rights, to the transmission
16 company. A filing under this subdivision shall specify the date on which the public
17 utility affiliate will complete the contribution of transmission facilities.

No later than 4/30/00

18 3. Files with the commission an unconditional, irrevocable and binding
19 commitment to contribute, and to cause each entity into which it merges or
20 consolidates or to which it transfers substantially all of its assets to contribute, any
21 transmission facility in this state the ownership or control of which it acquires after
22 the effective date of this subdivision [revisor inserts date], and land rights, to the
23 transmission company.

24 4. Notifies the commission in writing that the public utility affiliate has become
25 a member of the Midwest independent system operator and has committed not to

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contributes
p.4, 2.82-88

5 Petitions the commission and FERC for approval to
transfer its transmission facilities to the TC and create 115 and
petitions not to withdraw its request in the event the commission
is not to withdraw its request in the event the commission
is not to withdraw its request in the event the commission

SECTION 54

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withdraw its membership prior to the date on which the public utility affiliate
contributes transmission facilities to the transmission company under par. (b).

(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.

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3. ?

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 rate consequences, not arising out of combining the

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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

facilities into a
single zone in the MISO

P.1060.
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BILL

1 equity is materially higher than that of the public utility affiliates who made the
2 transfer, or if the cost of the fixed-cost portion of the capital structure of the
3 transmission company is materially higher than that of the public utility affiliates
4 who made the transfer, the public utility affiliates shall enter into a contract with the
5 transmission company under which the public utility affiliates agree to accept from
6 the transmission company a return on common equity based upon the equity rate of
7 return approved by the federal energy regulatory commission and upon an imputed
8 capital structure that assigns to a portion of the public utility affiliates' common
9 equity holdings an imputed debt return that is consistent with the requirements of
10 this subdivision. A contract under this subdivision shall specify that the public
11 utility affiliates shall be required to accept the return on common equity described
12 in this subdivision only until such time that the federal energy regulatory
13 commission determines that the actual capital structure and capital costs of the
14 transmission company are appropriate and consistent with industry practice for a
15 regulated public utility that provides electric transmission service in interstate
16 commerce.

17 5. If, at the time that a public utility affiliate files a commitment under par. (a)
18 2., the public utility affiliate has applied for or obtained a certificate of public
19 convenience and necessity under s. 196.491 (3) for the construction of transmission
20 facilities, the public utility affiliate shall do each of the following:

21 a. Proceed with diligence with respect to obtaining the certificate and, except
22 as provided in subd. 6., constructing the transmission facilities.

23 b. If the commission determines that the cost of the transmission facilities is
24 reasonable and prudent, transfer the transmission facilities to the transmission
25 company at net book value when construction is completed in exchange for additional

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1 securities of the transmission company on a basis that is consistent with the
2 securities that were initially issued to the public utility affiliate.

3 6. If the construction of a transmission facility specified in subd. 5. a. is not
4 completed within 3 years after a certificate of public convenience and necessity is
5 issued for the transmission facility under s. 196.491 (3), the transmission company
6 may assume responsibility for completing construction of the transmission facility.
7 If the transmission company assumes responsibility for completing construction
8 under this subdivision, the transmission company shall carry out any obligation
9 under any contract entered into by the public utility with respect to the construction
10 until the contract is modified or rescinded by the transmission company to the extent
11 allowed under the contract.

12 7. Any transmission facilities that are contributed to the transmission
13 company shall be valued at net book value at the time of the transfer.

14 (bm) *Lease of transmission facilities.* If a public utility affiliate is not able to
15 transfer ownership of its transmission facilities to the transmission company due to
16 merger-related accounting requirements, the public utility affiliate shall transfer
17 the transmission facilities to the transmission company under a lease for the period
18 of time during which the accounting requirements are in effect and, after such
19 requirements are no longer in effect, contribute the transmission facilities to the
20 transmission company under par. (b). A public utility affiliate that transfers
21 transmission facilities under a lease under this paragraph does not qualify for the
22 asset cap exception under par. (a) unless, during the term of the lease, the public
23 utility affiliate does not receive any voting interest in the transmission company.

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1 (c) *Contribution of land rights.* 1. A public utility affiliate that commits to
2 contributing land rights to the transmission company under par. (a) 2. shall do each
3 of the following:

4 a. Except as provided in subd. 2., if the land right is assigned to a transmission
5 account for rate-making purposes and is not jointly used for electric and gas
6 distribution facilities by the public utility affiliate, the public utility affiliate shall
7 convey or assign at book value all of its interest in the land right to the transmission
8 company, except that any conveyance or assignment under this subd. 1. a. shall be
9 subject to the rights of any joint user of the land right and to the right of the public
10 utility affiliate to nondiscriminatory access to the real estate that is subject to the
11 land right.

12 b. If the land right is jointly used, or is intended to be jointly used, for electric
13 and gas distribution facilities by the public utility affiliate, the public utility affiliate
14 shall enter into a contract with the transmission company that grants the
15 transmission company a right to place, maintain, modify or replace the transmission
16 company's transmission facilities on the real property that is subject to the land right
17 during the life of the transmission facilities and the life of any replacements of the
18 transmission facilities. A right granted in a contract under this subd. 1. b. shall be
19 paramount to the right of any other user of the land right, except that a right granted
20 in such a contract shall be on par with the right of the public utility affiliate to use
21 the land right for electric or gas distribution facilities.

22 2. If a public utility affiliate is prohibited from making a conveyance or
23 assignment described in subd. 1. a., the public utility affiliate shall enter into a
24 contract with the transmission company that grants the transmission company
25 substantially the same rights as under such a conveyance or assignment. For

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1 purposes of a contract under this subdivision, a land right shall be valued at book
2 value, not at market value.

3 3. The commission shall resolve any dispute over the contribution of a land
4 right under subd. 1. or 2., including a dispute over the valuation of such a land right,
5 unless a federal agency exercises jurisdiction over the dispute. During the pendency
6 of any dispute that is before the commission or a federal agency, the transmission
7 company shall be entitled to use the land right that is the subject to the dispute and
8 shall be required to pay any compensation that is in dispute into an escrow account.

9 **SECTION 55.** 196.485 (6) of the statutes is created to read:

10 196.485 (6) ELECTRIC UTILITIES, TRANSMISSION DEPENDENT UTILITIES AND RETAIL
11 ELECTRIC COOPERATIVES. No later than the first day of the 12th month beginning after
12 the first public utility affiliate files a commitment under sub. (5) (a) 2.:

13 (a) An electric utility may transfer all of its integrated transmission facilities
14 to the transmission company on the same terms and conditions as a contribution of
15 transmission facilities by a public utility affiliate under sub. (5) (b).

16 (b) A transmission-dependent utility or retail electric cooperative may
17 purchase equity interests in the transmission company at a price that is equivalent
18 to net book value and on terms and conditions that are comparable to those for public
19 utility affiliates that have contributed transmission facilities to the transmission
20 company. A purchaser under this paragraph may contribute funds to the
21 transmission company that are no more than the value of its prorated shares based
22 on firm electric usage in this state in 1999.

23 **SECTION 56.** 196.485 (6m) of the statutes is created to read:

24 196.485 (6m) DIVIDENDS, PROFITS AND GAINS. The commission may not treat any
25 dividend received by a transmission utility from the transmission company or any

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1 gain or profit of a transmission utility from the sale or other disposition of securities
2 issued by the transmission company as a credit against the retail revenue
3 requirements of the transmission utility.

4 **SECTION 57.** 196.485 (7) of the statutes is created to read:

5 196.485 (7) ENFORCEMENT. A wholesale or retail customer of a public utility
6 affiliate may petition the circuit court for Dane County for specific performance of
7 a commitment filed under sub. (5) (a) 2. or 3.

8 **SECTION 58.** 196.485 (8) of the statutes is created to read:

9 196.485 (8) PENALTIES. A public utility affiliate that fails to complete the
10 contribution of transmission facilities to the transmission company by the
11 completion date specified in the filing under sub. (5) (a) 2. shall forfeit \$25,000 for
12 each day that completion of the contribution is delayed if the transmission company
13 is legally able to accept the contribution.

14 **SECTION 59.** 196.487 of the statutes is created to read:

15 **196.487 Reliability of electric service. (1) DEFINITIONS.** In this section:

16 (a) "Public utility affiliate" has the meaning given in s. 196.795 (1) (L).

17 (b) "Transmission company" has the meaning given in s. 196.485 (1) (ge).

18 **(2) COMMISSION ORDER.** If the commission determines that a public utility
19 affiliate or the transmission company is not making investments in the facilities
20 under its control that are sufficient to ensure reliable electric service, the commission
21 shall order the public utility affiliate or transmission company to make adequate
22 investments in its facilities that are sufficient to ensure reliable electric service. An
23 order under this subsection shall require the public utility affiliate or transmission
24 company to provide security in an amount and form that, to the satisfaction of the

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1 commission, is sufficient to ensure that the public utility affiliate or transmission
2 company expeditiously makes any investment that is ordered.

3 (3) COST RECOVERY. The commission shall allow a public utility affiliate that is
4 subject to an order under sub. (2) to recover in its retail electric rates the costs that
5 are prudently incurred in complying with the order.

6 **SECTION 60.** 196.491 (3) (d) 3r. of the statutes is created to read:

7 196.491 (3) (d) 3r. For a high-voltage transmission line that is proposed to
8 increase the transmission import capability into this state, existing rights-of-way
9 are used to the extent practicable and the routing and design of the high-voltage
10 transmission line minimizes environmental impacts in a manner that is consistent
11 with achieving reasonable electric rates.

12 **SECTION 61.** 196.491 (3) (d) 3t. of the statutes is created to read:

13 196.491 (3) (d) 3t. For a high-voltage transmission line that is designed for
14 operation at a nominal voltage of 345 kilovolts or more, the high-voltage
15 transmission line provides usage, service or increased regional reliability benefits to
16 the wholesale and retail customers in this state and the benefits of the high-voltage
17 transmission line are reasonable in relation to the cost of the high-voltage
18 transmission line.

19 **SECTION 62.** 196.491 (3) (gm) of the statutes is created to read:

20 196.491 (3) (gm) The commission may not approve an application under this
21 section for a certificate of public convenience and necessity for a high-voltage
22 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
23 or more unless the approval includes the condition that the applicant shall pay the
24 fees specified in sub. (3g) (a). In a proceeding on such an application under this
25 section, the commission shall determine the cost of the high-voltage transmission

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1 line, identify the counties, towns, villages and cities through which the high-voltage
2 transmission line is routed and allocate the amount of investment associated with
3 the high-voltage transmission line to each such county, town, village and city.

4 **SECTION 63.** 196.491 (3g) of the statutes is created to read:

5 196.491 (3g) FEES FOR CERTAIN HIGH-VOLTAGE TRANSMISSION LINES. (a) A person
6 who receives a certificate of public convenience and necessity for a high-voltage
7 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
8 or more under sub. (3) shall pay the department of administration an annual impact
9 fee as specified in the rules promulgated by the department of administration under
10 s. 16.969 (2) (a) and shall pay the department of administration a one-time
11 environmental impact fee as specified in the rules promulgated by the department
12 of administration under s. 16.969 (2) (b).

13 (b) A person that pays a fee under par. (a) may not use the payment to offset
14 any other mitigation measure that is required in an order by the commission under
15 sub. (3) regarding the certificate of public convenience and necessity specified in par.
16 (a).

17 **SECTION 64.** 196.491 (3m) (b) 2. of the statutes is amended to read:

18 196.491 (3m) (b) 2. The analytical process specified in subd. 1. b. shall, to the
19 extent practicable, be consistent with the analytical process described in the merger
20 enforcement policy of the federal department of justice and the federal trade
21 commission regarding horizontal acquisitions and mergers that are subject to 15
22 USC 1, 18 or 45, as defined in s. 196.485 (1) (dr).

23 **SECTION 65.** 196.494 (3) of the statutes is amended to read:

24 196.494 (3) ~~No later than December 31, 2004, the~~ The commission may shall,
25 under this subsection, issue an order requiring ~~an electric a public~~ ^{an electric} utility to construct

[error in 47, p.52, l.116] →
electric is already defined in
196.494 (1)(a)]

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1 or procure, on a competitive basis, the construction of transmission facilities
 2 specified by the commission in its order if the commission determines that, based on
 3 ~~the results of the study under sub. (2),~~ such construction is necessary to relieve a
 4 constraint on a transmission system and the construction will materially benefit the
 5 customers of the ~~electric public~~ ^{electric} utility or ~~any~~ ^{other} electric utilities or of an independent
 6 system operator, as defined in s. 196.485 (1) (d), or independent transmission owner,
 7 as defined in s. 196.485 (1) (dm).

SECTION 66. 196.494 (4) of the statutes is amended to read:

9 196.494 (4) The commission shall allow ~~an electric a public~~ ^{an electric} utility to recover
 10 in its retail electric rates any costs that are prudently incurred by the ~~public~~ ^{electric} utility
 11 in complying with an order under sub. (3).

SECTION 67. 196.494 (5) of the statutes is created to read:

13 196.494 (5) The governor may, on behalf of this state, enter into an interstate
 14 compact that establishes a joint process for the states in the upper midwest region
 15 of the United States to determine the need for and siting of regional electric
 16 transmission facilities that may affect electric service in this state. The governor
 17 may not enter into a compact under this subsection unless the compact includes
 18 requirements and procedures for establishing each of the following:

- 19 (a) Compliance with each state's environmental and siting standards for
 20 transmission facilities.
- 21 (b) A regional need determination for transmission facilities.
- 22 (c) A mechanism for resolving conflicts between the states regarding the siting
 23 of transmission facilities.

