Testimony of Ms. Ruthann Nelson, Director of Government Relations
Wisconsin Federation of Cooperatives

On S 506

Senate Utilities Committee
March 30, 2000

Chairman Moen, members of the Committee, thank you for the opportunity to testify today on S 506.

We believe the current version of this legislation corrects deficiencies in earlier versions by providing the same incentives for all sorts of power producers to expand electric generation in Wisconsin.

We need to consider the fact that it is imperative to construct new generation in Wisconsin, without competitively impairing companies that already have substantial investment in the state. This bill provides the same incentive for rate-based generation, new renewable generation and new independent power producers to expand electricity production. Nearly everyone agrees it is vital that we generate more electric power in Wisconsin. Part of our reliability problem is that we're importing 15-20% of our electric power from outside of the state.

Our state treasury gets NO gross receipts tax revenue from those imports. Even though this measure lowers the gross receipts tax on *wholesale* electric sales, we believe new electric production in this state would offset a loss of revenue from existing production.

It is important to realize that the wholesale electric market is already competitive. If power producers from outside this state can sell into the Wisconsin market at lower rates than we can command, we not only lose tax revenues, but we continue a reliance on out-of-state generation resources.

Because of their ownership and control, savings to electric cooperatives under this bill accrue to the members. Every time an electric cooperative can lower its costs, its ratepayer/owners benefit. This measure provides significant cost savings to many of our members.

We need to also realize that, because we have relied so much on generation outside of Wisconsin, all consumers in this state are vulnerable to incredibly high electricity prices because of price spikes in the wholesale market. ANY new generation built in Wisconsin would help to mitigate these. In past years, these price spikes have reached $7,000 per megawatt in the midwest. A typical power plant produces electricity for $20-$30 per megawatt.

Yes, there may be some costs to the state under this bill, but there are also significant costs to the people of this state when they are at the mercy of a competitive wholesale market that—in times of tight supply—reaches levels over 200 times the normal cost of production. We have already seen utilities have to raise rates because of this. Let's not ignore those costs as we consider this legislation.

This bill has been much-improved over its original form. A wide variety of existing and new power producers will benefit. Reliability will benefit. Our dependence on imports will lessen. We hope that the building of more new generation in this state will produce tax revenues that outweigh the costs.

We respectfully urge the Committee to support this legislation.

Thank you, very much.

FISCAL ESTIMATE FORM

1999 Session

LRB # 99-4483/2
INTRODUCTION #
Admin. Rule #

☒ ORIGINAL ☐ UPDATED
☐ CORRECTED ☐ SUPPLEMENTAL

Subject
License Fee for Wholesale Merchant Electric Plants

Fiscal Effect

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

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

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

Local: ☒ No Local Government Costs

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

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

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

The bill affects state utility tax collections and state shared revenues, as discussed below:

State utility taxes

Under current law, gross revenues from wholesale sales of electricity are taxed under the state utility tax at 3.19%. Under the bill, gross revenues from wholesale sales of electricity from July 1, 2002 to June 30, 2008 would be taxed at 1.59%.

Based on revenue data for 1998, the bill would reduce state utility tax collections from existing electric utilities by about $7.6 million each year. Since revenues from wholesale sales fluctuate considerably from year-to-year, depending in part on weather conditions and the availability of generating units, the actual level of lost utility tax revenue could differ significantly from the above amount.

Additional revenue losses could occur if new generating capacity is built in the state. Based on historic experience, about 2000MW to 4000MW of electric plant capacity is constructed in this state every 10 years. Based on information on existing wholesale electric companies in Wisconsin, and assuming that all the power generated by the added capacity is sold wholesale, the bill would reduce state tax collections by $3 to $4 million for every 1,000 megawatts (MW) of generating capacity. Thus, the bill could potentially reduce state revenues by an additional amount of $6 million to $8 million annually (2000MW at $3 million to $4 million per 1000MW) to as much as $12 million to $16 million (4000MW at $3 to $4 million per 1000MW) by 2008.

Thus, the total revenue loss ranges from $13.6 million (at 2000 MW of added wholesale generating capacity) to $23.6 million (at 4000 MW of added wholesale generating capacity).

(continued on page two)

Long-Range Fiscal Implications:

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue Daniel P. Huegel, (608) 266-5705	Yeang-Eng Braun (608) 266-2700 Yeang-Eng Braun	3/22/00

FISCAL ESTIMATE FORM
LRB 4483/2
Page 2

State shared revenues

Under the shared revenues utility payment, a total of 9 mills is paid on the net book value of certain utility property, including "qualified wholesale electric company" plant. If the property is located in a town, the town receives 3 mills and the county 6 mills. If the property is located in a village or city, the village or city receives 6 mills and the county 3 mills. The utility payment is funded out of the appropriation for shared revenues.

