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Public Service Commission of Wisconsin

Ave M. Bie, Chairperson
Joseph P. Mettner, Commissioner
John H. Farrow, Commissioner

610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

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BY:

December 22, 2000

The Honorable, The Legislature:

We are pleased to provide the report of the Public Service Commission concerning "Horizontal Market Power in Wisconsin Electricity Markets." This report is transmitted as required by Wis. Stat. § 196.025(5)b for distribution to the appropriate standing committees under Wis. Stat. § 13.172(3).

The report provides results of an independent economic study which examined potential horizontal market power problems in Wisconsin electricity markets, comments from numerous industry participants on the commissioned report, and the Commission's initial commentary on the subject. Pursuant to Wis. Stat. § 196.025(5)(ar), the Commission contracted with an expert consultant in economics to study the potential for horizontal market power, including the horizontal market power of electric generators, to frustrate the creation of an effectively competitive retail electricity market in this state and to make recommendations on measures to eliminate such market power on a sustainable basis.

If you have questions concerning this report please contact Mr. Randel Pilo of the Commission's Electric Division at (608) 267-1474.

Sincerely,

Ave M. Bie

Ave M. Bie
Chairperson

AMB:JPM:JHF:rap:mem:L:\Letter\Cover Lts\05-EI-120 ltr to the legislature

Enclosure

to util.

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05-EI-120

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November 30, 2000

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WISCONSIN PUBLIC SERVICE
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HAND DELIVERED
Lynda Dorr
Public Service Commission of Wisconsin
610 North Whitney Way
Madison, WI 53707-7854

RE: Market Power Study for Retail Competition
Docket 05-EI-120

Dear Ms. Dorr:

Enclosed for filing are the original and 15 copies of Comments of the Wisconsin Industrial Energy Group in this docket.

Very truly yours,

LA FOLLETTE GODFREY & KAHN

Linda M. Clifford

LMC:kap
Enclosures

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BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Market Power Study for Retail Competition	)))	05-EI-120

COMMENTS OF THE

WISCONSIN INDUSTRIAL ENERGY GROUP

November 30, 2000

LaFollette Godfrey & Kahn
Richard L. Olson, Esq.
Linda M. Clifford, Esq.

Brubaker & Associates, Inc.
Mr. Alan Chalfant

BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Market Power Study for Retail Competition	)))	**05-EI-120**

COMMENTS OF THE

WISCONSIN INDUSTRIAL ENERGY GROUP

The Wisconsin Industrial Energy Group (WIEG) applauds the Commission for its efforts in complying with the legislative directive included in 1999 Wisconsin Act 9 to contract with an expert consultant in economics to conduct a market power study. This task was accomplished in an efficient and timely fashion. In particular, the Commission's choice of the firm of Tabors, Caramanis & Associates (TCA) to conduct the study guaranteed an objective analysis and resulted in a Study that was conducted in a professional manner and supplied to stakeholder participants in the Wisconsin electricity industry in a timely fashion.

In general, WIEG strongly supports the study – Horizontal Market Power in Wisconsin Electricity Markets: A Report to The Public Service Commission of Wisconsin (Study) and its conclusions. We do, however, wish to call attention to certain concerns about the assumptions and conclusions that we believe tend to understate the magnitude of the market power problems. We will also address the subject of stranded benefits as quantified in the Study.

Concerns About the Study Assumptions

In any market power study it is necessary to make simplifying assumptions. It is worthwhile noting that many, if not all, of the assumptions made by TCA have the effect of understating the level of market power in Wisconsin. Several examples follow.

A fundamental assumption in the analysis is an increase to 3,000 MW in 2004 of total transfer capability into the WUMS market. Presumably, this is the Arrowhead-Weston Transmission Line Project. This is a significant variable in the level of market power as evidenced by the fact the measures of market power decline substantially once the transmission capacity increases. If this expansion doesn't occur or is delayed, then the Study's assessment of the market power problem in WUMS would be significantly understated. Moreover, even if the project is completed as assumed by the Study, the additional capacity will not be available to existing retail customers but the incumbent utilities will have locked in most, if not all, of the rights to firm transfer capability under FERC tariffs with rollover rights.

Another critical assumption is the level of natural gas costs. The level of assumed or forecasted natural gas prices are especially important because it is natural gas-fired generation that is at the margin and, hence, becomes the basis for determining the market price during the highest demand periods.

TCA's analysis assumes a forecasted total peak load for 2007 in Wisconsin of 12,517 MW. (Study, Appendix A, p. A-9) The Final Environmental Impact Statement (FEIS) supporting the proposed Arrowhead-Weston Transmission Line Project includes a forecasted total peak load for 2007 in Wisconsin of 14,487 MW. (Final Environmental Impact Statement, Arrowhead-Weston Transmission Line Project, Chapter 2, p. 27) Understating the forecasted load would also understate the potential market power problem.

The Study refers to what it describes as a "massive" entry of new generation in WUMS in 2003. (Study, p. 31). There is some uncertainty as to whether these additions will be available as scheduled and there is also some question as to the magnitude of the various additions. For example, the Study includes a 500 MW capacity addition in 2001 (SkyGen, formerly known as RockGen). The Arrowhead-Weston FEIS, however, sets this capacity at 450 MW and states that the facility is presently the subject of litigation, which held up the start of construction (FEIS, Chapter 2, p. 35). Also, the Study assumes that the expansion of the DePere facility will result in 230 MW of new capacity in 2004. The Arrowhead-Weston FEIS states that the expansion will provide 55 MW of new capacity. The Study also includes a 1,048 MW capacity addition in 2003 (Badger Pleasant Prairie facility). The Arrowhead-Weston FEIS states that the WPSC has not yet approved this project (FEIS, Chapter 2, p. 34).

The TCA analysis used a cap of $300/MWh to prevent extreme prices in a few hours to distort average prices used to define product markets. (Study, p. 13). Prices in California during the summer of 2000 indicate that this is not a realistic assumption. Although allowing the Study to include the actual uncapped prices that would occur would certainly increase the prices above those reported, we do not agree that this result would be a distortion.

The Study assumes that retail customers will respond to changes in price. Specifically, it assumes a price elasticity level of -0.2 which is based on elasticity estimates relating to industrial customers. This elasticity is applied to all customers in the Study. The support for this estimate is a survey of industrial sector price elasticity (Study, p. 27, Footnote 10) that gives a range of -0.11 to -0.22. Thus, the elasticity estimate used in the Study must be considered extremely high because: (1) it is at the high range of the survey results, and (2) the elasticity for residential and commercial customers is likely to be less than the industrial elasticity. This use of an unreasonably high elasticity estimate will result in an understatement of market power because a lower level of price elasticity means a supplier is able to increase the price without eliciting a reduction in demand.

The Study assumes there is no market power impact on the capacity and reserves component of the wholesale price. TCA offers the following explanation of this assumption. "While the importance of the capacity and ancillary service markets is acknowledged and the possibility for the market power to 'propagate' from one type of market into another is recognized, the study includes no assessment of those markets at this time as it is beyond the scope of the analysis. Therefore, the study makes a **conservative** assumption of zero market power impact on the capacity and reserves component of the wholesale price." (Study, p. 26)

Concerns About Market Power Conclusions

Even with all of these assumptions that tend to understate estimates of market power, the results produced by the Study are sobering. This is true of both the more traditional structural approach and the newer behavioral model results. The structural approach highlights the fact that the market shares of the existing utilities are very high (WEPCO has a market share of approximately 40% of economic capacity). This must be viewed in the context of the problems in California this summer where suppliers have clearly exerted market power even though the largest supplier's market share was 14% and the market share of all other suppliers were below 10%.

