

Comments, etc.

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) (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 (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 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

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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.

or member

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.

in text

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.

in text

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

*incorporate into
the text of bill, not definition*

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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 ^{or members} 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.

Incorporate in text of bill

in text

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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 ^{of members} about renewable resources
18 or encouraging uses of renewable resources by customers or encouraging research ^{and ?}
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 ^{add coops?} 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 ^{or members} 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 ^{independent audit is conducted}
13 legislature under s. 13.172 (2) that describes each of the following: ^{by a different, independent entity}

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. ^{can't DOT identify other topics itself?}

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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only allow one contract for the whole program?

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:

Clar. by this - are they required to itemize the charge prohibited.

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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.: X

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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make this be same as on p. 29 of 3-5??

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.

3. 'Limitation on electric bill increases.' For the period beginning on the
6 effective date of this subdivision [revisor inserts date], and ending on June 30,
7 2008, the total increase in a customer's electric bills that is based on the requirement
8 to pay public benefits fees, including any increase resulting from an electric utility's
9 compliance with this section, may not exceed 3% of the total of every other charge for
10 which the customer is billed for that period or \$750 per month, whichever is less.

(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.

(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

BILL

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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Should this credit count against the amount of the program requirements?
or
is it only against program requirements?

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 ^{or member (?)} 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

BILL

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:

BILL

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 0.03% of the cost of the
11 high-voltage transmission line, as determined by the commission under s. 196.491

12 (3) (gm).

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.

Apply fees to transmission line or facility?

"line" excludes substations, etc.

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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. *what's an environmental offset?*

8 SECTION 4. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
9 the following amounts for the purposes indicated: *who determines/arbitrates it? (OOA?)*
16 who enforces it?

	1999-00	2000-01
10		
11	20.505 Administration, department of	
12	(10) UTILITY PUBLIC BENEFITS	
13	(q) General program operations	SEG A
14	-0-	-0-

*Fill in #11
(vs. use 13, 10 process)*

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:

BILL

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) (h) 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 an electric cooperative that is subject to the license fee under s. 76.48 (1).

Add
?

16 SECTION 11. 76.28 (1) (e) (intro.) of the statutes is amended to read:
 17 76.28 (1) (e) (intro.) "Light, heat and power companies" means any person,
 18 association, company or corporation, including corporations described in s. 66.069 (2)
 19 and including, qualified wholesale electric companies and transmission companies
 20 and except only business enterprises carried on exclusively either for the private use
 21 of the person, association, company or corporation engaged in them, or for the private
 22 use of a person, association, company or corporation owning a majority of all
 23 outstanding capital stock or who control the operation of business enterprises and
 24 except electric cooperatives taxed under s. 76.48 that engage in any of the following
 25 businesses:

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

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Not clear why this exception is added,

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.

BILL

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

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.

of electric cooperative members (?)

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.

BILL

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 establish market-based rates that are consistent
11 with the options specified in sub. (2) (b), except that the commission may not
12 establish a market-based rate unless the commission determines that the rate is not
13 likely to harm shareholders of the investor-owned electric public utility or customers
14 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 in filings under sub. (2) (b)
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:

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

BILL

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

5 p. 16, 14-5

Why have this reduction here?
 AB. Fees already reduced by DoA on 16/4.
 Should industries be Segmental?
 (After AB, fee for energy is zeroed out then 196.374 contribution can be reduced.)

in draft

BILL

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 ^{or members} 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.

BILL

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 ^{or members} 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 ^{or members} 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~~^{energy} content of the biomass fuels to the ~~British thermal unit~~^{energy}
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 <sup>why not
psc?</sup> 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.

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 ^{or members} 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 ^{Any limit on how long can bank credits}
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.

BILL

Handwritten notes:
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a violation

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

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

(b) The gravity of the violation.

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

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

196.485 (title) Transmission system requirements.

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

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

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

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

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

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

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

BILL

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

BILL

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

BILL

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 ^{security holder} 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

Can the
state
require
this?

what if WPS doesn't contribute its
transmission facilities to the TC? How be
exclusive provider

BILL

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.~~ (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 the transmission utility has proposed to transfer
15 control of its transmission facilities to the Midwest independent system operator 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

*Is this meant to apply to
WAPT or OPC?
If OPC, why limit
it to
MISO?*

BILL

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

12 Add that a TC is a public utility under 196.01(5) here (or in TC definition?)

BILL

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.

6 *Done pg 45 line 1*
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 a retail electric cooperative*
25 service directly to a retail customer. *or member*

BILL

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.

Not clear what this
phrase means.

BILL

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 ^{state or (?)} 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 ^{or managers} 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.

BILL

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

could
Both include MGBE.

*overlap for munis & retail
cops*

overlap for DPC

BILL

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

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

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

15 **SECTION 52.** 196.485 (4) (a) (intro.) of the statutes is amended to read:

16 196.485 (4) (a) (intro.) ~~A Except as provided in par. (am), a~~ transmission utility
17 may not transfer control over, or divest its interest in, its transmission facilities to
18 an independent system operator or independent transmission owner unless, to the
19 satisfaction of the commission, each of the following requirements is satisfied:

20 **SECTION 53.** 196.485 (4) (am) of the statutes is created to read:

21 196.485 (4) (am) When the Midwest independent system operator has begun
22 operations, each transmission utility in the transmission area that is a public utility
23 shall transfer operational control over its transmission facilities to the Midwest
24 independent system operator and each such transmission utility that has not
25 contributed its transmission facilities to the transmission company shall elect to

BILL

Not clear that this zone has to be of the same zone as on page 40, line 7

1

become part of a single zone for pricing purposes within the Midwest independent system operator.

2

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:

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.

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

BILL

1 withdraw its membership prior to the date on which the public utility affiliate
2 contributes transmission facilities to the transmission company under par. (b).

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

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

14 a. The structure of the transfer avoids or minimizes the material adverse tax
15 consequences to the public utility affiliate that result from the transfer.

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

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

24 4. If the transfer of transmission assets under this paragraph results in a
25 capital structure of the transmission company in which the percentage of common

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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~~ ^{or a CA under 196.49} 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

BILL

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.

BILL

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 ^{owner than a public utility affiliate} 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) ^{and land rights under} (b). _{Sub. (5) (c)}

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

BILL

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

Should 196.487 apply to NUP? DPC?

BILL

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

BILL

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 utility to construct

Not
196.491 definition
of electric utility
change rules in munis-merger?

BILL

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 utility or 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). *or members of an electric cooperative.*

8 SECTION 66. 196.494 (4) of the statutes is amended to read:

9 196.494 (4) The commission shall allow an electric a public utility to recover
 10 in its retail electric rates any costs that are prudently incurred by the public utility
 11 in complying with an order under sub. (3).

12 SECTION 67. 196.494 (5) of the statutes is created to read: *Move to subch V,
ch 14?*

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. *Clarify that the compact can't require fees or
appropriations?*

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

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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.

BILL

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:

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1 196.795 (6m) (b) *In general.*

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

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 a contributor public
5 utility affiliate 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 ^{products for} 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.

↑ IS THIS DEFINED
BY EPA?

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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.

SECTION 94. Appropriation changes.

12
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.

SECTION 95. Initial applicability.

18
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.

*make 7/1/99 effective date
for 6/2/99 drafting instructions?*

BILL

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)

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TO: Mark D. Kunkel
Legislative Reference Bureau

FAX NO.: 264-6948

CC: Larry Salustro (414-221-2140)

FROM: Lee Cullen

DATE: June 14, 1999

RE: Reliability Bill

Comments: Please make the enclosed changes in LRB 3150/2. This is consistent with the 6/7 text, page 20, line 473 and page 21, line 485.

Pages Including Cover 3
Sent By: glb

Original to follow: _____ Yes _____ x No

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Lee Cullen
Bill McCoshen

The changes on the successor language provision would be made on p. 61 of "1/2". This is due to the scope of the provision being extended to the holding company and the need to restrict the labor protections in Wisconsin state law to the employees within the state of Wisconsin.

A recommendation is attached.

Larry

[Larry Salustro 1414-221-2122]
[Attorney for Wisconsin Energy]

1999 - 2000 Legislature

- 61 -

LRB-3150Z
MDK/kmg/jf
SECTION 90

BILL

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

section:

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

(b) "Energy unit" means a unit ^{in THIS STATE} that is engaged in activities related to the production, generation, transmission or distribution of electricity, gas or steam or the recovery of energy from waste materials.