SECTION 68. 196.52 (3) (a) of the statutes is amended to read:

24

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1 196.52 (3) (a) In this subsection, “contract or arrangement” means a contract
2 or arrangement providing for the furnishing of management, supervisory,
3 construction, engineering, accounting, legal, financial or similar services and any
4 contract or arrangement for the purchase, sale, lease or exchange of any property,
5 right, or thing, or for the furnishing of any service, property, right, or thing, other
6 than management, supervisory, construction, engineering, accounting, legal,
7 financial or similar services, but “contract or arrangement” does not include a
8 contract or arrangement under which a transmission utility, as defined in s. 196.485
9 (1) (i), sells or transfers securities, as defined in s. 196.485 (1) (fe), that have been
10 issued by a transmission company, as defined in s. 196.485 (1) (ge). Except as
11 provided under par. (b), unless and until the commission gives its written approval,
12 any contract or arrangement is not valid or effective if the contract or arrangement
13 is made between a public utility and an affiliated interest after June 7, 1931. Every
14 public utility shall file with the commission a verified copy of any contract or
15 arrangement, a verified summary of any unwritten contract or arrangement, and
16 any contract or arrangement, written or unwritten, which was in effect on June 7,
17 1931. The commission shall approve a contract or arrangement made or entered into
18 after June 7, 1931, only if it shall clearly appear and be established upon
19 investigation that it is reasonable and consistent with the public interest. The
20 commission may not approve any contract or arrangement unless satisfactory proof
21 is submitted to the commission of the cost to the affiliated interest of rendering the
22 services or of furnishing the property or service to each public utility or of the cost
23 to the public utility of rendering the services or of furnishing the property or service
24 to each affiliated interest. No proof is satisfactory under this paragraph unless it
25 includes the original (or verified copies) of the relevant cost records and other

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1 relevant accounts of the affiliated interest, or an abstract of the records and accounts
2 or a summary taken from the records and accounts if the commission deems the
3 abstract or summary adequate. The accounts shall be properly identified and duly
4 authenticated. The commission, where reasonable, may approve or disapprove a
5 contract or arrangement without submission of the cost records or accounts.

6 **SECTION 69.** 196.795 (1) (g) 1. of the statutes is amended to read:

7 196.795 (1) (g) 1. As a beneficial owner, to take, hold or acquire 5% or more of
8 the outstanding voting securities of a public utility, other than a transmission
9 company, with the unconditional power to vote those securities.

10 **SECTION 70.** 196.795 (1) (g) 2. of the statutes is amended to read:

11 196.795 (1) (g) 2. To exchange or convert 50% or more of the outstanding voting
12 securities of a public utility, other than a municipality or other political subdivision
13 or a transmission company, for or into the voting securities of a company organized,
14 created, appointed or formed by or at the direction of the public utility or of a
15 subsidiary of such company.

16 **SECTION 71.** 196.795 (1) (h) 3. of the statutes is created to read:

17 196.795 (1) (h) 3. “Holding company” does not include a transmission company.

18 **SECTION 72.** 196.795 (1) (p) of the statutes is created to read:

19 196.795 (1) (p) “Transmission company” has the meaning given in s. 196.485
20 (1) (ge).

21 **SECTION 73.** 196.795 (5) (i) 1. of the statutes is amended to read:

22 196.795 (5) (i) 1. Shall consider the public utility affiliate as a wholly
23 independent corporation and shall impute a capital structure to the public utility
24 affiliate and establish a cost of capital for the public utility affiliate on a stand-alone
25 basis;

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1 **SECTION 74.** 196.795 (5) (p) 1., 2., 3. and 4. of the statutes are renumbered
2 196.795 (6m) (b) 1., 2., 3. and 4.

3 **SECTION 75.** 196.795 (5) (pm) 1. (intro.) of the statutes is repealed.

4 **SECTION 76.** 196.795 (5) (pm) 1. a. of the statutes is renumbered 196.795 (6m)
5 (a) 3.

6 **SECTION 77.** 196.795 (5) (pm) 1. b. of the statutes is renumbered 196.795 (6m)
7 (a) 5.

8 **SECTION 78.** 196.795 (5) (pm) 1. c. of the statutes is renumbered 196.795 (6m)
9 (a) 6.

10 **SECTION 79.** 196.795 (5) (pm) 2. of the statutes is renumbered 196.795 (6m) (c)
11 and amended to read:

12 196.795 (6m) (c) Wholesale merchant plants. The assets of a wholesale
13 merchant plant shall not be included in the sum of the assets of a public utility
14 affiliate under par. (p) (b) 1. a., b. or c. and shall not be included in a nonutility
15 affiliate's total assets under par. (p) (b) 2. a. if the requirements specified in s. 196.491
16 (3m) (a) 1. and 2. are satisfied or if the wholesale merchant plant qualifies for the
17 exemption under s. 196.491 (3m) (e).

18 **SECTION 80.** 196.795 (5) (pm) 3. of the statutes is renumbered 196.795 (6m) (d)
19 and amended to read:

20 196.795 (6m) (d) Foreign affiliates. The assets of a foreign affiliate shall be
21 included in the sum of the assets of a public utility affiliate under par. (p) (b) 1. a.,
22 b. or c. and shall not be included in a nonutility affiliate's total assets under par. (p)
23 (b) 2. a.

24 **SECTION 81.** 196.795 (6m) (title) of the statutes is created to read:

25 196.795 (6m) (title) ASSET CAP.

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1 **SECTION 82.** 196.795 (6m) (a) (intro.) of the statutes is created to read:

2 196.795 (6m) (a) *Definitions.* (intro.) In this subsection:

3 **SECTION 83.** 196.795 (6m) (a) 1. of the statutes is created to read:

4 196.795 (6m) (a) 1. “Contributor public utility affiliate” means a public utility
5 affiliate that has contributed its transmission facilities to the transmission company
6 under s. 196.485 (5) (b).

7 **SECTION 84.** 196.795 (6m) (a) 2. of the statutes is created to read:

8 196.795 (6m) (a) 2. “Eligible asset” means an asset of a nonutility affiliate that
9 is used for any of the following:

10 a. Producing, generating, transmitting, delivering, selling or furnishing gas,
11 oil, electricity or steam energy.

12 b. Providing an energy management, conservation or efficiency product or
13 service or a demand-side management product or service.

14 c. Providing an energy customer service, including metering or billing.

15 d. Recovering or producing energy from waste materials.

16 e. Processing waste materials.

17 f. Manufacturing, distributing or selling products for filtration, pumping water
18 or other fluids, processing or heating water, handling fluids or other related
19 activities.

20 g. Providing a telecommunications service, as defined in s. 196.01 (9m).

21 **SECTION 85.** 196.795 (6m) (a) 4. of the statutes is created to read:

22 196.795 (6m) (a) 4. “Generation assets” means assets that are classified as
23 electric generation assets on the books of account of a public utility, as determined
24 by the commission.

25 **SECTION 86.** 196.795 (6m) (b) (title) of the statutes is created to read:

BILL

1 196.795 (6m) (b) *In general.*

2 **SECTION 87.** 196.795 (6m) (e) of the statutes is created to read:

*I.C. all US
INTC must contribute
to TC*

3 196.795 (6m) (e) *Contributor public utility affiliates.* 1. The eligible assets of
4 a nonutility affiliate in a holding company system that includes ~~contributor public~~
5 utility affiliate *in the holding company system* shall not be included in the sum of the assets of the public utility
6 affiliates under par. (b) 1. a., b. or c. and shall not be included in the nonutility
7 affiliate's total assets under par. (b) 2. a.

8 2. For purposes of subd. 1., all of the assets of a nonutility affiliate shall be
9 considered eligible assets if each of the following is satisfied:

10 a. The bylaws of the nonutility affiliate or a resolution adopted by its board of
11 directors specifies that the business of the nonutility affiliate is limited to activities
12 involving eligible assets.

13 b. Substantially all of the assets of the nonutility affiliate are eligible assets.

14 3. The net book value of transmission facility assets that a contributor public
15 utility affiliate has contributed to a transmission company under s. 196.485 (5) (b)
16 shall be included in the sum of the assets of the public utility affiliate under par. (b)
17 1. a., b. and c. In determining net book value under this subdivision, accumulated
18 depreciation shall be calculated as if the contributor public utility affiliate had not
19 contributed the assets.

20 4. The net book value of generation assets that a contributor public utility
21 affiliate has transferred to a person that is not affiliated with the public utility
22 affiliate pursuant to the order of the commission, a court or a federal regulatory
23 agency shall be included in the sum of the assets of the public utility affiliate under
24 par. (b) 1. a., b. and c. In determining net book value under this subdivision,

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1 accumulated depreciation shall be calculated as if the contributor public utility
2 affiliate had not transferred the assets.

3 **SECTION 88.** 196.795 (11) (b) of the statutes is amended to read:

4 196.795 (11) (b) This section shall be deemed to legalize and confirm the
5 formation, prior to November 28, 1985, of any holding company, which is not itself
6 a public utility, and shall be deemed to legalize and confirm the operations and
7 issuances of securities of the holding company, except that nothing in this section
8 shall be deemed to prevent the commission from imposing reasonable terms,
9 limitations or conditions on any holding company which are consistent with the
10 requirements of sub. (5) ~~(pm)~~ (6m) (c) or (d) or which are consistent with and
11 necessary to satisfy the requirements of sub. (5) (b) to (o) and (q) to (s) or which relate
12 to future investments by the holding company unless the holding company owns,
13 operates, manages or controls a telecommunications utility and does not also own,
14 operate, manage or control a public utility which is not a telecommunications utility.

15 **SECTION 89.** 196.795 (11) (c) of the statutes is created to read:

16 196.795 (11) (c) The commission may not impose upon a holding company the
17 formation of which is considered to be legalized and confirmed under par. (b) any
18 term, limitation or condition under par. (b) that establishes the sum of the holding
19 company's nonutility affiliate assets at less than 25% of the sum of the holding
20 company's utility affiliate assets. For purposes of this paragraph, any term,
21 limitation or condition on nonutility affiliate assets shall not apply to the ownership,
22 operation, management or control of any eligible asset, as defined under sub. (6m)
23 (a) 2., or an asset that is used for manufacturing, distributing or selling swimming
24 pools or spas.

25 **SECTION 90.** 196.807 of the statutes is created to read:

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1 **196.807 Energy affiliate and utility employes.** (1) DEFINITIONS. In this
2 section:

3 (a) "Affiliate or utility" means a nonutility affiliate, a holding company system
4 or an electric utility, as defined in s. 196.491 (1) (d).

5 (b) "Energy unit" means a unit that is engaged in activities related to the
6 production, generation, transmission or distribution of electricity, gas or steam or the
7 recovery of energy from waste materials.

8 (c) "Holding company system" has the meaning given in s. 196.795 (1) (i).

9 (d) "Nonutility affiliate" has the meaning given in s. 196.795 (1) (j).

10 (e) "Public utility affiliate" has the meaning given in s. 196.795 (1) (L).

11 (f) "Sell an energy unit" means to sell, offer by lease, or otherwise transfer
12 ownership or control of the energy unit.

13 (g) "Unit" means a division, department or other operational business unit of
14 an affiliate or utility.

15 (2) OFFER OF EMPLOYMENT. (a) Except as provided in par. (b), a person may not
16 sell an energy unit unless the terms of the transfer require the person to which the
17 energy unit is transferred to offer employment to the nonsupervisory employes who
18 are employed with the energy unit immediately prior to the transfer and who are
19 necessary for the operation and maintenance of the energy unit.

20 (b) A public utility affiliate may not sell an energy unit to a nonutility affiliate
21 in the same holding company system unless the terms of the transfer require the
22 nonutility affiliate to offer employment to all of the nonsupervisory employes who are
23 employed with the energy unit immediately prior to the transfer.

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1 **(3) EMPLOYMENT TERMS AND CONDITIONS.** (a) Except as provided in par. (b), the
2 employment that is offered under sub. (2) shall satisfy each of the following during
3 the 30-month period beginning immediately after the transfer:

4 1. Wage rates shall be no less than the wage rates in effect immediately prior
5 to the transfer.

6 2. Fringe benefits shall be substantially equivalent to the fringe benefits in
7 effect immediately prior to the transfer.

8 3. Terms and conditions of employment, other than wage rates and fringe
9 benefits, shall be substantially equivalent to the terms and conditions in effect
10 immediately prior to the transfer.

11 (b) A collective bargaining agreement may modify or waive a requirement
12 specified in par. (a).

13 **(4) COMMISSION APPROVAL.** Except for a cooperative association, as defined in
14 s. 196.491 (1) (bm), no person may sell an energy unit unless the commission
15 determines that the person has satisfied subs. (2) and (3).

16 **SECTION 91.** 200.01 (2) of the statutes is amended to read:

17 200.01 (2) "Public service corporation" means and embraces every corporation,
18 except municipalities and other political subdivisions, which is a public utility as
19 defined in s. 196.01, and every corporation which is a railroad as defined in s. 195.02,
20 but shall not include a public utility corporation receiving an annual gross revenue
21 of less than \$1,000 for the calendar year next preceding the issuance of any securities
22 by it. "Public service corporation" includes a holding company, as defined under s.
23 196.795 (1) (h), which is a public utility, as defined under s. 196.01 (5). "Public service
24 corporation" does not include a telecommunications utility, as defined in s. 196.01
25 (10). "Public service corporation" does not include any other holding company unless

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1 the holding company was formed after November 28, 1985, and unless the
2 commission has determined, under s. 196.795 (7) (a), that each nonutility affiliate,
3 as defined under s. 196.795 (1) (j), does not and cannot reasonably be expected to do
4 at least one of the items specified in s. 196.795 (7) (a). “Public service corporation”
5 does not include a company, as defined in s. 196.795 (1) (f), which owns, operates,
6 manages or controls a telecommunications utility, as defined in s. 196.01 (10), unless
7 such company also owns, operates, manages or controls a public utility which is not
8 a telecommunications utility. “Public service corporation” does not include a
9 transmission company, as defined in s. 196.485 (1) (ge).

10 **SECTION 92.** 285.48 of the statutes is created to read:

11 **285.48 Nitrogen oxide emissions from certain electric generation**
12 **facilities. (1)** In establishing nitrogen oxide emission reductions for the control of
13 atmospheric ozone in another state pursuant to a call for a state implementation plan
14 issued prior to the effective date of this subsection ... [revisor inserts date], the
15 department may not, in an implementation plan under s. 285.11 (6), by rule or
16 through the adoption of control strategies, regulate nitrogen oxide emissions from
17 electric generation facilities that are located in Ashland, Barron, Bayfield, Buffalo,
18 Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, La Crosse,
19 Monroe, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Trempealeau,
20 Vernon or Washburn county.