The results of the behavioral analysis show that, under the most favorable conditions, the prices in a deregulated Wisconsin market for electricity would never be less than 116% percent of truly competitive prices and, in the near term, would be more than 150% of competitive prices. Based on our discussion above, WIEG believes that more realistic assumptions would produce even more dramatic departures from competitive prices.

TCA offers several conclusions that include suggestions as to how Wisconsin might choose to mitigate market power. One of these would have WEPCO generation assets divested to three independent generation owners. While we do not dispute the conclusion that this action would help to mitigate market power concerns, we are concerned that this suggestion could be counter-productive in that it focuses attention on WEPCO as the source of the problem. As Federal Energy Regulatory Commissioner William Massey stated in a speech to the Energy Bar Association on November 17, 2000, one of the problems with existing FERC approaches to market power is that "it focuses solely on the market share of the individual seller instead of the conditions of the market."

As long as there is a market power problem, all sellers in the market will benefit so it is not sufficient to merely concentrate on remedies aimed at the largest seller. This is borne out by the Study's results that show that market power problems would persist even if WEPCO were broken into three equal pieces. Moreover, growth in the market share of WP&L or WPS could offset any reductions in market power accomplished by the suggested divestiture of WEPCO. Whatever mitigation measures are adopted should include appropriate requirements or restrictions on each participant in order to arrive at workable competition.

Concerns About the Stranded Benefits Analysis

Some interesting insights are provided in Section 5.2 of the Study which is titled "Impact on Stranded Costs (Benefits)." In this Section, TCA estimates that because the market value of existing non-hydro utility generation exceeds the book value of those assets, the stranded benefits related to those plants is $3.2 million.

As in the case of the estimation of market power, while the methods used by TCA are reasonable, the actual calculations involve assumptions that tend to result in a very conservative estimate of stranded benefits.

First, it should be recognized that TCA has not estimated the difference between the market price and book values of plants that would result from the market prices that it estimated would be realized in Wisconsin under the existing industry structure. Rather, it estimated stranded benefits that would exist *if the electricity generation market in Wisconsin were perfectly competitive*. As stated by TCA "estimates of market values for each generating plant were calculated for a market with perfect competition . . . ." (Study, p. 50). Had the calculations been made reflecting the existing market structure that is fraught with market power as determined elsewhere in the Study, the estimate would have been considerably higher.

Second, the estimate of stranded benefits appears to be based on only seven years of differences between perfectly competitive market prices and costs. "The model calculated the net present value of the income or profit of each generating unit in each year of the study period, 2001 through 2007." (Study, p. 50) One would expect that these profits would have been much greater had the study included all years during the expected economic lives of the existing plants. This change, in turn, would greatly increase the estimate of stranded benefits.

Third, the stranded benefits derived from hydro plants are totally ignored. While the total capacity of such plants may not be a large part of a utility's resource mix, the per unit profit from these facilities is very high. Any definitive estimate of stranded benefits must include the benefits of these facilities.

Fourth, the TCA analysis unrealistically assumes a natural gas price of $2.56 in 2001 which does not even reach $3.00 by 2010. In actuality, recent prices have been in excess of $6.00 and prices are likely to remain high into the foreseeable future, partly because of increased reliance on gas for new generation. Based on these forecasted gas prices, the calculated perfectly competitive electric generation prices tend to be lower, especially during peak periods in 2007 than in 2001. As a result, the estimated prices of perfectly competitive electric generation are understated which, again, leads to an underestimate of stranded benefits.

Conclusions

While the results of this study tend to seriously understate the extent of potential market power in Wisconsin, it leaves no doubt that market power in the electric generation industry is a major problem in the state of Wisconsin. The Commission and the stakeholders in the electric industry must begin to look for methods of effectively mitigating this market power so that the State can begin an orderly transition to a structure under which retail customers have the ability to choose their suppliers in a workably competitive market.

Respectfully submitted,

WISCONSIN INDUSTRIAL ENERGY GROUP

LaFollette Godfrey & Kahn
Richard L. Olson, Esq.
Linda M. Clifford, Esq.

Brubaker & Associates, Inc.
Mr. Alan Chalfant

05-EI-120

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ATTORNEYS AT LAW

November 30, 2000

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Lynda L. Dorr
Secretary
Wisconsin Public Service Commission
610 North Whitney Way
Madison, WI 53705-2729

Dear Ms. Dorr:

Re: Market Power Study for Retail Competition
Docket No. 05-EI-120

Enclosed for filing are the original and 15 copies of the Comments of Calpine Corporation & SkyGen Energy LLC. Upon the filing of this document, please return a file-stamped copy of this letter to our messenger.

Thank you for your consideration.

Yours very truly,

Stephanie L. Mott

Stephanie L. Mott

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BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Market Power Study for Retail Competition — Docket No. 05-EI-120

COMMENTS OF CALPINE CORPORATION & SKYGEN ENERGY, LLC

Pursuant to the Public Service Commission of Wisconsin's ("Commission") Notice of Proceeding and Request for Comments, issued November 3, 2000, and the November 16, 2000 Memorandum revising the due date for comments, Calpine Corporation ("Calpine") and SkyGen Energy, LLC ("SkyGen Energy") submit their comments on the report prepared by Tabors Caramanis & Associates entitled, *Horizontal Market Power in Wisconsin Electricity Markets: A Report to The Public Service Commission of Wisconsin* (November 2, 2000) ("Market Power Report").

COMMENTS

I. Introduction.

Calpine, founded in 1984, is an innovative, fully integrated independent power producer dedicated to providing customers with reliable and competitively priced electricity. Calpine is focused on clean, efficient, combined-cycle, natural gas-fired generation and renewable geothermal energy.

Calpine has launched the largest power development program in the United States. To date, Calpine has approximately 26,800 megawatts ("MW") of base load capacity and 5,100 MW of peaking capacity in operation, under construction, and in announced development in 27 states and Alberta, Canada.

SkyGen Energy, an indirect wholly owned subsidiary of Calpine Corporation, specializes in highly efficient asset-based energy supply to large industrial customers and the wholesale electricity market. SkyGen Energy has approximately 2,500 MW of modern gas fueled generation in operation and construction with an additional 5,000 MW in various stages of development.

Calpine and SkyGen Energy are in the process of developing natural gas-fired power plants with a combined value in excess of $1 billion in the Wisconsin market.

Calpine and SkyGen Energy, and other independent power providers, uniquely are qualified to solve the two major problems facing Wisconsin today. First, the construction of generating capacity in Wisconsin by independent power producers will contribute to the creation of an effectively competitive electricity market, as identified in the Market Power Report. Second, the construction of generating capacity by independent power producers will help to remedy the electric reliability crisis in this state.

Calpine and SkyGen Energy are anxious to bring the benefits that they, and other independent power producers, can provide to Wisconsin.

II. The Market Power Report.

The Wisconsin legislature, pursuant to 1999 Wisconsin Act 9 and § 196.025(5)(ar), Stats., directed the Commission to "contract with an expert streamline access to the transmission grid is for the Commission and the industry to develop a standardized interconnection agreement with fair and understandable terms and timelines. Independent power producers must have input into the development of a standardized interconnection agreement.

The Commission also should ensure that the Wisconsin transmission company is independent of the transmission system owners in its operation of the transmission system in Wisconsin. The creation of a strong transmission company in Wisconsin would have several benefits. It would be able to provide a single, reliable calculation of the available transfer capacity, whereas now there often are inconsistent, unclear, and conflicting calculations provided by the individual transmission owners. (*See* Customer Task Force Report on Electric Reliability, dated October 1, 1997, at 20). In addition, a transmission company would provide a single, uniform transmission price or tariff within eastern Wisconsin. (*Id.*). Finally, a strong transmission company would have greater incentive to arrange for the construction of least-cost, environmentally sound transmission lines. (*Id.*).

