WISCONSIN
DEPT. OF NATURAL RESOURCES

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary

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June 14, 1999

Representative Timothy Hoven, Chair
Assembly Utilities Oversight Committee
17 N Capitol
Madison, WI 53707

Senator Rodney Moen, Chair
Senate Health, Utilities, Veterans and Military Affairs Committee
8 S Capitol
Madison, WI 53707

Dear Representative Jim Hoven and Senator Rod Moen:

I am writing to provide you with information on the proposed Reliability 2000 legislation. The Reliability 2000 Proposal would ease the electric utility "asset cap." It also contains one provision that I believe could seriously affect Wisconsin's ability to receive approval from U.S. EPA for a federally mandated control plan for nitrogen oxide compounds (NOx), namely exempting certain utilities from complying with NOx requirements.

To help bring eastern Wisconsin and many other areas in the eastern United States into attainment with the air quality standard for ozone, U.S. EPA promulgated a rule that requires 22 states to significantly reduce NOx emissions. Wisconsin is one of the states identified in EPA's rule. From projected 2007 levels, we are required to reduce emissions during the five month ozone season by 38,500 tons.

If approved, the legislative proposal would prohibit DNR from requiring any NOx emission reductions in the MAPP region in the state. It would also preclude the state from requiring extra reductions to make up for those lost reductions from any other utility or other large industrial boilers. In the MAPP region, those reductions are approximately 3,300 tons/season at an implementation cost of about $2,000/ton. If the DNR submitted a NOx control plan to EPA, which exempted the MAPP area utilities from control requirements without compensating for the lost emission reductions, EPA would find that plan to be inadequate. At that point, EPA would impose a federal implementation plan in the state. Implementation of EPA's plan would result in the loss of control program flexibility for the state and adds much uncertainty for the sources that must comply with the emission reduction requirements. Throughout the public discourse in developing the state plan, stakeholders have universally agreed to avoid a federal plan.

Wisconsin strongly requested that EPA exempt the MAPP area from NOx reductions in the comments it submitted to EPA during the federal rule-making process. In spite of these comments, EPA published a final rule, which requires reductions across the entire state. Therefore, to meet the federal requirements and stay within the parameters of the proposed legislation, we would be forced to compensate for the lost reduction in the MAPP region by requiring emission reductions from mobile sources or medium size industrial boilers.

The only viable mobile source control strategy is to implement a NOx pass/fail requirement for the motor vehicle emission inspection/maintenance program in the southeastern Wisconsin. This would result in creditable emission reductions between 1,000 and 2,000 tons/season at a cost of about $2,000/ton and annually 33,000 more vehicles would fail the inspection/maintenance test. It is important to note that this control measure does not supply enough emission reduction to cover the entire loss from the MAPP region. We would also need to implement other control programs to fully compensate for the loss.

The other option is to require emission reductions at medium size industrial boilers. There are approximately 100 such units in the state, many of which are owned by paper companies. The level of control and control costs varies for the medium size industrial boilers, depending on whether those controls are implemented in conjunction with NOx requirements in the inspection/maintenance program or alone. The emission reduction requirements could vary from about 30% to 45% at a cost effectiveness of about $1,700/ton. Individual unit costs could vary significantly, as high as $20,000/ton, especially at the more stringent control level.

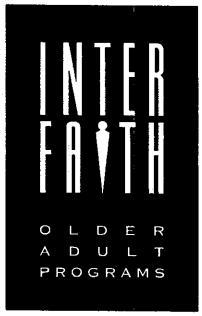
The NOx control requirement for the MAPP region is subject to litigation in the Washington DC Circuit Court. We expect the court to rule on this and other aspects of EPA's NOx regulation this fall. I believe it is important for the state to retain full flexibility to develop a NOx control program, until the court rules on the various issues.

Please let me know if I can answer any additional questions that you have on this important issue.

Sincerely,

George

George E. Meyer
Secretary



Committee on Health, Utilities, Veterans and Military Affairs
June 16, 1999 1:30 pm
Room 201 South East State Capitol

Evan Emmons, Interfaith Older Adult Programs, Inc

Interfaith Older Adult Programs joins with other advocates here today of Reliability 2000 which includes the public benefits for low-income energy assistance. Interfaith Older Adult Programs is committed to enhancing the quality of life for older adults in the Milwaukee area. I would like to address the unique circumstances confronting older adults as you consider this bill.

Americans are living longer. In some cases they have out lived their retirement savings, in others mounting health problems have placed a disproportional burden on limited resources. Imagine, having paid all your bills for your entire life and then being faced with making a decision between a life sustaining prescription and paying your energy bill. Providing for payment assistance will allow this individual the dignity to make payments toward bills and not have to make life-threatening sacrifices.

Older adults frequently live in older homes, residents with little or no weatherization. For a relatively small investment dwellings could be weatherized and actual energy costs could be reduced substanitially.

Many advocates of low-income elderly, families and persons with disabilities, and utilities themselves have worked on the public benefits portion of this bill. The consensus of this group warrants attention. The requested $105 million is the minimum needed to begin to address the needs of low-income households in Wisconsin. I want to thank you for your attention to this matter.

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INTERNATIONAL PAPER

DAVE KLUESNER
REGIONAL PUBLIC
AFFAIRS MANAGER

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PHONE 608 255 0231
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June 16, 1999

MEMBERS OF THE SENATE HEALTH, UTILITIES VETERANS AND MILITARY AFFAIRS COMMITTEE:

On behalf of International Paper's 2,800 Wisconsin employees, I respectfully urge your opposition to Senate Bill 196. In particular, our company opposes the section of the bill that would exempt utility and industrial sources located within northwest Wisconsin from federally mandated Nitrogen Oxide (NOX) emission reduction plans.

The United States Environmental Protection Agency first issued its notice of proposed rulemaking for NOX reductions in October of 1997. Since that time, our industry has been working with the Department of Natural Resources and other affected interests to craft a compliance plan that is fair and equitable to all concerned.

If the NOX-related language contained within SB 196 were enacted, it would force one of two outcomes. The more than 3,000 tons of NOX reductions from the newly exempted sources would have to be shifted to either the mobile sector, or the medium sized industrial boilers which are highlighted in red on the attached map. Our concern with this language rests with the high potential for the latter outcome.

Garnering NOX emission reductions from industrial sources is very expensive. While the anticipated per ton reduction cost for utility boilers is less than $2,000, our engineers anticipate a $5,700 per ton cost for NOX reduction for any of our large or medium sized boilers in De Pere or Kaukauna. While I cannot speak for the entire industry, I predict you would elicit a similar response from the other potentially affected paper company sources within our state.

The paper industry's large boilers are already subject to the federal NOX reduction requirements, and as a result will face enormous compliance costs. It would be blatantly unfair to statutorily exempt northwest Wisconsin sources, and then shift their burden to the many medium sized industrial boilers for which the cost/benefit ratio for compliance is much worse.

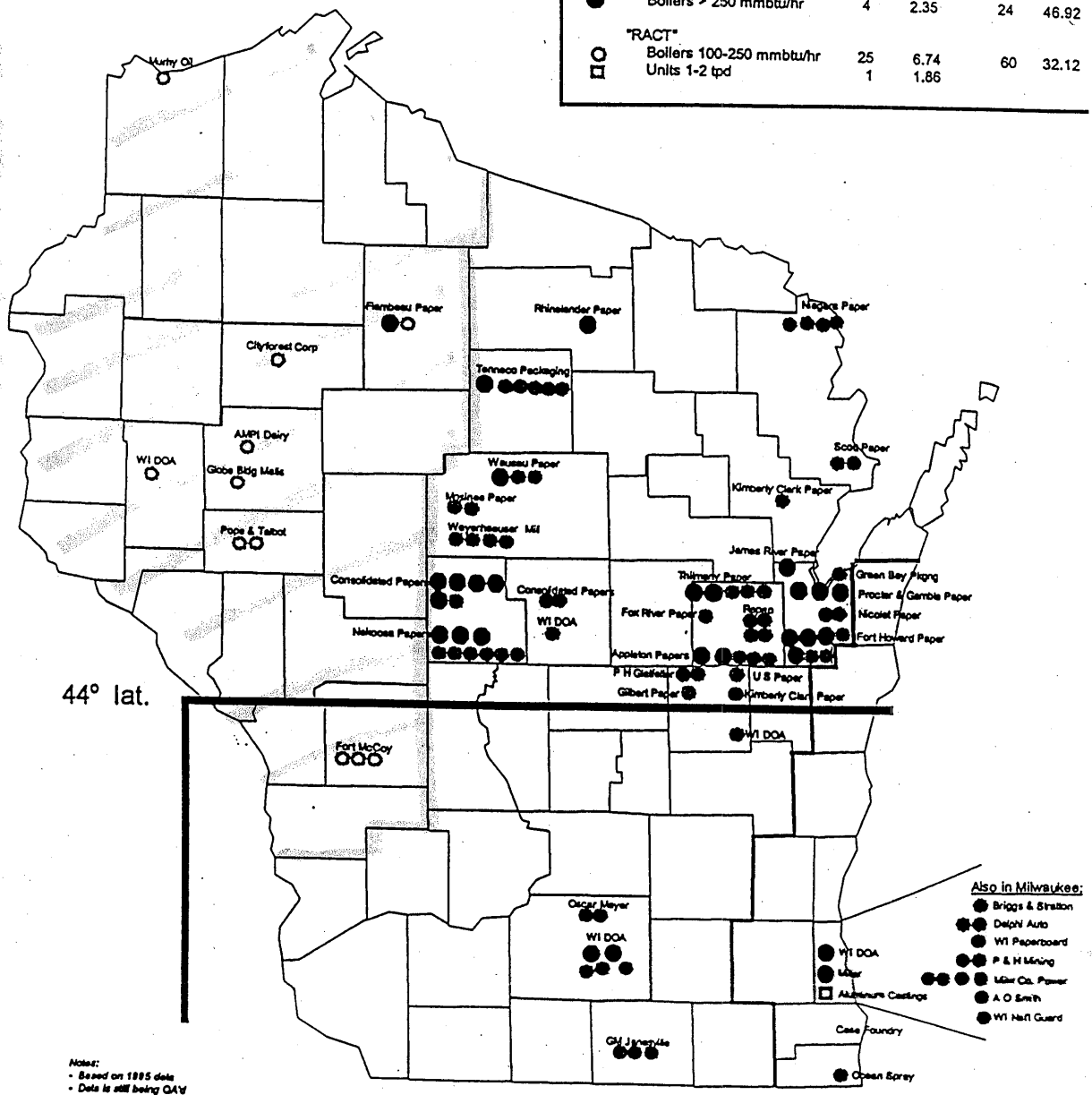
Thank you in advance for your consideration of our request.

