

1999 DRAFTING REQUEST

Bill

Received: **05/28/1999**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Charles Chvala (608) 266-9170**

By/Representing: **Curt Pawlisch**

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

Drafter: **kunkemd**

May Contact:

Alt. Drafters:

Subject: **Public Util. - electric**
Public Util. - misc.

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Transmission facility impact and environmental fee and miscellaneous transmission issues

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	kunkemd 06/08/1999	gilfokm 06/08/1999	jfrantze 06/08/1999	_____	lrb_docadmin 06/08/1999		S&L
	kunkemd			_____			

FE Sent For:

<END>

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/?	kunkemd	1/1-6/8-99 kmg	6/6/8	6/6/8			S&L

FE Sent For:

<END>

III. CFC WHITE PAPER

Sec. 196.____ of the statutes is created to read: *constructed by who?*

(1) Transmission facilities constructed to increase the transmission import capability into the state shall use existing rights-of-way wherever practicable. The routing and design of such facilities should minimize environmental impacts consistent with achieving reasonable electric rates.

any oversight/ approval?

(2) None of the provisions of sec. 196.494 shall be interpreted to waive or limit any of the provisions of sec. 196.491 (CPCN) or sec. 1.11 (WEPA).

regional transmiss-planning

why necessary?

Sec. 196.491(3g) of the statute is created to read:

high voltage transmiss- line's 100KV

The public service commission shall not approve an application under this section for construction of any new high-voltage 345 kV or higher transmission facility in this state without first finding that wholesale and retail customers in the state will gain benefits in the form of usage, service, or increased regional reliability from such facility that are reasonable in relation to its costs.

in addition to 196.491 (3)(d)?

Sec. 196.026 of the statutes is created to read:

The commission shall promulgate rules establishing requirements and procedures for the preparation and review of environmental impact statements consistent with sec. 1.11 (WEPA). The rules shall, at a minimum:

- (1) Establish standards for when an environmental impact statement must be prepared.
- (2) Provide adequate time to comment and be heard on environmental impact statements.
- (3) Establish timetables that permit thorough review of environmental issues and the processing of dockets without undue delay in view of the need for additional transmission capacity.

Sec. 196.491(3h) of the statutes is created to read: *(sim to 79.04 § 76.28(2)?)*

- (a) The PSC shall condition approval under sec. 196.491(3), Stats., of any high-voltage 345 kV or higher transmission facility upon payment of a [transmission facility impact fee] by the owner of the transmission facility to the local governmental units through which the new facilities are routed. Such fee shall be the same as the payments towns receive pursuant to sec. 79.04(1), Stats., for generation facilities located within their boundaries *(i.e., 3 mills)*.

*How allocate?
what basis?*

Such impact fees shall be allocated to each local unit of government where the transmission facilities are located.

why date?

- (b) This section first applies to approvals granted to applications filed after April 1, 1999.

- (c) The department of administration shall distribute such fees in accordance with sec. 16.397, Stats.

Sec. 16.397 of the statutes is created to read:

The department shall distribute the transmission facility impact fees to the local units of government identified by the public service commission in orders issued pursuant to sec. 196.491(3h), Stats.

Sec. 196.491(3i) of the statutes is created to read:

- (1) The commission shall condition approval under sec. 196.491(3) of any new 345 kV or higher transmission facility upon payment by the owner of such facility of an [environmental impact fee] equivalent to 5% of the cost of the transmission facility as determined by the commission in the proceeding under sec. 196.491(3).
what cost?
- (2) An owner subject to this subsection shall pay such amount to the department of administration which shall distribute such fees in accordance with sec. 16.395.
- (3) Payments made under this section may not be used to offset any other required mitigation measures for the facility.
who requires? what kind of measures?
- (4) This section first applies to approvals granted to applications filed after April 1, 1999.

Sec. 16.395 is created to read:

(1) From the fees collected pursuant to sec. 196.491(3i), the department shall distribute funds to the counties and other units of local government through which a 345 kV or higher transmission line is routed, with 50% distributed to the counties and 50% to other affected municipalities, and allocated in proportion to the amount of investment in each county and municipality.

How does 50% split to amount of investment?

what does that mean?