Additionally, the process for obtaining a Certificate of Public Convenience and Necessity ("CPCN") should be modified to eliminate the requirement in § 196.491(3)(d)2., Stats., to consider alternative sites. Independent power producers routinely evaluate multiple sites before selecting a final site and seeking a CPCN. Requiring the CPCN process to include a re-examining of alternative sites – which already may have been rejected by an independent power producer after a thorough evaluation – wastes time and resources, and delays the construction of needed generation capacity in Wisconsin.

Finally, utilities should be required to purchase the least-cost energy available. By requiring utilities to purchase the most inexpensive generation available. This requirement will benefit ratepayers, will reduce market power, and will contribute to the creation of an effectively competitive electricity market.

The Market Power Report also recommends "fixed price contracts covering a significant portion of generation capacity owned by major generation owners in Wisconsin [to] help. . . reduce incentive for those owners to behave strategically." (Market Power Report, at 36). Calpine and SkyGen Energy assume that the Market Power Report recommends that utilities be required to enter into fixed price contracts with independent power producers to help reduce incentives for utilities to behave strategically. Calpine and SkyGen Energy are supportive of fixed price contracts between utilities and independent power producers so long as the process is fair and the contract terms are long enough to create viable agreements. We believe this provision of the Market Study Report is unclear and future guidance on the true intent would be beneficial to all parties involved.

In sum, the construction of generating capacity in Wisconsin by independent power producers can fulfill two recommendations of the Market Study Report and, thereby, contribute to the creation of an effectively competitive retail electricity market.

III. Independent Power Producers Can Play A Vital Role In Ensuring That Wisconsin Has A Reliable And Economic Source Of Electricity For The Future.

In addition to contributing to the creation of an effectively competitive retail electricity market, the construction of new generating capacity by independent power producers will help remedy Wisconsin's electric reliability crisis. Independent power producers will increase Wisconsin's electric reliability by constructing efficient, state-of-the-art plants that are a low-cost and clean-burning source of electricity.

Wisconsin is a net importer of electrical power. Because of the lack of generating capacity in Wisconsin, starting in the summer of 1997 and continuing into the spring and summer of 2000, Wisconsin has faced unprecedented power supply problems. Increased power demand from a thriving economy, generating plant outages, a delay in the on-line availability of new power plants, and a seriously constrained transmission system have exacerbated power supply problems in Wisconsin.

On June 24, 1997, in response to this statewide energy crisis, Governor Thompson requested that the Commission and the electric utilities convene a task force to address Wisconsin's electric reliability problems. These and other interested parties studied the problem and presented their findings to the Governor in a series of reports.

Specifically, in response to the Governor's request, on September 30, 1997, the electric utilities filed a report to the Governor entitled "*Electric Utility*

Reliability and Regulation in Wisconsin" ("*Utilities Report*").[1] In their report, the utilities recommended that additional generation capacity be constructed in eastern Wisconsin.

> To further enhance reliability, it is proposed that Wisconsin allow the development of merchant plants as an accelerated and cost-effective way to obtain needed new generation in eastern Wisconsin. Merchant plant investors would bear the financial costs and risks of providing new generation, and Wisconsin utilities and their rate payers would not be required to assume any new stranded costs.

(*Utilities Report*, Executive Summary).

In its *Report to the Governor on Electric Reliability*, dated September 30, 1997, the Commission recommended the addition of new generation capacity in eastern Wisconsin. To encourage the construction of generation capacity, the Commission recommended that this new generating capacity be constructed and operated not by the utilities, but by independent power producers. (*Report to the Governor on Electric Reliability*, at 35-36). Accordingly, the Commission endorsed the development of wholesale "merchant" plants, which allow independent power producers to provide power to more than one utility.

Similarly, the Citizens' Utility Board, the Wisconsin Industrial Energy Group, the National Federation of Independent Businesses/Wisconsin, and the

[1] The report was submitted by Dairyland Power Cooperative, LS Power, LLC, Madison Gas & Electric Company, Northern States Power Company, Municipal Electric Utilities of Wisconsin, Superior Water, Light & Power Company, Wisconsin Electric Power Company, Wisconsin Federation of Cooperatives, Wisconsin Power & Light Company, Wisconsin Public Power Inc., and Wisconsin Public Service Corporation.

American Association of Retired Persons prepared the *Consumer Task Force Report on Electric Reliability*, dated October 1, 1997. This Report also recommended that, as soon as possible, independent power producers construct significant amounts of generating capacity in Wisconsin. (*Consumer Task Force Report on Electric Reliability*, at 3).

Providing support for the Market Study Report's conclusions, the Consumer Task Force explained:

> Our belief that new generating capacity should be built by IPP's is premised on the fact that current utilities have a considerable amount of market power. As we move toward a restructured and deregulated generation environment, we need to have new entrants in the market. WEPCO, for example, owns more than half of eastern Wisconsin generation, and it would make no sense to increase that dominance of the market.

(*Id.*, at 17). In addition, the Consumer Task Force recognized the need to provide incentives for independent power producers to build needed capacity in Wisconsin:

> Capacity contracts are needed at this point to provide financial incentives for IPP's to build the needed capacity. However, asking for bids of varying contract durations – 5, 7 and 10 years for example – will limit the exposure of the contracting utilities and give the IPP the opportunity and the responsibility to assume the market risk when the electricity market becomes competitive.

(*Id.*).

Finally, a September 2000 Progress Report by the Customers First! Coalition stated that "it is clear that the state faces a continuing electric generation shortage." Accordingly, the Customers First! Coalition recommended that as load grows, new power plants be built to serve all customers economically and efficiently.

Moreover, in response to the urgency of the Wisconsin reliability situation, the Wisconsin legislature initiated a process to stimulate the prompt addition of new generating capacity. On April 28, 1998, the legislature passed the Electric Reliability Act, 1997 Wisconsin Act 204 ("Act 204"), which became effective on May 12, 1998. Act 204 was designed to increase energy reliability in Wisconsin by adding significant electrical generating capacity. To this end, the Act streamlined the process for review, approval, and construction of new power generation facilities to encourage power producers to build new power plants in Wisconsin to meet the state's growing energy needs. The Act also facilitated construction of wholesale merchants plants[2] as a solution to the need for capacity and energy. *See* § 196.491(3m), Stats.

Thus, as recognized by the Governor, the Legislature, the Commission, the utilities, and other intersected parties as early as 1997, independent power producers such as Calpine and SkyGen can play a vital role in Wisconsin's energy future. Moreover, the generating capacity constructed by Calpine and SkyGen Energy will be fueled by natural gas and utilize the most technologically advanced emission control technology. The development of new gas-fired plants will help

[2] "Wholesale merchant plants" are defined as "electric generating equipment and associated facilities located in this state that do not provide service to any retail customer and that are owned and operated by . . . . [a] person that is not a public utility." § 196.491(1)(w), Stats.

reduce Wisconsin's dependence on older and more polluting coal and aged gas plants. The development of natural gas-fired plants by independent power producers will continue to improve Wisconsin's air quality.

In sum, independent power producers can play an important role in ensuring an effectively competitive retail electricity market in Wisconsin and in ensuring that Wisconsin has a reliable, economic, and clean source of electricity for the future – something the Governor, the Legislature, the Commission, the utilities, and other interested parties have been striving for since 1997.

CONCLUSION

In the Commission's report to the legislature, which is due January 1, 2001, pursuant to § 196.025(5)(6), Stats., Calpine and SkyGen Energy urge the Commission to stress the unique and vital role independent power producers can play both in ensuring an effectively competitive electricity market in Wisconsin, and in ensuring that Wisconsin has a reliable, economic, and clean source of electricity for the future.