Sincerely,

Dave Kluesner

Large Non-Utility Sources of NOx in Wisconsin

		FINE No.	FINE TPD	COURSE No.	COURSE TPD
●	"Budget" Boilers > 250 mmbtu/hr	4	2.35	24	46.92
○	"RACT" Boilers 100-250 mmbtu/hr	25	6.74	60	32.12
□	Units 1-2 tpd	1	1.86		



Notes:
- Based on 1995 data
- Data is still being QA'd
- This evaluation does not address the Gas Turbine and Recip I.C. cutoffs
- There are no non-boilers > 2 tpd

July 2, 1997 q:\arcview\clag\inventwiacty.

WISCONSIN PAPER COUNCIL

P.O. BOX 718
NEENAH, WI 54956
414-722-1500

June 16, 1999

MEMORANDUM TO: **Senate Committee on Health, Utilities, Veterans and Military Affairs**

FROM: Edward J. Wilusz - Director, Government Relations

SUBJECT: **LRB-3150**

LRB-3150 makes a variety of changes relating to utility and electric reliability issues. Because the paper industry is by far the largest industrial energy user in Wisconsin, we are very interested in the changes proposed in LRB-3150. However, because the bill includes a mix of good and bad for our industry, we cannot support it.

Of particular concern is the section of the bill that exempts certain facilities from EPA's so-called NOX SIP Call and shifts the burden to other sources. This section is simply unfair, unworkable and has nothing to do with the issue of electric reliability. It must be removed from the bill.

EPA's NOX SIP Call requires Wisconsin to modify its state implementation plan (SIP) to impose controls on facilities emitting nitrogen oxides (NOX). Wisconsin must submit a plan to EPA that specifies how the state will obtain a specific amount of NOX reductions. The NOX reduction target was set by EPA and EPA has been very clear that this target must be met.

The language to remove certain facilities from the requirements of the NOX SIP Call specifies that the NOX reductions that would have come from the affected facilities cannot be made up by any other electric utility or large industrial core sources in the state. The only sources that would be available to make up the lost NOX reductions would be medium industrial boilers and mobile sources. Neither of these source categories are required to be controlled under the EPA SIP Call.

> Most of the medium industrial boilers in the state belong to the paper industry. As a result, the effect of the proposed language is to shift significant NOX reduction requirements from two utilities to the paper industry. This is unfair. In addition, medium industrial boilers are expected to be very expensive to control per ton of NOX removed. As a result, the overall cost to the state for compliance with the NOX SIP Call will increase.

We strongly urge you to delete this section from the bill.

ss

Wisconsin State AFL-CIO

CHARTERED 1958

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David Newby, President • Sara J. Rogers, Exec. Vice President • Phillip L. Neuenfeldt, Secretary-Treasurer

TO: Senate Health, Utilities, Veterans and Military Affairs Committee

FROM: Phil Neuenfeldt, Secretary-Treasurer

DATE: June 16, 1999

RE: **SUPPORT FOR SB 196 ELECTRIC RELIABILITY 2000**

The Wisconsin State AFL-CIO supports the Electric Reliability 2000 legislative package as negotiated and before you today. It will encourage energy investment, protect the interests of our skilled power industry workforce, provide certain benefits to ensure electric service to our most vulnerable residents, encourage energy conservation and help ensure safe, reliable and affordable electric power for Wisconsin. We ask your support for SB 196.

MEUW Municipal Electric Utilities of Wisconsin

1240 Emerald Terrace
Sun Prairie, Wisconsin 53590
(608) 837-2263
Fax (608) 837-0206

TO: **Members of the Wisconsin Legislature**

FROM: **David J. Benforado, Executive Director**

DATE: **June 15, 1999**

RE: **Please Support Prompt Passage of Governor Thompson's Comprehensive Energy Legislative Proposal (*Reliability 2000*).**

Attached please find a resolution in support of prompt passage of Governor Thompson's comprehensive energy legislative proposal (*Reliability 2000*). This resolution was passed unanimously by MEUW membership at their Annual Meeting last Friday in Green Bay.

Thank you for your consideration of this important proposal.

cc: **Governor Tommy G. Thompson**
Ave Bie, Chair, Public Service Commission of Wisconsin
Joe Mettner, Commissioner, Public Service Commission of Wisconsin
John Farrow, Commissioner, Public Service Commission of Wisconsin

MEUW Municipal Electric Utilities of Wisconsin

1240 Emerald Terrace
Sun Prairie, Wisconsin 53590
(608) 837-2263
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Municipal Electric Utilities of Wisconsin
Resolution No. 1999-5

SUPPORTING GOVERNOR THOMPSON'S COMPREHENSIVE ENERGY LEGISLATIVE PROPOSAL (*RELIABILITY 2000*) AND URGING PROMPT APPROVAL

WHEREAS, on June 2, 1999, Governor Tommy Thompson announced a comprehensive energy legislative proposal entitled *Reliability 2000*; and

WHEREAS, *Reliability 2000* is the result of months of negotiations between the Governor's office, the *Customers First!* Coalition, the state's large utilities, labor, business groups and other organizations; negotiations which were commenced at the direction of the Governor; and

WHEREAS, *Reliability 2000* represents a carefully written compromise that all major stakeholders have agreed to; and

WHEREAS, *Reliability 2000* would accomplish the following:

- modify the state's utility holding company asset cap law to allow for expanded utility-affiliate investments by utility holding companies as long as they commit to divesting their transmission system to a TransCo;
- combine the WEPCO, WPS, WPL and MGE transmission systems into a single, common-carrier system (the TransCo) by June 30, 2000, with it

being operational by November 1, 2000; the TransCo in turn being required to join the Midwest ISO (Independent System Operator);

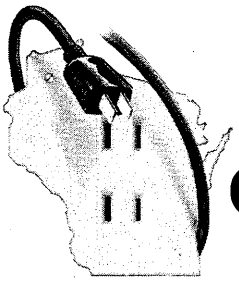
- provide for a public benefits program of low-income assistance and weatherization, energy conservation and efficiency, and renewable energy, with an opportunity for consumer-owned utilities to operate such programs locally through a *Commitment to Community* plan;
- allow certain market-based pricing and contract options for retail customers;
- for new transmission projects, municipalities would receive certain fees for such projects that are routed through their areas;
- direct the Public Service Commission of Wisconsin to contract for a comprehensive market power study of Wisconsin's electric industry and report the results to the Legislature;

NOW, THEREFORE, BE IT RESOLVED that the Municipal Electric Utilities of Wisconsin (MEUW) strongly endorses *Reliability 2000* and urges all Legislators to promptly approve this important proposal; and

BE IT FURTHER RESOLVED that MEUW will work with other groups and organizations who support *Reliability 2000* to accomplish legislative passage; and

BE IT FURTHER RESOLVED that the MEUW Executive Director transmit copies of this resolution to Governor Thompson, the State Legislature, and the Public Service Commission of Wisconsin.

Unanimously adopted by MEUW membership at 1999 Annual Meeting in Green Bay, WI (June 11, 1999).



Customers First!

Plugging Wisconsin In

A Coalition

to Preserve

Wisconsin's

Reliable

and Affordable

Electricity

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fax 608.286.6174

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Madison, WI 53701

SUMMARY OF THE GOVERNOR'S RELIABILITY 2000 PLAN

I. INTRODUCTION

Governor Thompson announced his Reliability 2000 plan at a June 2 press conference attended by Senator Rod Moen and Representatives Tim Hoven and Antonio Riley. This consensus plan was developed at the request of the governor and legislative leaders, and with input from the public service commission. It is the product of several months of discussion between the Customers First! Coalition[1], and Energize Wisconsin[2]. The plan is supported by numerous other groups, including Wisconsin Manufacturers & Commerce, Wisconsin Merchants Federation, Wisconsin Industrial Energy Group, AFL-CIO, Utility Workers Coalition, Alliance of Cities, and the Wisconsin Towns Association.

II. ASSET-CAP MODIFICATION

Under current law, the state's three energy holding companies (WE, WPSR, Alliant) are limited in their non-utility investments. This limit is 25% of the total value of their utility assets.

The bill creates a new category of exempt assets, called "energy and telecommunications assets." These are defined as most energy-related or telecommunications-related investments, but do not include unrelated activities such as real-estate development or purchases of other non-utility businesses.

If each of the utility affiliates of an energy holding company transfers ownership of its transmission facilities in Wisconsin to the same transmission company (TC) (see section III below), and

1 CFC includes the state's municipal utilities, rural electric cooperatives, consumer groups, environmentalists, and Madison Gas & Electric Company.

2 Energize Wisconsin includes Wisconsin Energy, Alliant, WPS Resources, Northern States Power, and Wisconsin Gas Company.

joins the Midwest Independent System Operator, the regional transmission organization already approved by FERC, then "energy and telecommunications assets" are excluded from both the numerator and the denominator of the asset cap.

Utility affiliates must also transfer all of their transmission-related "land rights" (i.e., rights of way, easements, and land) to the TC. The holding companies and their utility affiliates must also agree to contribute, and to cause each entity into which they merge or consolidate, or to which they contribute all of their assets, to contribute, all subsequently acquired transmission facilities to the TC.

Because some of the holding companies are already at or near the asset cap, the modification of the asset cap is effective when the utility affiliates do all of the following:

1) file with the PSC an unconditional, irrevocable, and binding legal commitment to divest no later than June 30, 2000;

2) petition the PSC and FERC for approval of such divestiture (and agree not to withdraw such petitions);

3) notify the PSC that they have joined the MISO (and agree not to withdraw from the MISO); and

4) request PSC and FERC approval to join the MISO.

This commitment is enforceable in court by an order for specific performance, and there is a fine of $25,000 per day for failure to live up to the commitment.

WICOR, the holding company which owns the Wisconsin Gas Company, receives the same asset-cap treatment. It is subject to the 25% limit, and the exclusion for energy and telecommunications assets. It is also allowed to exclude the value of certain other assets of the type which it has owned for many years.

The denominator of the asset-cap formula does not go down as a result of the transfer of transmission facilities to the TC, or if a utility is ordered to sell or divest power plants.