21 **(2)** The department may not, based solely on the prohibition under sub. (1),
22 require more stringent nitrogen oxide emission reductions for any electric utility, as
23 defined in s. 196.491 (1) (d), or large industrial core source in this state that is
24 identified by the federal environmental protection agency.

25 **SECTION 93. Nonstatutory provisions.**

BILL

1 (1) INITIAL APPOINTMENTS TO COUNCIL ON UTILITY PUBLIC BENEFITS.
2 Notwithstanding section 15.107 (17) (intro.) of the statutes, as created by this act,
3 the initial members of the council on utility public benefits shall be appointed for the
4 following terms:

5 (a) One of the members under section 15.107 (17) (a), (b) and (d) of the statutes,
6 as created by this act, for terms expiring on July 1, 2001.

7 (b) One of the members under section 15.107 (17) (a) of the statutes, as created
8 by this act, and the members under section 15.107 (17) (c), (e) and (f) of the statutes,
9 as created by this act, for terms expiring on July 1, 2002.

10 (c) One of the members under section 15.107 (17) (b) and (d) of the statutes, as
11 created by this act, and the members under section 15.107 (17) (g) and (h) of the
12 statutes, as created by this act, for terms expiring on July 1, 2003.

13 (2) PUBLIC SERVICE COMMISSION RULES.

14 (a) Using the procedure under section 227.24 of the statutes, the public service
15 commission shall promulgate the rules required under section 196.378 (3) (a) of the
16 statutes, as created by this act, for the period before the effective date of the
17 permanent rules promulgated under that section, but not to exceed the period
18 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding
19 section 227.24 (1) and (3) of the statutes, the commission is not required to make a
20 finding of emergency.

21 (b) The public service commission shall submit in proposed form the rules
22 required under section 196.378 (3) (a) of the statutes, as created by this act, to the
23 legislative council staff under section 227.15 (1) of the statutes no later than the first
24 day of the 6th month beginning after the effective date of this paragraph.

25 (3) DEPARTMENT OF ADMINISTRATION RULES.

BILL

1 (a) Using the procedure under section 227.24 of the statutes, the department
2 of administration shall promulgate the rules required under section 16.957 (2) (c)
3 and (4) (b) of the statutes, as created by this act, for the period before the effective
4 date of the permanent rules promulgated under that section, but not to exceed the
5 period authorized under section 227.24 (1) (c) and (2) of the statutes.
6 Notwithstanding section 227.24 (1) and (3) of the statutes, the department is not
7 required to make a finding of emergency.

8 (b) The department of administration shall submit in proposed form the rules
9 required under section 16.957 (2) (c) and (4) (b) of the statutes, as created by this act,
10 to the legislative council staff under section 227.15 (1) of the statutes no later than
11 the first day of the 6th month beginning after the effective date of this paragraph.

12 **SECTION 94. Appropriation changes.**

13 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
14 to the public service commission under section 20.155 (1) (j) of the statutes, as
15 affected by the acts of 1999, the dollar amount is increased by \$250,000 for fiscal year
16 1999–00 and the dollar amount is increased by \$250,000 for fiscal year 2000–01 for
17 the purpose for which the appropriation is made.

18 **SECTION 95. Initial applicability.**

19 (1) The treatment of sections 16.969, 20.505 (1) (ge) and (gs) and 196.491 (3)
20 (gm) and (3g) of the statutes first applies to certificates of public convenience and
21 necessity that are approved by the public service commission on the effective date of
22 this subsection.

23 (2) The treatment of section 196.491 (3) (d) 3r. and 3t. of the statutes first
24 applies to applications for certificates of public convenience and necessity that are
25 filed with the public service commission on the effective date of this subsection.

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1 (3) The treatment of sections 76.28 (1) (d), (e) (intro.) and 5. and (j) and (2) (c)
2 (intro.), (d) and (e) and 196.485 (1) (ge) of the statutes first applies to taxable years
3 beginning on January 1 of the year in which this subsection takes effect, except that
4 if this subsection takes effect after July 31 the treatment of sections 76.28 (1) (d), (e)
5 (intro.) and 5. and (j) and (2) (c) (intro.), (d) and (e) of the statutes first applies to
6 taxable years beginning on January 1 of the year following the year in which this
7 subsection takes effect.

8

(END)

**I. ASSET-CAP MODIFICATION/
TRANSMISSION COMPANY (TransCo)/MISO**

1
2
3
4

5 Section 196.795(11)(b) (*relating to WICOR*) is amended to add:

6 The commission may not impose upon a holding company, subject to this
7 subsection, terms, limitations or conditions under (b) that establish the sum
8 of the holding company's non-utility affiliate assets at less than 25% of the
9 sum of the holding company's utility affiliate assets. For the purpose of this
10 subsection, any terms, limitations, or conditions on non-utility affiliate assets
11 shall not apply to the ownership, operation, management or control of: (i)
12 energy and telecommunications assets, as defined in sec. 196.795(5)(pm)1.a., or
13 (ii) manufacturing, distributing, or selling swimming pools or spas, products
14 for pumping water or other fluids, processing or heating water, fluid-handling,
15 filtration or related businesses.

16

17 Section 196.795(5)(pm) 1 of the statutes is created to read:

18 (a) "Energy and telecommunications assets" means, subject to (b), the
19 assets of a non-utility affiliate which are used for the production,
20 generation, transmission, delivery, sale or furnishing of gas, oil, electric,
21 or steam energy; energy management and demand-side management
22 services, energy conservation, or energy efficiency; energy customer
23 service, metering, or billing; the recovery or production of energy from
24 waste materials, the processing of waste materials; products for pumping
25 water or other fluids, processing or heating water, fluid-handling,

26 filtration or related businesses; or the provision of telecommunications
27 service, as defined in sec. 196.01(9m), Stats.

28 (b) If a non-utility affiliate by by-law or resolution limits its business to
29 activities involving energy and telecommunications assets, and
30 substantially all of its assets are energy and telecommunication assets,
31 all of the assets of the non-utility affiliate shall be treated as energy and
32 telecommunications assets.

33

34 Sec. 196.795(5)(pm)3 and 4 of the statutes are created to read:

35 3. The net-book value of transmission facilities contributed to a
36 transmission company (TC) as provided in sections (4) and (5), as these
37 facilities would be depreciated over the course of time if still owned by
38 such affiliates, shall continue to be included in the sum of the assets of
39 the public-utility affiliates.

40 4. If a public utility affiliate is required or permitted by a lawful final order
41 of a regulatory agency or court to sell or divest generation facilities to a
42 third party which is not an affiliate of the public utility affiliate, the net
43 book value of such generation facilities, as these facilities would be
44 depreciated over the course of time if still owned by such affiliate, shall
45 continue to be included in the sum of the assets of the public-utility
46 affiliates.

47

48 Sec. 196.795(5)(pm)4. and 5. of the statutes are created to read:

49 4. a. If each of the public utility affiliates of a public utility holding
50 company authorized by the commission under sec. 196.795(2) (*i.e.*,
51 *Wisconsin Energy, Alliant, or WPS Resources*) transfers operational
52 control of all of its transmission facilities in this state and in
53 Iowa, Michigan, Minnesota and Illinois, and any other of its
54 transmission facilities integrated therewith, to the same
55 independent system operator which has been accepted for filing
56 with conditions by the federal energy regulatory commission and
57 had members in the state prior to 12/31/98 (*i.e.*, *the MISO*), and
58 contributes, subject to its membership in the MISO, all of its
59 currently owned transmission facilities, as defined by sec.
60 196.485(1)(h) in this state, and associated rights of way,
61 easements, and land, subject to the rights of existing co-users, as
62 provided in sec. 5, and commits to contribute, and to cause each
63 entity into which it merges or consolidates, or to which it transfers
64 substantially all of its assets to contribute, all subsequently
65 acquired or otherwise owned transmission facilities, as defined by
66 sec. 196.485(1)(h), in this state and associated rights of way,
67 easements, and land, subject to the rights of existing co-users, as
68 provided in sec. 5, to the same transmission company (TC) that
69 meets the requirements set forth below in sec. 5, then the energy
70 and telecommunications assets of the non-utility affiliates of such
71 holding company shall not be included in the sum of the assets of
72 the public utility affiliates under sec. 196.795(5)(p)1.a., b. or c. and

73 shall not be included in the non-utility affiliates' total assets
74 under sec. 196.795(5)(p)2.a.

75 b. This section shall be effective for a public utility holding company
76 on the first day following the date upon which all of its public
77 utility affiliates have taken all of the following actions: (1) filed
78 with the public service commission unconditional, irrevocable and
79 binding legal commitments to contribute to the TC, by a date
80 certain no later June 30, 2000, the transmission facilities and
81 associated rights of way, easements and land, as set forth above in
82 section 4(a), (2) petitioned the public service commission and the
83 federal energy regulatory commission for approval to transfer its
84 transmission facilities to the TC as provided in sec. 4(a), and
85 agreed in such petitions not to withdraw its request in the event
86 that the public service commission or the federal energy regulatory
87 commission conditions the approval of such petitions on changes
88 consistent with state or federal law, and (3) notified the public
89 service commission in writing that it has joined the MISO, and
90 committed not to withdraw as a member from the MISO prior to
91 the date on which it contributes its transmission facilities to the
92 TC and requested approval from the public service commission and
93 the federal energy regulatory commission to transfer operational
94 control to the MISO of its transmission facilities. Such
95 unconditional, irrevocable and binding commitments shall be
96 enforceable by specific performance in the circuit court of Dane

97 County by any wholesale or retail customer of such public utility
98 affiliate. A public utility affiliate also shall forfeit \$25,000 per day
99 for each day after June 30, 2000 that contribution of its
100 transmission facilities is delayed, provided that the TC is legally
101 able to accept transfer.

102 c. For the purposes of this Act, transfer of transmission facilities
103 includes transfer of the deferred tax reserves associated with those
104 facilities.

105 5. The TC shall meet the following requirements:

106 a. it shall be a public utility subject to the jurisdiction of the public
107 service commission except as provided below in section 5(t), and
108 the federal energy regulatory commission;

109 b. it shall be a single-purpose corporation under chapter 180 or a
110 single-purpose limited-liability company under chapter 183, and
111 that purpose shall be to plan, construct, operate, maintain and
112 expand the transmission facilities which it owns to provide an
113 adequate, reliable transmission system which meets the needs of
114 all users dependent upon it and supports robust competition in
115 energy markets without favoring any participant in such markets,
116 consistent with subsection (c) and with secs. 196.485 and 196.494;

117 c. it shall transfer operational control of its transmission facilities to
118 the MISO, and shall remain a member of such ISO or any
119 successor regional transmission organization approved by the
120 appropriate regulatory agencies at least through the transition

- 121 period set forth in the agreement which establishes the ISO (6
122 years);
- 123 d. it shall not own electric generation facilities or sell, market, or
124 broker electric capacity or energy in the relevant wholesale or retail
125 markets for the purchase and sale of electricity in the state or the
126 region, provided, however, that nothing in this subsection shall
127 prohibit the TC from procuring and reselling ancillary services from
128 third parties, engaging in redispatch activities necessary to relieve
129 constraints, or operating a control area, as required or authorized
130 by the federal energy regulatory commission.
- 131 e. it shall have the exclusive duty and responsibility, subject to the
132 approval of the commission, to construct and own any additional
133 high-voltage transmission facilities in the transmission area (i.e.,
134 EWU), and in the other areas of the state where the transmission
135 facilities of any electric utility which contributes transmission
136 facilities to the TC are located;
- 137 f. it shall elect to be included in a single zone for purposes of the
138 MISO tariff when it becomes effective, and shall thereafter be part
139 of the same zone; provided, however, that if the transmission costs
140 of any of the transmission utilities in the transmission area were
141 10% or more below the average transmission cost of the
142 transmission utilities in the transmission area as a group
143 immediately prior to transfer, the TC and the public utility
144 affiliates referred to above shall devise a phase-in plan for the new

145 combined single zone for pricing network use by the utilities that
146 have joined the MISO and by other transmission users, and shall
147 seek approval from the MISO and the federal energy regulatory
148 commission for such a zone. Such plan shall phase in an
149 average-cost price for the zone in equal parts over five years,
150 provided, however, that service shall be provided to all users on a
151 single-zone basis during the phase-in period;

152 g. The transfer of land rights to the TC shall be as follows:

- 153 (1) A "land right" for purposes of this section means the right
154 pursuant to which transmission facilities are located on real
155 property and include, without limitation, ownership and fee,
156 easements, permissions and/or licenses.
- 157 (2) Where a land right has been booked to transmission for
158 ratemaking purposes and is not being jointly used for electric
159 distribution or gas facilities by the public utility affiliate, the
160 public utility affiliate shall convey or assign at book value all
161 of its interest in the land right to the TC, subject to any
162 rights of existing joint users of the land right for
163 communications or other facilities and a right in the public
164 utility affiliate to access in the future on a
165 non-discriminatory basis. This provision also shall apply to
166 land rights that have been acquired by a utility affiliate and
167 are being held for future use for transmission and not held
168 for joint-use. If the land right cannot be transferred or

169 assigned to the TC, the public utility affiliate shall enter into
170 a contract with the TC granting the TC substantially the
171 same rights it would have had if transfer or assignment were
172 possible for the same price (book value) for the life of the
173 TC's transmission facilities and any replacements thereof.

174 (3) Where a land right in use for transmission facilities being
175 transferred to the TC also is being used, or is planned to be
176 used, by the public utility affiliate for electric or gas
177 distribution facilities, the public utility affiliate shall grant
178 the TC by contract a right to place and maintain the TC's
179 transmission facilities, and any modifications or
180 replacements thereof, on such land right for the life of such
181 facilities, including any replacements. The rights of the TC
182 under the contract for the purpose of providing transmission
183 service shall be paramount to the rights of any other users of
184 the land rights for any purpose, which use must not interfere
185 in any way with the TC's use, except that the right of the
186 public utility affiliate to use the land rights for electric or
187 gas distribution facilities shall be on a par with the rights of
188 the TC for transmission purposes.