(2) Funds received under this section shall be used by the affected counties and municipalities for park, conservancy, wetland restoration and similar environmental offset projects.

define?

"recoverable"?

(3) Fees paid under 196.491(3h) and (3i) shall be recoverable by the owner as reasonably incurred expenses of providing transmission service.

Sec. 14.036 of the statutes is created to read:

(1) Subject to the requirements of sec. (2), the governor may, on behalf of the state, enter into a Regional Transmission Need and Siting Compact with one or more states in the upper Midwest to create a joint process to determine the need for and siting of regional electric transmission facilities that will affect electric service in this state.

(2) The Regional Transmission Need and Siting Compact shall require:

- (a) compliance with each state's environmental and siting standards for electric transmission facilities, and
- (b) provide for a regional need determination and a mechanism to resolve siting conflicts between states.

Sec. 196.494 of the statutes is amended to read:

Eliminates sunset

- (3) The commission shall, under this subsection, issue an order requiring a public utility to construct or procure, on a competitive basis, the construction of transmission facilities specified by the commission in its order if the commission determines that such construction is necessary to relieve a constraint on a transmission system and the construction will materially benefit the customers of the public utility or other electric utilities or of an independent system operator, as defined in s. 196.485(1)(d), or independent transmission owner, as defined in s. 196.485(1)(dm).

What is going on here? "may" vs "shall"?

What is credit precedent for order?

Sec. 196.026 of the statutes is created to read:

The commission, the department of administration, and the department of revenue shall develop and implement a program of incentives for the development of high-efficiency, small-scale generating facilities in the state that:

what are these?

define?

- (1) provide benefits in the form of support for the transmission and distribution system, power quality and environmental performance; and
- (2) employ such technologies as combined heat and power systems, fuel cells, microturbines, and photovoltaic systems which can be situated in, on, or next to buildings or other electric load centers.

define ?

Sec. 196. ___ of the statutes is created to read:

- (1) The commission shall contract with an expert economic consultant to conduct a study on the potential of horizontal market power (including generation market power) to frustrate the creation of an effectively competitive retail electricity market in the state and to make recommendations on measures to eliminate such market power on a sustainable basis. For each recommendation, the study shall include an assessment of the effect on utility workers and shareholders, and on rates for residential customers. Such study shall include an evaluation of the impact of transmission constraints on generation market power in local areas.
- (2) No later than _____, the commission shall submit a report on the results of the study to the legislature in the manner provided in s. 13.172(2).

what's going on here?

Sec. 196.20(4t) of the statutes is created to read:

diff.?

*How diff. from
interruptible?*

- (a) Subject to approval of the commission, a public utility may establish real-time interruptible and curtailable retail rates that result in the customers receiving market-price signals for load reductions during peak periods of electric use that might otherwise result in requiring curtailments of firm customers.

?

when will they happen?

Sec. 196.____ of the statutes is created to read:

- (1) Subject to approval of the commission, a public utility may develop new market-based pricing and contract options for retail customers that will allow them, through service from their existing utility, to take market risk for their energy purchases.
- (2) In ratemaking proceedings, the commission shall approve market-based rates that are consistent with market-based pricing and contract options established under sec. 1.
- (3) Market-based pricing and contract options developed under this section, and market-based rates, shall be designed so that the rates of other customers are not increased or decreased due to a loss or gain of revenues from customers under market-based rates.

Confidential

May 18, 1999

Sec. 196. ___ of the statutes is created to read:

The commission shall promulgate rules requiring electric utilities to report as reasonably necessary on their current reliability status, including operating reserves, planning reserves, available transmission capacity, and outage status of major units and transmission lines. Such reports shall be open to public inspection, except that public disclosure may be delayed for a reasonable time if the commission finds that such disclosure will adversely affect the supply and price of energy in the state.

reliability report? - how diff. from current law?

who decide how often? up to PSC?