III. CONSUMER AND WORKER PROTECTIONS AS A RESULT OF ASSET-CAP MODIFICATION

The PSC is required to impute a capital structure and cost to utility affiliates on a stand-alone basis, that is, without reference to the risks and losses of non-utility affiliates or the holding company. Also, if the PSC finds that a

utility affiliate is not making investments sufficient to ensure reliable service, it must order the utility to make such investments, and to post enforceable security (e.g. in the form of a corporate guarantee) for such investments.

The bill also contains "successor" language which protects existing utility workers. If a utility affiliate leases, sells, or transfers a business unit, it must include in its contract with the buyer a requirement that the buyer offer employment at prevailing wages to a sufficient number of workers to operate and maintain the business unit for 30 months.

This successor language also applies to other public utilities, municipal utilities and cooperatives.

IV. THE TRANSMISSION COMPANY (TC)

The TC will be a public utility subject to FERC and PSC jurisdiction. FERC has jurisdiction over transmission rates and services; the PSC retains jurisdiction over transmission siting and any contracts between the TC and utilities in the TC. The TC will be a single-purpose corporation or limited-liability company, and that purpose will be bulk-power transmission. It will be required to join the MISO, and to remain a member of the MISO or its successor for six years.

The TC may not own, sell, market, or broker electric capacity or energy. If required or authorized by FERC, it may engage in transmission-related generation activities (such as providing voltage support, engaging in redispatch, or operating a control area). The TC may not bypass local distribution systems.

The TC will be the exclusive builder and owner of new transmission lines within its area. It will also be a single pricing zone within the MISO, which will eliminate "pancaking" of transmission rates, and save transmission users money.

Other utilities and cooperatives, such as MGE, Wisconsin Public Power, and Dairyland Power, will have a one-year option to transfer their facilities to the TC on the same terms and conditions as the utility affiliates of the holding companies.

Utilities will transfer their transmission assets to the TC at net book (depreciated) value. In return they will receive equity interests such as common and preferred stock. The transaction will be structured so as to avoid or minimize tax consequences.

Utilities who are pursuing new transmission projects (such as the Duluth-Weston line) are allowed to continue seeking PSC approval for such projects. If

such projects are approved and built, they can be contributed to the TC in exchange for securities.

For the first ten years WEPCO, WPL, WPS, and MGE will each have one and only one director on the board of the TC. If WPPI or DPC contribute or buy into the TC, they will each have a director. Any other shareholder or group of shareholders with a 10% interest also will have a seat. There will be four independent directors of the TC.

Utilities in the TC agree not to increase their ownership share for the first five years. After 3 years, a 10% owner can sell its shares.

For a three-year transitional period, the TC will contract with the utilities to provide operation and maintenance services, subject to PSC approval. Existing transmission arrangements, such as joint-plant agreements, and facilities credits for munis and coops, will continue. The TC may not sell or dispose of its assets except in a manner which preserves its integrated, single transmission system.

There is a provision which will prevent double gross-receipts taxation of transmission revenues which would otherwise occur as a result of the creation of the TC. This is similar to the provision enacted to prevent double taxation of generation revenues from independent wholesale generators.

V. OTHER TRANSMISSION PROVISIONS

WEPCO, WPS, WPL, and MGE are required to join the MISO, whether or not they opt to join the TC. This will insure that a single ISO covers the major Wisconsin load centers. DPC and NSPW remain subject to the Act 204 requirement to join an ISO by June 30, 2000. If a tax-exempt entity like a coop or muni can show to the satisfaction of the PSC that its tax-exempt status is jeopardized by having to join the MISO, this deadline can be suspended until the problem is resolved.

The sunset on the PSC's authority to order transmission facilities is removed. Such facilities are required to use existing rights-of-way whether practicable, and to minimize environmental impacts. Before approving such a project, the PSC must find that customers will benefit in the form of usage, service, or reliability. The PSC has to adopt rules for environmental impact statements when these are needed for construction projects (the 180-day timeline for action on such projects adopted in Act 204 is unchanged).

Under current law municipalities receive revenues if a power plant is cited in their jurisdiction, but they receive no revenues for transmission lines and poles. The bill establishes two transmission impact fees for new high-voltage transmission lines. The first is equal to the amount towns receive for power

plants (3 mills). The second is a one-time environmental-impact fee equal to 5% of the total cost of the project. Funds from this fee are to be used for park, conservancy, wetland restoration, and similar environmental projects.

The governor is authorized to enter into a Regional Transmission Need and Siting Compact with other states. The compact would create a joint process for determining need and siting of transmission projects.

VI. PUBLIC BENEFITS

The bill creates an advisory Council on Public Benefits in the DOA. It establishes a public benefits fund consisting of revenues received from utilities and public benefits fees.

In 1998 utilities spent about $87 million for programs designed to provide low-income bill assistance, low-income weatherization, energy conservation & efficiency, environmental research & development, and renewable resources. This amount is much less than the amount which utilities were spending in 1993 on such programs. Since 1993 spending levels for these programs have fallen considerably.

The bill requires utilities to shift these funds over a three-year period to the public benefits fund. It also raises an additional $27 million statewide from electric customers for low-income assistance and weatherization, and $20 million statewide for energy conservation & efficiency, for a total of $47 million. The total state commitment is thus $134 million ($87 million + $47 million). This does not include federal funds for low-income assistance and weatherization, which were about $55 million in the most recent period for which data is available (1997).

Total funds devoted to these programs is thus approximately $189 million ($134 million + $55 million). Of this total $105 million would be for low-income assistance and weatherization, and $84 million for energy conservation & efficiency, environmental R&D, and customer renewables. This total is $23 million less than what was being spent in 1993 and what was recommended by the public service commission.

Approximately 16% of the total $47 M, or $7.5 M, is collected from customers of munis and coops, which is commensurate with their share of customers, revenue, and usage. Of the remaining $39.5 M, 70% is collected from residential customers of utilities, and 30% from non-residential customers. No customer may be charged a fee that is more than 3% of the total bill, or $750/month, whichever is less (the dollar cap limits the contribution of even the largest industrial customer to $9,000 per year).

The average residential customer will pay about $1.42 per month, and the average business customer about $4.13 per month (small businesses will pay less than this average). All customers will benefit by however much this investment in energy conservation & efficiency reduces their electric bills, and the need for additional power plants and transmission lines.

The current system for low-income assistance and weatherization will continue. The Division of Housing in the DOA will administer the program, and will contract with CAP agencies, nonprofits, and local units of government to carry out the program.

The new system for energy conservation & efficiency will no longer be administered by the utilities, but by the DOA, which will select a private, nonprofit corporation as administrator after competitive bidding. This administrator will, under the supervision of the DOA, solicit proposals, process and select grant applications, and distribute and administer grant programs. This will be similar to the program which the DOA is now conducting with respect to the Wisconsin Public Service energy conservation programs.

After four years, the DOA must reduce or eliminate specific energy conservation & efficiency programs if it finds that the need for such programs is being satisfied by the marketplace.

The DOA is required to adopt rules establishing eligibility requirements, and application and selection criteria for all public-benefits programs. It is required to conduct an independent audit and report annually to the legislature regarding program expenses and effectiveness.

Municipal utilities and rural electric cooperatives may either participate in the DOA low-income or energy conservation programs, or retain local control of such programs, provided that they spend the fees collected for low-income programs and energy conservation. They must file annual reports to the DOA accounting for their public-benefits expenditures.

VII. RENEWABLE PORTFOLIO STANDARD

Each electric provider in the state is required to provide a percentage of its retail energy sales from renewable resources. Renewables resources are defined as wind, solar, biomass, geothermal, fuel cells using a renewable fuel, and hydro with a capacity of less than 60 MW.

By 12/31/00 this percentage must be .5%, and it increases gradually to 2.2% by 12/31/10. There is a .6% credit for existing hydroelectric facilities. If a provider has 10% renewable capacity on its system, it is exempt from the RPS standards.

A procedure for buying and selling renewable resource credits is also established.

VIII. OTHER PROVISIONS

The DNR may not include nitrogen oxide emissions from utilities in the MAPP reliability council in its state implementation plan. This would apply to DPC and NSPW facilities located in northwestern Wisconsin. No additional requirements may be imposed on other electric utilities or large industrial sources as a result of this provision.

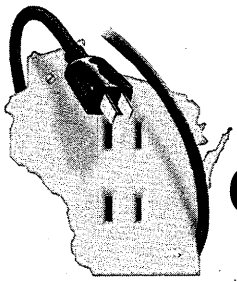
The bill increases by $250,000 per year the amount which utilities would pay into the intervenor compensation fund. This fund allows small intervenor groups to apply for compensation to participate in PSC proceedings, provided they contribute to the record, and could not afford to participate without the compensation.

The PSC, DOA, and DOR are required to develop a program of incentives for high-efficiency, small-scale generating facilities such as microturbines (distributed generation).

The PSC is required to contract with an expert economic consultant to study how the market power of existing utilities could frustrate the creation of a competitive retail market and to make recommendations on how to eliminate such market power on a sustainable basis.

Each investor-owned utility is required, no later than March 1, 2000, to file with the commission rates that give customers market-based compensation for voluntary interruptions of firm load during peak periods. Each such utility is also required by the same date to file new market-based pricing and individual-contract options for customers that will allow them to receive market benefits and to take market risk for their electric purchases.

Electric utilities are required to file public reports on their current reliability status. This includes operating and planning reserves, available transmission capacity, and outage status of major units and lines.



Customers First!

Plugging Wisconsin In

A Coalition

to Preserve

Wisconsin's

Reliable

and Affordable

Electricity

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Madison, WI 53701

Facts About Reliability 2000

CFC believes that, because Wisconsin is a low-cost state, we should follow a **sequential** approach to change, and not big-bang deregulation.

It has thus supported a step-by-step approach to restructuring in order to increase competition in the electric industry.

Last year it strongly advocated for the Reliability Act (Act 204). This law required that the PSC study the need for new transmission and gave the PSC the authority to order needed projects. It required Wisconsin utilities to join an ISO and streamlined the regulatory approval process. It provided for new generation facilities in the state, including wholesale merchant plants and renewable facilities.

The next logical steps are transmission divestiture (creation of a TransCo) and taking care of the public benefits issue (low-income & conservation programs). Wisconsin has a unique opportunity to resolve these issues because its energy holding companies need asset-cap relief.

The essence of Reliability 2000 is transmission divestiture and public benefits in exchange for asset-cap relief. The utilities have agreed to create a single-purpose, common-carrier transmission company in Wisconsin. No state has been able to achieve this policy result.