189 (4) Any dispute concerning the sufficiency of the land right
190 transferred or the valuation of the right shall be submitted
191 to the public service commission for resolution, unless a
192 federal agency has jurisdiction over the dispute. No such

193 dispute shall delay commencement of operations of the TC.
194 During any pending dispute, the TC shall be entitled to use
195 the land right in question, and shall pay any disputed
196 compensation into an escrow account.

197 h. any electric utility as defined in sec. 196.491(1)(d) (*e.g.*, *MGE, DPC,*
198 *MPL, NSP*) shall have the option to transfer all of its integrated
199 transmission facilities to the TC on the same terms and conditions
200 as public utility affiliates of public utility holding companies; such
201 option shall be exercised no later than one year after the date on
202 which the first public-utility affiliate files the commitment to
203 contribute its transmission facilities to the TC set forth in 4(a);

204 i. transmission-dependent public utilities and electric cooperatives in
205 the state (*e.g.*, *WPPI, other municipal utilities, non-DPC coops*) may
206 purchase equity interests in the TC at a price and on terms and
207 conditions comparable to those for transmission utilities that have
208 contributed their transmission facilities, that is, equivalent to
209 net-book value, by contributing funds up to their pro-rata shares
210 based upon firm electric usage in the state in the prior year (1999);
211 such option shall be exercised no later than one year after the date
212 on which the first public-utility affiliate files the commitment to
213 contribute its transmission facilities to the TC set forth in 4(a);

214 j. the transmission facilities transferred to the TC shall be valued at
215 net book value at the time of transfer;

216 k. if a public utility affiliate may not transfer ownership of its
217 transmission facilities to the TC due to merger-related accounting
218 requirements, it shall, only for the period of time during which
219 such requirements are in effect, transfer its transmission facilities
220 by means of a lease which complies with the requirements set forth
221 in section (4) and in this section, provided that, as soon as such
222 merger-related accounting requirements are no longer applicable, it
223 shall be eligible to continue to exclude energy and
224 telecommunications assets from its asset-cap formula only if it
225 elects to transfer ownership of its transmission facilities to the TC
226 as provided in section (4) and in this section, and provided further
227 that during the term of any such lease the public-utility affiliate
228 shall not receive voting interests in the TC;

229 l. a transmission utility or other electric utility that contributes its
230 transmission facilities to the TC under sec. 4(a) or 5(g) shall
231 receive securities from the TC as follows:

232 (1) The transfer of facilities to the TC shall be structured (i) to
233 avoid or minimize material adverse tax consequences for the
234 transferor as a result of the transfer, and (ii) to avoid or
235 minimize material adverse rate consequences, not arising
236 out of combining the TC's facilities into a single zone in the
237 MISO.

238 (2) The PSC shall review the proposed structure of the transfer
239 to determine that it meets the objectives of this section, and

240 may modify the structure if necessary to accomplish those
241 objectives, and take such other actions as are necessary to
242 equitably accomplish the objectives set forth in this section,
243 including permitting a public-utility affiliate to recover in
244 retail rates any adverse tax consequences of the transfer as a
245 transition cost.

246 (3) To the extent possible, the transfer shall be structured to
247 meet the requirements of the IRS for a tax-free transfer. If
248 possible, qualified preferred stock shall be issued in
249 connection with the transfer to provide the fixed cost portion
250 of the resulting capital structure. In the event preferred
251 stock is issued it shall be issued on a basis that does not
252 dilute the voting rights of initial shareholders relative to the
253 value of their contributions. If the capital structure of the
254 TC has a percentage of common equity that is materially
255 higher than that of the transferors, or if the cost of the
256 fixed-cost portion of the capital structure of the TC is
257 materially higher than that of the transferors, the
258 transferors shall agree by contract to accept from the TC a
259 return on common equity based upon the equity rate of
260 return approved by the federal energy regulatory commission
261 and upon an imputed capital structure that assigns to a
262 portion of their common equity holdings an *imputed debt*
263 return, as is necessary to achieve the objectives of this

264 section, until such time as the FERC shall determine that
265 the actual capital structure and capital costs of the TC are
266 appropriate and consistent with industry practice for a
267 regulated public utility providing electric transmission
268 service in interstate commerce.

269 (4) The TC shall provide an opinion to the commission prior to
270 commencement of operations from a nationally-recognized
271 investment banking firm that the TC will be able to finance
272 its start-up costs, working capital, operating expenses and
273 the cost of planned new facilities at reasonable cost.

274 (5) Nothing in this subsection shall affect the authority of the
275 federal energy regulatory commission to establish
276 transmission rates for the TC or MISO.

277 (6) If, when a public-utility affiliate files its binding
278 commitment under sec. (4), it has an application to
279 construct transmission facilities pending at the public
280 service commission, or has been granted a CPCN for such
281 facilities, the public-utility affiliate shall:

282 a. diligently pursue approval of such application and
283 construction of any facilities authorized by the public
284 service commission;

285 b. transfer such facilities to the TC at net book value
286 when construction is completed in exchange for
287 additional securities of the TC on a basis consistent

288 with the initial exchange, provided that the public
289 service commission determines that the cost of the
290 facilities is reasonable and prudent.

291 If the construction of any transmission facilities that are
292 subject to a pending or granted CPCN on the date of the
293 binding commitment are not completed within three years of
294 the date of issuance of the CPCN, the responsibility to
295 complete the project shall be transferred to the TC at the
296 option of the TC, and the public-utility affiliate's reasonable
297 and prudent investment to date shall be contributed to the
298 TC in exchange for securities.

299 m. the bylaws of the TC shall provide as follows:

300 (1) There shall be no less than 5 directors and no more than 14.
301 The number shall be 5 unless more directors are required to
302 comply with the provisions below, in which case, the number
303 of directors shall be increased accordingly. This provision of
304 the TC's bylaws may be modified during the first 10 years
305 after the TC comes into existence only upon a unanimous
306 affirmative vote of the directors, and thereafter upon a
307 two-thirds vote of the directors.

308 (2) For the first 10 years after the TC comes into existence, each
309 shareholder that owns 10% or more of the outstanding
310 common stock of the TC shall be entitled to appoint one and
311 only one director to the board of directors. These directors

312 shall have terms of one year each. Two or more shareholders
313 that together own at least 10% of the common stock of the
314 TC may by a written agreement with a term at least equal to
315 the term of a director under the bylaws combine the voting
316 rights of their common stock for the purpose of jointly
317 appointing a director. Such agreement must be filed with
318 the secretary of the TC. During the ten-year period set forth
319 in this section, the provision of the bylaws of the TC
320 containing this requirement may be modified only upon the
321 unanimous vote of all directors. Thereafter, such
322 requirement may be modified by a two-thirds vote of the
323 directors.

324 (3) For the first 10 years after the TC comes into existence, each
325 shareholder which is an investor-owned transmission utility
326 in the transmission area (*i.e.*, WEPCO, WPL, WPS, MGE)
327 and which has contributed its transmission facilities to the
328 TC as set forth above in sections (4) and (5), and any person
329 who receives at least a 5% equity interest under secs. 4(h) or
330 4(i) above, shall be entitled to appoint one and only one
331 director to the board of directors, provided that it continues
332 to own all of the stock which it has received from the TC for
333 such contribution. This director shall be instead of the
334 director for which the utility would qualify based upon 10%
335 stock ownership under (2) above.

- 336 (4) There shall be four directors at all times who are elected by a
337 majority of the votes of the holders of common stock and
338 who are not employed by, or under contract to, any entity
339 engaged in the production, sale, marketing, transmission or
340 distribution of electricity or natural gas, or by or to any
341 affiliate of any such entity. These directors shall have
342 staggered terms of four years each.
- 343 (5) For the first five years following creation of the TC, none of
344 the public utility affiliates that transfer transmission
345 facilities to the TC, or any affiliate of such public utility
346 affiliates, shall increase its percentage share of the
347 outstanding common stock of the TC, including any
348 percentage share of such outstanding common stock owned
349 or controlled by any affiliate of such utility affiliate, prior to
350 the first issuance of common stock by the TC to any third
351 party, other than a third party exercising a right to purchase
352 shares under section 5(h). This restriction shall not apply to
353 common stock used in exchange for a contribution of
354 additional transmission facilities. This provision of the
355 bylaws of the TC may be modified during the first five years
356 only upon the unanimous vote of all directors.
- 357 (6) Beginning 36 months after the TC is formed, any holder of
358 10% of the voting shares may require that the TC register as
359 is necessary for any equity owner to sell its shares.

- 360 n. for the first 36 months of operation, the TC shall, subject if
361 necessary to the approval of the appropriate regulatory agencies,
362 enter into contracts with the transmission utilities which transfer
363 their facilities to the TC for the purpose of providing reasonable
364 and cost-effective operation, and maintenance services to the TC;
365 thereafter, the TC may continue to contract with each
366 transmission utility. At the end of the final contract period, the
367 provisions of Subsection 8 shall apply.
- 368 o. the TC shall have the authority to expand through the voluntary
369 purchase or acquisition of additional transmission facilities,
370 subject to the approval of the appropriate regulatory agencies;
- 371 p. the TC shall assume any obligations of transmission utilities that
372 transfer ownership of transmission facilities to the TC under
373 agreements to provide transmission service over their facilities
374 (*e.g., certain joint-plant agreements*), or credits for the use of certain
375 transmission facilities of transmission users (*e.g., munis and coops*
376 *who currently receive facilities credits*) as modified from time to time
377 by agreement of the TC with other parties to such agreements or by
378 regulatory agencies with lawful authority to modify such
379 agreements or credits;
- 380 q. the TC shall make whichever filings are necessary to commence
381 operation with service to begin by 11/1/2000; the TC shall be the
382 transmission service provider in the transmission area until the
383 MISO is operational;

- 384 r. the TC may not sell, transfer, or merge its assets with another
385 person, unless such assets are sold, transferred, or merged on an
386 integrated basis, and in a manner which insures that the
387 transmission facilities in the transmission area (*i.e., EWU*) are
388 planned, constructed, operated, maintained and controlled as a
389 single transmission system;
- 390 s. nothing in this section shall be interpreted to authorize or allow
391 the TC to bypass the distribution facilities of any electric utility or
392 to provide its services directly to any retail customer;
- 393 t. except as specifically provided in this section, the obligations of
394 any electric utility that has contributed its transmission facilities
395 to the TC to finance, build, maintain, or operate transmission
396 facilities shall terminate upon operation of the TC;
- 397 u. nothing in this section shall be interpreted to affect the right or
398 duty of an electric utility which is not in the transmission area
399 and which has not contributed its facilities to the TC from
400 constructing transmission facilities;
- 401 v. Section 200.01(2) is amended to exclude the TC from the definition
402 of "public service corporation" (*i.e., issuance of securities by TC not*
403 *subject to prior PSC approval*). Section 196.795(1)(g) and (h) are
404 amended to exclude the TC from the definition of a holding
405 company and forming a holding company. Because the TC is
406 primarily a FERC-jurisdictional entity, the provisions of chapter
407 196 regarding rates, service, and accounting shall not apply to the

408 TC. Any dividends from the TC or gain or profit from the sale or
409 disposition by transmission utilities of their securities in the TC
410 shall not be a credit against retail revenue requirements. Section
411 196.52 (*affiliated-interest statute*) is amended to provide an exclusion
412 for the sale or disposition by transmission utilities of their
413 securities in the TC, but affiliated-interest approval applies for
414 transactions (*including service contracts*) between transmission
415 utilities and the TC.

416 6. If the independent system operator referred to above in sections (4) and
417 (5) does not commence operation, or ceases operation, the actions
418 referred to above in sections (4) and (5) and in sec. 196.485(3)(bm) shall
419 apply to the successor thereto, or if there is no successor, to any other
420 regional transmission organization approved or authorized by the federal
421 energy regulatory commission to operate in an area that includes the
422 state, provided that the public service commission shall ensure that a
423 condition of transfer of any public utility's transmission facilities to
424 such regional transmission organization shall be that it meets the
425 standards of sec. 196.485 and complies with the other provisions of
426 chapter 196 of the statutes.

427 7. Sec. 76.28 of the statutes is amended as follows:

428 (d) "Gross revenues" for a light, heat and power company other than a
429 qualified wholesale electric company or a transmission company as
430 defined in sec. 196.____ means total operating revenues as
431 reported to the public service commission except revenues for

432 interdepartmental sales and for interdepartmental rents For
433 a qualified wholesale electric company, "gross revenues" means
434 total business revenues from those businesses included under par.
435 (e)I. to 4. For a transmission company, "gross revenue" means
436 total operating revenues as reported to the public service
437 commission except revenues for transmission service over its
438 facilities provided to public utilities subject to the annual license
439 fee under Wis. Stats. 72.28(2)(c)(2) or to other electric utilities as
440 defined in chapter 196.

441 (e) . . . including corporations described in s. 66.069(2) and including
442 qualified wholesale electric companies and including transmission
443 companies as defined in sec. 196.____ and except only business
444 enterprises carried on exclusively either for the private use of
445 the

446 . . . hot water for heat, power or manufacturing purposes.

447 5. Transmitting electric current for light, heat or power.

448 (em) "Net production of electricity" means. . . .

449 (2) IMPOSITION . . .

450 (e) for transmission companies, as defined in sec. 196.____, an
451 amount equal to the gross revenues, except revenues for
452 transmission service over its facilities provided to public utilities
453 subject to the annual license fee under Wi. Stat. 72.28(2)(c)(2) or
454 to other electric utilities as defined in chapter 196, multiplied by
455 the rates under par. (b) or (c).