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

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

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

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

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

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

FISCAL ESTIMATE
 DOA-2048 N(R10/94)

Subject

Nitrogen oxide emission reduction restrictions

Fiscal Effect

State: No State Fiscal Effect

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

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

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

Local: No local government costs

- | | | |
|--|--|--|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Government Units Affected:
<input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
<input type="checkbox"/> Counties <input type="checkbox"/> WTCS Districts
<input type="checkbox"/> School Districts <input type="checkbox"/> Others |
|--|--|--|

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

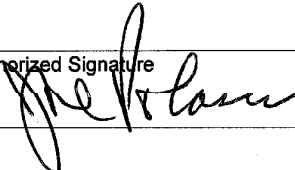
SUMMARY OF BILL -Section 92 of the Bill creates 285.48 of the statutes. This section prohibits the Department of Natural Resources from restricting nitrogen oxide emissions in 25 northwestern Wisconsin counties to meet nitrogen oxide emission reduction requirements for controlling ozone in another state. The section further prohibits the Department from requiring more stringent nitrogen oxide reductions on electric utilities in the remainder of the state or on sources defined by USEPA as large industrial core sources anywhere in the state.

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

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

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

Long-Range Fiscal Implications

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

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.	Amendment No.
99-3150/2	

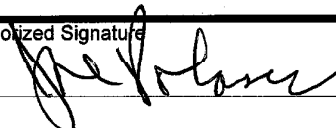
Subject
Nitrogen oxide emission reduction restrictions

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

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

NET ANNUALIZED IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$0	\$0
NET CHANGE IN REVENUES	\$0	\$0

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

NOTE: PLEASE RETURN THIS BILL DRAFT AND THIS TRANSMITTAL SHEET WITH YOUR FISCAL ESTIMATE FORMS

IF THERE IS A FISCAL EFFECT TO THE BILL, PLEASE SUBMIT THE FISCAL ESTIMATE WORKSHEET.

TO: Gordon Grant
Public Service Commission

FROM: Deborah Uecker
Division of Executive Budget and Finance
101 East Wilson Street
Administration Building, 10th Floor
Madison, WI 53707

SUBJECT: Fiscal Estimate - LRB Number 3150/2
1999 Bill Number

Un-Introduced
copy To
Senator Chvala
06-14-99

Please provide the necessary information on fiscal estimate forms and return two (2) copies to

Deborah Uecker, no later than: 15-JUN-99

If you cannot comply with the above deadline for any reason, please call Deborah at 267-0371.

Provide local government costs.

_____ is responsible for local government costs.

Department of Administration
Department of Natural Resources
Public Service Commission
Department of Revenue

DATE DOA SENT TO AGENCY:

14-Jun-99

DATE DOA RECEIVED FROM AGENCY:

TO BE COMPLETED BY AGENCY:

Name and phone number of person who prepared the fiscal estimate.

(Name)

(Phone Number)

PLEASE SEND ORIGINAL COPIES OF THE FORMS THAT CAN BE REPRODUCED.

LRB or Bill No./Adm. Rule No.
LRB 3150/2

Amendment No. if Applicable

FISCAL ESTIMATE
DOA-2048 N(R10/96)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

Changes in Regulation of the Electric Industry

Fiscal Effect

State: No State Fiscal Effect

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

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

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

20.155(l)(g)

Assumptions Used in Arriving at Fiscal Estimate

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

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

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

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

Long Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

PSC/Gordon Grant 267-9086

Authorized Signature/Telephone No.



Date

6/14/99

FISCAL ESTIMATE WORKSHEET

1999 Session

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

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. LRB 3150/2	Amendment No.
---	---------------

Subject

Changes in Regulation of the Electric Industry

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


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

NET ANNUALIZED FISCAL IMPACT
STATE

LOCAL

NET CHANGE IN COSTS \$ 250,000 \$ _____

NET CHANGE IN REVENUES \$ 250,000 \$ _____

Agency/Prepared by: (Name & Phone No.) PSC/Gordon Grant 267-9086	Authorized Signature/Telephone No. 	Date 6/14/99
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FISCAL ESTIMATE FORM

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # 3150/2

INTRODUCTION #

Admin. Rule #

Subject control of transmission facilities by a transmission company; creating a utility public benefits fund; requiring electric utilities and retail co-ops to charge public benefit fees; etc.

Fiscal Effect

State: No State Fiscal Effect

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

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

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

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

- Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

20.505(1)(ge); (1)(gs); (10)(q); (10)(r); (10)(s)

Assumptions Used in Arriving at Fiscal Estimate:

Based on DOA's limited experience in administering the \$17 million public benefits pilot, increased staffing will be required. Estimates below are minimal.

This bill will create a "utility public benefit fund," which is a segregated fund created in DOA. Also, a newly created 11 member Council on Utility Public Benefits will be attached to DOA. The bill directs DOA to operate low income and renewable energy programs from the new fund. Revenues from the bill could be as high as \$137 million.

DOA currently administers \$40 million in federal LIHEAP and Weatherization funds. This bill identifies \$27 million in new revenue for low income programs, and potentially another \$26 million through formulas to these existing programs, for a total of \$53 million in new funding. DOA is also currently administering a \$17 million public benefits pilot project with 2.00 FTE. The pilot focuses on demand-side management and renewable issues. This bill would add \$20 million in new revenue, and potentially \$64 million through a formula in the bill, for a total of \$84 million in new funding for energy conservation and renewables. This represents a 425% increase in the level of funding.

In total, DOA estimates \$137 million in new SEG revenue from the bill. The bill identifies \$27 million for low income funding, and \$20 million for energy conservation and efficiency and renewable resource funding. The other \$90 million will be formula driven based on further PSC analysis of utilities expenditure experience.

In order to administer \$137 million in new funding, DOA will incur contracted costs, plus limited internal staffing. The estimate is provided on the following page.

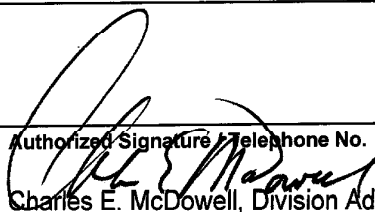
Long-Range Fiscal Implications:

Revenues will increase over time

Prepared By: / Phone # / Agency Name

Ryan Gill (266-6497) Division of Administrative Services, Department of Administration

Authorized Signature / Telephone No.


Charles E. McDowell, Division Administrator
267-3836

Date

June 15, 1999

Fiscal Estimate for LRB 3150/2 (continued)

Impact on the department is:

2.00 senior contract managers (Energy)	\$118,500 salary/fringe
1.00 senior accountant	60,200 salary/fringe
<u>1.00 community specialist (Housing)</u>	<u>52,300 salary/fringe</u>
4.00 SEG FTE	\$231,000 SEG
Contracted cost*	<u>\$600,000</u> SEG
Total annual general op. costs:	<u>\$831,000</u> SEG

For FY00, the estimated costs are for 2.00 FTE (\$118,500) and \$100,000 in contract authority, a total of \$218,500 SEG. For FY01, the full annual cost is estimated.

*DOA estimates that contractual services will be required to conduct an independent audit, encourage voluntary contributions, study incentives for distributed generation, and evaluate annual reports on utility electrical generation using renewable resources. The above estimate is based on 8,000 total contract hours averaging \$75/hour.

Technical Note to the drafter regarding LRB-3150/2

1. Under page 13, line 22: The department is required to contract with "a" non-stock, nonprofit corporation for:

- all energy conservation or efficiency services; and
- development or use of customer applications of renewable resources

This provision is very narrowly drawn and perhaps intentionally so. It would not seem unreasonable, however, to provide for the possibility that more than a single non-stock, non-profit corporation might effectively compete to provide such services. It would also seem reasonable to entertain the possibility that a for-profit entity might also provide for effective provision of such services. The question is whether there is intended to be only one nonprofit entity to provide all contracted services statewide.

2. On page 14, lines 23-25: are the percentages correctly constructed? If the first number is reduced to 69%, the second number does not increase (remains at 30%), thus the total (100%) does not compute.

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

- The appropriation schedule on page 21, line 14, should be increased to show \$218,500 in 1999-00 and \$831,000 in 2000-01.
- In Section 95, a paragraph should be added that authorizes FTE under s.20.505(10)(q) at 2.00 SEG FTE in 1999-00 and 4.00 FTE in 2000-01.