Under the bill, municipalities and counties with generating plants defined as "wholesale merchant plants" for state utility regulation purposes would qualify for a shared revenue utility payment on behalf of such property. To the extent such plants are built, shared revenue utility payments would increase under the bill.

MEB 3/22/00

FISCAL BUREAU ANALYSIS
3-13-00

LFB VIEW
(net loss)

Loss from Old Plants	$8.5 m
Loss from New Plants*	10.5 m
Total Loss	$18.5 m

PG&E VIEW
(net gain)

Loss on Old Plants	$8.5 m
Total Loss	$8.5 m
Gain from New Plants*	$10.5 m
Grain from Retail Sale+	21.0 m
Total Gain	$31.5 m
Total Loss	- 8.5 m
Net Gain	$23.0 m

* Assumes 3,000 magawatt growth.

\+ Assumes all power is consumed in WI.

Legislative Fiscal Bureau
One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

March 29, 2000

TO: Senator Robert Wirch
Room 310 South, State Capitol

FROM: Faith Russell, Fiscal Analyst

SUBJECT: Gross Revenues License Fee from Electricity Sales Under Various Conditions

At your request, this memorandum provides information regarding the gross revenues license fees that the state would collect from electricity sales under various conditions. Following a review of current law, the memorandum provides background information and estimated tax collections that would result under the three scenarios you presented.

Current Law

Under current law, a license fee on gross revenues is imposed in lieu of local property taxation on light, heat and power companies, including qualified wholesale electric companies [according to the Department of Revenue, "qualified wholesale electric companies" includes wholesale merchant plants as defined under s. 196.491(1)(w), for the purpose of the gross revenues license fee]. Light, heat and power companies and electric cooperatives are generally subject to a 3.19% gross revenues license fee on revenues from electricity sales, as are electric cooperatives. In determining the gross revenues license fee, a company's gross revenue is multiplied by the tax rate and then by an apportionment factor to arrive at the Wisconsin license fee. [The apportionment factor is the average of the property, payroll and sales factors, which represent the proportion of the company's total property, payroll and sales in Wisconsin.] Revenues generated from the fee are deposited in the state general fund.

Background

According to the Department of Revenue, 2,000 to 4,000 megawatts (MW) of generating capacity is constructed in the state every 10 years. The license fee would be imposed on receipts from the sales of the additional electricity generated, resulting in increased utility tax collections. Based on information provided by the Department, it is estimated that each 1,000 MW of additional capacity would result in increased utility tax collections of $7.0 million. However, if the electricity were sold in Wisconsin first at the wholesale level and then at the retail level, the additional tax revenues would total $14.0 million ($7.0 million from the initial wholesale sale and $7.0 million from the retail sale). For the sake of simplicity, these figures to not include any mark-up in the retail selling price of the electricity following an initial wholesale sale.

At your request, the following analysis is based on the assumption that the state of Wisconsin needs the power from 3,000 MW of additional generating capacity in the next 10 years. The power supplied from this additional capacity would be over and above current power sales. Based on the estimate shown above, the following analysis assumes that the gross revenues license fee on the additional electricity sales would be approximately $21.0 million at the current tax rate of 3.19%. This estimate is based on a single retail sale of such power. However, if the power were first sold at the wholesale level and then sold at retail, the estimate of the increased tax collections would be $42.0 million. These estimates assume that the apportionment factor associated with such sales is 100%.

Analysis

The following section addresses your three questions related to general fund revenues from electricity sales under various circumstances.

1. If no additional plants were built and the state imported electricity from 3,000 MW of additional capacity from out of state, how much additional tax revenue would the state collect from that imported electricity?

The Wisconsin gross revenues license fee would not apply to electricity sales to a Wisconsin utility by an out-of-state company that has no property or payroll in Wisconsin. Assuming that the Wisconsin utility resells the power directly to Wisconsin retail customers, it is estimated that general fund revenues would increase by $21.0 million.

2. If all the additional electricity were from plants built by Wisconsin utilities and sold to their customers (all retail sales), how much new revenue would be generated by the 3,000 MW?

Based on the assumptions described above, it is estimated that general fund revenues would increase by $21.0 million.