Dated this 30th day of November, 2000.

Attorneys for CALPINE
CORPORATION and SKYGEN
ENERGY, LLC

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05-EI-120

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November 30, 2000

HAND DELIVERED

Ms. Lynda L. Dorr, Secretary
Public Service Commission of Wisconsin
610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

Re: Market Power Study For Retail Competition, Docket No. 05-EI-120.

Dear Ms. Dorr:

Enclosed for filing in the above-referenced docket please find the original and 20 copies of the Comments of Dairyland Power Cooperative On The Study Of Tabors Caramanis And Associates On Horizontal Market Power.

Thank you.

Sincerely,

WHEELER, VAN SICKLE & ANDERSON, S.C.

Jeffrey L. Landsman

Enclosures
cc: William L. Berg
Brian Rude

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BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Market Power Study for
Retail Competition

Docket No. 05-EI-120

COMMENTS OF DAIRYLAND POWER COOPERATIVE ON THE STUDY OF TABORS CARAMANIS AND ASSOCIATES ON HORIZONTAL MARKET POWER

Dairyland Power Cooperative ("Dairyland") appreciates the opportunity to comment on the study prepared by its consultant Tabors Caramanis & Associates entitled "Horizontal Market Power in Wisconsin Electricity Markets: A Report to The Public Service Commission of Wisconsin" (the "Tabors Study"). Dairyland joins in the comments submitted in this docket by the Customers First! Coalition, and will not repeat those comments here.

Dairyland's comments focus on the impacts of market power and market power mitigation on electric cooperative members. It is apparent from the Tabors Study that little attention was paid to those impacts on electric cooperative members. From Dairyland's perspective, this does not detract from the major conclusions of the Tabors Study. Moreover, the focus of the Tabors Study is on that part of Wisconsin that is in the WUMS area, and Dairyland is not a WUMS utility.[1] However, Dairyland believes that the Commission, in its report to the Legislature, should acknowledge that the Tabors Study did not address the impacts of market power and market power mitigation on electric cooperative members.

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[1] On the other hand, there are distribution cooperatives that are located within WUMS. The Tabors Study does not provide information about the impacts on the distribution cooperatives that are located within WUMS.

For example, on page 47, the Tabors Study, addresses the rate impacts of proposed market mitigation measures. The Tabors Study states:

> The impacts of the proposed mitigation measures on public utility customers and electric cooperative members was analyzed in terms of the effect on electricity rates. Retail rates for electric service provided by utilities are subject to approval by the PSCW. Those rates are set at levels that give the utility or cooperative an opportunity to recover its costs of providing that service, including a reasonable return on its investments, based on data for a representative time period.

As the Commission knows, it does not regulate retail rates for electric service provided by electric cooperatives. Moreover, since electric cooperatives are non-profit, consumer-owned utilities, their rates are not determined on the same basis as rates for investor-owned utilities are determined (in order to provide an opportunity to recover its costs of providing that service, including a reasonable return on its investments, based on data for a representative time period).

The analysis of the impacts on rates that follows on pages 47 through 49 of the Tabors Study then describes only the impacts on the rates of the major investor-owned utilities. It does not evaluate rate impacts as to any electric cooperatives.

The Tabors Study (at page 49) also states that it "assessed the impact of mitigation measures on public utility shareholders and electric cooperative members by estimating the impact of those measures on stranded costs." However, the analysis that follows only addresses the existing generating capacity the major investor-owned utilities, and concludes that there will be negative stranded costs (in other words, stranded benefits) associated with the existing generating capacity the major investor-owned utilities. The Tabors Study does not address the generating capacity owned by Dairyland, and the Study's conclusion that there will be stranded benefits associated with the state's existing generating capacity does not necessarily apply to generating capacity owned by Dairyland.

Accordingly, the Commission, in its report to the Legislature, should acknowledge that the impacts of market power and market power mitigation on electric cooperative members were not addressed by the Tabors Study.

Dated this 30th day of November, 2000.

Respectfully submitted,

DAIRYLAND POWER COOPERATIVE

By: Wheeler, Van Sickle & Anderson, S.C.

By: ______________________

Jeffrey L. Landsman
State Bar No. 1017670
Attorneys for Dairyland Power Cooperative

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05-EI-120

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November 29, 2000

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Ms. Lynda Dorr
Secretary to the Commission
Public Service Commission of Wisconsin
610 North Whitney Way
Madison, WI 53705-2729

Re: In the Matter of the Market Power Study for Retail Competition
Case No. 05-EI-120

Dear Ms. Dorr:

Enclosed please find the original and sixteen (16) copies of the Comments of Midwest Independent Power Suppliers Coordination Group (MWIPS).

Thank you for your assistance. In addition, please do not hesitate to call me if you have any questions.

Very truly yours,

Freddi L. Greenberg

Freddi L. Greenberg
General Counsel for Midwest Independent Power Suppliers

FLG:jp
Enclosure

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BEFORE THE WISCONSIN

PUBLIC SERVICE COMMISSION

In the Matter of the Market Power Study for Retail Competition	))	Case No. 05-EI-120

COMMENTS
OF THE
MIDWEST INDEPENDENT POWER SUPPLIERS
COORDINATION GROUP

I. DESCRIPTION OF MIDWEST INDEPENDENT POWER SUPPLIERS

The Midwest Independent Power Suppliers Coordination Group (MWIPS) is an organization of leading competitive power suppliers with a common interest in promoting full and fair competition in the electric industry in the Midwest. MWIPS members stand ready to meet the need for new generating capacity in the Midwest in a manner that offers reliability, reduced risk and the lowest cost to consumers. A list of MWIPS members is attached hereto[1].

II. CONCLUSIONS OF THE MARKET POWER STUDY

On November 2, 2000, the consulting firm of Tabors, Caramanis & Associates issued a report to the Commission entitled "Horizontal Market Power in Wisconsin Electricity Markets" ("market power study" or "study"). The stated objectives of the study were to identify the extent and impact of market power in Wisconsin's electricity

[1] These comments do not necessarily reflect the position of each MWIPS member.

markets and to evaluate and recommend measures to mitigate that market power. The study concluded that the market power of incumbent utilities in the Wisconsin Upper Michigan System ("WUMS") region is so significant that the creation of a workably competitive market for electricity in the region is not possible under the current market structure. The study found that market power could be mitigated by increasing electric supply, changes in industry structure and regulatory intervention. Electric supply could be increased by expanding the state's transmission system to increase import capability, by attracting new generation to the state and by eliminating barriers to entry into the generation market within the state. The changes in industry structure that would mitigate market power included divestiture of utility generation and creation of a Regional Transmission Organization with authority to mitigate market power. Mitigation of market power through regulatory intervention included regulated-price contracts for generator output and price caps.

The study concluded that electric supply can be increased through addition of proposed new generating capacity and expansion of the state's transmission system. With respect to industry structure, the study noted that RTO development is moving forward. The study then addressed the remaining two mitigation strategies: divestiture of generation and fixed-price contracts for generator output. The resulting proposal to mitigate market power consisted of (1) divestiture of WEPCO's generation to three separate generating companies ("gencos") and (2) contracts between each genco and the utility to eliminate incentive and ability to bid strategically or to withhold capacity from the market. Generation divestiture can be a powerful tool for mitigating the market power of incumbent utilities. However, as more fully discussed below, divestiture coupled with long term contracts, can have the opposite effect by eliminating any incentive for competitive electric suppliers to build new capacity to serve Wisconsin's wholesale electric market. The situation, and the market power of incumbents, will be even further exacerbated if incumbents are allowed to build the new capacity needed by the state.