- 456 8. Sec. 196.485(3)(bm) is amended to read:
457 Each of the transmission utilities in the transmission area that are
458 public utilities shall transfer control over their transmission facilities to
459 the MISO and shall elect with the TC, after it becomes operational, if
460 such transmission utilities have not transferred their transmission
461 facilities to the TC, to become part of a single zone within the MISO.
462 Such independent system operator shall ensure that the transmission
463 facilities in the transmission area are planned, constructed, operated,
464 maintain and controlled as a single system.
- 465 9. In the event of a lease, sale, or any other transfer of ownership or control
466 (hereinafter "Transaction") of one, more, or all divisions, departments, or
467 business units, or any other operational unit (hereinafter "Unit") of an
468 electric utility, a public utility, a public utility-affiliate or a non-utility
469 affiliate of a holding company, which Unit of the electric utility, public
470 utility, public-utility affiliate, or non-utility affiliate is engaged in
471 activities related to the production, generation, transmission, or
472 distribution of electricity, gas, or steam, or the recovery of energy from
473 waste materials (hereinafter "Selling Entity") in this state, the terms of
474 the Transaction with the acquiring entity or person(s) shall require the
475 acquiring entity or person(s) to offer employment to a sufficient number
476 of the non-supervisory employees working in the Unit at the time of the
477 Transaction in order to operate and maintain the Unit. The acquiring
478 entity or person(s) must offer such employees employment at no less
479 than the wage rates and substantially equivalent fringe benefits and

480 terms and conditions of employment (hereinafter "Employment Terms")
481 that are in effect at the time of the Transaction. The acquiring entity or
482 person(s) shall maintain the Employment Terms during the 30 months
483 following the Transaction unless different terms and conditions of
484 employment are collectively bargained.

485 If there is a Transaction of a Selling Entity's Unit(s) in this state
486 to its majority-owned non-utility affiliate, the acquiring non-utility
487 affiliate shall continue to employ the Selling Entity's non-supervisory
488 employees who were working in the Unit(s) at the time of the Transaction
489 under the same terms and conditions of employment existing at the time
490 of the Transaction, as described in the above paragraph.

491 Prior to approving any Transaction involving a public utility,
492 public-utility affiliate, or non-utility affiliate, the public service
493 commission shall first determine that the Employment Terms are in
494 place, as set forth above.

495 This section shall not apply to any Transaction involving activities
496 other than those related to the production, generation, transmission, or
497 distribution of electricity, gas, or steam, or the recovery of energy from
498 waste materials.

499

500 Sec. 196.795(5)(i) is amended to read:

501 In its determination of any rate change proposed by a public utility affiliate
502 under s. 196.20, the commission:

503 1. Shall consider the public utility affiliate as a wholly independent
504 corporation; and shall impute a capital structure to the public utility
505 affiliate and establish a cost of capital for the public utility on a
506 stand-alone basis.

507

508 Sec. 196.795(5)(t), Stats., is created to read:

509 If the commission determines that a public-utility affiliate or, for transmission,
510 the transmission company, is not making investments in its facilities sufficient
511 to ensure reliable electric service, the commission shall order the public utility
512 affiliate or transmission company to make adequate investments in its
513 facilities sufficient to ensure reliable service. Such order shall require that the
514 public-utility affiliate or transmission company provide sufficient security in a
515 form that is readily enforceable and satisfactory to the commission, and that is
516 sufficient to ensure that such investments are made expeditiously. The
517 commission shall allow the public-utility affiliate to recover in its retail electric
518 rates costs that are prudently incurred in complying with this subsection.

519

II. PUBLIC BENEFITS

520

521 **SECTION 1.** Section 15.107(17) of the statute is created to read:

522 **SECTION 15.107(17) COUNCIL ON PUBLIC BENEFITS.**

523 There is created a council on public benefits that is attached to the
524 department of administration under s. 15.03. The council shall consist of the
525 following 11 members serving 3-year terms:

526 (a) Two members selected by the Governor;

527 (b) Two members selected by the Senate Majority Leader;

528 (c) One member selected by the Senate Minority Leader;

529 (d) Two members selected by the Assembly Speaker:

530 (e) One member selected by the Assembly Minority Leader.

531 (f) One member selected by the secretary of the department of natural
532 resources.

533 (g) One member selected by secretary of the department of
534 administration.

535 (h) One member selected by the chairperson of the public service
536 commission.

537

538 **SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate
539 place, insert the following amounts for the purposes indicated:

540

| | | 1999-00 | 2000-01 |
|-----|---|----------------|----------------|
| 541 | | | |
| 542 | 20.505(10) Utility public benefits board | | |
| 543 | (a) LOW-INCOME ASSISTANCE, ENERGY CONSERVATION | _____ | _____ |
| 544 | AND EFFICIENCY AND RENEWABLE RESOURCES | | |
| 545 | (b) GENERAL PROGRAM OPERATIONS | _____ | _____ |
| 546 | | | |

547 **SECTION 3.** 20.157 of the statutes is created to read:

548 **20.505(10) Utility public benefits.** There is appropriated to the
549 department of administration for the following programs:

550 (a) *General program operations.* From the utility public benefits fund,
551 the amounts in the schedule for general program operations.

552 (b) *Low-income assistance grants.* From the utility public benefits fund,
553 a sum sufficient for low-income assistance grants under s. 196.96 (2) (a).

554 (c) *Energy conservation and efficiency and renewable resource grants.*
555 From the utility benefits fund, a sum sufficient for energy conservation and
556 efficiency and renewable resource grants under s. 196.96 (2) (b) 1.

557 **SECTION 4.** 25.17 (1) (xm) of the statutes is created to read:

558 **25.17 (1) (xm)** Utility public benefits fund (s. 25.96):

559 **SECTION 5.** 25.96 of the statutes is created to read:

560 **25.96 Utility public benefits fund.** There is established a separate
561 non-lapsible trust fund designated as the utility public benefits fund,
562 consisting of the revenues received from public utilities under s. 196.374, the

563 public benefits fees received under s. 196.96 (4) (a) and (5) (c) and (d), and
564 contributions received under s. 196.96 (2) (c) 4. and (d) 2.

565 **SECTION 6.** 196.374(4) of the statutes is amended to read:

566 **Low-income assistance, energy efficiency and other programs.**

567 (1) In this section "utility" shall mean a Class A gas or electric utility, as
568 defined by the commission, which is not a municipal utility or electric
569 cooperative.

570 (2) The commission shall determine the total amount which every such
571 utility expended in calendar year 1998 for programs designed to provide low-
572 income assistance (including uncollectibles and arrearages forgiveness), low-
573 income weatherization, energy conservation and efficiency, environmental
574 research and development, and renewable resources. The commission shall
575 allocate this total amount equitably among such utilities and permit every
576 such utility to continue to recover such amounts annually from its ratepayers.
577 The commission also shall develop a method by which such total amount is
578 gradually transferred to the utility public benefits fund over a period of three
579 years. The commission shall allow each utility the option of continuing to use
580 through calendar year 2000 the monies it is currently recovering to administer
581 its existing energy conservation and efficiency programs. Nothing in this
582 section is intended to prohibit a utility from involvement in the activities
583 described in this subsection, provided that it is complying with its duties under
584 secs. 196.374 and 196.196(4).

585 (3) If the department of administration decreases the amount of funding
586 required for such programs as provided in s. 196.96, the commission shall
587 make a pro rata decrease in the amount determined under this section.

588 **SECTION 7.** 196.378 of the statutes is created to read:

589 **196.378 Renewable resources. (1) DEFINITIONS.** In this section:

590 (a) "Biomass" means a resource that derives energy from wood or plant
591 material or residue, biological waste, crops grown for use as a resource or
592 landfill gases. "Biomass" does not include garbage, as defined in s. 289.01 (9),
593 or non-vegetation-based industrial, commercial or household waste, except
594 that "biomass" does include refuse-derived fuel used for a renewable facility in
595 this state that was in service before January 1, 1998.

596 (b) "Conventional resource" means a resource that derives energy from
597 coal, oil, nuclear power or natural gas, except for natural gas used in a fuel
598 cell.

599 (c) "Electric provider" means an electric utility or retail electric
600 cooperative.

601 (d) "Electric utility" means a public utility that sells electricity at retail,
602 provided that a public utility is not considered to sell electricity at retail solely
603 by owning or operating a retail electric distribution system.

604 (e) "Excludable renewable energy" means the portion of an electric
605 provider's total renewable energy that is supplied from renewable facilities that
606 were placed in service before January 1, 1998, and that, before January 1,

607 1998, derived electricity from hydroelectric power, even if the output of such
608 facilities is used to satisfy the requirements of federal law.

609 (f) "Nonsystem renewable energy" means the amount of electricity that
610 an electric provider sells to its retail customers and that is supplied or
611 allocated by a wholesale supplier under executed wholesale purchase contracts
612 from renewable facilities that are not owned or operated by the electric
613 provider. "Nonsystem renewable energy" does not include any electricity that is
614 not used to satisfy the electric provider's retail load obligations.

615 (g) "Renewable resource" means any of the following:

- 616 1. A resource that derives electricity from any of the following:
- 617 a. A fuel cell that uses, as determined by the
618 commission, a renewable fuel.
 - 619 b. Tidal or wave action.
 - 620 c. Solar thermal electric or photovoltaic energy.
 - 621 d. Wind power.
 - 622 e. Geothermal technology.
 - 623 f. Hydroelectric power with a capacity of less than 60
624 MW.
 - 625 g. Biomass.
- 626 2. Any other resource, except a conventional resource, that the
627 commission designates as a renewable resource in rules promulgated under
628 sub. (4) (a).

629 (h) "Renewable facility" means an installed and operational electric
630 generating facility in which energy is derived from a renewable resource.
631 Renewable facility includes a facility the installation or operation of which is
632 required by federal law, but does not include a facility the installation or
633 operation of which is required under the laws of another state. even if such
634 facility is required by federal law.

635 (i) "Renewable resource credit" means a credit calculated in accordance
636 with rules promulgated under sub. (3) (a).

637 (j) "Resource" means a source of electric power generation.

638 (k) "Retail electric cooperative" means a cooperative association
639 organized under ch. 185 that sells electricity at retail to its members only,
640 provided that a retail electric cooperative is not considered to sell electricity at
641 retail solely by owning and operating a retail electric distribution system.

642 (l) "System renewable energy" means the amount of electricity that an
643 electric provider sells to its retail customers and that is supplied by renewable
644 facilities owned or operated by the electric provider.

645 (m) "Total renewable energy" means the sum of an electric provider's
646 system and nonsystem renewable energy.

647 **(2) RENEWABLE RESOURCE ENERGY.** (a) Each electric provider shall provide
648 its retail customers total renewable energy from renewable resources in at least
649 the following percentages of its total retail energy sales, either directly or
650 through renewable resource credits from another electric provider:

651 1. By December 31, 2000, .5%.

- 652 2. By December 31, 2002, .85%.
- 653 3. By December 31, 2004, 1.20%.
- 654 4. By December 31, 2006, 1.55%.
- 655 5. By December 31, 2008, 1.9%.
- 656 6. By December 31, 2010, 2.2%.

657 This subsection shall not apply to an electric provider that
658 provides more than 10% of its summer peak demand (expressed in MW) in this
659 state from renewable facilities in this state, or to an electric provider that
660 provides more than 10% of the summer peak demand (expressed in MW) on its
661 system from renewable facilities. For purposes of this exemption, the electric
662 provider may count renewable facilities that it owns and power purchases from
663 renewable facilities, whether or not located in this state and whether or not
664 located on its system. The electric provider shall file documentation with the
665 public service commission in support of this exemption. If the commission
666 determines that an electric provider does not meet this standard, the provider
667 shall be subject to this subsection.

668 Total retail energy sales shall be determined by calculating a three-
669 year rolling average of the electric provider's retail energy sales in this state.

670 The amount of electricity supplied by a renewable facility in which
671 biomass and conventional fuels are fired together is equal to the product of the
672 maximum amount of electricity the facility is capable of generating and the
673 ratio of the British thermal unit content of the biomass fuels to the British
674 thermal unit content of both the biomass and conventional resource fuels.

675 Any excludable renewable energy that exceeds .6% of an electric
676 provider's total retail energy sales shall be excluded from the electric provider's
677 total renewable energy.

678 (b) On April 15 of each year, the electric provider shall provide the
679 department of administration a report of its compliance with par. (a) including
680 reasonable documentation as required by the department. The department
681 shall accept certification from wholesale providers concerning the sources and
682 amounts of energy supplied to the electric provider in the previous year.

683 (c) An electric provider may recover its costs of providing energy from
684 renewable sources from its customers, including the costs of exceeding the
685 levels specified in 2(a). An electric utility shall have the option of recovering
686 these costs from its customers through any combination of the following
687 subject to approval of the commission if necessary: (1) allocating costs equally
688 (on a per kWh basis) to all customers; (2) selling the power under a green
689 pricing program or programs; and (3) other pricing structures.

690 **(3) RENEWABLE RESOURCE CREDITS.**

691 (a) An electric provider that has energy from renewable resources that is
692 more than the renewable resource energy requirement specified in sub. (2) (a) 1.
693 to 6. for the applicable year may sell to any other electric provider a renewable
694 resource credit or a portion of a renewable resource credit at any price
695 negotiated between them. Alternatively, the electric provider may carry forward
696 these credits for use in future years. The commission shall promulgate rules

697 that establish procedures for calculating the amount of a renewable resource
698 credit.

699 (b) The commission may promulgate rules that establish requirements
700 and procedures for a sale under par. (a).

701 (4) RULES. The commission may promulgate rules that designate a
702 resource, except for a conventional resource, as a renewable resource in
703 addition to the resources specified in sub. (1) (g) 1.

704 (5) PENALTY. Any electric provider that fails to comply with sub. (2)
705 (a)-(c) shall forfeit no less than \$5,000 nor more than \$500,000. Any energy
706 supplier that incorrectly certifies the sources of its energy as renewable shall be
707 subject to the same penalty. Forfeitures under this subsection shall be
708 enforced by action on behalf of the state by the attorney general. A court
709 imposing a forfeiture under this subsection shall consider all of the following
710 in determining the amount of the forfeiture:

711 (a) The appropriateness of the forfeiture to the volume of business of the
712 electric provider.

713 (b) The gravity of the violation.

714 (c) Whether or not failure to comply is due to force majeure or
715 circumstances entirely beyond the control of the electric provider.

716 **SECTION 8.** 196.96 of the statutes is created to read:

717 **196.96 Utility public benefits. (1) DEFINITIONS.** In this section:

718 (a) "Council" means the utility public benefits council created in
719 s. 15.107(17).

720 (b) "Commitment to community program" means a program by a
721 municipal utility or retail electric cooperative for low-income assistance or an
722 energy conservation or load management program by a municipal utility or
723 retail electric cooperative.