3. If all the additional electricity were from wholesale merchant plants and all the power were sold to Wisconsin utility companies and the proposed wholesale rate was 1.59% and the retail rate remained at 3.19%, how much tax revenue would be generated by the merchant companies and utility companies combined?

Based on the assumptions described above, it is estimated that $10.5 million in additional general fund revenues would be generated from the sale of the power from the merchant plants to Wisconsin utilities and an estimated $21.0 million would be generated from the retail sales to Wisconsin customers, for a total of $31.5 million. It should be noted that, under current law, the *estimated tax revenues that would be generated from such sales would be $42.0 million, based on the 3.19% tax rate applied to both the wholesale and retail transactions.*

I hope this information is useful. Please let me know if you have additional questions.

FR/lah

ROBERT W. WIRCH
STATE SENATOR TWENTY-SECOND DISTRICT

Testimony before the Senate Committee on Health, Utilities, Veterans and Military Affairs
Senate Bill 506
March 30, 2000

Thank you Senator Moen, and members of the Committee, for giving us the opportunity to have our concerns heard here today.

Last session we passed legislation which encouraged the creation of merchant plants in Wisconsin by streamlining their application process. We failed, however, to address how these merchant plants would be treated for tax purposes.

The state's encouragement has caused Pacific Gas & Electric to consider siting a merchant plant in Wisconsin, but additional concerns were raised about the double taxation of these merchant plants. This plant is very important not only for Wisconsin's electric reliability, but also for the number of jobs it would create in our area. PG&E has estimated the building of a new plant would create over 600 construction jobs which would generate over half a million dollars in wages per week for the duration of construction. The plant would not only generate economic development in our area, it would also bring $1 million in revenue to our local government.

The problem PG&E encounters when trying to locate their plant in our area is the tax structure. Currently, electricity generated by a merchant plant in Wisconsin and then sold to a investor owned utility would be double taxed, once at the generation plant and again when sold by the utility. Each time electricity is sold, the state's 3.19% gross

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receipts tax is applied. Of course, in the end this double taxation would be passed on to the consumer.

Senate Bill 506 and its companion, Assembly Bill 927, seek to end this double taxation by reducing the gross receipts tax from 3.19 to 1.59. Under the bill the reduced rate would apply to all wholesale sales of electricity.

Representative Ladwig and I, have worked long and hard to forge this compromise. We feel the substitute amendment before you addresses the concerns raised regarding this legislation. Under the substitute amendment the 1.59% gross receipts tax would apply to:

- All sales made by merchant plants and the existing or planned "RFP" plants
- The wholesale sales made by Wisconsin investor owned utility companies
- All sales made by Dairyland Power Cooperative
- Companies selling wholesale to in-state entities that are not subject to the GRT

The effective date of the bill has been changed in the substitute to start on January 1, 2002, and to end December 31, 2007. A sunset date was a compromise issue since we hope to see an overhaul of the utility tax structure by then.

Although the fiscal estimate mentions a $10.5 million cost to the state, that fiscal estimate does not address the additional revenue that the state will generate by siting new merchant plants. The fiscal bureau memo makes it clear that the state actually gains with this proposal.

The Assembly did add an amendment, which I hope the Committee would adopt, to hold shared revenue payments harmless. This amendment ensures that no community will lose shared revenue if a new plant is built in Wisconsin by depositing some of the revenue generated by a new plant into the shared revenue pot.

A level playing field for tax purposes will encourage other merchant plants to site in Wisconsin, and therefore generate revenue to exceed what this tax change will cost the state. Some estimates have the state making over $20 million in increased revenue, even after the reduction in the gross receipts tax is accounted for.

This bill is a winner for the state as well as utility consumers, and I hope the committee will favorable consider SB 506, and the amendments.

Kenosha News 03/16/00

Taxing electricity twice isn't fair

Especially if taxes aren't applied in the same way to all companies

A sense of urgency seems to have developed in Madison over a tax proposal concerning merchant power plants.

PG&E, a Maryland-based company that has proposed building a $600 million generating plant in either Pleasant Prairie or Sturtevant, says it won't build the plant unless there is a change in the tax code. Under the current code, the state would tax electricity produced at merchant power plants — plants that sell electricity to other utility companies — differently than it would tax electricity produced by plants that are owned by utilities that sell directly to the public. It boils down to taxing merchant-generated electricity twice — once at the wholesale transaction and again at retail sale.

That's not the way the tax code should work. It's not fair to tax one company's electricity differently than another's.

If state officials are serious about increasing the state's generating capacity, it makes sense to accommodate merchant plants. Taxing their output twice isn't very accommodating.