Prepared by: Paul McMahon (266-1359)
Department of Administration
June 15, 1999

FISCAL ESTIMATE FORM

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # LRB 3150/2
INTRODUCTION #
Admin. Rule #

Subject
Creation of an Electric Transmission Company

Fiscal Effect

- State:** No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation
- | | | |
|--|--|--|
| <input type="checkbox"/> Increase Existing Appropriation | <input checked="" type="checkbox"/> Increase Existing Revenues | <input checked="" type="checkbox"/> Increase Costs - May be Possible to Absorb Within Agency's Budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

<input type="checkbox"/> Decrease Costs |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues | |
| <input type="checkbox"/> Create New Appropriation | | |

Local: No Local Government Costs

- | | | |
|--|--|--|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory

2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory

4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected:
<input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
<input type="checkbox"/> Counties <input type="checkbox"/> Others _____
<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
|--|--|--|

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

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

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

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

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

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

Long-Range Fiscal Implications:

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue Daniel P. Huegel, (608) 266-5705	Yeang-Eng Braun <i>Yeang Eng Braun</i> (608) 266-2700	6/15/99

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # LRB 3150/2
INTRODUCTION #

Admin. Rule #

Subject
 Creation of an Electric Transmission Company

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

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

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ _____	\$ _____
NET CHANGE IN REVENUES	\$ see text of fiscal note	\$ _____

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue Daniel P. Huegel, (608) 266-5705	Yeang-Eng Braun <i>Yeang Eng Braun</i> (608) 266-2700	6/15/99

Tonorrow
6/15
10:00am

NOTE

3

1999 BILL

RM NOT
RUN

Gen Cal.

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

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 ~~nonutility~~ ^{nonutility affiliates} 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 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

WFO:
NO POSSIBLE

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.

Ownership
and

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.

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.~~ ^{spent} ~~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~~ ^{such} 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. ^{INSERT 4A} ^{INSERT 4B}

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 ^{in this state} 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~~ ^{a specific} 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 ~~March~~ 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 ~~acquires~~ ~~the property~~ ~~of the transmission company~~ ~~and the property~~ ~~of the~~ ~~company~~ ~~is not subject to double gross receipts taxation~~ *provides that*

INSERT SA

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 ^{voluntarily} 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).

or member

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) (p). ^h

20 (s) “Retail capacity” means the total amount of electricity that an electric
21 provider is capable of delivering to its retail customers ^{or members} 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 ^{for members} 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~~^a 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~~ *Provide for* 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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one or more

1 (b) The department shall, on the basis of competitive bids, contract with
2 nonstock, nonprofit corporation^s 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~~^a 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 170%~~ ^{Seventy percent} 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 ^{or member} 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 ~~1%~~ ^{0.3%} of the cost of the
11 high-voltage transmission line, as determined by the commission under s. 196.491

12 (3) (gm).

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.

BILL

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 ^{similar} 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:

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:

BILL

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

BILL

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) ~~to~~ to a public utility, as defined in s. 196.01 (5).

14

INSERT
23-14

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:

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

25

BILL

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.

BILL

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

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.~~

INSERT
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BILL

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 ~~establish~~ ^{approve} market-based rates that are consistent
11 with the options specified in sub. (2) ~~and~~, except that the commission may not
12 ~~establish~~ ^{approve} a market-based rate unless the commission determines that the rate ~~is~~ ^{will} not
13 ~~harm~~ ^{harm} shareholders of the investor-owned electric public utility or customers
14 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~~ ^{approving} market-based
17 rates under par. (a).

18 (4) Subject to ~~the~~ ^{any} approval of the commission ^{that is necessary}, an electric public utility that is
19 not an investor-owned electric public utility may implement market-based rates
20 ~~established~~ ^{approved} under sub. (3) (a) or implement the options in filings under sub. (2) ~~and~~
21 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

BILL

INSEAT 28-2 ✓

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.

(INSEAT 28-25) ✓

BILL

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

BILL

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 (b) "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 (g) "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.

BILL

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 ^{or members} 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 ^{or members} 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*
18 *to* 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 ^{or new members} 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.

BILL

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. ~~4.~~ 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: *an electric*

5 196.485 (1) (gm) "Transmission dependent utility" means ~~another~~ 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 ^{Security holder} shareholder" means a person that is a
10 ~~shareholder~~ ^{security holder} of a transmission company ~~organized as a corporation under Ch. 189,~~
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

INSERT
37-5

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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 ~~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~~

INSERT 38-21 ✓

BILL

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.

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

SECTION 50. 196.485 (3) (bm) of the statutes is repealed.

SECTION 51. 196.485 (3m) of the statutes is created to read:

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

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

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

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

c. Assume the obligations of a transmission utility that has transferred ownership of its transmission facilities to the transmission company under any

INSERT 39-21

BILL

credits

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 ~~to the extent~~ to the extent allowed under the agreement ~~of the~~ and
 5 to the extent allowed under state or federal law.

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.

or regional transmission organization

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.

BILL

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~~^{operate} 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.

BILL

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 ^{state or} 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: **nor**

16 1. That the transmission company has no less than 5 ~~and no~~ ^{organization} more than 14
17 managers or directors, except that the articles of ~~incorporation~~ ^{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 ^{or managers} 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 ^{directors} not employees 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.

BILL

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

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

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

15 **SECTION 52.** 196.485 (4) (a) (intro.) of the statutes is amended to read:

16 196.485 (4) (a) (intro.) ~~A~~ Except as provided in par. (am), a transmission utility
 17 may not transfer control over, or divest its interest in, its transmission facilities to
 18 an independent system operator or independent transmission owner unless, to the
 19 satisfaction of the commission, each of the following requirements is satisfied:

20 **SECTION 53.** 196.485 (4) (am) of the statutes is created to read:

21 196.485 (4) (am) ~~When the Midwest independent system operator has begun~~
 22 ~~operations,~~ each transmission utility in the transmission area that is a public utility
 23 shall transfer operational control over its transmission facilities to the Midwest
 24 independent system operator ~~and~~ and each such transmission utility that has not
 25 contributed its transmission facilities to the transmission company shall elect to

INSERT 44-23 ✓

BILL

1

become part of ^{the} single zone for pricing purposes within the Midwest independent system operator.

2

INSERT 45-2 ✓

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:

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 ^a the date on which the public utility affiliate will complete the contribution of transmission facilities.

INSERT 45-10 ✓

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.

INSERT 45-05 ✓

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

BILL

INSERT 46-2

1 withdraw its membership prior to the date on which the public utility affiliate
2 contributes transmission facilities to the transmission company under par. (b).

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

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

14 a. The structure of the transfer avoids or minimizes the material adverse tax
15 consequences to the public utility affiliate that result from the transfer.

INSERT 46-15

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

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

24 4. If the transfer of transmission assets under this paragraph results in a
25 capital structure of the transmission company in which the percentage of common

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

INSERT 47-19 ✓

BILL

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~~ ^{196.49 or}
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. *as required under par. (b)*

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~~ ^{contribute} 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.

BILL

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 ^{other than a public utility affiliate,} 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 ^{and land rights} by a public utility affiliate under sub. (5) (b) ^{and (c)} ✓

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

BILL

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 ^{or members} 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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52-20 ✓

INSERT 52-24 ✓

BILL

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 public~~ utility to construct

25

plain text

BILL

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~~ utility or 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).

8 **SECTION 66.** 196.494 (4) of the statutes is amended to read:

9 196.494 (4) The commission shall allow an electric ~~public~~ utility to recover
10 in its retail electric rates any costs that are prudently incurred by the ~~public~~ utility
11 in complying with an order under sub. (3).

12 **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.

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

BILL

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;

BILL

1 **SECTION 74.** 196.795 (5) (p) 1., 2., 3. and 4. of the statutes are renumbered
2 196.795 (6m) (h) 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.

BILL

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:

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 ~~the~~ contributor public
5 utility affiliate ^s 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,

each of
the

s in the holding company system

BILL

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:

BILL

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 ^{in this state} 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.

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 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

BILL

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.

SECTION 94. Appropriation changes.

12
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.

SECTION 95. Initial applicability.

18
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.

BILL

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)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3150/3ins
MDK:.....

1

INSERT 4A: ✓

low-income, energy conservation and renewables ✓

2

INSERT 4B: ✓

This requirement replaces a requirement under current law that an electric utility annually spend a specified percentage of ~~of~~ annual operating revenues on energy conservation programs. ^{its}

3

INSERT 5A: ✓

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

4

INSERT 23-14: ✓

5

, or to a cooperative association organized under ch. 185 for the purpose of providing

6

electricity to its members only

7

INSERT 26-25: ✓

8

distribution and sale of electric energy

9

INSERT 28-2: ✓

10

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

11

196.31 (1) (a) The participation is necessary to provide for the record an

12

adequate presentation of a significant position in which the participant has a

13

substantial interest, and that an adequate presentation would not be possible occur

14

without a grant of compensation; or

15

History: 1983 a. 27; 1985 a. 297; 1989 a. 56 s. 259; 1993 a. 496.