Reliability 2000 also makes sure that the low-income and conservation programs which a competitive market cannot yet provide are taken care of. Funding for these programs has fallen precipitously since 1993 when these programs were reduced in anticipation of deregulation. Every state which has restructured its electric industry has taken care of this issue, and Wisconsin's funding level is in line with what other states have done, and less than what the PSC recommended.

Finally, Reliability 2000 does not repeal the asset cap. It leaves that issue for another day.

Reliability 2000 is thus a bipartisan, incremental set of next steps for this industry. We urge you to give it your strongest possible support.

Supporters of the Governor's Reliability 2000 Plan:

Alliant Energy, American Association of Retired Persons – Wisconsin, Citizens' Utility Board, Dairyland Power Cooperative, International Brotherhood of Electrical Workers Local 2304, Madison Gas & Electric Company, Municipal Electric Utilities of Wisconsin, Northern States Power, RENEW Wisconsin, Union of Concerned Scientists, Wisconsin Alliance of Cities, Wisconsin Community Action Program Association, Wisconsin Electric Cooperative Association, Wisconsin Electric Power Company, Wisconsin's Environmental Decade, Wisconsin Federation of Cooperatives, Wisconsin Industrial Energy Group, Wisconsin Manufacturers & Commerce, Wisconsin Merchants Federation, Wisconsin Public Power Inc., Wisconsin Public Service Corporation and WIser

WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

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DATE: June 9, 1999

TO: MEMBERS OF THE SENATE COMMITTEE ON HEALTH, UTILITIES, VETERANS AND MILITARY AFFAIRS

FROM: John Stolzenberg, Staff Scientist, and David L. Lovell, Senior Analyst

SUBJECT: Proposed Legislation Relating to Public Utility Holding Companies, Electric Power Transmission, Public Benefits and Other Aspects of Electric Utility Regulation

This memorandum summarizes proposed legislation developed by negotiations between the Customers First! Coalition, and Energize Wisconsin, with input from other interests in the state, relating to public utility holding companies, electric power transmission, public benefits and other aspects of electric utility regulation. The legislation referred to in this summary as "the proposal." On the date of preparation of this memorandum, the proposal had not been introduced in the form of either a bill or budget amendment. This summary is based on a set of drafting instructions dated June 7, 1999, and preliminary drafts that had been prepared by the Legislative Reference Bureau, but not yet made public. Consequently, there may be differences between this summary and what is later introduced.

This summary is organized according to the following table of contents:

I. ASSET CAP

The state's public utility holding company law imposes a number of regulations upon public utility holding companies that are not exempt from its provisions or subject to grandfather treatment, including a limit on the amount of assets in nonutility affiliates that the holding company may own. This limit is commonly referred to as the "asset cap."

As implemented by the Public Service Commission (PSC), the asset cap establishes that the sum of the assets of all nonutility affiliates in a holding company system subject to the cap may not exceed 25% of the assets of the public utility affiliates in the system.

The asset cap presently applies to a number of holding companies, including the following companies that own large combined electric and natural gas public utilities (their utility affiliates are identified in parentheses): Alliant Energy Corporation (Wisconsin Power and Light Company, IES Utilities Inc. and Interstate Power Company); Wisconsin Energy Corporation (Wisconsin Electric); and WPS Resources Corporation (Wisconsin Public Service Corporation). Based on information provided by the PSC staff and the holding companies, Alliant Energy Corporation and Wisconsin Energy Corporation are presently approaching the 25% limit in their asset caps.

A. CHANGES IN THE ASSET CAP FORMULA

If each public utility affiliate in a holding company system takes the actions specified below with respect to the affiliate's electric transmission facilities ("transmission facilities" in the remainder of this memorandum), then the proposal changes the asset cap for the holding company in the following three ways:

1. ***Eligible assets.*** The "eligible assets" of a nonutility affiliate in the holding company system are excluded from both the sum of the assets of the public utility affiliates and of the nonutility affiliates in the asset cap formula. An "eligible asset" is an asset of a nonutility affiliate that is used for any of the following:

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

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

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

   d. Recovering or producing energy from waste materials.

   e. Processing waste materials.

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

g. Providing a telecommunication service.

All the assets of a nonutility affiliate are considered eligible assets if the bylaws of the nonutility affiliate or a resolution adopted by its board of directors specifies that the business of the nonutility affiliate is limited to activities involving eligible assets and substantially all the assets of the nonutility affiliate are eligible assets.

2. ***Contributed transmission facility assets.*** The net book value of the transmission facility assets that the public utility contributes to a transmission company as a condition of receiving this treatment of its asset cap (see below) is included in the sum of the assets of the public utility affiliate in the asset cap formula.

3. ***Transferred generation assets.*** If the PSC, a court or a federal regulatory agency orders the public utility affiliate contributing transmission assets to the transmission company to transfer generation assets to another person, the sum of these generation assets shall be included in the sum of the assets of the public utility affiliate in the asset cap formula.

In determining the net book value of transmission or generation assets under items 2. and 3., accumulated depreciation must be calculated as if the contributing public utility affiliate had not contributed these transmission assets or transferred these generation assets.

To be eligible for these three modifications to the asset cap, each public utility affiliate in the holding company system must do all of the following:

1. Petition the PSC and the Federal Energy Regulatory Commission (FERC) to approve the transfer of operational control of all of the public utility affiliate's transmission facilities, both in and outside Wisconsin, to the Midwest Independent System Operator (MISO).

2. File with the PSC an unconditional, irrevocable and binding commitment to contribute by June 30, 2000, all of its transmission facilities in Wisconsin and related land rights to the transmission company described in the next Section of this memorandum. As used in the proposal, the "contribution" of transmission facilities to the transmission company means the transfer of the ownership of the transmission facilities to the company in exchange for ownership interests in the company.

3. File with the PSC an unconditional, irrevocable and binding commitment to contribute, and to cause each entity with which it merges or consolidates or to which it transfers substantially all of its assets to contribute, any transmission facility in Wisconsin it acquires after the effective date of this provision, and the related land rights, to the transmission company.

4. Notify the PSC in writing that the public utility affiliate has become a member of the MISO and has committed not to withdraw its membership prior to the date on which the public utility affiliate contributes transmission facilities to the transmission company.

A public utility affiliate that fails to complete the contribution of its transmission facilities to the transmission company by the completion date that it specified in its filing with the PSC shall forfeit $25,000 for each day that completion of the contribution is delayed if the

transmission company is legally able to accept the contribution. In addition, a wholesale or retail customer of a public utility affiliate may petition the Circuit Court of Dane County for specific performance of a commitment to contribute transmission facilities and land rights to the transmission company that is filed with the PSC.

B. GRANDFATHERED HOLDING COMPANIES

Under the holding company law, a public utility holding company formed before the enactment of this law, which is not itself a public utility, is subject to a grandfather clause. Under the clause, the PSC may impose reasonable terms, limitations or conditions on a grandfathered holding company that are consistent with specified requirements in this law. In practice, the holding company subject to this grandfather clause is WICOR, the owner of Wisconsin Gas Company.

The proposal establishes that the PSC may not impose upon a grandfathered holding company any condition that limits the sum of the holding company's nonutility affiliate assets to less than 25% of the sum of the holding company's utility affiliate assets. The proposal also establishes that the PSC's conditions on nonutility affiliate assets shall not apply to the ownership, operation, management or control of any eligible asset, as defined above, or an asset that is used for manufacturing, distributing or selling swimming pools or spas.

II. TRANSMISSION COMPANY

The proposal authorizes the creation of a transmission company that could own all of the electric transmission facilities in the eastern portion of the state and potentially own transmission facilities in other parts of the state and in neighboring states. It does not require any public utility to form or contribute its transmission facilities to the transmission company. However, as noted in Section 1., the proposal does require such a transfer as a condition of changing a public utility holding company's asset cap as authorized by the proposal. In addition, electric cooperatives and other public utilities may transfer their transmission facilities to the transmission company and transmission-dependent utilities and retail electric cooperatives may purchase equity interests in the transmission company. The proposal prescribes basic terms of organization of the transmission company, requirements governing contribution of transmission assets and land assets to the transmission company, the duties and powers of the transmission company, the utility license fees to be paid by the transmission company and the PSC's jurisdiction over the transmission company.

As used in the proposal, the "transmission company" is a corporation or limited liability company that has as its sole purpose the planning, constructing, operating, maintaining and expanding of transmission facilities that it owns to provide for an adequate and reliable transmission system that meets the needs of all users that are dependent on the transmission system and that supports effective competition in energy markets without favoring any market participant.

As a result of the purposes of the transmission company set forth in this definition, a transmission company is a public utility under the definition of "public utility" in s. 196.01 (5), Stats.

A. ORGANIZATION

The proposal specifies that the articles of organization of the transmission company, if it is organized as a limited liability company, or the bylaws of the transmission company, if it is organized as a corporation, must provide for each of the following:

1. The transmission company has no less than five no more than 14 managers or directors. The company's articles of incorporation or bylaws may modify this requirement by unanimous vote of the managers or directors during the 10-year period after the organizational start-up date or upon a 2/3 vote of the board after this 10-year period.

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

3. During the 10-year period after the organizational start-up date, subject to the limit on the number of managers or directors in item 1., the shareholders of the transmission company may appoint the specified managers or directors to the transmission company. Each security holder that is an investor-owned public utility in eastern Wisconsin that has contributed a transmission facility to the company (a "transmission utility security holder") may appoint one manager or director. Each security holder that receives at least 5% of the securities of the company who is a public utility or an electric cooperative that has voluntarily transferred all of its integrated transmission facilities to the company or is a transmission-dependent utility or retail electric cooperative who has purchased an equity interest may appoint one manager or director. Each security holder that is not a transmission utility security holder that owns at least 10% of the securities may appoint one manager or director. Each group of security holders that do not include transmission utility security holders may appoint one manager or director. All managers or directors serve for a one-year term. The requirements applicable to the third and fourth type of security holders listed above may be modified upon a unanimous vote of the managers or directors of the company.