PG&E proposed a compromise on Tuesday. The company suggested a temporary wholesale gross receipts tax on the sale of electricity that is half the regular rate. The tax would take effect in on July 1, 2002 and expire on July 1, 2008, and it would apply both to in-state and out-of-state sales. After the wholesale tax expires, the one-time tax that applies to retail sales would be the only one in effect.

PG&E's proposal also clarifies some language in the current law that affects the shared revenue that municipalities and counties receive from merchant plants. In this case, that means a total of about $1 million of new revenue annually to either Pleasant Prairie and Kenosha County or Sturtevant and Racine County.

The proposal seems more than reasonable. The state generally does not tax products at the wholesale level and again at the retail level, and it certainly doesn't tax widgets differently depending upon who makes them.

The urgency that has developed is because the current legislative session is scheduled to end this month. It has nothing to do with this being proposed at the last minute; it wasn't. The issue was brought up last year by state Sen. Robert Wirch, D-Kenosha. The urgency developed because some key players seem to see an advantage in delaying the decision.

If urgency is what it takes to prompt action, it can be a good thing. If it is used as a cover for a "Let's not be hasty" excuse not to do anything, that's another matter.

Let's remember that the urgency is really caused by the fear of brownouts in the summer and the industries that may be hesitant to locate here because of fear that the electricity supply may not reliable enough. We need the merchant plants.

TESTIMONY OF
PG&E GENERATING COMPANY
Daniel J. Whyte
Director, Government Relations
Before
The Wisconsin Senate Committee
On
Health, Utilities, Veterans And Military Affairs

March 30, 2000
Madison, Wisconsin

Chairman Moen and members of the Committee, PG&E Generating Company appreciates the opportunity to comment on SB-506 and commends the bill's authors for their leadership in addressing an issue that will have a profound impact on Wisconsin's ability to attract investments in competitive and environmentally superior electric generating plants.

Two years ago the State Legislature enacted landmark legislation (Act 204) to encourage competitive power producers to invest in Wisconsin and help the State meet its electric reliability challenges.

To provide further encouragement, the legislature streamlined the power plant-siting process. Under Act 204, Wisconsin regulators are required to consider and act upon applications in a defined timeframe.

Recognizing the need for increased electricity supply and reliability and mindful of the steps that Wisconsin has taken to streamline the regulatory process, PG&E Generating Company responded and is developing a 1000 MW natural gas merchant plant in Southeastern Wisconsin, an investment valued at more than $600 million.

Unfortunately, Wisconsin's Tax Code did not anticipate electric restructuring and the robust wholesale market that Act 204 makes possible.

Under the state tax code, each time electricity is sold in the State, a Gross Receipts Tax Rate of 3.19% is applied. Up until now, the tax system functioned well, because most electricity was produced by a utility company and sold directly to its own retail customers. There was only one transaction and the tax was applied only on that one sale.

However, with the dawn of a competitive Wisconsin wholesale electric market, there will be a number of transactions between and among producers, traders, aggregators, marketers and load-serving entities. If left unchanged, Wisconsin's Tax Code would require that the 3.19% Gross Receipts Tax be paid on each of those transactions and those added costs would be borne by the State's residential, commercial and industrial consumers.

This multiple taxation would not only apply to power generated by large, merchant plants like the one PG&E is planning for either Pleasant Prairie or Sturtevant but even to smaller wind energy farms like the 30 MW project planned for West Bend.

Bipartisan legislation authored by Senator Wirch and Senator Plache and Representative Ladwig and other legislators from the Kenosha/Racine area begins to address the issue of multiple taxation. Under their bill, the GRT rate is cut in half for the wholesale transaction. The retail transaction is still taxed at the full 3.19% rate. The multiple taxation is not totally eliminated, but SB-506 is a good start, and will send another signal to the market that Wisconsin is the right place to invest and build highly competitive and environmentally superior electric generating plants.

The bill does two other important things. It makes it clear that a community which hosts a merchant plant receives the same utility-shared revenue payment it would receive hosting a utility plant.

The bill also clarifies existing law to insure that the GRT is not applied on intermittent sales.

The bill provides that the GRT is applied once when generated and again once when sold at retail.

Clearly, the state has done a good job of improving the regulatory structure to encourage merchant plants. However If the state expects competitive companies to come to Wisconsin and assist the state in meeting its energy supply and reliability needs, then the issue of multiple taxation must be addressed. The bill before you today, SB-506 serves the broad public interest in that regard and we respectfully urge you to give it positive consideration.

Thank you.