724 (c) "Customer application of renewable resources" means the generation
725 of electricity from renewable resources that takes place on the premises of a
726 customer of an electric provider.

727 (d) "Department" means the department of administration.

728 (e) "Division of housing" means the division of housing in the
729 department of administration.

730 (f) "Electric provider" means an electric utility or retail electric
731 cooperative.

732 (g) "Electric utility" means a public utility that owns or operates a retail
733 distribution system.

734 (h) "Energy conservation program" means a program for reducing the
735 demand for natural gas or electricity or improving the efficiency of its use
736 during any period.

737 (i) "Fiscal year" has the meaning given in s. 655.001 (6).

738 (j) "Local unit of government" means the governing body of any county,
739 city, town, village or county utility district or the elected tribal governing body
740 of a federally recognized American Indian tribe or band.

741 (k) "Low-income assistance" means assistance to low-income
742 households for weatherization and other energy conservation services, payment
743 of energy bills, and early identification and prevention of energy crises.

744 (l) "Low-income household" means any individual or group of individuals
745 in this state who are living together as one economic unit and for whom
746 residential electricity is customarily purchased in common or who make
747 undesignated payments for electricity in the form of rent, and whose household
748 income is not more than 150% of the poverty line as determined under 42 USC
749 9902 (2).

750 (m) "Low-income need" means the amount obtained by subtracting from
751 the total low-income energy bills in a fiscal year the product of 2.2% of the
752 estimated average annual income of low-income households in this state in
753 that fiscal year multiplied by the estimated number of low-income households
754 in this state in that fiscal year.

755 (n) "Low-income need percentage" means the percentage that results
756 from dividing an amount equal to the sum of the total amounts received by the
757 department for low-income funding from the federal government under 42 USC
758 6861 to 6873 and 42 USC 8621 to 8629 in federal fiscal year 1997, public
759 benefit fees established for 1999-2000 under 196.96(4)(c)1, the total amounts
760 expended by public utilities under 196.374, and 50% of the public benefits fees
761 charged by municipal utilities and retail electric cooperatives by the amount of
762 low-income need in fiscal year 1998-99.

763 (o) "Low-income need target" means the product of the low-income need
764 percentage multiplied by low-income need in a fiscal year.

765 (p) "Municipal utility" means an electric utility that is owned wholly by
766 a municipality and that owns a retail distribution system.

767 (q) "Renewable resource" has the meaning given in s. 196.378 (1) (g).

768 (r) "Retail capacity" means the total amount of electricity that an
769 electric provider is capable of delivering to its retail customers and that is
770 supplied by electric generating facilities owned or operated by the electric
771 provider or any other person. "Retail capacity" does not include any electricity
772 that is not used to satisfy the electric provider's retail load obligations.

773 (s) "Retail electric cooperative" means a cooperative association that is
774 organized under ch. 185 for the purpose of providing electricity at retail to its
775 members only and that owns and operates a retail distribution system.

776 (t) "Total low-income energy bills" means the total estimated amount
777 that all low-income households are billed for residential electricity, natural gas
778 and heating fuel in a fiscal year.

779 (u) "Wholesale electric cooperative" means a cooperative association
780 organized under ch. 185 for the purposes of providing electricity at wholesale to
781 its members only.

782 (v) "Wholesale supply percentage" means the percentage of a municipal
783 utility's or retail electric cooperative's retail capacity in a fiscal year that is
784 supplied by a wholesale electric supplier.

785 (w) "Wholesale electric supplier" means a wholesale electric cooperative
786 or a municipal electric company, as defined in s. 66.073 (3) (d), that supplies
787 electricity at wholesale to a municipal utility or retail electric cooperative.

788 (2) DEPARTMENT DUTIES. The department shall do all of the following:

789 (a) *Low-income programs.* In consultation with the council, and after
790 the council holds a hearing, establish programs to be administered by the
791 division of housing for awarding grants from the appropriation under s.
792 20.505(10)(c) to provide low-income assistance. In each fiscal year, the amount
793 awarded under this paragraph in grants for weatherization and other energy
794 conservation services must be sufficient to equal 47% of the sum of all monies
795 spent for low income programs established under s. 196.374, this paragraph,
796 monies received from the federal government under 42 USC 6861 to 6873 and
797 42 USC 8621 to 8629 in a fiscal year and 50% of the monies collected under s.
798 196.96(5).

799 (b) *Energy conservation and efficiency and renewable resource programs.*

800 1. Subject to subd. 2., in consultation with the council, and after
801 the council holds a hearing, establish programs for awarding grants from the
802 appropriation under s. 20.505(10)(d) for each of the following:

803 a. Proposals for providing energy conservation or efficiency
804 services. In awarding grants under this subdivision, the department shall give
805 priority to proposals directed at the sectors of energy conservation or efficiency
806 markets that are least competitive and at promoting environmental protection,
807 electric system reliability or rural economic development. In each fiscal year,

808 1.75% of the appropriation under s. 20.505(10)(d) shall be awarded in grants
809 for research and development proposals regarding the environmental impacts of
810 the electric industry.

811 b. Proposals for encouraging the development or use of
812 customer applications of renewable resources, including educating customers
813 about renewable resources or encouraging uses of renewable resources by
814 customers or encouraging research technology transfers. In each fiscal year,
815 the department shall ensure that 4.5% of the appropriation under sec.
816 20.505(10)(d) shall be awarded in grants under this subdivision.

817 2. For each fiscal year after 2003-2004, in consultation with the
818 council, determine whether to continue, discontinue or reduce any of the
819 programs established under subd. 1. and determine the total amount necessary
820 to fund the programs that the department determines to continue or reduce
821 under this subdivision.

822 (c) *Rules.* In consultation with the council, promulgate rules
823 establishing all of the following:

824 1. Eligibility requirements for low-income assistance under
825 programs established under par. (a). The rules shall prohibit a person who
826 receives low-income assistance from a municipal utility or retail electric
827 cooperative under a program specified in sub. (5) (d) 2. b. or 3. a. from receiving
828 low-income assistance under programs established under par. (a).

829 2. Requirements and procedures for applications for grants
830 awarded under programs established under par. (a) or (b) 1.

831 2m. Criteria for the selection of proposals by the corporation
832 specified in sub. (3) (b).

833 2n. Criteria for determining whether or not to continue,
834 discontinue, or reduce any of the programs established under 196.96(2)(b)1
835 after 2003-2004. The rules shall require that the department determine
836 whether the need for any such program is being effectively met by the private-
837 sector market and, if so, that the department discontinue or reduce such
838 program.

839 3. Requirements for electric utilities to allow customers to
840 include voluntary contributions to assist in funding a commitment to
841 community program or a program established under par. (a) or (b) 1. with bill
842 payments for electric service. The rules may require an electric utility to
843 provide a space on an electric bill in which a customer may indicate the
844 amount of a voluntary contribution and the customer's preference regarding
845 whether a contribution should be used for a program established under par. (a)
846 or (b) 1. a. or b. The rules shall establish requirements and procedures for
847 electric utilities to pay to the department any voluntary contributions included
848 with bill payments and to report to the department customer preferences
849 regarding use of the contributions. The department shall deposit all
850 contributions received under this paragraph in the utility public benefits fund.

851 4. A method for estimating total low-income energy bills,
852 average annual income of low-income households and the number of
853 low-income households in a fiscal year for the purpose of determining the
854 amount of low-income need in the fiscal year.

855 (d) *Other duties.* In consultation with the council, the department shall:

856 1. For each fiscal year after 1998-99, determine the low-income
857 need target for that fiscal year.

858 2. Encourage customers to make voluntary contributions to assist
859 in funding the programs established under pars. (a) and (b) 1. The department
860 shall deposit all contributions received under this paragraph in the utility
861 public benefits fund.

862 3. Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in
863 the utility public benefits fund.

864 4. Conduct an independent audit annually and report to the
865 legislature concerning (1) the level of program expenses incurred by the
866 department, other agencies, and fund recipients; (2) the effectiveness of the
867 programs under sec. 2(a) in providing assistance to low-income persons, (3) the
868 effectiveness of the programs under sec. 2(b) in reducing the demand for
869 electricity and increasing the use of customer-owned renewable resources, and
870 (4) any other issue identified by the governor, speaker, or majority leader of the
871 senate.

872 **(3) CONTRACTS.**

873 (a) The division of housing shall, on the basis of competitive bids,
874 contract with community action agencies described in s. 46.30 (2) (a) 1.,
875 nonstock, nonprofit corporations organized under ch. 181 or local units of
876 government to provide services under the programs established under sub. (2)
877 (a).

878 (b) The department shall, on the basis of competitive bids, contract with
879 a nonstock, nonprofit corporation organized under ch. 181 to administer the
880 programs established under sub. (2) (b) 1., including soliciting proposals,
881 processing grant applications, selecting, based on criteria specified in rules
882 promulgated under sub. (2) (c) 2m., proposals for the department to make
883 awards and distributing grants to recipients.

884 (c) In selecting proposals and awarding contracts under 2(b), the
885 department shall not disqualify, penalize, or discriminate against any electric
886 provider or its affiliate or against any wholesale electric supplier or its affiliate.

887 **(4) ELECTRIC UTILITIES.**

888 (a) *Requirement to charge public benefits fees.* Each electric provider,
889 except for a municipal utility or a retail electric cooperative, shall charge each
890 customer a public benefits fee in an amount established in rules promulgated
891 by the department under par. (b). An electric utility, except for a municipal
892 utility, shall collect and pay the fees to the department in accordance with the
893 rules promulgated under par. (b).

894 (b) *Rules.* In consultation with the council, the department shall
895 promulgate rules that establish the amount of a public benefits fee under par.
896 (a). The fees (1) may vary by class of customer, but shall be uniform within
897 each class, (2) shall not be based on Kwh consumption of electricity by a
898 customer, (3) shall be allocated so as not to recover more than 30% of the total
899 fees from non-residential customers, and 70% of the total fees from residential
900 customers, recognizing that programs of the department are intended to benefit

901 primarily residential customers, (4) shall include the electric utility's
902 reasonable and prudent expenses of administering such programs, and (5) shall
903 be included in the customer's regular monthly bill, provided that the utility
904 notify its customers annually of the amount of and benefits from such fees.

905 (c) *Amount of public benefits fees.* A fee established in rules promulgated
906 under par. (b) shall satisfy each of the following:

907 1. 'Low-income funding.' In fiscal year 1999-2000, a portion of the
908 fee shall be an amount which, when added to 50% of the estimated public
909 benefits fees charged by municipal utilities and retail electric cooperatives
910 under sub. (5)(a) for that fiscal year, shall equal \$27,000,000. In each fiscal
911 year after 1999-2000, the amount received by the department from this portion
912 of the public benefits fees, from public utilities under s. 196.374, and from the
913 federal government under 42 USC 6861 to 6873 and 42 USC 8621 to 8629,
914 when added to 50% of the estimated public benefits fees charged by municipal
915 utilities and retail electric cooperatives under sub. (5)(a), shall be sufficient to
916 meet the low-income need target determined by the department under sub.
917 (2)(d) 1.

918 2. 'Energy conservation and efficiency and renewable resource
919 funding.' For fiscal year 1999-2000, a portion of the public benefits fee shall be
920 an amount which, when added to 50% of the estimated public benefits fees
921 charged by municipal utilities and retail electric cooperatives under sub. (5)(a)
922 for that fiscal year, shall equal \$20,000,000. For each fiscal year after 2002-
923 2003, if the department determines to discontinue or reduce a program, this
924 amount shall be reduced accordingly.

925 3. 'Public benefits fee limitation.' For the period beginning on the
926 effective date of this subdivision ... [reviser inserts date], and ending on June
927 30, 2008, the total increase in a customer's electric bills that is based on the
928 requirement to pay public benefits fees, including the costs of electric utilities
929 for administering the programs under the Act, may not exceed 3% of the total
930 of every other charge for which the customer is billed for that period or \$750
931 per month, whichever is less.

932 **(5) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES.** (a) *Requirement to*
933 *charge public benefits fees.* Each retail electric cooperative and municipal
934 utility shall charge a monthly public benefits fee to each customer or member
935 in amount that is sufficient for the retail electric cooperative or municipal
936 utility to collect an annual average of \$17 per meter. A retail electric
937 cooperative or municipal utility may determine the amount that a particular
938 class of customers or members is required to pay under this paragraph and may
939 charge different fees to different classes of customers or members.

940 (am) *Public benefits fee limitation.* Notwithstanding par. (a), for the period
941 beginning on the effective date of this paragraph [reviser inserts date], and
942 ending on June 30, 2008, the total increase in a customer's or member's
943 electric bills that is based on the requirement to pay public benefits fees may
944 not exceed 3% of the total of every other charge for which the member or
945 customer is billed for that period or \$750 per month, whichever is less.

946 (b) *Election to contribute to department programs.*

947 1. No later than the first day of the 12th month beginning after
948 the effective date of this subdivision ... [reviser inserts date], each municipal
949 utility or retail electric cooperative shall notify the department whether it has
950 elected to contribute to the programs established under sub. (2) (a) or (b) 1. for
951 a 3-year period.

952 2. No later than every 3rd year after the date specified in subd. 1.,
953 each municipal utility or retail electric cooperative shall notify the department
954 whether it has elected to contribute to the programs established under sub. (2)
955 (a) or (b) 1. for a 3-year period.

956 (c) *Full contribution.* If a municipal utility or retail electric cooperative
957 elects under par. (b) 1. or 2. to contribute to the programs established both
958 under sub. (2) (a) and under sub. (2) (b) 1., it shall pay, except as provided in
959 par. (dm), 100% of the public benefits fees that it charges under par. (a) to the
960 department in each fiscal year of the 3-year period for which it has made the
961 election.

962 (d) *Partial contributions and commitment to community spending.* A
963 municipal utility or retail electric cooperative not specified in par. (c) shall do
964 one of the following:

965 1. If the municipal utility or retail electric cooperative elects to
966 contribute only to the programs established under sub. (2) (a), the municipal
967 utility or retail electric cooperative shall, in each fiscal year of the 3-year period
968 for which it elects to contribute under par. (b) 1. or 2., do all of the following:

969 a. Except as provided in par. (dm), pay no less than 50% of
970 the public benefits fees that it charges under par. (a) to the department.