INSERT 28-25: ✓

16

The commission may allow each utility to spend additional moneys on the programs

17

specified in sub. (2) if the utility otherwise complies with the requirements of this

18

section and s. 16.957 (4). ✓

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INSERT 37-5: ✓

that is not a transmission utility and

INSERT 37-20: ✓

those areas in which transmission facilities have been contributed

INSERT 38-21: ✓

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

INSERT 39-21: ✓

, subject to any approval required under federal or state law,

INSERT 44-23: ✓

shall become a member of the Midwest independent system operator no later than June 30, 2000, and

INSERT 45-2: ✓

and any phase-in plan prepared under sub. (3m) (a) 4₀ ✓

INSERT 45-16: ✓

no later than June 30, 2000,

INSERT 45-25: ✓

has agreed to transfer its transmission facilities to the Midwest independent system operator

INSERT 46-2: ✓

1 5. Petitions the commission and the federal energy regulatory commission to
2 approve the contributions specified in subds. 3. and 4. and agrees in such a petition
3 not to withdraw the petition in the event that the commission or the federal energy
4 regulatory commission conditions its approval on changes that are consistent with
5 state or federal law.

6 **INSERT 46-15:**

7 and avoids or minimizes material adverse consequences on public utility rates that
8 do not arise out of combining the transmission company's facilities into a single zone
9 in the Midwest independent system operator

10 **INSERT 47-19:**

11 or a certificate under s. 196.49

12 **INSERT 52-20:**

13 filed after the effective date of this paragraph [revisor insert ³(date),

14 **INSERT 52-24:**

15 If the commission has approved an application under this section for a certificate of
16 public convenience and necessity for a high-voltage transmission line that is
17 designed for operation at a nominal voltage of 345 kilovolts or more that was filed
18 after April 1, 1999, and before the effective date of this paragraph [revisor inserts
19 date], the commission shall require the applicant to pay the fees specified in sub. (3g)

20 (a). For any application subject to this paragraph,

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3150/3dn

MDK: *kmj*

Senator Chvala:

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

1. Please review the last sentence of proposed s. 196.374 (3), as I changed the suggested language for the sake of consistency with the rest of the subsection.

2. The bill does not refer to "high voltage facilities" in proposed s. 16.969 (2) (a) and (b) because that term is not defined. Instead, as in the prior version of the bill, the bill uses the term "high-voltage transmission line", which is defined in s. 196.491 (1) (f), stats., to include "associated facilities". Is this okay?

3. Regarding the change indicated by Mr. Cullen on page 44 of the prior version, please note that this version repeals s. 196.485 (3) (bm), stats., and that your intent is accomplished in proposed s. 196.485 (4) (am), which is created in the bill. Also, the language provided by Mr. Cullen at the top of page 45 regarding the MISO's duties is not necessary because such duties are already included in proposed s. 196.485 (1m) (c).

4. Please note the change to proposed s. 196.491 (3) (gm). Also note that the initial applicability provision under SECTION 95 (1) of LRB-3150/2 has been eliminated.

5. I assume that no changes are required based on the Legislative Council comments regarding page 14, line 17; page 38, line 12; page 43, and page 45, line 1 of LRB-3150/2.

Stat

Stat

Mark D. Kunkel
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State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3150/3
MDK:kmg:km

stays

1999 BILL

*new change to
Mark 13*

Keep in file

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

BILL

1 (ge), 196.485 (1) (gm), 196.485 (1) (j), 196.485 (1m), 196.485 (2) (ar), 196.485 (2)
2 (bx), 196.485 (2) (d), 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 and ownership
8 of transmission facilities by a transmission company and a Midwest
9 independent system operator, ownership of nonutility assets by a public utility
10 holding company, investments in transmission facilities, offers of employment
11 to certain public utility and nonutility affiliates employees, fees and approvals
12 for certain high-voltage transmission lines, construction of certain electric
13 transmission facilities, environmental reviews by the public service
14 commission, reports on reliability status of electric utilities, state participation
15 in a regional transmission need and siting compact, incentives for development
16 of certain generating facilities, study of market power and retail electric
17 competition, market-based compensation, rates and contracts for electric
18 customers, regulation of certain nitrogen oxide emissions, establishing
19 programs for low-income energy assistance, improving energy conservation
20 and efficiency markets and encouraging the development and use of renewable
21 resources, creating a council on utility public benefits, establishing a utility
22 public benefits fund, requiring electric utilities and retail electric cooperatives
23 to charge public benefits fees to customers and members, imposing
24 requirements on the use of renewable resources by electric utilities and

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

Analysis by the Legislative Reference Bureau

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

Low-income, conservation and renewables programs

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

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

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

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

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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 after fiscal year 2003-04 if DOA determines to reduce or discontinue such programs. The public benefits fee paid by a customer of a nonmunicipal utility is subject to the same limit that applies to a municipal utility or cooperative for the period ending on June 30, 2008.

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

Renewable energy resources

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

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

Asset cap

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

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

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

Transmission system operation

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

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

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

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

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

Employment requirements for acquired energy units

The bill imposes certain employment requirements on a person who acquires an energy unit, which is defined as a business unit of a nonutility affiliate in a public utility holding company system or a public utility or cooperative association in which the business unit engages in certain energy-related activities. A person who acquires an energy unit must offer employment to the energy unit's nonsupervisory 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

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

Approval of high-voltage transmission lines

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

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

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

Other requirements

The bill imposes the following duties on the PSC:

1. Requires the PSC to promulgate rules for carrying out the PSC's duties under current law regarding the consideration of environmental impact of certain actions.
2. Requires the PSC to promulgate rules requiring certain electric utilities and cooperative associations to submit reports on their electric reliability status.
3. Requires the PSC to study and report to the legislature on the establishment of a program for providing incentives for the development of certain high-efficiency, small-scale electric generating facilities.
4. Requires the PSC to contract for a study and submit a report to the legislature on the potential for horizontal market power of electric generators to frustrate the creation of effectively competitive retail electric markets.
5. Requires the PSC to approve certain market-based rates, individual contract options and market-based compensation for voluntary service interruptions for certain customers of certain electric public utilities.
6. Requires the PSC to order a public utility affiliate or the transmission company described above to make certain investments in its facilities if the PSC determines that the public utility affiliate or transmission company is not making investments that are sufficient to ensure reliable electric service.

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

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

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

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

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

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

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

6 (a) Two members appointed by the governor.

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

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

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

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

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

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

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

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

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

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

BILL**SECTION 2**

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

4 (cm) "Council" means the council on utility public benefits created under s.
5 15.107 (17).

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

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

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

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

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

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

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

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

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

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

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

8 (o) “Low-income need percentage” means the percentage that results from
9 dividing the sum of the following by the amount of low-income need in fiscal year
10 1998–99:

11 1. The total amount received by the department for low-income funding under
12 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in fiscal year 1997–98.

13 1m. The public benefits fees established for fiscal year 1999–2000 under sub.
14 (4) (c) 1.

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

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

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

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

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

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

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

BILL**SECTION 2**

1 supplied by electric generating facilities owned or operated by the electric provider
2 or any other person. “Retail capacity” does not include any electricity that is not used
3 to satisfy the electric provider’s retail load obligations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 b. Proposals for encouraging the development or use of customer applications
21 of renewable resources, including educating customers or members about renewable
22 resources or encouraging uses of renewable resources by customers ^{or members} for encouraging
23 research technology transfers. In each fiscal year, the department shall ensure that
24 4.5% of the appropriation under s. 20.505 (10) (s) is awarded in grants under this
25 subd. 1. b.

BILL**SECTION 2**

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

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

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

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

14 2m. Criteria for the selection of proposals by a corporation specified in sub. (3)
15 (b).

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

20 4. Requirements for electric utilities to allow customers ^{or members} to include voluntary
21 contributions to assist in funding a commitment to community program or a program

22 established under par. (a) or (b) 1. with bill payments for electric service. The rules
23 may require an electric utility to provide a space on an electric bill in which a

24 customer ^{or member} may indicate the amount of a voluntary contribution and the customer's ^{or member's}

25 preference regarding whether a contribution should be used for a program

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

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

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

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

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

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

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

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

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

owned by customers or members

BILL**SECTION 2**

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

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

7 (b) The department shall, on the basis of competitive bids, contract with one
8 or more nonstock, nonprofit corporations organized under ch. 181 to administer the
9 programs established under sub. (2) (b) 1., including soliciting proposals, processing
10 grant applications, selecting, based on criteria specified in rules promulgated under
11 sub. (2) (c) 2m., proposals for the department to make awards and distributing grants
12 to recipients.