4. During the five-year period after the organizational start-up date, no public utility affiliate that contributes transmission facility assets to the company and no affiliate of such a public utility affiliate may, in general, increase its percentage share of the outstanding securities of the company prior to any initial issuance of securities by the company to any third party. An exception to this limit is provided for an issuance of securities to a third party who is a transmission-dependent utility or retail electric cooperative exercising its right to purchase equity interest in the company at a price that is equivalent to net book value and on terms and conditions that are comparable to those for public utility affiliates who have contributed transmission facilities to the company. This provision does not apply to securities that are issued by the company in exchange for transmission facilities that are contributed in addition to the transmission facilities that are contributed by a public utility affiliate. Furthermore, these requirements may be modified upon a unanimous vote of the managers or directors of the company.

5. Beginning three years after the organizational start-up date, any holder of 10% or more of the company's securities may require the company to comply with any state or federal law necessary for the holder to sell or transfer its share.

B. CONTRIBUTION OF TRANSMISSION ASSETS

The proposal establishes that, in general, a public utility affiliate may not contribute a transmission facility to the transmission company unless the PSC has reviewed the terms and conditions of the transfer for compliance with the requirements in the proposal. A PSC order that modifies the terms and conditions of a transfer as proposed to the PSC may allow a public utility affiliate to recover in its retail rates any adverse tax consequences of the transfer as a transition cost.

If a public utility affiliate is making a commitment to contribute transmission facilities to the transmission company in order to modify the asset cap of its parent holding company, as described in Section 1., then the transmission company and public utility affiliate must structure the transfer of the transmission facility to satisfy the following conditions:

1. The transfer must minimize the material adverse tax consequences to the public utility affiliate and any other material adverse tax consequence that does not result from combining transmission facilities into a single zone under the control of the MISO.

2. To the extent practicable, the transfer must satisfy the requirements of the Federal Internal Revenue Service for tax-free transfer. If practicable this requirement shall be satisfied by the transmission company's issuance of a preferred class of securities that provides the fixed cost portion of the resulting capital structure of the transmission company. The transmission company must issue preferred securities under this provision on a basis that does not dilute the voting rights of the initial security holders relative to their initial contributions.

3. If the transfer of transmission assets by a public utility affiliate results in a capital structure of the transmission company in which the percentage of common equity is materially higher than that of the public utility affiliate who made the transfer, or if the cost of the fixed-cost portion of the capital structure of the transmission company is materially higher than that of the public utility affiliates who made the transfer, then the public utility affiliates must enter into a contract with the transmission company. Under this contract, the public utility affiliates must agree to accept from the transmission company a return on common equity based upon the equity rate of return approved by FERC and upon an imputed capital structure that assigns to a portion of the public utility affiliate's common equity holdings an imputed debt return that is consistent with the requirements of this provision. Public utility affiliates must accept this return on common equity until the FERC determines that the actual capital structure and capital costs of the transmission company are appropriate and consistent with industry practice for a regulated public utility that provides electric transmission service in interstate commerce.

4. If, at the time that a public utility affiliate files a commitment to transfer its transmission facilities, the public utility affiliate has applied for or obtained a certificate of public convenience and necessity (CPCN) from the PSC for the construction of a transmission facility,

the affiliate must proceed with due diligence in obtaining this certificate and in constructing the transmission facility. If the PSC determines that the cost of the transmission facility is reasonable and prudent, the affiliate must transfer these facilities to the transmission company at net book value when the construction is completed in exchange for additional securities of the transmission company on a basis that is consistent with the securities that were initially issued to the affiliate. If the construction of the transmission facility is not completed within three years after the CPCN is issued by the PSC, the transmission company may assume responsibility for completing construction of the transmission facility. If the transmission company assumes this responsibility, it must carry out any obligation under any contract entered into by the public utility with respect to the construction of the transmission facility until the contract is modified or rescinded by the company, to the extent allowed under the contract.

5. Any transmission facility that is contributed to the transmission company must be valued at net book value at the time of the transfer.

If a public utility affiliate is not able to transfer ownership of its transmission facilities to the transmission company due to merger-related accounting requirements, the affiliate must transfer the facilities to the company under a lease for the period of time during which the accounting requirements are in effect. Once these requirements are no longer in effect, the affiliate must then contribute the facilities to the company. An affiliate that transfers facilities under a lease under this provision does not qualify for the treatment of the asset cap described in Section I., unless during the term of the lease, the affiliate does not receive any voting interest in the transmission company.

Under the proposal, the duty of any public utility or electric cooperative that has contributed its transmission facilities to a transmission company to finance, construct, maintain or operate a transmission facility terminates on the date, as determined by the PSC, that the transmission company is authorized to begin operations.

C. CONTRIBUTION OF LAND RIGHTS

The proposal establishes that if a public utility affiliate commits to contributing land rights to the transmission company as part of its commitment to contribute transmission facilities in order to modify the asset cap applicable to the affiliate's parent holding company, as described in Section I., then the public utility affiliate must take a number of actions with respect to the contribution of these land rights.

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

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

company's transmission facilities on the property that is subject to the land right during the life of the facilities and the life of any replacements of the facilities. These rights must be paramount to the right of any other user of the land right except the right granted in the contract shall be on a par with the right of the public utility affiliate to use the land right for electric or gas facilities.

If the public utility affiliate is prohibited from making the conveyance described in the preceding paragraph, the affiliate must enter into a contract with the transmission company that grants the company substantially the same rights as under such a conveyance.

The proposal establishes that the PSC must resolve any dispute over the contribution of a land right under the above provisions, including a dispute over the valuation of the land rights, unless a federal agency exercises jurisdiction over the dispute. While any dispute is being resolved before the PSC or the federal agency, the transmission company is entitled to use the land right that is the subject to the dispute and is required to pay any compensation that is in dispute into an escrow account.

D. DUTIES

The proposal assigns to the transmission company the following duties:

1. The company must apply for any state or federal approvals that are necessary for the company to begin operations no later than November 1, 2000. However, the company may not begin operations until it provides an opinion to the PSC from a nationally recognized investment banking firm that the company is able to finance, at a reasonable cost, its start-up costs, working capital, operating expenses and the cost of any new facilities that are planned.

2. Subject to any required state or federal approval, the company must contract with each transmission utility that has transferred transmission facilities to the company for the utility to provide reasonable and cost-effective operation and maintenance services to the company for three years after the company begins operations. The company and utility may agree to extend this three-year period.

3. The company must assume obligations of a transmission utility that has transferred ownership of transmission facilities to the company under any agreement to provide transmission service over their facilities, or under any credit received by the utility for the use of its transmission facilities from transmission users, such as municipal utilities and electric cooperatives.

4. The company must apply for membership in the MISO as part of a single zone that includes the part of the state served by the Mid-American Interconnected Network, Inc., reliability council of the North American Electric Reliability Council (i.e., referred to as "eastern Wisconsin" in the remainder of this memorandum). Once the PSC determines that the MISO is authorized to begin operations, the company must transfer operational control of its transmission facilities to the MISO.

5. The company must remain a member of the MISO or a federally approved successor to the MISO for at least the six-year transition period that is specified in the agreement that establishes the MISO and that the FERC conditionally approved.

6. The company must elect to be included in a single zone for the purpose of any tariff proposed by the MISO. This requirement does not apply during the phase in of a combined single zone described below.

7. After it begins operations, the company is the exclusive provider of transmission service in eastern Wisconsin. This duty terminates when the MISO is authorized to begin operations at which time the MISO assumes the exclusive duty to provide transmission service in eastern Wisconsin and the responsibility. When the company begins operations, the proposal also terminates the duty of any public utility or electric cooperative that has contributed transmission facilities to the company to finance, construct, maintain or operate a transmission facility. To ensure that each transmission facility in eastern Wisconsin that is under its operational control is planned, constructed, operated, maintained and controlled as part of a single transmission system.

In addition, the transmission company may not do any of the following:

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

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

3. Own electric generation facilities or sell, market or broker electric capacity or energy in a relevant wholesale or retail market as established under the merger enforcement policy of the Federal Department of Justice and the Federal Trade Commission regarding horizontal acquisitions and mergers. An exception to this prohibition is provided for when the transmission company is authorized or required by the FERC to procure or resell ancillary services from third parties, engage in dispatch activities that are necessary to relieve transmission constraints or take other actions relating to operating a control area.

If the transmission costs of any transmission utility in eastern Wisconsin are 10% or more below the average transmission costs of the transmission utilities in eastern Wisconsin on the date that the last public utility affiliate files a commitment with the PSC to contribute transmission facilities as a condition of altering its parent holding company's asset cap, then the transmission company must after consulting with all of the public utility affiliates that have made a commitment to contribute transmission facilities to it, prepare a plan for phasing in a combined single zone for the purpose of a pricing network used by users of the transmission system operated by the MISO. The company must also seek plan approval by FERC and the MISO. This plan must phase in an average-cost price for the combined single zone in equal increments over a five-year period except that under the plan, transmission service must be

provided to all users of the transmission system on a single-zone basis during the phase-in period.

E. POWERS

The proposal specifies that the transmission company may do any of the following:

1. Subject to the PSC's approval of a CPCN, the company may construct transmission facilities in eastern Wisconsin or in any other area of the state in which transmission facilities have been contributed to the company.

2. Subject to any approval required under federal law, the company may purchase or acquire transmission facilities in addition to the transmission facilities that are contributed to it by public utility affiliates.

F. LICENSE FEES

Under current law, "light, heat and power companies" must pay an annual license fee to the Department of Revenue (DOR). For private light, heat and power companies, these fees are based upon apportioning the company's payroll, value of utility plant and sales in Wisconsin (the "apportionment" factor) and multiply this factor by the sum of: (1) gross revenues from the sale of gas services multiplied by 0.97%; and (2) all other gross revenues multiplied by 3.19%.

The proposal establishes that the transmission company is a light, heat and power company and applies the license fee applicable to private light, heat and power companies to the transmission company except that the gross revenues of the transmission company exclude revenues for transmission service over its facilities that it provides to public utilities subject to the license fee.

G. EXCEPTIONS TO PSC JURISDICTION

As a public utility providing transmission services, the transmission company is subject to regulation by both the PSC and FERC. The proposal states that the company is subject to the jurisdiction of the PSC except to the extent that it is subject to the exclusive jurisdiction of the FERC. The FERC's jurisdiction includes approving the company's tariffs that set forth rates for and terms and conditions of service. The PSC has jurisdiction over activities such as the siting, construction and maintenance of transmission facilities.

The proposal exempts the transmission company from certain PSC regulation that it would otherwise be subject to. In particular, the proposal removes the requirement for the PSC to approve any issuance of securities by the company. That company is also excluded from the definition of a holding company and, thus, the state holding company law.