III. COMMENTS ON MARKET POWER STUDY

Competitive power suppliers can contribute significantly to the mitigation of market power within Wisconsin by building new generation to increase the state's supply of electricity. In fact, a number of competitive suppliers, including MWIPS members, recently have announced plans to build new capacity. However, developers of new merchant generation must have opportunities to sell plant output into the state's wholesale power market. This result is unlikely if, as proposed by the study, Wisconsin utilities are required to obtain the bulk of the generation required to serve current retail load from gencos[2] that own divested utility capacity. There should be no requirement or assumption that the divested gencos will be the only source of supply available to the incumbent utilities, to meet existing or future needs. Instead, needed generation should be obtained through a competitive bidding process to ensure that the consumer receives the benefits of wholesale competition. Similarly, when retail competition begins, if a standard offer contract becomes available to customers who wish to remain with the incumbent utility, a competitive bidding process should be used to select the provider of that service.

The study envisions that genco/utility contracts will provide for fixed pricing, as a means of reducing incentives for the genco to bid strategically or to withhold capacity from the market. Assuming that such fixed price contracts are an appropriate tool for mitigating market power, the terms of the contracts should be for a limited term, with a provision for earlier termination upon the commencement of retail competition. A short contract term is necessary to ensure that the ratepayer is not locked in to purchase electricity at a contract rate which has become higher than the then current market price. In addition, long term contracts between a utility and genco will discourage the construction of new generation by competitive suppliers, especially before retail competition, when the only purchasers of generation are the incumbent utilities.

A genco should purchase the divested utility generation at a price that reflects the market value of the generation rather than at book value. This principle is particularly important because the study found that for most Wisconsin utilities, market value of existing generation is several times the generation's book value. To allow a genco to buy generation from a utility at the lower book value would shift the significant value of the stranded benefits revealed by the study from the incumbent utility's longtime ratepayers to its shareholders. Furthermore, the purchase of generation at a "bargain basement" price would make the genco into a super-competitor when the genco begins to compete in the marketplace (after the utility contract terminates), especially in comparison to other competitors who have bought or installed generating capacity at "full price". To the extent this drives competitors out of the marketplace, the consumer will suffer in the long run.

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[2] The term "genco" as used in these comments refers to a utility-affiliated generating company that owns generating capacity formerly owned by the affiliated utility.

Finally, the extent of the utility market power revealed by the study makes it clear that adding to the utility-owned generation will only exacerbate utility market power. Accordingly, incumbent utilities should not be permitted to construct new ratebased generation.

In summary, the Commission should give careful consideration to ensure that measures proposed as remedies for market power do not, in fact, exacerbate the market power of the incumbent utilities by eliminating the incentives for competitive suppliers to build generation in the state. To ensure that this does not occur, MWIPS recommends that the Commission (1) prohibit utilities from transferring generation to gencos at a price below market value; (2) limit contracts between utilities and gencos to a limited term, with earlier termination when retail competition begins; (3) require that utilities utilize a commission-approved competitive process to select suppliers of generation; (4) require a similar competitive process for selecting the supplier of standard offer service to retail customers after retail competition begins; and (5) prohibit a genco from providing new generating capacity to serve customers of its affiliated utility.

Respectfully submitted,

MIDWEST INDEPENDENT POWER
SUPPLIERS COORDINATION GROUP

By: Freddi L. Greenberg

Freddi L. Greenberg
General Counsel for Midwest Independent Power
Suppliers Coordination Group
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847.864.4010
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November 29, 2000

05-EI-120

FREDDI L. GREENBERG
ATTORNEY AT LAW

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WISCONSIN PUBLIC SERVICE COMMISSION
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November 29, 2000

Ms. Lynda Dorr
Secretary to the Commission
Public Service Commission of Wisconsin
610 North Whitney Way
Madison, WI 53705-2729

Re: In the Matter of the Market Power Study for Retail Competition
Case No. 05-EI-120

Dear Ms. Dorr:

Enclosed please find the original and sixteen (16) copies of the Comments of PG&E National Energy Group.

Please date stamp the extra copy to indicate your receipt and return it to me in the enclosed self-addressed envelope. Thank you for your assistance. In addition, please do not hesitate to call me if you have any questions.

Very truly yours,

Freddi L. Greenberg

Freddi L. Greenberg
Attorney for PG&E National Energy Group

FLG:jp
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cc: M. Lavinson

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BEFORE THE WISCONSIN

PUBLIC SERVICE COMMISSION

In the Matter of the Market Power Study for Retail Competition	))	Case No. 05-EI-120

COMMENTS
OF PG&E NATIONAL ENERGY GROUP

I. DESCRIPTION OF PG&E NATIONAL ENERGY GROUP

PG&E National Energy Group (NEG) is one of the nation's leading competitive power producers in North America and operates one of the major energy trading businesses in the country. PG&E NEG's affiliate, Badger Generating Company, LLC. ("Badger Generating") is proposing to build a 1,000 megawatt natural gas fired combined cycle electric generating facility in Pleasant Prairie, Wisconsin. PG&E NEG's Wisconsin office is located in Madison, Wisconsin.

II. CONCLUSIONS OF THE MARKET POWER STUDY

On November 2, 2000, the consulting firm of Tabors, Caramanis & Associates issued a report to the Commission entitled "Horizontal Market Power in Wisconsin Electricity Markets" ("market power study" or "study"). The stated objectives of the study were to identify the extent and impact of market power in Wisconsin's electricity markets and to evaluate and recommend measures to mitigate that market power. The study concluded that the market power of incumbent utilities in the Wisconsin Upper

The study envisions that genco/utility contracts will provide for fixed pricing, as a means of reducing incentives for the genco to bid strategically or to withhold capacity from the market. Assuming that such fixed price contracts are an appropriate tool for mitigating market power, the terms of the contracts should be limited in duration, with a provision for earlier termination upon the commencement of retail competition and a reassessment at that point of how to proceed. A short contract term is necessary to ensure that the ratepayer is not locked in to purchase electricity at a contract rate that, in the future, has become higher than the current market price. In addition, long term contracts between a utility and genco will discourage the construction of new generation by competitive suppliers, especially before retail competition, when the only purchasers of generation are the incumbent utilities.

A genco should purchase the divested utility generation at a price that reflects the market value of the generation rather than at book value. This principle is particularly important because the study found that, for most Wisconsin utilities, market value of existing generation is several times the generation's book value. To allow a genco to buy generation from a utility at the lower book value would shift the significant value of the stranded benefits revealed by the study from the incumbent utility's longtime ratepayers to its shareholders. Furthermore, the purchase of generation at a "bargain basement" price would make the genco into a super-competitor when the genco begins to compete in the marketplace (after the utility contract terminates), especially in comparison to other competitors who have bought or installed generating capacity at "full price". To the extent this drives competitors out of the marketplace, the consumer will suffer in the long run.

Finally, the extent of the utility market power revealed by the study makes it clear that adding to the utility-owned generation will only exacerbate utility market power. Accordingly, incumbent utilities should not be permitted to construct new generation unless a competitive process establishes that utility construction is the preferable alternative and will not negatively impact the development of the competitive wholesale marketplace.

In summary, the Commission should give careful consideration to ensure that measures proposed as remedies for market power do not, in fact, exacerbate the market power of the incumbent utilities by eliminating the incentives for competitive suppliers to build generation in the state. To ensure that this does not occur, PG&E NEG recommends that the Commission (1) prohibit utilities from transferring generation to gencos at a price below market value; (2) limit the duration of contracts between utilities and gencos, with earlier termination when retail competition begins; (3) require that utilities utilize a Commission-approved competitive process to select suppliers of generation; and (4) require a similar competitive process for selecting the supplier of standard offer service to retail customers after retail competition begins.