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

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

23 (am) *Electric bills.* An electric utility shall include a public benefits fee in a
24 customer's bill and shall provide the customer with an annual statement that

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1 identifies the annual charges for public benefits fees and describes the programs for
2 which fees are used.

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

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

9 2. No more than seventy percent of the total amount of fees charged by an
10 electric provider may be charged to residential customers and 30% of the total may
11 be charged to nonresidential customers.

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

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

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

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

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

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

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

13 3. 'Limitation on electric bill increases.' For the period beginning on the
14 effective date of this subdivision ... [revisor inserts date], and ending on June 30,
15 2008, the total increase in a customer's electric bills that is based on the requirement
16 to pay public benefits fees, including any increase resulting from an electric utility's
17 compliance with this section, may not exceed 3% of the total of every other charge for
18 which the customer is billed for that period or \$750 per month, whichever is less.

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

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1 required to pay under this paragraph and may charge different fees to different
2 classes of customers or members.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 **16.969 Fees for certain high-voltage transmission lines.** (1) In this
11 section:

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

13 (b) "High-voltage transmission line" means a high-voltage transmission line,
14 as defined in s. 196.491 (1) (f), that is designed for operation at a nominal voltage of
15 345 kilovolts or more.

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

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

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

22 (b) A one-time environmental impact fee in amount equal to 5% of the cost of
23 the high-voltage transmission line, as determined by the commission under s.
24 196.491 (3) (gm).

BILL

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

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

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

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

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

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

	1999-00	2000-01
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21 **20.505 Administration, department of**

22 (10) UTILITY PUBLIC BENEFITS

(q) General program operations	SEG	A	-0-	-0-
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24 **SECTION 5.** 20.505 (1) (ge) of the statutes is created to read:

BILL**SECTION 5**

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

2 All moneys received from the payment of fees under the rules promulgated under s.

3 16.969 (2) (a) for distributions to to towns, villages and cities under s. 16.969 (3) (a).

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

5 20.505 (1) (gs) *High-voltage transmission line environmental impact fee*

6 *distributions.* All moneys received from the payment of fees under the rules

7 promulgated under s. 16.969 (2) (b) for distributions to counties, towns, villages and

8 cities under s. 16.969 (3) (b).

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

10 20.505 (10) UTILITY PUBLIC BENEFITS. (q) *General program operations.* From

11 the utility public benefits fund, the amounts in the schedule for *general program*

12 operations.

13 (r) *Low-income assistance grants.* From the utility public benefits fund, a sum

14 sufficient for low-income assistance grants under s. 16.957 (2) (a).

15 (s) *Energy conservation and efficiency and renewable resource grants.* From the

16 utility public benefits fund, a sum sufficient for energy conservation and efficiency

17 and renewable resource grants under s. 16.957 (2) (b) 1.

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

19 25.17 (1) (xm) Utility public benefits fund (s. 25.96);

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

21 **25.96 Utility public benefits fund.** There is established a separate

22 nonlapsible trust fund designated as the utility public benefits fund, consisting of

23 deposits by the public service commission under s. 196.374 (3), public benefits fees

24 received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions received under

25 s. 16.957 (2) (c) 4. and (d) 2.

BILL

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

2 76.28 (1) (d) “Gross revenues” for a light, heat and power company other than
3 a qualified wholesale electric company or a transmission company means total
4 operating revenues as reported to the public service commission except revenues for
5 interdepartmental sales and for interdepartmental rents as reported to the public
6 service commission and deductions from the sales and use tax under s. 77.61 (4),
7 except that the company may subtract from revenues either the actual cost of power
8 purchased for resale, as reported to the public service commission, by a light, heat
9 and power company, except a municipal light, heat and power company, that
10 purchases under federal or state approved wholesale rates more than 50% of its
11 electric power from a person other than an affiliated interest, as defined in s. 196.52
12 (1), if the revenue from that purchased electric power is included in the seller’s gross
13 revenues or the following percentages of the actual cost of power purchased for
14 resale, as reported to the public service commission, by a light, heat and power
15 company, except a municipal light, heat and power company that purchases more
16 than 90% of its power and that has less than \$50,000,000 of gross revenues: 10% for
17 the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50%
18 for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric
19 company, “gross revenues” means total business revenues from those businesses
20 included under par. (e) 1. to 4. For a transmission company, “gross revenues” means
21 total operating revenues as reported to the public service commission, except
22 revenues for transmission service that is provided to a public utility that is subject
23 to the license fee under sub. (2) (d), to a public utility, as defined in s. 196.01 (5), or
24 to a cooperative association organized under ch. 185 for the purpose of providing
25 electricity to its members only.

BILL

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

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

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

12 76.28 (1) (e) 5. Transmitting electric current for light, heat or power.

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

14 76.28 (1) (j) “Transmission company” has the meaning given in s. 196.485 (1)
15 (ge).

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

17 76.28 (2) (c) (intro.) ~~For~~ Except as provided under par. (e), for private light, heat
18 and power companies for 1986 and thereafter, an amount equal to the apportionment
19 factor multiplied by the sum of:

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

21 76.28 (2) (d) ~~For~~ Except as provided under par. (e), for municipal light, heat and
22 power companies, an amount equal to the gross revenues, except gross revenues from
23 operations within the municipality that operates the company, multiplied by the
24 rates under par. (b) or (c).

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

BILL

1 76.28 (2) (e) For transmission companies, an amount equal to the gross
2 revenues multiplied by the rates under par. (c).

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

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

5 196.025 (2) The commission shall promulgate rules establishing requirements
6 and procedures for the commission to carry out the duties under s. 1.11. Rules
7 promulgated under this subsection shall include requirements and procedures for
8 each of the following:

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

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

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

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

18 196.025 (3) The commission shall promulgate rules establishing requirements
19 and procedures for electric utilities, as defined under s. 196.491 (1) (d), to file reports
20 with the commission, on a frequency that the commission determines is reasonably
21 necessary, on their current reliability status, including the status of operating and
22 planning reserves, available transmission capacity and outages of major operational
23 units and transmission lines. A report filed under the rules promulgated under this
24 subsection is subject to inspection and copying under s. 19.35 (1), except that the
25 commission may withhold the report from inspection and copying for a period of time

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

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

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

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

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

13 (b) No later than January 1, 2001, the commission shall submit a report of its
14 findings and recommendations under par. (a) to the chief clerk of each house of the
15 legislature for distribution to the appropriate standing committees under s. 13.172
16 (3).

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

18 196.025 (5) (a) The commission shall contract with an expert consultant in
19 economics to conduct a study on the potential for horizontal market power, including
20 the horizontal market power of electric generators, to frustrate the creation of an
21 effectively competitive retail electricity market in this state and to make
22 recommendations on measures to eliminate such market power on a sustainable
23 basis. The study shall include each of the following:

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

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

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

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

7 **196.192 Market-based compensation, rates and contracts.** (1) In this
8 section, “electric public utility” means a public utility whose purpose is the
9 generation, distribution and sale of electric energy.

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

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

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

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

BILL**SECTION 22**

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

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

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

9 196.31 (1) (intro.) In any proceeding before the commission, the commission
10 ~~may~~ shall compensate any participant in the proceeding who is not a public utility,
11 for some or all of the reasonable costs of participation in the proceeding if the
12 commission finds that:

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

14 196.31 (1) (a) The participation is necessary to provide for the record an
15 adequate presentation of a significant position in which the participant has a
16 substantial interest, and that an adequate presentation would not ~~be possible~~ occur
17 without a grant of compensation; or

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

19 **196.374 Low-income assistance, energy efficiency and other**
20 **programs.** (1) In this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 energy” does not include any electricity that is not used to satisfy the electric
2 provider’s retail load obligations.

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

9 (h) “Renewable resource” means any of the following:

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

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

12 b. Tidal or wave action.

13 c. Solar thermal electric or photovoltaic energy.

14 d. Wind power.

15 e. Geothermal technology.

16 g. Biomass.

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

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

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

BILL**SECTION 26**

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 or members and that is supplied by renewable
6 facilities 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 or members total renewable energy in at least the following
11 percentages of its total retail energy sales, either directly or through renewable
12 resource credits 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

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

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

18 2. Establishing alternative price structures, including price structures under
19 which customers ^{or members} 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.