IV. OTHER PROVISIONS

Section 285. __ is created to read:

In establishing nitrogen oxides emission reductions for control of atmospheric ozone in another state pursuant to a call for a state implementation plan issued prior to the effective date of this act, the department shall not in a state implementation plan, by rule, or through the adoption of control strategies regulate nitrogen oxide emissions from generation facilities which are located west of the current boundary between the MAPP and MAIN reliability councils as such boundary is identified by the department. The department shall not, as a result of this subsection, require nitrogen oxides emission reductions that are more stringent for any other electric utility or large industrial core sources in this state identified by the environmental protection agency.

RCT?

Section 196.485(2)(c) is amended to reference new sec. 2(ar); and new sec. 2 (ar) is created to read:

(ar) The commission shall waive the requirement to issue an order under par. (a) for a transmission utility upon a showing by the transmission utility to the commission's satisfaction that a transfer to an independent system operator which has been accepted for filing with conditions by the federal energy regulatory commission and had members in the state prior to 12/31/98 would have the effect of jeopardizing the tax-exempt status of the utility or its securities under the Internal Revenue Code of 1986. Such waiver shall be

2

Confidential

*who resolves?
mechanism?*

May 18, 1999

effective only until such tax questions have been resolved in a manner which permits compliance with the requirement without having the effect of jeopardizing tax-exempt status under the Internal Revenue Code of 1986.

Increase the total funding level for intervenor financing in sec. 20.155(l)(j) from \$500,000 to \$750,000.

only change?

Section 196.31(1) is amended to read:

(1) in any proceeding before the commission, the commission shall compensate any participant in the proceeding who is not a public utility, for some or all of the reasonable costs of participation in the proceeding if:

std changes

- (a) The participation is necessary to provide for the record an adequate presentation of a significant position in which the participant has a substantial interest, and that an adequate presentation would not occur without a grant of compensation; or
- (b) The participation has provided a significant contribution to the record and has caused a significant financial hardship to the participant.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3152/P1

MDK/...
mg

Now

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Sen. Cost.

transmission

1 AN ACT ...; relating to: fees and approvals for certain high-voltage lines,
 2 construction of certain electric transmission facilities, environmental reviews
 3 by the public service commission, reports on reliability status of electric
 4 utilities, state participation in a regional transmission need and siting
 5 compact, incentives for development of certain generating facilities, study of
 6 market power and retail electric competition, market-based compensation,
 7 rates and contracts for electric customers, regulation of certain nitrogen oxide
 8 emissions, requiring the exercise of rule-making authority and making
 9 appropriation.

Analysis by the Legislative Reference Bureau

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

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. 16.969 of the statutes is created to read:

2 16.969 Fees for certain high-voltage transmission lines. (1) In this
3 section:

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

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

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

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

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

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

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

22 (b) The department shall distribute the fee that is paid by a person under the
23 rules promulgated under sub. (2) (b) as follows:

shall be distributed

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

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

8 **SECTION 2.** 20.505 (1) (ge) of the statutes is created to read:

9 20.505 (1) (ge) *High-voltage transmission line annual impact fee distributions.* All moneys
10 received from the payment of fees under the rules promulgated under s. 16.969 (2)
11 (a) for distributions to towns, villages and cities under s. 16.969 (3) (a).

12 **SECTION 3.** 20.505 (1) (gs) of the statutes is created to read:

13 20.505 (1) (gs) *High-voltage transmission line environmental impact fee distributions.* All
14 moneys received from the payment of fees under the rules promulgated under s.
15 16.969 (2) (b) for distributions to counties, towns, villages and cities under s.
16 16.969 (3) (b).

17 **SECTION 4.** 196.025 of the statutes is renumbered 196.025 (1).

18 **SECTION 5.** 196.025 (2) of the statutes is created to read:

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

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

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

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

7 **SECTION 6.** 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 7.** 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^o small-scale electric
22 generating facilities in this state that do either of the following:

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

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

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

8 **SECTION 8.** 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 9.** 196.192 of the statutes is created to read:

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

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

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

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

10 (3) (a) The commission shall establish market-based rates that are consistent
11 with market-based pricing options and individual contract options specified in sub.

12 (2) ^b, except that the commission may not establish a market-based rate unless the
13 commission determines that the rate is not likely to harm shareholders of the
14 investor-owned electric public utility or customers who are not subject to the rate.