971 b. Spend no less than 50% of the public benefits fees that it
972 charges under par. (a) on energy conservation programs.

973 2. If the municipal utility or retail electric cooperative elects to
974 contribute only to the programs established under sub. (2) (b) 1., the municipal
975 utility or retail electric cooperative shall, in each fiscal year of the 3-year period
976 for which it elects to contribute under par. (b) 1. or 2., do all of the following:

977 a. Except as provided in par. (dm), pay 50% of the public
978 benefits fees that it charges under par. (a) to the department.

979 b. Spend no less than 50% of the public benefits fees that it
980 charges under par. (a) on programs for low-income assistance.

981 3. If the municipal utility or retail electric cooperative elects not
982 to contribute to any of the programs established under sub. (2) (a) or (b) 1., the
983 municipal utility or retail electric cooperative shall, in each fiscal year of the
984 3-year period for which it elects not to contribute under par. (b) 1. or 2., do all
985 of the following:

986 a. Spend no less than 50% of the public benefits fees that it
987 charges under par. (a) on programs for low-income assistance.

988 b. Spend no less than 50% of the public benefits fees that it
989 charges under par. (a) on energy conservation programs.

990 (e) *Wholesale electric supplier credit.* If a wholesale electric supplier has
991 established a program for low-income assistance, or an energy conservation

992 program, a municipal utility or retail electric cooperative that is a customer of
993 the wholesale electric supplier may do any of the following:

994 1. Include an amount equal to the product of the municipal
995 utility's or retail electric cooperative's wholesale supply percentage and the
996 amount that the electric supplier has spent on low-income assistance in a
997 fiscal year in calculating the amount that the municipal utility or retail
998 electric cooperative has spent on low-income assistance in that fiscal year
999 under par. (d) 2. b. or 3.a.

1000 2. Include an amount equal to the product of the municipal
1001 utility's or retail electric cooperative's wholesale supply percentage and the
1002 amount that the electric supplier has spent on energy conservation programs
1003 or customer applications of renewable resources in a fiscal year in calculating
1004 the amount that the municipal utility or retail electric cooperative has spent
1005 on energy conservation programs under par. (d) 1. b. or 3. b.

1006 (f) *Joint programs.* Municipal utilities or retail electric cooperatives may
1007 establish joint commitment to community programs, except that each
1008 municipal utility or retail electric cooperative that participates in a joint
1009 program is required to comply with the spending requirements under par. (d).

1010 (g) *Reports.*

1011 1. For each fiscal year, each municipal utility and retail electric
1012 cooperative that does not pay 100% of the public benefits fee that it charges
1013 under par. (a) to the department under par. (c) shall file a report with the
1014 department of administration that describes each of the following:

1015 a. An accounting of public benefits fees charged to
1016 customers or members under par. (a) in the fiscal year and expenditures on
1017 commitment to community programs under par. (d), including any amounts
1018 included in the municipal utility's or retail electric cooperative's calculations
1019 under par. (e).

1020 b. A description of commitment to community programs
1021 established by the municipal utility or retail electric cooperative in the fiscal
1022 year.

1023 2. The department shall maintain reports filed under subd. 1. for
1024 at least 6 years.

1025 **SECTION 9. Nonstatutory provisions.**

1026 (1) INITIAL APPOINTMENTS. Notwithstanding the length of the term specified
1027 in section 15.107(17) of the statutes, as created by this act, the initial
1028 members of the council on public benefits shall be appointed for the following
1029 terms:

1030 (a) One of the members under section 15.107(17)(a), one of the
1031 members under section 15.107(17)(b), and one of the members under s.
1032 15.107(17)(d), for terms expiring on May 1, 2003.

1033 (b) One of the members under section 15.107(17)(a), the member
1034 under section 15.107(17)(c), the member under section 15.107(17)(e), and the
1035 members under Section 15.107(17)(e) and (f), for terms expiring May 1, 2002.

1036 (c) One of the members under section 15.107(17)(a), one of the
1037 members under section 15.107(17)(b), and one of the members under section
1038 15.107(17)(d), for terms expiring on May 1, 2001.

1039 (2) PUBLIC SERVICE COMMISSION RULES.

1040 (a) Using the procedure under section 227.24 of the statutes, the
1041 public service commission shall promulgate the rules required under section
1042 196.378 (3) (a) and (4) (b) and (c) of the statutes, as created by this act, for the
1043 period before the effective date of the permanent rules promulgated under that
1044 section, but not to exceed the period authorized under section 227.24 (1) (c)
1045 and (2) of the statutes. Notwithstanding section 227.24 (1) and (3) of the
1046 statutes, the commission is not required to make a finding of emergency.

1047 (b) The public service commission shall submit in proposed form
1048 the rules required under section 196.378 (3) (a) and (4) (b) and (c) of the
1049 statutes, as created by this act, to the legislative council staff under section
1050 227.15 (1) of the statutes no later than the first day of the 6th month
1051 beginning after the effective date of this paragraph.

1052 (3) DEPARTMENT OF ADMINISTRATION BOARD RULES.

1053 (a) Using the procedure under section 227.24 of the statutes, the
1054 department of administration shall promulgate the rules required under
1055 section 196.96 (2) (c) and (4) (b) of the statutes, as created by this act, for the
1056 period before the effective date of the permanent rules promulgated under that
1057 section, but not to exceed the period authorized under section 227.24 (1) (c)

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1058 and (2) of the statutes. Notwithstanding section 227.24 (1) and (3) of the
1059 statutes, the department is not required to make a finding of emergency.

1060 (b) The department of administration shall submit in proposed
1061 form the rules required under section 196.96 (2) (c) and (4) (b) of the statutes,
1062 as created by this act, to the legislative council staff under section 227.15 (1) of
1063 the statutes no later than the first day of the 6th month beginning after the
1064 effective date of this paragraph.

1065

III. CFC WHITE PAPER

1066

1067 Sec. 196._____ of the statutes is created to read:

1068 (1) Transmission facilities constructed to increase the transmission import
1069 capability into the state shall use existing rights-of-way wherever
1070 practicable. The routing and design of such facilities should minimize
1071 environmental impacts consistent with achieving reasonable electric
1072 rates.

1073 (2) None of the provisions of sec. 196.494 shall be interpreted to waive or
1074 limit any of the provisions of sec. 196.491 (CPCN) or sec. 1.11 (WEPA).

1075

1076 Sec. 196.491(3g) of the statute is created to read:

1077 The public service commission shall not approve an application under this
1078 section for construction of any new high-voltage 345 kV or higher transmission
1079 facility in this state without first finding that wholesale and retail customers
1080 in the state will gain benefits in the form of usage, service, or increased
1081 regional reliability from such facility that are reasonable in relation to its
1082 costs.

1083

1084 Sec. 196.026 of the statutes is created to read:

1085 The commission shall promulgate rules establishing requirements and
1086 procedures for the preparation and review of environmental impact statements
1087 consistent with sec. 1.11 (WEPA). The rules shall, at a minimum:

1088 (1) Establish standards for when an environmental impact statement
1089 must be prepared.

1090 (2) Provide adequate time to comment and be heard on environmental
1091 impact statements.

1092 (3) Establish timetables that permit thorough review of environmental
1093 issues and the processing of dockets without undue delay in view
1094 of the need for additional transmission capacity.

1095

1096 Sec. 196.491(3h) of the statutes is created to read:

1097 (a) The PSC shall condition approval under sec. 196.491(3), Stats., of
1098 any high-voltage 345 kV or higher transmission facility upon
1099 payment of a transmission facility impact fee by the owner of the
1100 transmission facility to the local governmental units through
1101 which the new facilities are routed. Such fee shall be the same as
1102 the payments towns receive pursuant to sec. 79.04(1), Stats., for
1103 generation facilities located within their boundaries (*i.e.*, 3 mills).
1104 Such impact fees shall be allocated to each local unit of
1105 government where the transmission facilities are located.

1106 (b) This section first applies to approvals granted to applications filed
1107 after April 1, 1999.

1108 (c) The department of administration shall distribute such fees in
1109 accordance with sec. 16.397, Stats.

1110

1111 Sec. 16.397 of the statutes is created to read:

1112 The department shall distribute the transmission facility impact fees to the
1113 local units of government identified by the public service commission in orders
1114 issued pursuant to sec. 196.491(3h), Stats.

1115

1116 Sec. 196.491(3i) of the statutes is created to read:

1117 (1) The commission shall condition approval under sec. 196.491(3) of
1118 any new 345 kV or higher transmission facility upon payment by
1119 the owner of such facility of an environmental impact fee
1120 equivalent to 5% of the cost of the transmission facility as
1121 determined by the commission in the proceeding under sec.
1122 196.491(3).

1123 (2) An owner subject to this subsection shall pay such amount to the
1124 department of administration which shall distribute such fees in
1125 accordance with sec. 16.395.

1126 (3) Payments made under this section may not be used to offset any
1127 other required mitigation measures for the facility.

1128 (4) This section first applies to approvals granted to applications filed
1129 after April 1, 1999.

1130

1131 Sec. 16.395 is created to read:

1132 (1) From the fees collected pursuant to sec. 196.491(3i), the
1133 department shall distribute funds to the counties and other units
1134 of local government through which a 345 kV or higher
1135 transmission line is routed, with 50% distributed to the counties
1136 and 50% to other affected municipalities, and allocated in
1137 proportion to the amount of investment in each county and
1138 municipality.

1139 (2) Funds received under this section shall be used by the affected
1140 counties and municipalities for park, conservancy, wetland
1141 restoration and similar environmental offset projects.

1142 (3) Fees paid under 196.491(3h) and (3i) shall be recoverable by the
1143 owner as reasonably incurred expenses of providing transmission
1144 service.

1145

1146 Sec. 14.036 of the statutes is created to read:

1147 (1) Subject to the requirements of sec. (2), the governor may, on behalf
1148 of the state, enter into a Regional Transmission Need and Siting
1149 Compact with one or more states in the upper Midwest to create a
1150 joint process to determine the need for and siting of regional
1151 electric transmission facilities that will affect electric service in
1152 this state.

- 1153 (2) The Regional Transmission Need and Siting Compact shall require:
1154 (a) compliance with each state's environmental and siting
1155 standards for electric transmission facilities, and
1156 (b) provide for a regional need determination and a mechanism
1157 to resolve siting conflicts between states.

1158

1159 Sec. 196.494 of the statutes is amended to read:

- 1160 (3) The commission shall, under this subsection, issue an order
1161 requiring a public utility to construct or procure, on a competitive
1162 basis, the construction of transmission facilities specified by the
1163 commission in its order if the commission determines that such
1164 construction is necessary to relieve a constraint on a transmission
1165 system and the construction will materially benefit the customers
1166 of the public utility or other electric utilities or of an independent
1167 system operator, as defined in s. 196.485(1)(d), or independent
1168 transmission owner, as defined in s. 196.485(1)(dm).

1169

1170 Sec. 196.026 of the statutes is created to read:

1171 The commission, the department of administration, and the department of
1172 revenue shall develop and implement a program of incentives for the

1173 development of high-efficiency, small-scale generating facilities in the state
1174 that:

1175 (1) provide benefits in the form of support for the transmission and
1176 distribution system, power quality and environmental performance;
1177 and

1178 (2) employ such technologies as combined heat and power systems,
1179 fuel cells, microturbines, and photovoltaic systems which can be
1180 situated in, on, or next to buildings or other electric load centers.

1181

1182 Sec. 196.____ of the statutes is created to read:

1183 (1) The commission shall contract with an expert economic
1184 consultant to conduct a study on the potential of horizontal
1185 market power (including generation market power) to frustrate the
1186 creation of an effectively competitive retail electricity market in the
1187 state and to make recommendations on measures to eliminate
1188 such market power on a sustainable basis. For each
1189 recommendation, the study shall include an assessment of the
1190 effect on utility workers and shareholders, and on rates for each
1191 class of customer. Such study shall include an evaluation of the
1192 impact of transmission constraints on generation market power in
1193 local areas.

1194 (2) No later than January 1, 2001, the commission shall submit a
1195 report on the results of the study to the legislature in the manner
1196 provided in s. 13.172(2).

1197

1198 Sec. 196.20(4t) of the statutes is created to read:

1199 (a) Nothing in secs. 196.20, 196.21, 196.22, 196.37, 196.60 and
1200 196.604 prohibits the commission from approving and, subject to
1201 approval of the commission, each investor-owned public utility
1202 shall, no later than March 1, 2000, file with the commission retail
1203 rates that result in customers receiving market-based
1204 compensation for voluntary interruptions of firm load during peak
1205 periods of electric use.

1206

1207 Sec. 196.____ of the statutes is created to read:

1208 (1) Nothing in secs. 196.20, 196.21, 196.22, 196.37, 196.60 and
1209 196.604 prohibits the commission from approving and, subject to
1210 approval of the commission, each investor-owned public utility,
1211 shall file with the commission no later than March 1, 2000 new
1212 market-based pricing options and shall develop options for
1213 individual contracts for retail customers that will allow them,
1214 through service from their existing utility, to receive market

1215 benefits and to take market risk for their capacity and energy
1216 purchases.

1217 (2) The commission shall approve market-based rates that are
1218 consistent with market-based pricing and individual contract
1219 options established under sec. 1.

1220 (3) Market-based pricing and individual contract options developed
1221 under this section, and market-based rates, shall be designed so
1222 that other customers and utility shareholders are not harmed.

1223 (4) Other electric public utilities may, subject to the approval of the
1224 commission, implement the options set forth in this section and in
1225 sec. 196.20(4t).

1226

1227 Sec. 196.____ of the statutes is created to read:

1228 The commission shall promulgate rules requiring electric utilities to report as
1229 reasonably necessary on their current reliability status, including operating
1230 reserves, planning reserves, available transmission capacity, and outage status
1231 of major units and transmission lines. Such reports shall be open to public
1232 inspection, except that public disclosure may be delayed for a reasonable time
1233 if the commission finds that such disclosure will adversely affect the supply
1234 and price of energy in the state.