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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 or members in excess of the
10 percentages specified in sub. (2) (a) 1. to 6. may, in the applicable year, sell to any
11 other electric provider a renewable resource credit or a portion of a renewable
12 resource credit at any negotiated price. Alternatively, an electric provider may use
13 a renewable resource credit or portion of a renewable resource credit in a subsequent
14 year to establish compliance with sub. (2) (a). The commission shall promulgate
15 rules that establish requirements for calculating the amount of a renewable resource
16 credit.

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

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

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

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1 enforced by action on behalf of the state by the attorney general. A court imposing
2 a forfeiture under this subsection shall consider all of the following in determining
3 the amount of the forfeiture:

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

6 (b) The gravity of the violation.

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

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

10 **196.485 (title) Transmission system requirements.**

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

12 196.485 (1) (am) "Contribute a transmission facility" means to divest a person's
13 interest in the transmission facility and to transfer ownership of the transmission
14 facility and associated deferred tax reserves to another person.

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

16 196.485 (1) (be) "Director" means, with respect to a transmission company
17 organized as a corporation under ch. 180, a member of the board of directors of the
18 transmission company.

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

20 196.485 (1) (bs) "Electric utility" has the meaning given in s. 196.491 (1) (d).

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

22 196.485 (1) (dm) (intro.) "Independent transmission owner" ~~means;~~

23 1m. Means a person that satisfies each of the following:

24 **SECTION 32.** 196.485 (1) (dm) 1. of the statutes is renumbered 196.485 (1) (dm)

25 1m. a.

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

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

3 **SECTION 34.** 196.485 (1) (dm) 3. of the statutes is renumbered 196.485 (1) (dm)

4 1m. b. and amended to read:

5 196.485 (1) (dm) 1m. b. The person is not an affiliated interest of a person

6 specified in subd. ~~1.~~ 1m. a.

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

8 196.485 (1) (do) “Land right” means any right in real property, including fee
9 simple ownership or a right-of-way or easement, that has been acquired for a
10 transmission facility that is located or intended to be located on the real property.

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

12 196.485 (1) (dq) “Manager” means, with respect to a transmission company
13 organized as a limited liability company under ch. 183, a manager, as defined in s.
14 183.0102 (13), of the transmission company.

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

16 196.485 (1) (dr) “Merger enforcement policy” means the enforcement policy of
17 the federal department of justice and the federal trade commission regarding
18 horizontal acquisitions and mergers that are subject to 15 USC 1, 18 or 45.

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

20 196.485 (1) (ds) “Midwest independent system operator” means the
21 independent system operator the establishment of which the federal energy
22 regulatory commission has conditionally authorized in an order issued on September
23 16, 1998, or the successor to such independent system operator.

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

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

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

4 196.485 (1) (dv) “Organizational start-up date” means, with respect to a
5 transmission company that is organized as a limited liability company under ch. 183,
6 the date on which the articles of organization become effective under s. 183.0111 or,
7 with respect to a transmission company that is organized as a corporation under ch.
8 180, the date on which the articles of incorporation become effective under s.
9 180.0123.

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

11 196.485 (1) (em) “Retail electric cooperative” means a cooperative that provides
12 retail electric service to its members.

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

14 196.485 (1) (fe) “Security” means, with respect to a transmission company
15 organized as a corporation under ch. 180, a share, as defined in s. 180.0103 (15), and,
16 with respect to a transmission company organized as a limited liability company
17 under ch. 183, a limited liability company interest, as defined in s. 183.0102 (11).

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

19 196.485 (1) (ge) “Transmission company” means a corporation organized under
20 ch. 180 or a limited liability company organized under ch. 183 that has as its sole
21 purpose the planning, constructing, operating, maintaining and expanding of
22 transmission facilities that it owns to provide for an adequate and reliable
23 transmission system that meets the needs of all users that are dependent on the
24 transmission system and that supports effective competition in energy markets
25 without favoring any market participant.

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

2 196.485 (1) (gm) “Transmission dependent utility” means an electric utility
3 that is not a transmission utility and that is dependent on the transmission system
4 of another person for delivering electricity to the public utility’s customers.

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

6 196.485 (1) (j) “Transmission utility security holder” means a person that is a
7 security holder of a transmission company, is an investor-owned transmission utility
8 in the transmission area and has contributed its transmission facilities to the
9 transmission company.

10 **SECTION 46.** 196.485 (1m) of the statutes is created to read:

11 196.485 (1m) DUTY TO PROVIDE TRANSMISSION SERVICE. (a) The duty of any
12 electric utility that has contributed its transmission facilities to the transmission
13 company to finance, construct, maintain or operate a transmission facility shall
14 terminate on the date, as determined by the commission under sub. (2) (d), that the
15 transmission company begins operations.

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

21 (c) After beginning operations, the Midwest independent system operator shall
22 have the exclusive duty to provide transmission service in the transmission area and
23 shall ensure that each transmission facility in the transmission area that is under
24 its operational control is planned, constructed, operated, maintained and controlled
25 as part of a single transmission system.

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

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

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

10 196.485 (2) (ar) The commission shall waive the requirement to issue an order
11 against a transmission utility under par. (a) if the transmission utility shows, to the
12 satisfaction of the commission, that a transfer of its transmission facilities to the
13 Midwest independent system operator may have the effect of jeopardizing the
14 tax-exempt status of the transmission utility or its securities under the Internal
15 Revenue Code. A waiver under this paragraph shall be in effect until the commission
16 determines that the proposed transfer does not have the effect described in this
17 paragraph.

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

19 196.485 (2) (bx) If the Midwest system operator fails to commence operations
20 or ceases operations, the requirements of this section that apply to the Midwest
21 independent system operator shall apply to any other independent system operator
22 or regional transmission organization that is authorized under federal law to operate
23 in this state. The commission shall require that any transfer of transmission
24 facilities to such independent system operator or regional transmission organization
25 satisfies the requirements of this section.

BILL**SECTION 50**

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

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

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

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

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

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

8 196.485 (3m) TRANSMISSION COMPANY. (a) *Duties.* 1. The transmission company
9 shall do each of the following:

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

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

19 c. Assume the obligations of a transmission utility that has transferred
20 ownership of its transmission facilities to the transmission company under any
21 agreement by the transmission utility to provide transmission service over its
22 transmission facilities or credits for the use of transmission facilities, except that the
23 transmission company may modify such an agreement to the extent allowed under
24 the agreement and to the extent allowed under state or federal law.

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

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

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

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

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

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

22 c. Own electric generation facilities or sell, market or broker electric capacity
23 or energy in a relevant wholesale or retail market as determined by the commission,
24 except that, if authorized or required by the federal energy regulatory commission,
25 the transmission company may procure or resell ancillary services obtained from 3rd

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1 parties, engage in redispatch activities that are necessary to relieve transmission
2 constraints or operate a control area.

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

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

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

23 1. Subject to the approval of the commission under s. 196.491 (3), construct and
24 own transmission facilities, including high-voltage transmission lines, as defined in
25 s. 196.491 (1) (f), in the transmission area or in any other area of the state in which

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1 transmission facilities that have been contributed to the transmission company are
2 located. This subdivision does not affect the right or duty of an electric utility that
3 is not located in the transmission area or that has not contributed its transmission
4 facilities to the transmission company to construct or own transmission facilities.

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

8 (c) *Organization.* The articles of organization, as defined in s. 183.0102 (1), of
9 a transmission company that is organized as a limited liability company under ch.
10 183 or the bylaws of a transmission company that is organized as a corporation under
11 ch. 180 shall provide for each of the following:

12 1. That the transmission company has no less than 5 nor more than 14
13 managers or directors, except that the articles of organization or bylaws may allow
14 the requirements of this subdivision to be modified upon a unanimous vote of the
15 managers or directors during the 10-year period after the organizational start-up
16 date or upon a two-thirds vote of the board of directors or managers after such
17 10-year period.

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

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

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

6 b. Each group of nontransmission utility security holders that, as a group, owns
7 10% or more of the outstanding voting securities of the transmission company may
8 appoint one manager or director of the transmission company for a one-year term
9 if the group has entered into a written agreement regarding the appointment and the
10 group files the agreement with the secretary of the transmission company, except
11 that the requirements of this subd. 3. b. may be modified upon a unanimous vote of
12 the managers or directors.