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

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

(2) SECTION 10. 196.31 (1) (intro.) of the statutes is amended to read: ^{are approved by the Commission}

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

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

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

3 SECTION 11. 196.491 (3) (d) 3r. of the statutes is created to read: ~~SECTION 11. 196.491 (3) (d) 3r. of the statutes is created to read:~~

4 196.491 (3) (d) 3r. For a high-voltage transmission line that is proposed to
5 increase the transmission import capability into this state, existing rights-of-way
6 are used to the extent practicable and the routing and design of the high-voltage
7 transmission line minimizes environmental impacts in a manner that is consistent
8 with achieving reasonable electric rates.

9 SECTION 12. 196.491 (3) (d) 3t. of the statutes is created to read: ~~SECTION 12. 196.491 (3) (d) 3t. of the statutes is created to read:~~

10 196.491 (3) (d) 3t. For a high-voltage transmission line that is designed for
11 operation at a nominal voltage of 345 kilovolts or more, the high-voltage
12 transmission line provides usage, service or increased regional reliability benefits to
13 the wholesale and retail customers in this state and the benefits of the high-voltage
14 transmission line are reasonable in relation to the cost of the high-voltage
15 transmission line.

16 SECTION 13. 196.491 (3) (gm) of the statutes is created to read:

17 196.491 (3) (gm) The commission may not approve an application under this
18 section for a certificate of public convenience and necessity for a high-voltage
19 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
20 or more unless the approval includes the condition that the applicant shall pay the
21 fees specified in sub. (3g). In a proceeding on such an application under this section,
22 the commission shall determine the cost of the high-voltage transmission line,
23 identify the counties, towns, villages and cities through which the high-voltage

1 transmission line is routed and allocate the amount of investment associated with
2 the high-voltage transmission line to each such county, town, village and city.

3 **SECTION 14.** 196.491 (3g) of the statutes is created to read:

4 196.491 (3g) FEES FOR CERTAIN HIGH-VOLTAGE TRANSMISSION LINES. A person who
5 receives a certificate of public convenience and necessity for a high-voltage
6 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
7 or more under sub. (3) shall pay the department of administration an annual impact
8 fee as specified in the rules promulgated by the department of administration under
9 s. 16.969 (2) (a) and shall pay the department of administration a one-time
10 environmental impact fee as specified in the rules promulgated by the department
11 of administration under s. 16.969 (2) (b).

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

13 196.494 (3) ~~No later than December 31, 2004, the~~ The commission may shall,
14 under this subsection, issue an order requiring ~~an electric~~ a public utility to construct
15 or procure, on a competitive basis, the construction of transmission facilities
16 specified by the commission in its order if the commission determines that, ~~based on~~
17 ~~the results of the study under sub. (2),~~ such construction is necessary to relieve a
18 constraint on a transmission system and the construction will materially benefit the
19 customers of the ~~electric~~ public utility or other electric utilities or of an independent
20 system operator, as defined in s. 196.485 (1) (d), or independent transmission owner,
21 as defined in s. 196.485 (1) (dm).

History: 1997 a. 204.

22 **SECTION 16.** 196.494 (4) of the statutes is amended to read:

1 196.494 (4) The commission shall allow ~~an electric~~ a public utility to recover
2 in its retail electric rates any costs that are prudently incurred by the public utility
3 in complying with an order under sub. (3).

History: 1997 a. 204.

4 **SECTION 17.** 196.494 (5) of the statutes is created to read:

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

11 (a) Compliance with each states' environmental and siting standards for
12 transmission facilities.

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

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

16 **SECTION 18.** 285.48 of the statutes is created to read:

17 **285.48 Nitrogen oxide emissions from certain electric generation**
18 **facilities.** In establishing nitrogen oxide emission reductions for the control of

19 atmospheric ozone in another state pursuant to a call for a state implementation plan
20 issued prior to the effective date of this ~~section~~ ^{subsection} [revisor inserts date], the

21 department may not, in an implementation plan under s. 285.11 (6), by rule or
22 through the adoption of control strategies, regulate nitrogen oxide emissions from

23 electric generation facilities that are located in Ashland, Barron, Bayfield, Buffalo,
24 Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, La Crosse,

1 Monroe, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Trempealeau,
2 Vernon or Washburn county.

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

7 **SECTION 19. Appropriation changes.**

8 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
9 to the public service commission under section 20.155 (1) (j) of the statutes, as
10 affected by the acts of 1999, the dollar amount is increased by \$125,000 for fiscal year
11 1999-00 and the dollar amount is increased by \$125,000 for fiscal year 2000-01 for
12 the purpose for which the appropriation is made.