1235

IV. OTHER PROVISIONS

1236

1237 Section 285. __ is created to read:

1238 In establishing nitrogen oxides emission reductions for control of atmospheric

1239 ozone in another state pursuant to a call for a state implementation plan,

1240 issued prior to the effective date of this Act, the department shall not in a state

1241 implementation plan, by rule, or through the adoption of control strategies

1242 regulate nitrogen oxide emissions from generation facilities which are located

1243 in Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Douglas,

1244 Dunn, Eau Claire, Iron, Jackson, La Crosse, Monroe, Pepin, Pierce, Polk, Price,

1245 Rusk, Sawyer, St. Croix, Taylor, Trempealeau, Vernon, and Washburn counties.

1246 The department shall not, as a result of this subsection, require nitrogen

1247 oxides emission reductions that are more stringent for any other electric utility

1248 or large industrial core sources in this state identified by the environmental

1249 protection agency.

1250

1251 Section 196.485(2)(c) is amended to reference new sec. 2(ar); and new sec. 2 (ar)

1252 is created to read:

1253 (ar) The commission shall waive the requirement to issue an order under par.

1254 (a) for a transmission utility upon a showing by the transmission utility to the

1255 commission's satisfaction that a transfer to an independent system operator

1256 which has been accepted for filing with conditions by the federal energy

1257 regulatory commission and had members in the state prior to 12/31/98 would

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June 7, 1999

1258 have the effect of jeopardizing the tax-exempt status of the utility or its
1259 securities under the Internal Revenue Code of 1986. Such waiver shall be
1260 effective only until such tax questions have been resolved in a manner which
1261 permits compliance with the requirement without having the effect of
1262 jeopardizing tax-exempt status under the Internal Revenue Code of 1986.

1263

1264 Increase the total funding level for intervenor financing in sec. 20.155(l)(j) from
1265 \$500,000 to \$750,000.

1266

1267 Section 196.31(1) is amended to read:

1268 (1) in any proceeding before the commission, the commission shall
1269 compensate any participant in the proceeding who is not a public utility,
1270 for some or all of the reasonable costs of participation in the proceeding
1271 if:

1272 (a) The participation is necessary to provide for the record an adequate
1273 presentation of a significant position in which the participant has
1274 a substantial interest, and that an adequate presentation would
1275 not occur without a grant of compensation; or

1276 (b) The participation has provided a significant contribution to the
1277 record and has caused a significant financial hardship to the
1278 participant.

6/12/99

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PLEASE DELIVER IMMEDIATELY

To: Mark Kunkel, LRB
From: Lee Cullen, CWPB
Re: Additional mark-ups of LRB-3150/2

These comments supplement those provided to you on 6/11.

1. p. 27, l. 18. Change "subject to the approval of the commission" to "subject to any approval of the commission that is necessary" (as we did with green pricing (p. 32, l. 20)).

2. p. 38, l. 20 to p. 39, l. 4. Delete and replace with the following:

If the Midwest independent system operator has failed to commence operations or has ceased 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.

This implements the language of the 6/7 drafting instructions, p. 18, l. 416-426. Regional transmission organization (RTO) is a defined FERC term (see recent FERC NOPR on RTOs). An ISO is one form of RTO, but there are others. We intended to be broad rather than narrow in our description of a successor organization.

3. p. 40, l. 13. Change "independent system operator" to "independent system operator or regional transmission organization."

4. p. 41, l. 6. Change "take other actions related to operating a control area" to "operating a control area." 6/7, p. 6, l. 129.

5. p. 45, l. 1-2. Change "become part of a single zone for pricing purposes within the MISO" to "become part of the single zone for pricing purposes

within the MISO and the phase-in plan set forth in sec. 196.485(3m)4." See p. 41, l. 12-25. This is to insure that we are referring to the same single zone and the same phase-in plan.

6. p. 42, l. 23. Change "employes or independent contractors" to "directors, employes or independent contractors." This is what we were trying to get at in the original language.

7. p. 45, l. 25. Change "has become a member of the MISO and has committed" to "has become a member of the MISO, has agreed to transfer its transmission facilities to the MISO, and has committed." One can become a member of the MISO without agreeing to transfer facilities. We obviously intended both membership and transfer.

8. p. 48, l. 15. Change "transfer ownership of its transmission facilities to the transmission company" to "contribute its facilities to the transmission company as provided in sec. 196.485(5)." See p. 34, p. 16 and p. 45, l. 4 et seq.

With regard to the comments from the Legislative Council received yesterday from John Stolzenberg:

9. p. 10, l. 23. Change "shall be sufficient to equal 47% of the following" to "shall be sufficient to ensure that an amount equal to 47% of the sum of the following is spent for weatherization and other energy conservation services."

10. We did not intend to add position authorizations for DOA or PSC.

11. p. 8, l. 4. OK

12. p. 9, l. 21. OK

13. p. 11, l. 17. OK

14. p. 12, l. 15. No. There was no intent to include coops.

15. p. 13, l. 12. Change to "provide for an annual independent audit."

16. p. 14, l. 1. OK to change to "one or more nonstock, nonprofit

corporations"

17. p. 14, l. 17. Electric bills are not yet "unbundled" the way telephone bills are. The intent was to include the fee in the regular bill without itemization but provide annual notice to each customer.

18. p. 15, l. 3-4. OK

19. p. 18, l. 19. The wholesale supplier credit is intended to apply to both the fee and the program requirements, and this is the way it is drafted.

20. p. 18, l. 21. OK

21. p. 20, l. 11, 14. Change "line" to "facility."

22. p. 21, l. 7. Change "other environmental offset programs" to "other similar environmental programs."

23. p. 23, l. 14. Agree; see change in prior comments.

24. p. 25, l. 9. Not needed. The TC is an electric utility.

25. p. 26, l. 16. No

26. p. 28, l. 17. The PSC decreases this amount using its administrative discretion. Language is OK as drafted.

27. p. 29, l. 5. *Language is OK because it says PSC reduces amount by the percentage reduction which DOA has made.*

28. p. 30, l. 4; p. 31, l. 10, 15; p. 33, l. 14. OK

29. p. 32, l. 6. No. BTU is more precise.

30. p. 32, l. 12. No. Coops are not regulated by the PSC.

31. p. 33, l. 18. No limit is intended.

32. p.37, l. 9. OK

33. p. 37, l. 20. Change "in the transmission area" to "in those areas in which transmission facilities have been contributed." This also takes care of the instance where transmission facilities outside the EWU have been contributed.

34. p. 38, l. 12. It is meant to apply to DPC and to municipal utilities like Kaukauna which own transmission facilities. The reference is to the MISO because this is the only available ISO to join by the deadline.

39. p. 39, l. 12. Not necessary.

40. p. 40, l. 24-25. No. An electric utility includes a REC.

41. p. 41, l. 24. "Zone" is defined in the FERC order authorizing the MISO.

42. p. 42, l. 8. OK

43. p. 42, l. 20. OK

44. p. 43. We intend to prevent overlap, so that no person has more than one director.

45. p. 45, l. 1. See above change.

46. p. 47, l. 19; p. 48, l. 5. OK

47. p. 50, l. 13, 15. OK

48. p. 51, l. 24. It applies to utility affiliates of holding companies and the TC, as drafted.

49. p. 52, l. 16. OK

50. p. 53. See prior comment

51. p. 54, l. 7. No

52. p. 54, l. 23. Leave as drafted.

53. p. 60, l. 23. No

54. p. 63, l. 23. It is defined by the EPA

55. p. 65, l. 21. Agree. The transmission incentives should apply to applications filed after 4/1/99 (6/7, p. 49, l. 1107).

Leg Council COMMENTS on 3150/2 6/11/99

Style



There are lots of terms defined in the public benefits provisions that, in my opinion, constitute substance and therefore should be incorporated in the text of the draft. This is particularly true since many of them are used only once or twice. In the calculation of fees, for example, the reader is forced to flip back and forth between the text and the definitions, when it would be so much easier and clearer to incorporate all that information in the text. Where a term is used several times, such as "energy conservation program," the term could be spelled out in the section creating the state programs, and later, in the sections discussing commitment to community programs, reference could be made to that earlier program description. I have marked the definitions that I think could go into the text.

Substance

p. 10, l. 21 to p. 11, l. 5: requires that, of the \$ available to the new low-income program (\$27 million, initially), an amount equal to 47% of all \$ spent on low-income programs (47% of \$115.3 million=\$54.2 million, more than is available) must be spent on weatherization & conservation; to achieve the apparent intent, need to apply the requirement to individual programs that expend the funds, not only to the new program

Style



There appear to be several opportunities to consolidate existing statutes or repeal outdated statutes in connection with the drafting of the public benefits portions of the agreed upon package of legislation relating to electric utilities which, if pursued, would help to maintain the Statutes in good form. The following are such opportunities that we have identified:

1. **ss. 16.385 and 16.39, Stats.** These statutes govern the administration by the Department of Administration (DOA) of federal funds received for low-income weatherization and energy assistance programs. The former is very brief and the latter is quite detailed. The draft could combine these provisions into a consolidated statute regarding the delivery of these services and the new state-funded services. The objection may be raised that this would complicate the implementation of a "commitment to community" policy, but we think that it would be simple enough to specify that all citizens are eligible for federally funded programs and that the administration of federal program funds are not subject to local opt-out.

2. **s. 16.54 (2) (b), Stats.** This is a review by the Joint Committee on Finance of changes to the eligibility criteria for the federal Low-Income Home Energy Assistance Program. If the proposal combines the state and federal programs and specifies eligibility, this would be obsolete and should be repealed.

3. **s. 16.95 (9), Stats.** This is a requirement that the DOA prepare a 5-year plan every other year for the resolution of the energy needs of low-income households. It would appear that this requirement should be either integrated into the draft or repealed.

4. **ss. 46.215 (1) (n) and 46.22 (1) (b) 4m c. and e., Stats.** These sections require county social service departments to take applications for low-income weatherization and energy assistance programs. These requirements could be expanded to apply also to the new state-funded programs, left to apply only to the federal programs or repealed.

→ JPH S(H) 236 0320

ADDITIONAL COMMENTS ON LRB-3150/2

1) Substance:

- a) Add position authorizations for DOA or PSC?

2) Style:

- a) Ch. 196 already has 2 definitions of "electric utility" in ss. 196.491 (1) (d) and 196.494 (1) (a). The draft uses the 196.491 (1) (d) definition extensively and adds 2 more definitions of "electric utility" in ss. 16.957 (1) (g) and 196.378 (1) (d). Please define "electric utility" only once, e.g., in s. 196.491 (1) (d) to make life easier on people interpreting utility related statutes in future years.
- b) "Independent transmission company" is defined in s. 196.485 (1) (dm) by what it isn't. Shouldn't there be a tighter statutory definition?

powered by renewable energy resources starting December 31, 2000. These capacity requirements are enforced by the public service commission (PSC).

The draft presents options on: (1) whether the DOA must contract for the actual delivery of programs; (2) requiring periodic assessments of the need for and funding of the energy efficiency program; and (3) whether public utilities should be allowed to provide energy efficiency services.

In implementing the program, the DOA must comply with the state energy policy set forth in s. 12, stats., and state requirements on substantiating energy savings claims under s. 100.21, stats.

This draft relates only to the creation of the main features of public benefit programs on energy efficiency and renewable energy. The draft does not address the amount or source of funding for the programs. If the committee chooses to use the same administrative structures created in this draft for the administration of other public benefit programs, the appropriate provisions can be modified, as necessary.

In addition, if the committee chooses to develop and recommend this draft, then the committee should address a number of additional issues in designing energy efficiency and renewable energy program. These issues include whether this draft should include administrative provisions similar to those in its low-income energy program draft, WLCS: 0005/1, relating to:

1. Oversight from an advisory council.
2. An allocation plan for expenditure of program funds.
3. Program planning.
4. Delayed program implementation, based on one or more of the following: (a) the development of the new program under the draft; (b) the cessation of comparable utility programs; and (c) the availability of sufficient funds to support the new program.

Other issues that should be addressed include the coordination or reconciliation of the new programs created by the draft with existing programs relating to energy efficiency and renewable energy set forth in the statutes. These existing programs include the following:

1. The state agency facility energy efficiency program administered by the DOA [ss. 16.847 and 16.85 (5), stats.].
2. The energy development and demonstration program administered by the DOA [s. 16.956, stats.].
3. The DOA's wind energy program [s. 16.959, stats.].

(over)

Energy conservation

CRD-3150/2

4. County university extension programs on energy conservation [s. 59.56 (3) (f) 2., stats.].

5. The local government energy savings performance contracting program [s. 66.949, stats.].

6. ~~Gas and electric utility energy conservation programs [s. 196.374, stats.].~~

7. PSC promotion of renewable energy systems [s. 196.377 (1), stats.].

8. ~~Eastern Wisconsin utilities renewable energy generating capacity [s. 196.377 (2), stats.].~~

9. Utility advertising practices regarding energy conservation [s. 196.595, stats.].

1 ~~SECTION 1. 16.957 of the statutes is created to read:~~

2 ~~**16.957 Energy efficiency and renewable energy programs. (1) DEFINITION.** In this~~

3 ~~section: (a) "Public utility" has the meaning specified in s. 196.01 (5).~~

4 ~~(b) "Renewable energy" has the meaning specified in s. 196.378 (1) (g).~~

5 ~~(2) DEPARTMENT POWERS AND DUTIES. (a) The department shall establish programs to~~

6 ~~do the following:~~

7 ~~1. Facilitate the transformation of markets for the provision of energy efficiency~~

8 ~~services for residential, commercial and industrial energy users throughout the state to be~~

9 ~~self-sustaining without public support or regulatory intervention [by the public service~~

10 ~~commission] while meeting the needs of energy users and the public interest in increased~~

11 ~~energy efficiency.~~

12 ~~2. Provide or ensure the provision of energy efficiency services to residential,~~

13 ~~commercial and industrial energy users where the market for these services has not undergone~~

14 ~~the transformation identified in subd.1.~~

15 ~~3. Provide education and technical assistance that supports the programs established~~

16 ~~under subs. 1. and 2.~~