The proposal also amends current law as it relates to certain transactions between the transmission company and transmission utilities. In particular, any dividends from the company received by a transmission utility or gain or profit of a transmission utility from the sale or

disposition of securities in the company may not be credited against the retail revenue requirements of the utility. The proposal also amends the affiliated interest statute to provide an exclusion of PSC review under that statute for the sale or disposition by transmission utilities of their securities in the transmission company. The PSC must still approve other affiliated interest contracts governing transactions between transmission utilities and the transmission companies, including service contracts.

III. TRANSMISSION FACILITY SITING, CONSTRUCTION AND OPERATION

A. TRANSFER OF OPERATIONAL CONTROL

Under current law, each transmission utility in Wisconsin must transfer control over its transmission facilities to an independent system operator (ISO) or divest its interest in its transmission facilities to an independent transmission owner (ITO). If a transmission utility does not voluntarily transfer or divest its transmission facilities with the applicable state and federal approvals, then the PSC must, by June 30, 2000, order the transmission utility to apply to the appropriate federal regulatory agency to do one of the following:

1. Transfer control of the transmission facilities to an ISO that has received federal regulatory agency approval to operate in the region;

2. Transfer control of the transmission facilities to an ISO that is intended to operate in the region, if the federal regulatory agency has not approved an ISO to operate in the region; or

3. Divest the transmission utility's interest in its transmission facilities to an ITO if the transmission utility does not, or is not able to, to the satisfaction of the PSC, transfer control of its transmission facilities to a proposed ISO under the previous provision.

The proposal creates a new exception to the PSC's duty to order the transfer of control or the divestiture of transmission facilities described above. The PSC may not issue this order if the transmission utility shows to the PSC's satisfaction that the utility has proposed to transfer control of its transmission facilities to the MISO and that the proposed transfer may jeopardize the tax-exempt status of the transmission utility or its securities under the Federal Internal Revenue Code. This waiver remains in effect until the PSC determines that the proposed transfer does not have this effect.

The proposal also requires that, if the PSC determines that the MISO is authorized to begin operations, each transmission utility in eastern Wisconsin that is a public utility must transfer operational control over its transmission facilities to the MISO and each of these utilities that has not contributed its transmission facilities to the transmission company, described in the Section II., must elect to become a part of a single zone within the MISO.

B. TRANSMISSION FACILITY IMPACT AND ENVIRONMENTAL FEES

The proposal directs the PSC to condition the approval of a CPCN for any new 345 kilovolt (kV) or larger high voltage transmission line upon payment of two fees to the Department of Administration (DOA). One fee is an annual impact fee, set at 0.03% of the cost of the transmission facility, as determined by the PSC. The DOA must distribute the revenue from this fee to municipalities (cities, villages and towns) through which the new transmission facility is routed in proportion to the amount of investment in the facility that the PSC allocates to each of these municipalities.

The second fee is a one-time environmental impact fee equal to 5% of the cost of the transmission facility, as determined by the PSC. The DOA must distribute 50% of the revenue from these fees to counties and 50% to municipalities in proportion to the amount of investment in each county and municipality. Distribution of environmental impact fees may be used by counties and municipalities for park, conservancy, wetland restoration and other environmental offset programs. Payment of these fees may not be used to offset any other mitigation measures required in the PSC's order approving construction of the transmission facility.

The impact fee and environmental impact fee first apply to a CPCN approved by the PSC on the effective date of the proposal. In addition, the owner of a transmission facility subject to these fees may recover the fees as reasonably incurred expenses of providing transmission service.

C. INTERSTATE TRANSMISSION COMPACT

The proposal authorizes the Governor, on behalf of the state, to enter into a compact, with one or more states in the upper Midwest. The purpose of the compact is to create a joint process for the member states to determine the need for and siting of regional electric transmission facilities that may affect electric service in Wisconsin.

If formed, the compact must require compliance with each member state's environmental and siting standards for transmission facilities and provide for a regional determination of the need for transmission facilities and a mechanism to resolve transmission facility siting conflicts between the states.

D. PSC CONSTRUCTION ORDERS

Under current law, the PSC conducted a study on constraints in the intrastate and interstate electric transmission system that adversely affected the reliability of transmission service provided to electric customers in Wisconsin and submitted a report on the results of the study to the Legislature in September 1998. Current law also provides that, based on this study, no later than December 31, 2004, the PSC may issue an order requiring an investor-owned utility to construct or procure, on a competitive basis, the construction of transmission facilities specified by the PSC that are necessary to relieve a constraint on the transmission system and to materially benefit the customers of the utility, other investor-owned utilities, an ISO or an ITO.

The proposal amends this order authority by: (1) removing the December 31, 2004 sunset for the order; (2) removing the requirement that the order be based upon the results of the September 1998 transmission constraint study; (3) changing the PSC authority to issue the order to a duty to issue the order (converting "may" to "shall"); and (4) applying the order to any public utility and not just an investor-owned utility.

E. CPCN FOR TRANSMISSION FACILITIES

Under current law, no person may commence the construction of a 100 kV or larger high voltage transmission line and that is at least one mile in length unless the person has applied for and received a CPCN from the PSC. The proposal amends the CPCN review and approval process applicable to these transmission facilities in two ways. First, it establishes that transmission facilities constructed to increase the transmission import capability into Wisconsin shall use existing rights-of-way to the extent practicable. Routing and design of these facilities must minimize environmental impacts in a manner that is consistent with achieving reasonable electric rates.

Second, the proposal establishes that the PSC may not approve a CPCN for construction of any new 345 kV or larger high voltage transmission line or without first finding that the line provides usage, service or increased regional reliability benefits to the wholesale and retail customers in the state and the benefits of the line are reasonable in relation to its cost.

IV. PUBLIC BENEFITS

Public benefits are goods (or benefits) that are produced by a portion or sector of society but whose benefits flow to society as a whole. A variety of public benefits are produced by the electric power industry and made available to the public at least in part as a result of government regulation. An example of this is the availability to all members of society of a safe, reliable and affordable power supply. In the context of electric utility restructuring generally, and this proposal specifically, "public benefits" refers to certain activities that have been performed by electric (and natural gas) utilities for the public good under PSC direction or oversight, specifically, activities to: (a) help make energy affordable to low-income households; (b) promote energy conservation, efficient energy systems and renewable energy sources; and (c) evaluate and mitigate the environmental impacts of energy production and use.

A. PROGRAM ELEMENTS

The proposal creates two individual programs, giving broad grants of authority to the DOA to design and implement them.

1. Low-Income Assistance Program

The proposal creates a program for awarding grants to provide assistance to low-income households for weatherization and other energy conservation services, payment of energy bills and the early identification and prevention of energy crises. The program is similar in purpose

to the Federal Low-Income Weatherization and Home Energy Assistance Programs. The proposal directs the DOA to establish eligibility requirements for the low-income programs by rule. Individuals who receive low-income services under a commitment to community program (described in Section D., below) are not eligible to receive services under the low-income program.

2. Energy Program

The proposal creates a program for awarding grants for energy conservation and efficiency services and for renewable resource programs. The energy conservation and efficiency services portion of the program must give priority to proposals directed at: (a) sectors of the energy conservation and efficiency services market that are least competitive; and (b) promoting environmental protection, electric system reliability or rural economic development. The renewable resources portion of the program must focus specifically on encouraging the development or use of customer applications of renewable resources, including educating customers about renewable resources, encouraging use of renewable resources by customers or encouraging research technology transfers. Of the total funds available for energy programs, 4.5% must be expended for the renewable resources portion of the program. In addition, 1.75% must be used for research and development proposals regarding the environmental impacts of the electric industry.

The DOA is directed to establish requirements and grant application procedures for grants by rule. In awarding contracts for energy programs, the administrators may not discriminate against an electric provider, a wholesale electric supplier or an affiliate of one of these solely on the basis of its status as an electric provider, a wholesale electric supplier or an affiliate of one of these.

B. PROGRAM ADMINISTRATION

1. DOA

a. Administration; Contracts

The proposal gives principal responsibility for program administration to the DOA, in consultation with the Council on Public Benefits (described below). It directs the DOA to establish each of the program elements after holding one or more public hearings. It specifies that the low-income programs are to be administered through the DOA's Division of Housing.

The proposal directs the Division of Housing to contract with community action agencies, nonprofit corporations or local units of government to provide the low-income program services. It directs the DOA to contract with a nonprofit corporation to administer the energy programs. The administrative functions of the energy programs contractor shall include soliciting proposals, processing grant applications, selecting proposals to receive grants (on the basis of criteria specified by the DOA in rules) and distributing grants to recipients. All contracts must be awarded on the basis of competitive bids. The DOA is directed to establish criteria for the selection of a contractor to administer the energy programs by rule.

The proposal directs the DOA to annually, beginning in fiscal year 2004-05, determine whether to continue, discontinue or reduce any of the programs related to energy conservation and efficiency and renewable resources. In addition, it must determine the amount of funding necessary for the programs that are continued or reduced and notify the PSC of this funding determination. The DOA is directed to promulgate rules to establish criteria for determining whether to continue, discontinue or reduce any of the programs and to determine the level of funding for the continued or reduced programs.

b. Other Duties

The proposal directs the DOA to encourage customers to make voluntary contributions to help support public benefit programs. It must promulgate rules to require that electric utilities allow customers to include such voluntary payments with their bill payments. The rules may require special provisions on each bill for this purpose, including the ability of a customer to specify the types of programs for which a contribution is made and must establish procedures for transferring those contributions to the specified programs.

The proposal requires that the DOA annually conduct an independent audit and submit a report to the Legislature describing the expenses of administering the public benefit programs, the effectiveness of the programs and any other topics identified by the Governor, the Speaker of the Assembly or the Majority Leader of the Senate.

c. Rule Making

The proposal directs the DOA to promulgate rules on various topics, which are described along with the related subject matter. In each case, it directs the DOA to promulgate the rules as emergency rules and to submit draft final rules to the Legislative Council Rules Clearinghouse for review within six months of the effective date of the proposal.

2. Council on Public Benefits

The proposal creates a Council on Public Benefits ("the Council"). The proposal does not assign any specific powers or duties to the Council, but directs the DOA to execute its duties in administering the public benefit programs in consultation with the Council. The Council consists of the following 11 members:

a. Two members selected by the Governor.

b. Two members selected by the Senate Majority Leader.

c. One member selected by the Senate Minority Leader.

d. Two members selected by the Speaker of the Assembly

e. One member selected by the Assembly Minority Leader.

f. One member selected by the Secretary of the Department of Natural Resources (DNR).

g. One member selected by the Secretary of the DOA.

h. One member selected by the Chairperson of the PSC.