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

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

19 4. That, during the 5-year period after the organizational start-up date, no
20 public utility affiliate that contributes transmission facility assets to the
21 transmission company under sub. (5) (b) and no affiliate of such a public utility
22 affiliate may increase its percentage share of the outstanding securities of the
23 transmission company prior to any initial issuance of securities by the transmission
24 company to any 3rd party other than a 3rd party exercising its right to purchase
25 securities under sub. (6) (b), except that this subdivision does not apply to securities

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1 that are issued by the transmission company in exchange for transmission facilities
2 that are contributed in addition to the transmission facilities that are contributed
3 under sub. (5) (b) and except that the requirements of this subdivision may be
4 modified upon a unanimous vote of the managers or directors.

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

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

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

13 196.485 (4) (a) (intro.) ~~A~~ Except as provided in par. (am), a transmission utility
14 may not transfer control over, or divest its interest in, its transmission facilities to
15 an independent system operator or independent transmission owner unless, to the
16 satisfaction of the commission, each of the following requirements is satisfied:

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

18 196.485 (4) (am) Each transmission utility in the transmission area that is a
19 public utility shall become a member of the Midwest independent system operator
20 no later than June 30, 2000, and shall transfer operational control over its
21 transmission facilities to the Midwest independent system operator. Each such
22 transmission utility that has not contributed its transmission facilities to the
23 transmission company shall elect to become part of the single zone for pricing
24 purposes within the Midwest independent system operator and any phase-in plan
25 prepared under sub. (3m) (a) 4.

BILL**SECTION 55**

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

2 196.485 (5) PUBLIC UTILITY AFFILIATES. (a) *Asset cap exception.* Section 196.795
3 (6m) (e) does not apply to the eligible assets of a nonutility affiliate in a holding
4 company system unless each public utility affiliate in the holding company system
5 does each of the following:

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

10 2. Files with the commission an unconditional, irrevocable and binding
11 commitment to contribute, no later than June 30, 2000, all of the transmission
12 facilities that the public utility affiliate owns or operates in this state on the effective
13 date of this subdivision [revisor inserts date], and land rights, to the transmission
14 company. A filing under this subdivision shall specify a date no later than June 30,
15 2000, on which the public utility affiliate will complete the contribution of
16 transmission facilities.

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

23 4. Notifies the commission in writing that the public utility affiliate has become
24 a member of the Midwest independent system operator, has agreed to transfer its
25 transmission facilities to the Midwest independent system operator and has

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1 committed not to withdraw its membership prior to the date on which the public
2 utility affiliate contributes transmission facilities to the transmission company
3 under par. (b).

4 5. Petitions the commission and the federal energy regulatory commission to
5 approve the contributions specified in subds. ~~2~~² and ~~4~~³ and agrees in such a petition
6 not to withdraw the petition in the event that the commission or the federal energy
7 regulatory commission conditions its approval on changes that are consistent with
8 state or federal law.

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

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

20 a. The structure of the transfer avoids or minimizes the material adverse tax
21 consequences to the public utility affiliate that result from the transfer and avoids
22 or minimizes material adverse consequences on public utility rates that do not arise
23 out of combining the transmission company's facilities into a single zone in the
24 Midwest independent system operator.

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

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

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

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1 regulated public utility that provides electric transmission service in interstate
2 commerce.

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

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

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

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

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

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

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

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

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

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

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

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

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

20 196.485 (6) ELECTRIC UTILITIES, TRANSMISSION DEPENDENT UTILITIES AND RETAIL
21 ELECTRIC COOPERATIVES. No later than the first day of the 12th month beginning after
22 the first public utility affiliate files a commitment under sub. (5) (a) 2.:

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

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

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

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

11 196.485 (6m) DIVIDENDS, PROFITS AND GAINS. The commission may not treat any
12 dividend received by a transmission utility from the transmission company or any
13 gain or profit of a transmission utility from the sale or other disposition of securities
14 issued by the transmission company as a credit against the retail revenue
15 requirements of the transmission utility.

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

17 196.485 (7) ENFORCEMENT. A wholesale or retail customer of a public utility
18 affiliate may petition the circuit court for Dane County for specific performance of
19 a commitment filed under sub. (5) (a) 2. or 3.

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

21 196.485 (8) PENALTIES. A public utility affiliate that fails to complete the
22 contribution of transmission facilities to the transmission company by the
23 completion date specified in the filing under sub. (5) (a) 2. shall forfeit \$25,000 for
24 each day that completion of the contribution is delayed if the transmission company
25 is legally able to accept the contribution.

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

2 **196.487 Reliability of electric service. (1) DEFINITIONS.** In this section:

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

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

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

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

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

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

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

24 196.491 (3) (d) 3t. For a high-voltage transmission line that is designed for
25 operation at a nominal voltage of 345 kilovolts or more, the high-voltage

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

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

6 196.491 (3) (gm) The commission may not approve an application filed after the
7 effective date of this paragraph [revisor insert date], under this section for a
8 certificate of public convenience and necessity for a high-voltage transmission line
9 that is designed for operation at a nominal voltage of 345 kilovolts or more unless the
10 approval includes the condition that the applicant shall pay the fees specified in sub.
11 (3g) (a). If the commission has approved an application under this section for a
12 certificate of public convenience and necessity for a high-voltage transmission line
13 that is designed for operation at a nominal voltage of 345 kilovolts or more that was
14 filed after April 1, 1999, and before the effective date of this paragraph [revisor
15 inserts date], the commission shall require the applicant to pay the fees specified in
16 sub. (3g) (a). For any application subject to this paragraph, the commission shall
17 determine the cost of the high-voltage transmission line, identify the counties,
18 towns, villages and cities through which the high-voltage transmission line is routed
19 and allocate the amount of investment associated with the high-voltage
20 transmission line to each such county, town, village and city.

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

22 196.491 (3g) FEES FOR CERTAIN HIGH-VOLTAGE TRANSMISSION LINES. (a) A person
23 who receives a certificate of public convenience and necessity for a high-voltage
24 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
25 or more under sub. (3) shall pay the department of administration an annual impact

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

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

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

10 196.491 (3m) (b) 2. The analytical process specified in subd. 1. b. shall, to the
11 extent practicable, be consistent with the analytical process described in the merger
12 enforcement policy of the federal department of justice and the federal trade
13 commission regarding horizontal acquisitions and mergers that are subject to 15
14 USC 1, 18 or 45, as defined in s. 196.485 (1) (dr).

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

16 196.494 (3) ~~No later than December 31, 2004, the~~ The commission ~~may shall,~~
17 under this subsection, issue an order requiring an electric utility to construct or
18 procure, on a competitive basis, the construction of transmission facilities specified
19 by the commission in its order if the commission determines that, ~~based on the~~
20 ~~results of the study under sub. (2),~~ such construction is necessary to relieve a
21 constraint on a transmission system and the construction will materially benefit the
22 customers of the electric utility or other electric utilities or of an independent system
23 operator, as defined in s. 196.485 (1) (d), or independent transmission owner, as
24 defined in s. 196.485 (1) (dm).

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

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1 196.494 (5) The governor may, on behalf of this state, enter into an interstate
2 compact that establishes a joint process for the states in the upper midwest region
3 of the United States to determine the need for and siting of regional electric
4 transmission facilities that may affect electric service in this state. The governor
5 may not enter into a compact under this subsection unless the compact includes
6 requirements and procedures for establishing each of the following:

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

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

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

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

13 196.52 (3) (a) In this subsection, "contract or arrangement" means a contract
14 or arrangement providing for the furnishing of management, supervisory,
15 construction, engineering, accounting, legal, financial or similar services and any
16 contract or arrangement for the purchase, sale, lease or exchange of any property,
17 right, or thing, or for the furnishing of any service, property, right, or thing, other
18 than management, supervisory, construction, engineering, accounting, legal,
19 financial or similar services, but "contract or arrangement" does not include a
20 contract or arrangement under which a transmission utility, as defined in s. 196.485
21 (1) (i), sells or transfers securities, as defined in s. 196.485 (1) (fe), that have been
22 issued by a transmission company, as defined in s. 196.485 (1) (ge). Except as
23 provided under par. (b), unless and until the commission gives its written approval,
24 any contract or arrangement is not valid or effective if the contract or arrangement
25 is made between a public utility and an affiliated interest after June 7, 1931. Every

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1 public utility shall file with the commission a verified copy of any contract or
2 arrangement, a verified summary of any unwritten contract or arrangement, and
3 any contract or arrangement, written or unwritten, which was in effect on June 7,
4 1931. The commission shall approve a contract or arrangement made or entered into
5 after June 7, 1931, only if it shall clearly appear and be established upon
6 investigation that it is reasonable and consistent with the public interest. The
7 commission may not approve any contract or arrangement unless satisfactory proof
8 is submitted to the commission of the cost to the affiliated interest of rendering the
9 services or of furnishing the property or service to each public utility or of the cost
10 to the public utility of rendering the services or of furnishing the property or service
11 to each affiliated interest. No proof is satisfactory under this paragraph unless it
12 includes the original (or verified copies) of the relevant cost records and other
13 relevant accounts of the affiliated interest, or an abstract of the records and accounts
14 or a summary taken from the records and accounts if the commission deems the
15 abstract or summary adequate. The accounts shall be properly identified and duly
16 authenticated. The commission, where reasonable, may approve or disapprove a
17 contract or arrangement without submission of the cost records or accounts.