Respectfully submitted,

PG&E NATIONAL ENERGY GROUP

By: Freddi L. Greenberg

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November 29, 2000

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Eric Schenker

Dean & Professor Emeritus

November 17, 2000

Ms. Lynda L. Dorr, Secretary to the Commission
Public Service Commission
P.O. Box 7854
Madison, WI 53707-7854

Dear Ms. Dorr:

Thank you for the opportunity to comment on the market power study that was prepared by Tabors, Caramanis and Associates. I am pleased to provide my perspectives on the report, docket number 05-EI-120.

As requested, I have enclosed 15 copies of my written comments.

If you have any questions please call me at 414-352-3371.

Sincerely,

Eric Schenker

Eric Schenker, Ph.D.
Dean & Professor Emeritus

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Electric Division

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6792 N. Melissa Ct. Milwaukee, WI 53209-3473
414.352.3371 FAX 414.228.5827

Market Power Study Not a Reflection of Today's Energy Reality
By Eric Schenker
Dean and Professor Emeritus and Energy Consultant to the Metropolitan Milwaukee Association of Commerce

Having had the opportunity to review the market power study, I can only conclude that the consultants who developed the report utilized standard academic assumptions of the past and did not provide a real world solution for Wisconsin.

It's simple to set up any model and incorporate the assumptions that were a part of the study. But it is not realistic.

While it is laudable to examine the issue of market power, Wisconsin needs a real world solution. If you examine the changes in the power industry in our nation, you will see a rapidly evolving marketplace with growing demands and insufficient resources. The energy industry is undergoing changes that are far reaching. Electricity has been a key component in our economic growth and prosperity in recent decades. As we look ahead, electricity will play a much greater role in the new economy of this state and the rest of the nation.

The reality is that modern technology and equipment is dependent upon electricity. Microprocessors and equipment utilizing embedded microprocessors depend on a newer level of reliable and high quality electricity. A few seconds of interruption cannot be tolerated by this new technology.

Our economic growth and expansion are linked much stronger to electricity. Essentially, the needs in our homes, offices, businesses and factories heighten the need for a higher level of reliability in production and delivery of electricity.

If you closely examine recent efforts to restructure the energy industry across our nation, the initial expectations have not been fulfilled. A key lesson from the early efforts -- restructuring will take decades. The reality of today's economy and the critical needs for greatly expanded generation capacity is that we cannot afford to wait that long. Solutions are needed now.

A number of Wisconsin's energy companies are developing solutions for our state. It's unfortunate that the market power study suggests breaking up the generation holdings of our state's largest energy provider as a part of the solution. The rules of economics demonstrate that in this case smaller is not better.

In this decade, Wisconsin will need at least 4,000 additional megawatts of new generation capacity. The pricetag for that solution is billions of dollars. Breaking up the generation holdings into smaller companies makes it impossible to attract the dollars that are necessary to build new plants.

In those instances where other states have moved forward with a breakup of power plant ownership, it has occurred only as a part of the deregulation plan in that state. Deregulation has generally been instituted in those states with high energy costs. The key difference in Wisconsin is that we are not talking about deregulation and we are not a high energy cost state.

One key point that I did not see addressed in the market power study is how the market has changed. Today's changes in the energy industry mandate a new and more accurate definition of market power.

On a national basis, an analysis of power industry restructuring includes the following conclusions:

- Merger Trends – The merger trend continues and is accelerating nationally. In the past four years, there have been more than 80 mergers announced. The restructuring of the industry has been the primary factor in most of the mergers and acquisitions.

- Inconsistent Deregulation -- The high cost energy states have been leading the way toward deregulation. There have been 25 states that have instituted regulatory change. The customer options that have resulted from restructuring vary from state-to-state. Our energy delivery network is a regional system. The piecemeal state-by-state deregulation will not always fit into the regional transmission network that is in place today.

- Deregulated Markets Experience Volatile Prices – When deregulation is implemented before there is an adequate supply, it has an adverse impact on energy prices. In essence, competition has led to higher prices because the times of high energy demand result in energy shortages. The Independent Power Producers are in a position of selling their energy to the highest bidder. In the past summer, that led to extreme price spikes.

- Older Power Plant Values – One assumption of the new competitive environment was that older, less efficient power plants would be retired because of inefficiencies and a loss of value. That simply has not happened. Older plants continue to play an important role in our energy future. Existing power plants that have gone on the market have sold at prices much higher than the book value.

- Stranded cost recovery – A few years earlier, hundreds of billions of dollars in stranded costs were threatening the financial stability of utilities. Today, recovery of the costs is more widely accepted. The trend in power is clear: stranded cost recovery is the rule rather than the exception in the states that passed legislation or issued regulations for restructuring.

- Resurrection of Nuclear Power – At one time, it was anticipated that nuclear power plants, many of which are nearing the end of their licensing period, would be decommissioned. The reality is that nuclear power will continue to be an important source of energy. It is environmentally beneficial and is an important component in offering a mix of fuel sources. The market values of nuclear plants are rising, contrary to predictions of a few years earlier.

- Customer Choice – A primary element of individual state restructuring plans has focused on providing customer choice. Theory does not match reality. This year, 21 percent of our nation's energy customers have the right to choose. However, less than one percent of customers have switched from their traditional energy provider. The primary factor – few customers who had the right to choose found any significant price competition among alternative suppliers.

- Regional Delivery – Restructuring has not resulted in a national power market. Most existing transmission lines were built decades ago to create a regional network that connected neighboring utilities as a means to improve reliability. Historically, different regions have shown sharp price differences. The Midwest, particularly Wisconsin, remains a low-cost energy provider.

- NIMBY and BANANA – There is agreement we need more generation and transmission. Yet, the common refrain is Not in My Back Yard (NIMBY) or Build Absolutely Nothing Anywhere Near Anyone (BANANA). No one in the transmission business has the means or incentives to optimize transmission network investments. The current system means that trends toward transmission network congestion, occasional sagging voltage, and reliability concerns are likely to persist. Subsequently, transmission transfer capability and the reliability of the network is declining.

- Electric Supply – Sharp price spikes in spot markets created a new wave of power plant developments. There are proposals for 240,000 megawatts of new generation across the country. This is the equivalent of one-third of the total US existing capacity. If you closely examine where the plants are being proposed, there is a serious misalignment between the location of the proposed plants and the needs for new supply in regional markets. If all the new plants are built, there will be prolonged overbuilds of generation in some markets while shortages occur in other markets.

- Fuel Prices – It's estimated that 93 percent of proposed power plant projects across our nation will utilize natural gas. Of the new power plants that have been proposed in Wisconsin, 15 would use natural gas as a fuel source and three will utilize coal. The doubling of natural gas prices in the past year will impact the cost of generating electricity. There is also a matter of supply. New natural gas pipelines must be built if the new plants become a reality. An important option is ensuring a mix of all fuels – coal, nuclear, natural gas and hydro.

- New Economy – The growing use of the Internet, technology and computers in homes, businesses and factories, calls for a new level of reliability. Electricity is essential to enable the ongoing operation of this technology. As the number of computers and computer-based technology grows, there will continue to be a need to increase the amount of electricity that is generated in Wisconsin and the rest of the nation.

- Merchant Plants – The arrival of retail choice and advancements in generation technology might lead to a conclusion that a market is best served by multiple generation companies. Recent trends are just the opposite -- the generation business is more likely to include a few, larger companies. In the past five years, large energy companies are buying the smaller providers. The markets that have seen Independent Power Producers (Merchant Plants) are states or regions where there is a major shortage of power. The Merchant Plant owners expect a high return on the investment and sell their energy to the highest bidder. That has led to significant price spikes.