13 **SECTION 20. Initial applicability.**

14 (1) The treatment of sections 16.969, 20.505 (1) (ge) and (gs) and 196.491 (3)
15 (gm) and (3g) of the statutes first applies to certificates of public convenience and
16 necessity that are approved by the public service commission on the effective date of
17 this subsection.

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

21 (END)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber* 196.025; *to amend* 196.31 (1) (intro.), 196.494 (3) and
2 196.494 (4); and *to create* 16.969, 20.505 (1) (ge), 20.505 (1) (gs), 196.025 (2),
3 196.025 (3), 196.025 (4), 196.025 (5), 196.192, 196.491 (3) (d) 3r., 196.491 (3) (d)
4 3t., 196.491 (3) (gm), 196.491 (3g), 196.494 (5) and 285.48 of the statutes;
5 **relating to:** fees and approvals for certain high-voltage transmission lines,
6 construction of certain electric transmission facilities, environmental reviews
7 by the public service commission, reports on reliability status of electric
8 utilities, state participation in a regional transmission need and siting
9 compact, incentives for development of certain generating facilities, study of
10 market power and retail electric competition, market-based compensation,
11 rates and contracts for electric customers, regulation of certain nitrogen oxide

1 emissions, requiring the exercise of rule-making authority and making
2 appropriations.

Analysis by the Legislative Reference Bureau

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

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:

3 SECTION 1. 16.969 of the statutes is created to read:

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

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

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

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

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

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

15 (3) (gm).

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

18 196.491 (3) (gm).

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 **SECTION 2.** 20.505 (1) (ge) of the statutes is created to read:

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

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

19 **SECTION 3.** 20.505 (1) (gs) of the statutes is created to read:

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

24 **SECTION 4.** 196.025 of the statutes is renumbered 196.025 (1).

25 **SECTION 5.** 196.025 (2) of the statutes is created to read:

1 196.025 (2) The commission shall promulgate rules establishing requirements
2 and procedures for the commission to carry out the duties under s. 1.11. Rules
3 promulgated under this subsection shall include requirements and procedures for
4 each of the following:

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

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

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

13 **SECTION 6.** 196.025 (3) of the statutes is created to read:

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

24 **SECTION 7.** 196.025 (4) of the statutes is created to read:

1 196.025 (4) (a) In consultation with the department of administration and the
2 department of revenue, the commission shall study the establishment of a program
3 for providing incentives for the development of high-efficiency, small-scale electric
4 generating facilities in this state that do either of the following:

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

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

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

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

15 196.025 (5) (a) The commission shall contract with an expert consultant in
16 economics to conduct a study on the potential for horizontal market power, including
17 the horizontal market power of electric generators, to frustrate the creation of an
18 effectively competitive retail electricity market in this state and to make
19 recommendations on measures to eliminate such market power on a sustainable
20 basis. The study shall include each of the following:

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

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

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

4 SECTION 9. 196.192 of the statutes is created to read:

5 **196.192 Market-based compensation, rates and contracts.** (1) In this
6 section, “electric public utility” means a public utility whose purpose is the
7 generation, transmission, delivery or furnishing of electric power.

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

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

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

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

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

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

5 **SECTION 10.** 196.31 (1) (intro.) of the statutes is amended to read:

6 196.31 (1) (intro.) In any proceeding before the commission, the commission
7 may shall compensate any participant in the proceeding who is not a public utility,
8 for some or all of the reasonable costs of participation in the proceeding if the
9 commission finds that:

10 **SECTION 11.** 196.491 (3) (d) 3r. of the statutes is created to read:

11 196.491 (3) (d) 3r. For a high-voltage transmission line that is proposed to
12 increase the transmission import capability into this state, existing rights-of-way
13 are used to the extent practicable and the routing and design of the high-voltage
14 transmission line minimizes environmental impacts in a manner that is consistent
15 with achieving reasonable electric rates.