The members of the Council serve for three year terms. Their appointments are not subject to confirmation by the Senate. The Council is attached to the DOA for administrative purposes.

C. FUNDING FOR PUBLIC BENEFIT PROGRAMS

The proposal relies on three sources of funds for the public benefits programs: the funds that investor-owned public utilities have been collecting through rates to pay for public benefit programs conducted under PSC oversight or direction; new fees that electric public utilities and retail electric cooperatives are required to collect through rates and remit to the state; and federal funds provided for low-income energy assistance and weatherization programs.

The attachment to this memorandum presents estimates of the revenues and fees for public benefit programs under the proposal.

1. Continuation of Existing Utility Funding

The proposal directs the PSC to determine the amount that each investor-owned electric or gas utility spent on public benefit programs in 1998, including the write-off of the unpaid utility bills of low-income households (i.e., low-income "uncollectibles"). It requires these utilities to continue to collect these amounts through rates. It directs the PSC to devise a scheme to, in 1999, 2000 and 2001, phase the expenditure of these revenues out of the utilities' programs and into the programs administered by the DOA. Beginning in 2002, the utilities are required to contribute the entire amount to the DOA programs. Utilities may elect to continue public benefit activities, in addition to raising funds for the state programs. The PSC is required to reduce the amount of funds raised by this mechanism if the DOA reduces the required funding level of the energy public benefit programs, as described in Section B. 1. a., above.

2. New Fees

The proposal establishes separate fees for investor-owned utilities and for municipal utilities and cooperatives.

a. Fees Collected by Investor-Owned Utilities

The DOA is required to set the fees collected by investor-owned utilities by rule. The fees are to be flat fees, not based on the amount of electricity used by the customer, but they may vary between customer classes. Seventy percent of the revenues collected by any utility must be from fees charged to residential customers and 30% must be from nonresidential customers. The total amount of fees paid by an individual customer is capped such that the fee will not increase

the customer's bill by more than 3% or $750 per month, whichever is less. Utilities must include the fee in customers' bills and provide customers with an annual statement that identifies annual charges and describes the programs for which they are used. Utilities are allowed to recover, through rates, reasonable and prudent expenses they incur in collecting the fees.

(1) Fees for low-income programs

The fees collected by investor-owned utilities must be designed to raise specified amounts to fund low-income and energy programs. The total amount raised in fiscal year 1999-2000 for low-income programs must be $27 million minus 1/2 of the amount raised in fees collected by municipal utilities and cooperatives. In subsequent years, the total amount raised must be an amount referred to as the low-income need target minus all of the following: (a) 1/2 of the amount raised in fees collected by municipal utilities and cooperatives; (b) all federal funds received for low-income programs; and (c) all funds collected by utilities representing the 1998 level of program expenditures, as described under item 1., immediately above. "Low-income need" is the amount by which the cumulative energy bills of all low-income households in the state exceed 2.2% of the cumulative incomes of those households, which is a measure of the amount of those energy bills that are unaffordable to those households and so is a measure of the need for program funding. "Low-income need target" is the proportion of the low-income need funded in fiscal year 1999-2000 times the low-income need of a given year, and so is the target funding level for low-income programs in that year. Thus, the low-income need target is the same proportion of a given year's low-income need as is funded in the first year of the program; the fees are designed to raise the portion of this funding target that is not provided from other sources.

The DOA is required to determine the low-income need target for each fiscal year after 1998-99. It is directed to establish a method, by rule, for estimating the total of low-income energy bills, the average annual income of low-income households and the number of low-income households in this state in a fiscal year, for the purpose of determining the amount of low-income need in that fiscal year.

(2) Fees for energy programs

The total amount raised for energy programs must be $20 million minus 1/2 of the amount raised in fees collected by municipal utilities and cooperatives. After fiscal year 1999-2000, the DOA is required to reduce the amount of funds raised by this mechanism if it reduces the required funding level of the energy public benefit programs, as described in Section B. 1. a., above.

b. Fees Collected by Municipal Utilities and Cooperatives

The proposal requires that municipal utilities and cooperatives collect fees from their customers that average $17 per electric meter per year. They may charge different fee levels for different customer classes. Again, the total amount of fees paid by an individual customer may not increase the customer's bill by more than 3% or $750 per month, whichever is less.

3. Federal Revenue

The third source that the proposal relies upon for public benefit funding is existing federal funding under the Low-Income Weatherization Assistance and Low-Income Home Energy Assistance Programs. The proposal essentially views state and federal low-income programs as two sources of funding for the same purpose. As was described in the preceding description of fees, the amount of federal revenues received by this state is part of the formula used to set the fees. However, the administration of the federal funds is maintained as a separate program.

D. COMMITMENT TO COMMUNITY PROGRAMS

The proposal gives municipal utilities and cooperatives the option to implement all or part of the public benefit programs for their customers in programs referred to as commitment to community programs. They may implement such programs individually or jointly with other municipal utilities or cooperatives. If a municipal utility or cooperative chooses to implement both components of the state public benefits program, it retains all of the revenues from the fees it collects and uses them for that purpose; if it chooses to implement one but not both components, it retains 1/2 of the revenues for its program and pays the other 1/2 to the state for the state program; if it chooses not to implement a commitment to community program, it pays all of the fee revenues to the state.

Within one year of the effective date of the proposal and every three years thereafter, each municipal utility or cooperative must notify the DOA whether it intends to implement a commitment to community program. Once it has chosen to do so, it must continue the program for a period of three years.

If a municipal utility or cooperative that implements a commitment to community program is served by a wholesale electric supplier that has established a low-income assistance program or an energy conservation program, it may treat a portion of the revenues spent for the supplier's program toward its required expenditures under its commitment to community program. The municipal utility or cooperative may claim a credit in proportion to its purchases from the supplier.

A municipal utility and cooperative that implements a commitment to community program must annually submit a report to the DOA regarding its program. The report must provide an accounting of fees charged to customers, program expenditures and credits claimed for the programs of a wholesale electric supplier. In addition, it must provide a description of the program. The DOA is required to retain the reports for at least six years.

E. RENEWABLES PORTFOLIO STANDARD

One policy mechanism for promoting the implementation of renewable energy resources is the renewables portfolio standard (RPS). An RPS is a statutory requirement that suppliers of electric power include in their portfolio of generation facilities a specified amount or proportion of generation capacity that relies on renewable energy resources.

The proposal requires that a retail electric utility or a retail electric cooperative provide the following proportions of its total retail energy sales in the form of renewable energy:

1. By December 31, 2000, 0.5%.
2. By December 31, 2002, 0.85%.
3. By December 31, 2004, 1.2%.
4. By December 31, 2006, 1.55%.
5. By December 31, 2008, 1.9%.
6. By December 31, 2010, 2.2%.

The proposal considers the following sources of electricity to be renewable energy:

1. A fuel cell that uses a fuel determined by the PSC to be renewable.
2. Tidal or wave action.
3. Solar thermal electric or photovoltaic energy.
4. Wind power.
5. Geothermal technology.
6. Biomass.
7. A hydroelectric facility with a capacity of less than 60 megawatts.

For purposes of determining compliance with the RPS, an electric provider's retail energy sales are calculated on the basis of an average of the energy sales over the preceding three years. If a facility burns a biomass fuel along with conventional fuel, the amount of renewable energy produced by that facility is considered to be the same proportion of the total energy output of the facility as the proportion of the energy input provided by the biomass fuel.

The proposal limits the amount of electricity derived from facilities that were placed in service and generating electricity from hydroelectric power before January 1, 1998 that may be counted toward meeting the requirement for providing renewable energy. A utility or cooperative may not count more than 0.6% of its total capacity from such sources toward meeting the requirement, even if the output of such a facility is used to satisfy the requirements of federal law.

A utility or cooperative is allowed to comply with the RPS in either or both of two ways. First, it may generate or purchase the electricity from renewable resources. Second, it may purchase credits from another utility or cooperative that has generated the credit by providing its

customers electricity from renewable sources in excess of the amount required under the standard. The PSC is required to promulgate rules to establish requirements for calculating the amount of credits. It is directed to promulgate the rules as emergency rules and to submit draft final rules to the Legislative Council Rules Clearinghouse for review within six months of the effective date of the proposal. The PSC is authorized to promulgate rules establishing requirements and procedures for the sale of credits, although it may not place restrictions on the sale price.

The RPS does not apply to an electric provider that provides more than 10% of its summer peak demand in this state from renewable sources in this state. Also, it does not apply to an electric provider that provides more than 10% of its summer peak demand in and outside this state from renewable sources that the provider owns and operates in or outside this state.

The proposal requires each utility and cooperative to submit an annual report to the DOA documenting its compliance with the RPS. It also requires that the PSC ensure that utilities are able to fully recover the cost of complying with the standard through their rates. A utility may recover the costs by allocating the costs equally to all customers on a kilowatt hour basis, through alternative pricing structures, including pricing structures under which customers pay a premium for renewable energy, or any combination of these methods.

The Attorney General is directed to enforce the standard. A person who violates the standard or submits a false or misleading certification regarding the source or amount of energy provided to the utility or cooperative is subject to a forfeiture of not less than $5,000 nor more than $500,000. In imposing a forfeiture, the court is directed to consider the appropriateness of the forfeiture to the volume of the person's business, the gravity of the violation and whether a violation of the standard was beyond the person's control.

F. STUDY OF INCENTIVES FOR DISTRIBUTED ENERGY SYSTEMS

The proposal directs the PSC, in consultation with the DOA and DOR, to study the establishment of a program of incentives for the development of highly efficient, small-scale generating facilities in the state. The program shall provide benefits in the form of support for the transmission and distribution system, power quality or environmental performance. It shall employ technologies, such as combined heat and power systems, fuel cells, microturbines and photovoltaic systems, that can be situated in, on or adjacent to buildings or other electric load centers. The PSC must report its study findings and recommendations to appropriate legislative study committees by January 1, 2001.