In Wisconsin, we are no different. Our future is at the mercy of the new economy. Wisconsin is isolated by the lack of sufficient transmission and generation. New transmission is likely to take years to be resolved. The urgency of the matter leads to a need for a Wisconsin plan.

There are three key elements of this plan. They include:

- Improving economic efficiency.
- Maintaining lower costs.
- Stimulating economic growth and competitiveness.

As we have seen, there is a need to develop a plan that meets customer needs and attracts the billions of dollars in capital that is necessary to meet the needs of this new economy.

The Wisconsin plan must move toward workable competition with the appropriate form of regulation that moves toward a competitive model. As we've witnessed in other states, this is not an easy process. It will likely take one or two decades to successfully make the transition.
The needs of Wisconsin's residents, business and industry cannot wait that long. We must move forward now with our plans for new power plants.

If, as suggested in the market power study, you break up generation it will be extremely difficult to attract the new capital we need. The reality is that in other states, large national companies are merging and have the resources to take over any of our state's energy providers. Big companies that would jump at the opportunity to own this state's generation surround Wisconsin. That sets us up to lose Wisconsin-based companies with a primary focus on doing what's best for this state.

Essentially, the market power study ignores everything that is happening around the country. The changing regulatory initiatives have failed elsewhere because of one important factor – insufficient supplies.

In Wisconsin, many of our power plants are old and must be updated or replaced. Wisconsin has limited capability to import electricity into the state because of inadequate high power transmission lines.

In order for Wisconsin to keep its power supply stable and prices reasonable, we need to have diversified sources of power. If there is not an adequate mix of power sources, then shortages will occur and energy costs will soar.

It is encouraging that Wisconsin's energy companies have responded with proposed solutions. However, the present structure of the industry hampers the ability of Wisconsin's energy companies to secure the multi-billion dollar capital investments required to build new power plants.

The Public Service Commission, when considering proposed solutions, should be free of outside influence in order to move forward in a timely manner. And, we must create an open playing field by developing an environment that enables Wisconsin-headquartered utility companies to grow both inside and outside of the state.

Delay is not an option. If we do nothing or take too much time to act, it will put us farther behind and raise the prospect of limited business growth, job losses and higher costs. One important challenge is to meet our energy needs in a way that keeps Wisconsin a low-cost state. Today, we continue to have some of the lowest energy costs in the Midwest. We must commit appropriate changes in regulation that meet the needs of all customers.

We need to create the most reliable and least costly energy solution for the people and businesses of Wisconsin. Time is running out for developing an efficient solution to meet our growing energy needs.

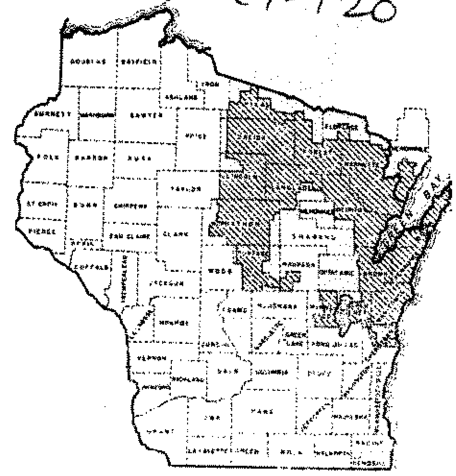
The Wisconsin solution can and should come from Wisconsin's energy companies. After all, state-based energy companies logically have a natural commitment to Wisconsin consumers and businesses. If Wisconsin makes these changes, we can be a leader in a new era of competition, regulation and economic prosperity.

05-EI-120

International Union of Operating Engineers

LOCAL UNION NUMBER 310
1250 RADISSON STREET
P.O. BOX 8323
GREEN BAY, WISCONSIN 54308-8323
TELEPHONE 920-437-2750

AFFILIATIONS:
AMERICAN FEDERATION OF LABOR—AFL-CIO
STATE FEDERATION OF LABOR—AFL-CIO
NORTH CENTRAL STATES CONFERENCE I.U.O.E.
STATE BRANCH I.U.O.E
AREA LABOR COUNCILS AFL-CIO



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November 28, 2000

Lynda L. Dorr
Secretary to the Commission
Public Service Commission
P.O. Box 7854
Madison, WI 53707-7854

Subject: Request for comments
Market Power Study for Retail Competition 05-EI-120

Dear Ms. Dorr

The International Union of Operating Engineers Local 310 would like to thank you for the opportunity to comment on the Horizontal Market Power Study by Tabors Caramanis and Associates. After attending the October 31, 2000 roll-out of this study and reading it carefully we feel that TCA worked very hard and completed a study of which very little will ever come. This would be very comparable to gazing into a foggy crystal ball. Until Wisconsin has more than adequate generation and transmission there will not be a competitive market. Just the thought of the negative impact on rate payers for divestiture that would accomplish nothing and to guess at what stranded cost/benefit will be in this fast changing utility environment when it will be a minimum of three years and a possibility of six years before generation and transmission are built. During that time changes in technology, environmental laws and competition from the next generation of generation coupled with new transmission leaves the value of existing generation more up in the air than the outcome of the Florida Presidential race. We believe that if the PSCW creates a competitive market with generation that is yet to be built most of the market power will be reduced or eliminated.

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We ask that the Public Service Commission of Wisconsin prior to forwarding this study to the State Legislature, thoroughly investigate the concerns raised with regards to Retail Wheeling by this study and the the other stake holders comments and make recommendations to the Legislature to remedy these concerns.

Thank you again for the opportunity to comment.

Steven McFarlane

Steve McFarlane
Treasurer

05-EI-120 001

LOCAL UNION 2150, IBEW
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS
N8 W22520 Johnson Drive, Unit H Waukesha, Wisconsin 53186
262-547-1033 FAX 262-547-2816 800-551-1151
TIMM A. DRISCOLL
Business Manager

November 29, 2000

Sent via facsimile and U.S. mail

Ms. Lynda L. Dorr
Secretary to the Commission
Public Service Commission of Wisconsin
P O Box 7854
Madison WI 53707

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NOV 29 2000
Electric Division

Re: Market Power Study for Retail Competition 05-EI-120

Dear Ms. Dorr:

Our labor organization reviewed the Market Power Study presented to the PSCW on October 31, 2000. We have followed developments and often participated in formulating policy regarding many electric industry restructuring issues since the mid 1990's. We have actively participated in dockets regarding affiliated interests, service and maintenance standards, nuclear issues, and several other issues which have an impact on our members, rate payers and utility stockholders.

While the presentation was very professional, the review of the text cause deep concern for our organization. For example, on page 51 the study states that "Mitigation measures should not have an adverse impact on public utility and electric cooperative employees relative to the Base Case." This is called into question in Section A-2 Thermal Unit Characteristics. A close reading of this section infers reduced O&M expenditures (20%) resulting from a "competitive market response." The predicted reduction of O&M expenditures is particularly offensive to utility workers who fought hard to procure stringent O&M standards under recent revisions to PSC 113. These standards are in place to protect the ratepayer from being victimized by a "race to the bottom" attitude that would adversely impact electric reliability in Wisconsin.

In nearly 100 years of regulated generation in Wisconsin we have witnessed the growth of some utilities, such as Wisconsin Electric Power Company, where they do indeed provide a greater percentage of reliable generation than others. But if the goal of forced divestiture is lower rates and increased reliability, then this is doomed to failure. Perhaps we all need to be reminded that there is great public benefit to the

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IBEW LOCAL UNION 2150

"bigness" that is stringently regulated by the PSC. Wisconsin Electric Power Company's regulated "bigness" has already resulted in what those who advocate retail competition have been striving for: comparatively low rates and a high degree of reliability.