16 **SECTION 12.** 196.491 (3) (d) 3t. of the statutes is created to read:

17 196.491 (3) (d) 3t. For a high-voltage transmission line that is designed for
18 operation at a nominal voltage of 345 kilovolts or more, the high-voltage
19 transmission line provides usage, service or increased regional reliability benefits to
20 the wholesale and retail customers in this state and the benefits of the high-voltage
21 transmission line are reasonable in relation to the cost of the high-voltage
22 transmission line.

23 **SECTION 13.** 196.491 (3) (gm) of the statutes is created to read:

24 196.491 (3) (gm) The commission may not approve an application under this
25 section for a certificate of public convenience and necessity for a high-voltage

1 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
2 or more unless the approval includes the condition that the applicant shall pay the
3 fees specified in sub. (3g). In a proceeding on such an application under this section,
4 the commission shall determine the cost of the high-voltage transmission line,
5 identify the counties, towns, villages and cities through which the high-voltage
6 transmission line is routed and allocate the amount of investment associated with
7 the high-voltage transmission line to each such county, town, village and city.

8 **SECTION 14.** 196.491 (3g) of the statutes is created to read:

9 196.491 (3g) FEES FOR CERTAIN HIGH-VOLTAGE TRANSMISSION LINES. A person who
10 receives a certificate of public convenience and necessity for a high-voltage
11 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
12 or more under sub. (3) shall pay the department of administration an annual impact
13 fee as specified in the rules promulgated by the department of administration under
14 s. 16.969 (2) (a) and shall pay the department of administration a one-time
15 environmental impact fee as specified in the rules promulgated by the department
16 of administration under s. 16.969 (2) (b).

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

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

1 system operator, as defined in s. 196.485 (1) (d), or independent transmission owner,
2 as defined in s. 196.485 (1) (dm).

3 **SECTION 16.** 196.494 (4) of the statutes is amended to read:

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

7 **SECTION 17.** 196.494 (5) of the statutes is created to read:

8 196.494 (5) The governor may, on behalf of this state, enter into an interstate
9 compact that establishes a joint process for the states in the upper midwest region
10 of the United States to determine the need for and siting of regional electric
11 transmission facilities that may affect electric service in this state. The governor
12 may *not enter into a compact* under this subsection unless the compact includes
13 requirements and procedures for establishing each of the following:

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

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

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

19 **SECTION 18.** 285.48 of the statutes is created to read:

20 **285.48 Nitrogen oxide emissions from certain electric generation**
21 **facilities.** (1) In establishing nitrogen oxide emission reductions for the control of
22 atmospheric ozone in another state pursuant to a call for a state implementation plan
23 issued prior to the effective date of this subsection [revisor inserts date], the
24 department may not, in an implementation plan under s. 285.11 (6), by rule or
25 through the adoption of control strategies, regulate nitrogen oxide emissions from

1 electric generation facilities that are located in Ashland, Barron, Bayfield, Buffalo,
2 Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, La Crosse,
3 Monroe, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Trempealeau,
4 Vernon or Washburn county.

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

9 **SECTION 19. Appropriation changes.**

10 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
11 to the public service commission under section 20.155 (1) (j) of the statutes, as
12 affected by the acts of 1999, the dollar amount is increased by \$125,000 for fiscal year
13 1999–00 and the dollar amount is increased by \$125,000 for fiscal year 2000–01 for
14 the purpose for which the appropriation is made.

15 **SECTION 20. Initial applicability.**

16 (1) The treatment of sections 16.969, 20.505 (1) (ge) and (gs) and 196.491 (3)
17 (gm) and (3g) of the statutes first applies to certificates of public convenience and
18 necessity that are approved by the public service commission on the effective date of
19 this subsection.

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

23 (END)



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

June 15, 1999

LRB
/

MEMORANDUM

To: Senator Moen

From: Mark D. Knukel, Legislative Attorney, (608) 266-0131

Subject: Technical Memorandum to **1999 AB 196** (LRB 99-3150/3)

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

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