V. ENERGY AFFILIATE AND UTILITY EMPLOYE PROTECTIONS

The proposal establishes that no person may acquire an "energy unit" from an electric utility, holding company system or nonutility affiliate unless the PSC determines that the person has satisfied the following conditions relating to nonsupervisory employes who are employed with the energy unit immediately prior to the acquisition:

a. The person acquiring the unit must offer employment to those employes who are necessary for the operation and maintenance of the energy unit.

b. The employment that is offered under the preceding requirement must satisfy each of the following requirements during the 30-month period beginning immediately after the acquisition: (1) wage rates must be no less than the wage rates in effect immediately prior to the acquisition; (2) fringe benefits must be substantially equivalent to the fringe benefits in effect immediately prior to the acquisition; and (3) terms and conditions of employment, other than wage rates and fringe benefits, must be substantially equivalent to the terms and conditions in effect immediately prior to the acquisition. These requirements may be modified or waived by a collective bargaining agreement.

If the transaction involves selling the energy unit of the public utility affiliate to a nonutility affiliate in the same holding company system, the acquiring nonutility affiliate must offer employment to all of the nonsupervisory employes who are employed with the energy unit immediately prior to the acquisition.

As used in these provisions, an "energy unit" is a division, department or other operational business unit of a nonutility affiliate or in a holding company system, a public utility or an electric cooperative 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.

These provisions do not apply until the expiration of the three-year contracts, or any extensions to them, that the transmission company has with transmission utilities that have transferred transmission facilities to the company for operation and maintenance services. (These contracts are summarized in the description of the duties of the transmission company in Section II.)

VI. OTHER ISSUES

A. RELIABILITY: REPORTS AND CONSTRUCTION ORDERS

The proposal directs the PSC to require, by rule, that electric utilities report to the PSC, as frequently as the PSC determines to be as reasonably necessary, on their current reliability status. These reports shall include information on operating and planning reserves, available transmission capacity and outages of major operational units and transmission facilities. These reports shall be open to public inspection and copying, except that the PSC may delay public access for a reasonable time to prevent an adverse impact on the supply or price of energy in Wisconsin.

The proposal also directs the PSC to order any public utility affiliate or the transmission company to make adequate investments in its facilities that are sufficient to ensure reliable electric service. The PSC must make this order if it determines that a public utility affiliate or the transmission company is not making investments in the facilities under its control that are sufficient to ensure reliable electric service. This order must require the affiliate or company to provide security in an amount and form that, to the PSC's satisfaction, is sufficient to ensure that

the affiliate or company expeditiously makes any investment that is ordered. The PSC must allow an affiliate that is subject to an investment order to recover in its retail electric rates the costs that are prudently incurred in complying with the order.

B. OTHER HOLDING COMPANY REGULATIONS

Under the state's holding company law, the PSC must consider the public utility affiliate of a holding company as a wholly independent corporation when the PSC makes any determination on any rate change proposed by the affiliate. The proposal expands this requirement and directs the PSC, when making this determination, to impute a capital structure to the public utility affiliate and establish a cost of capital for the public utility affiliate on a stand-alone basis.

C. MARKET POWER STUDY

The proposal directs the PSC to contract with an expert economic consultant for a study on the potential of horizontal market power (including market power in the area of generation of electricity) to frustrate the creation of an effectively competitive retail electricity market in the state. The study must include recommendations of measures to eliminate such market power on a sustainable basis. For each recommendation made, the report shall include an assessment of the effect on utility workers, on utility shareholders and on the rates of each class of utility customers. The study must include an evaluation of the impact of transmission constraints on generation market power in local areas. The PSC is required to submit a report to the Legislature based on the study not later than January 1, 2001.

D. MARKET-BASED PRICING

The proposal directs investor-owned electric utilities to offer market-based rates to customers. They must offer: (a) rates that result in customers receiving market-based compensation for voluntary interruption of firm load during peak demand; and (b) market-based pricing and individual contract options that allow customers to receive market benefits and subject themselves to market risks in purchasing capacity or energy from its existing public utility. The proposal directs the PSC to establish market-based rates that are consistent with such market-based pricing options and individual contract options, except that it may not establish such rates if the rates are likely to harm the utility's shareholders or customers who are not subject to the rates. Municipal utilities are authorized, but not required, to offer the same types of rates and contract options.

E. ENVIRONMENTAL IMPACT STATEMENTS

The proposal directs the PSC to promulgate rules establishing requirements and procedures for the preparation of environmental impact statements regarding major actions of the PSC. The rules must establish standards for when an environmental impact statement is required, provide adequate time for members of the public to comment and be heard on environmental impact statements and establish time lines that permit thorough review of environmental issues and the processing of PSC dockets without undue delay in view of the need for additional transmission capacity.

F. NITROGEN OXIDE EMISSIONS

Currently, the state is required by the U.S. Environmental Protection Agency to prepare a plan to reduce nitrogen oxide emissions in Wisconsin for the control of atmospheric ozone in the northeastern portion of the U.S. as a whole. The requirement to prepare the plan is referred to as a call for a state implementation plan, or a SIP call, under the Federal Clean Air Act. The proposal specifies that, for purposes of this SIP call, the DNR may not regulate nitrogen oxide emissions from electric generating facilities that are located in specified counties. The specified counties make up the service territories of Northern States Power of Wisconsin and Dairyland Power Cooperative and its member distribution cooperatives, in western Wisconsin. It further provides that the DNR may not require more stringent limitations on other large utility and industrial sources of nitrogen oxides to compensate for its inability to place limitations on electric energy generators in western Wisconsin.

G. INTERVENOR FINANCING

Under current law, the PSC may compensate nonutility intervenors in cases before it for all or a portion of the intervenor's costs of intervening if certain conditions are met. The proposal requires the PSC to compensate intervenors if the conditions are met. In addition, the proposal increases the funding for intervenor compensation from $250,000 per year to $375,000 per year.

If you have any questions regarding the proposal summarized in this memorandum, please contact us at the Legislative Council Staff offices.

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Attachment

ATTACHMENT

PUBLIC BENEFIT PROGRAMS FUNDING AND FEES

The following is an estimate of the funding of the public benefit programs created or continued under the proposal. The estimates are based on information contained in Memo No. 6 of the Special Committee on Utility Public Benefit Programs, *Expenditures on Public Benefits in 1993, 1995 and 1997* (revised January 21, 1999), Memo No. 8 of the Special Committee on Utility Public Benefit Programs, *Expenditures on Low-Income Programs* (April 15, 1999) and Memo No. 9 of the Special Committee on Utility Public Benefit Programs, *Profile Data Regarding Certain Energy Providers* (April 15, 1999). Funding estimates are based on 1997 expenditure and funding data, which is the most recent complete data available.

A. PROGRAM FUNDING

1. Low-Income Programs

As is described in the memorandum, the funding for the low-income programs is the sum of revenues collected by utilities representing a continuation of current funding (based on 1998 expenditures), revenues from new fees collected by utilities and federal revenues received by the state for low-income programs. The federal funds will be administered as a separate program. In addition, the continuation of current programs will be administered by the utilities initially and transferred to the DOA over a three-year period. As a result, in the first year after enactment of the proposal, there will be three separate sets of programs. The continuing funds will be administered by the various utilities; the new funds will be administered by the state, except that municipal utilities and cooperatives have the option of administering their own programs using the revenues they raise in fees; the federal revenues will be administered by the state.

The expenditure of investor-owned gas and electric utilities in 1997 on low-income programs was $16.2 million. In addition, these utilities reported $35.9 million in uncollectible bills in that year. It is estimated that about 1/2 of this amount, or $18 million, is due to low-income customers. Thus, the total 1997 utility expenditures on low-income programs that would be required to continue is about $34.2 million. (Initial estimates prepared by the PSC staff suggest that 1998 expenditures may have been slightly less.)

The amount of new fees for low-income programs required by the proposal is $27 million.

The federal revenues received in 1997 for the Low-Income Weatherization and Home Energy Assistance Programs totaled $54.1 million. It is impossible to know what level of funding the U.S. Congress will provide for this program in future years, but funding has declined in recent years.

2. Energy Programs

As described in the memorandum, the funding for the energy programs is the sum of revenues collected by investor-owned utilities representing a continuation of current funding

(based on 1998 expenditures) and revenues from new fees collected by utilities. The 1997 expenditures of utilities on energy programs totaled $56.7 million. (Initial estimates prepared by the PSC staff suggest that 1998 expenditures may have been about 10% more.) The amount of new fees for energy programs required by the proposal is $20 million.

Table 1 -- Estimates of Initial Program Funding, Based on 1997 Data

	Low-Income Program	*Energy Program*
Continuing Expenditures	$34.2 million	$56.7 million
New Fees	$27 million	$20 million
Federal Revenues	$54.1 million	---
TOTAL	$115.3 million	$76.7 million

B. FEES

1. Municipal Utilities and Cooperatives

The proposal requires municipal utilities and cooperatives to collect fees that average $17 per customer. With a total of about 437,000 customers, these entities will collect about $7.4 million in fee revenues. One-half of this amount ($3.7 million) will be applied to low-income programs and the other 1/2 to energy programs, as described in the text of the memorandum.

2. Investor-Owned Utilities

Investor-owned utilities collect fees that are calculated separately for low-income and energy programs. In the first year, the low-income component is calculated to raise an amount equal to $27 million minus the amount collected by municipal utilities and cooperatives for low-income programs. Thus, the fees will be set to collect $23.3 million. Seventy percent of this amount ($16.3 million) will be collected from residential customers and the balance ($7 million) from other customers.

In the first year, the energy component is calculated to raise an amount equal to $20 million minus the amount collected by municipal utilities and cooperatives for energy programs. Thus, the fees will be set to collect $16.3 million. Seventy percent of this amount ($11.4 million) will be collected from residential customers and the balance ($4.9 million) from other customers.

The average amount of the fees can be estimated based on these revenue goals and the number of customers, as shown in Table 2. The average fees appear to be well within the 3% and $750 caps specified by the proposal, but the calculated fees of some very large industrial energy users could exceed the caps.

Table 2 -- Estimates of Initial Fees, Based on 1997 Data

	Revenue Goal	*Number of Customers*	*Average Annual Fees*
		Residential Customers	
Low-Income Programs	$16.3 million	1,830,000	$8.91
Energy Programs	$11.4 million	1,830,000	$6.22
TOTAL	$27.7 million	1,830,000	$15.13
		Nonresidential Customers	
Low-Income Programs	$7 million	231,000	$30.30
Energy Programs	$4.9 million	231,000	$21.21
TOTAL	$11.9 million	231,000	$51.51

Future fees cannot be estimated at this time. Fees for low-income programs will depend on a determination of the low-income need, which is not currently available. Fees for the energy program will depend on any reductions to the program made by the DOA.

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