Most of our organization's members are not only rate payers, but stockholders of their corporation. We believe all stockholders, whether an employee or not, will flee with their dollars to other investments. The result will be out of state and out of reach control of our state's utilities. Gone will be the days when corporate citizenship recognizes the longstanding commitments to Wisconsin's economy, the workforce that provides the power and a community connection to its customers.

Retail competition, market power, generation divestiture, and other buzz words are not and should not be goals by themselves. California fell into the buzz word black hole and still does not know how to climb out. Our PSC has traditionally regulated Wisconsin based utilities into providing fair rates, quality power, and shareholder satisfaction. The employees in these utilities have maintained their part of the bargain by providing quality work for their compensation. Forced divestiture jeopardizes the very goals it purports to address.

Sincerely,

Forrest Ceel

Forrest Ceel
President/Business Rep.

sf/opeiu/local 9

Oller, Tracy

From: Fax Sr.@faxserver.psc.state.wi.us
Sent: Wednesday, November 29, 2000 11:19 AM
To: *PSC PscFax
Subject: 2 LOCAL 2150 IBEW (OFFICIAL FILING) Fax at 11/29/00 11:18:05 AM

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You have just received a new inbound fax containing a total of 2 pages.
Your fax was received at 11/29/00 11:18:05 AM.

Your entry number in Fax Sr. was 0.1.2846

05-EI-120

ALLIANT ENERGY

Alliant Energy Corporation
Worldwide Headquarters
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WISCONSIN PUBLIC SERVICE COMMISSION

November 30, 2000

Ms. Lynda L. Dorr
Secretary to the Commission
Public Service Commission of Wisconsin
P.O. Box 7854
Madison, WI 53707-7854

Re: Market Power Study for Retail Competition 05-EI-120

Dear Ms. Dorr:

Enclosed for filing please find an original and 15 copies of the comments of Wisconsin Power and Light Company on Market Power Study for Retail Competition in the above-referenced docket. If there are any questions, please contact the undersigned.

Very truly yours,

Bradford O. B

Brad Borman
Regulatory Attorney

:lm
Enclosures

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BEFORE THE
PUBLIC SERVICE COMMISISON OF WISCONSIN

Market Power Study for Retail Competition	))	05-EI-120

COMMENTS OF WISCONSIN POWER AND LIGHT COMPANY
ON MARKET POWER STUDY

Wisconsin Power and Light Company ("WP&L" or "Company") appreciates the opportunity to comment on the recently released Horizontal Market Power in Wisconsin Electricity Markets: A Report to The Public Service Commission of Wisconsin ("Report") submitted to the Public Service Commission of Wisconsin ("Commission" or "PSC") by Tabors Caramanis & Associates. The Company will cover three main topics in its Comments. First, WP&L will identify what it believes to be the real issues in Wisconsin today and discuss how market power issues fit into that discussion. The second section will cover observations and comments related to this specific Report. Finally, the Company will make some recommendations on how this Report can fit into a larger effort to address current issues in Wisconsin.

I. What are the real issues for Wisconsin?

WP&L understands this study was mandated under section 196.025(s)(or), Wis. Stats., to analyze the potential market power impacts on consumers should Wisconsin move to retail access in the near-term. The Company recognizes that while the law leaves the PSCW no option but to commission such a study, it also observes that there is little current support in the State for moving to retail access within the time frame of the Report. WP&L's fear is if the State focuses policy discussion on solving potential issues raised in this Report, the State will be distracted from addressing the issue of primary clearer. It also becomes much clearer when the appropriate time has been reached to deregulate market pricing.[1]

In the interest of making such studies the most useful tool possible, the Company offers its comments in the next section on this Report.

II. Report Observations

In the unforgettable words of Yogi Berra, "Making predictions is always difficult, especially about the future." Predictions are more difficult when they must assume the behaviors of entities seeking to gain profits in new and evolving markets. With that in mind WP&L would like to offer several observations concerning the Report.

The Report is systematic, concise and applies two common approaches to evaluating the potential for market power. The difficulty in predicting the future, however, is that the model used must capture all of the critical factors in the operation of the market and apply them in a manner consistent with real market behavior. If the analysis cannot accomplish this, then the results of the analysis can be systematic and concise but far off of actual outcomes. As a consequence, the policy recommendations may not produce the desired outcomes, but rather produce undesirable ones instead.

It is particularly important that the need for additional capacity within the Wisconsin Upper Michigan System ("WUMS") market be kept in mind. The Report fails to include any analysis of the opportunities and challenges of attracting additional generation to WUMS. As a result, the Report's recommendations are inconsistent with the public policy need to attract sufficient capital investment in the State. If ways to attract the needed investment are not found, electric system reliability will decrease

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[1] James D. Reitzes, Robert L. Earle and Philip Q. Hanser, *Deregulation and Monitoring of Electric Power Markets,* The Electricity Journal, October 2000, at 11-25.

relevance, namely reducing the policy uncertainty in the construction of new infrastructure. Market power abuses could possibly occur under certain retail access scenarios, under certain market circumstances, using a certain set of assumptions. WP&L acknowledges those concerns, but raises a greater concern --- that the proposed solutions concentrate on only what should be done with existing generation to mitigate the problem. This focus on current generation fails to address the more relevant and timely issue of ensuring that enough new generation is built to keep the lights on. WP&L submits that the State of Wisconsin will be better served by focusing on how to get new infrastructure built and on developing systems that allow customers to react to, and be rewarded for, altering their peak energy consumption behaviors. In the process of addressing these very real and very current issues, focusing on these areas of public policy will also go a long way towards mitigating potential market power, should the State ever decide to enact retail access.

That said, WP&L believes public policy decisions made to address current problems should not turn a blind eye to future potential market power issues. To that end, the Company believes market power studies can be useful tools in helping develop potential mitigation strategies. In a recently published paper in The Electricity Journal, the authors make the following observations about "ideal competition".

> Much of the recent policy debate apparently revolves around distinctions between "ideal" competition and "workable" competition. Unfortunately, "ideal" competition is either an unsustainable or unattainable goal in many types of markets. Electricity markets are likely to be some of those markets. However, the inability to achieve ideal competition does not mean that electricity markets should return to regulation or be subject to lengthy regulatory transition periods. "Workable" competition is likely to be a much better solution than regulation, particularly given the high cost of regulation in electric markets. With workable competition as an achievable goal, the aim and purpose of market monitoring become

dramatically, causing harm several magnitudes greater than the harm caused by potential market power. In open markets the key signal that attracts additional investment is price.

One way to evaluate how well a study captures the essential aspects of a market is to test the outcomes predicted by the study against fundamental aspects of market behavior. In this case two simple tests can be performed:

1) Are the prices forecast by the Report close to prices in the market in 2000 and in the present forward markets for electricity?
2) Do the prices in the forecast support the capital investment needed to attract new investment in the market?

The answer to both questions is no.

Since the Report addresses expected prices in the near future, the Report methodology should produce prices reasonably close to present prices and forward market. In the original report, Table 2.3 *Baseline Market Simulation: Average Perfect Competition Price* indicates that the perfect competition wholesale electricity scenario price for 2001 is $23.60/MWh, falling to $20.93 in 2003. The revisions provided on November 14, 2000 (the "Revised Report") show the prices falling from $34.75/MWh in 2001 to a low of $26.12 MWh in 2005. All of these values are significantly lower than the present price for electricity in any open wholesale market in the United States, a fact that can be verified in any open market in the United States. If current wholesale market prices are so much above projected perfect competition prices, the question must be asked: "Is every wholesale market in the country highly concentrated and exhibiting the use of market power, or is there some element of the model that is inconsistent with real markets?"

Even if the answer is that all markets are highly concentrated, Wisconsin's need for additional generation does not disappear. The relevant question remains: "Can