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

19 196.795 (1) (g) 1. As a beneficial owner, to take, hold or acquire 5% or more of
20 the outstanding voting securities of a public utility, other than a transmission
21 company, with the unconditional power to vote those securities.

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

23 196.795 (1) (g) 2. To exchange or convert 50% or more of the outstanding voting
24 securities of a public utility, other than a municipality or other political subdivision
25 or a transmission company, for or into the voting securities of a company organized,

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

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

4 196.795 (1) (h) 3. “Holding company” does not include a transmission company.

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

6 196.795 (1) (p) “Transmission company” has the meaning given in s. 196.485

7 (1) (ge).

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

9 196.795 (5) (i) 1. Shall consider the public utility affiliate as a wholly
10 independent corporation and shall impute a capital structure to the public utility
11 affiliate and establish a cost of capital for the public utility affiliate on a stand-alone
12 basis;

13 **SECTION 74.** 196.795 (5) (p) 1., 2., 3. and 4. of the statutes are renumbered
14 196.795 (6m) (b) 1., 2., 3. and 4.

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

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

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

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

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

24 196.795 (6m) (c) Wholesale merchant plants. The assets of a wholesale
25 merchant plant shall not be included in the sum of the assets of a public utility

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

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

7 196.795 (6m) (d) *Foreign affiliates.* The assets of a foreign affiliate shall be
8 included in the sum of the assets of a public utility affiliate under par. ~~(p)~~ (b) 1. a.,
9 b. or c. and shall not be included in a nonutility affiliate's total assets under par. ~~(p)~~
10 (b) 2. a.

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

12 196.795 (6m) (title) ASSET CAP.

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

14 196.795 (6m) (a) *Definitions.* (intro.) In this subsection:

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

16 196.795 (6m) (a) 1. "Contributor public utility affiliate" means a public utility
17 affiliate that has contributed its transmission facilities to the transmission company
18 under s. 196.485 (5) (b).

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

20 196.795 (6m) (a) 2. "Eligible asset" means an asset of a nonutility affiliate that
21 is used for any of the following:

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

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

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

2 d. Recovering or producing energy from waste materials.

3 e. Processing waste materials.

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

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

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

9 196.795 (6m) (a) 4. “Generation assets” means assets that are classified as
10 electric generation assets on the books of account of a public utility, as determined
11 by the commission.

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

13 196.795 (6m) (b) *In general.*

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

15 196.795 (6m) (e) *Contributor public utility affiliates.* 1. The eligible assets of
16 a nonutility affiliate in a holding company system that includes each of the
17 contributor public utility affiliates in the holding company system shall not be
18 included in the sum of the assets of the public utility affiliates under par. (b) 1. a.,
19 b. or c. and shall not be included in the nonutility affiliate’s total assets under par.
20 (b) 2. a.

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

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

BILL

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

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

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

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

16 196.795 (11) (b) This section shall be deemed to legalize and confirm the
17 formation, prior to November 28, 1985, of any holding company, which is not itself
18 a public utility, and shall be deemed to legalize and confirm the operations and
19 issuances of securities of the holding company, except that nothing in this section
20 shall be deemed to prevent the commission from imposing reasonable terms,
21 limitations or conditions on any holding company which are consistent with the
22 requirements of sub. ~~(5) (pm)~~ (6m) (c) or (d) or which are consistent with and
23 necessary to satisfy the requirements of sub. (5) (b) to (o) and (q) to (s) or which relate
24 to future investments by the holding company unless the holding company owns,

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

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

4 196.795 (11) (c) The commission may not impose upon a holding company the
5 formation of which is considered to be legalized and confirmed under par. (b) any
6 term, limitation or condition under par. (b) that establishes the sum of the holding
7 company's nonutility affiliate assets at less than 25% of the sum of the holding
8 company's utility affiliate assets. For purposes of this paragraph, any term,
9 limitation or condition on nonutility affiliate assets shall not apply to the ownership,
10 operation, management or control of any eligible asset, as defined under sub. (6m)
11 (a) 2., or an asset that is used for manufacturing, distributing or selling swimming
12 pools or spas.

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

14 **196.807 Energy affiliate and utility employes.** (1) DEFINITIONS. In this
15 section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 200.01 (2) “Public service corporation” means and embraces every corporation,
6 except municipalities and other political subdivisions, which is a public utility as
7 defined in s. 196.01, and every corporation which is a railroad as defined in s. 195.02,
8 but shall not include a public utility corporation receiving an annual gross revenue
9 of less than \$1,000 for the calendar year next preceding the issuance of any securities
10 by it. “Public service corporation” includes a holding company, as defined under s.
11 196.795 (1) (h), which is a public utility, as defined under s. 196.01 (5). “Public service
12 corporation” does not include a telecommunications utility, as defined in s. 196.01
13 (10). “Public service corporation” does not include any other holding company unless
14 the holding company was formed after November 28, 1985, and unless the
15 commission has determined, under s. 196.795 (7) (a), that each nonutility affiliate,
16 as defined under s. 196.795 (1) (j), does not and cannot reasonably be expected to do
17 at least one of the items specified in s. 196.795 (7) (a). “Public service corporation”
18 does not include a company, as defined in s. 196.795 (1) (f), which owns, operates,
19 manages or controls a telecommunications utility, as defined in s. 196.01 (10), unless
20 such company also owns, operates, manages or controls a public utility which is not
21 a telecommunications utility. “Public service corporation” does not include a
22 transmission company, as defined in s. 196.485 (1) (ge).

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

24 **285.48 Nitrogen oxide emissions from certain electric generation**
25 **facilities.** (1) In establishing nitrogen oxide emission reductions for the control of

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

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

SECTION 93. Nonstatutory provisions.

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

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

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

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

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1 (2) PUBLIC SERVICE COMMISSION RULES.

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

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

13 (3) DEPARTMENT OF ADMINISTRATION RULES.

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

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

25 **SECTION 94. Appropriation changes.**

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1 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
2 to the public service commission under section 20.155 (1) (j) of the statutes, as
3 affected by the acts of 1999, the dollar amount is increased by \$250,000 for fiscal year
4 1999-00 and the dollar amount is increased by \$250,000 for fiscal year 2000-01 for
5 the purpose for which the appropriation is made.

SECTION 95. Initial applicability.

6 (1) The treatment of section 196.491 (3) (d) 3r. and 3t. of the statutes first
7 applies to applications for certificates of public convenience and necessity that are
8 filed with the public service commission on the effective date of this subsection.
9

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

17

(END)

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

LRB-3150/3dn
MDK:kmg:km

June 15, 1999

Senator Chvala:

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

1. Please review the last sentence of proposed s. 196.374 (3), as I changed the suggested language for the sake of consistency with the rest of the subsection.

2. The bill does not refer to "high voltage facilities" in proposed s. 16.969 (2) (a) and (b) because that term is not defined. Instead, as in the prior version of the bill, the bill uses the term "high-voltage transmission line", which is defined in s. 196.491 (1) (f), stats., to include "associated facilities". Is this okay?

3. Regarding the change indicated by Mr. Cullen on page 44 of the prior version, please note that this version repeals s. 196.485 (3) (bm), stats., and that your intent is accomplished in proposed s. 196.485 (4) (am), which is created in the bill. Also, the language provided by Mr. Cullen at the top of page 45 regarding the MISO's duties is not necessary because such duties are already included in proposed s. 196.485 (1m) (c).

4. Please note the change to proposed s. 196.491 (3) (gm). Also note that the initial applicability provision under SECTION 95 (1) of LRB-3150/2 has been eliminated.

5. I assume that no changes are required based on the Legislative Council comments regarding page 14, line 17, page 38, line 12, page 43 and page 45, line 1, of LRB-3150/2.

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