



## Legislative Fiscal Bureau

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

May 14, 2003

TO: Senator Robert Cowles  
Room 122 South, State Capitol

FROM: Rick Olin, Fiscal Analyst

SUBJECT: Comparison of Current Law Utility Aid Payments to Payments Under Two Alternate Proposals

At your request, this memorandum provides information on utility aid payments under current law and under two alternate proposals.

### Current Law

Under current law provisions, 2004 utility aid payments will be made from a sum sufficient appropriation to municipalities and counties equal to the net book value of qualifying utility property multiplied by a rate of nine mills. Qualifying property includes production plants, substations, and general structures of light, heat, and power companies, qualified wholesale electric companies, electric cooperatives, and merchant plants. If the qualifying property is in a city or village, the municipality's payment is calculated at a rate of six mills, and the county receives a payment based on three mills. If the qualifying property is located in a town, the town's payment is calculated at a rate of three mills, and the county receives a payment based on six mills. The value of a utility's property at any single site is limited to \$125 million. Also, payments to individual municipalities are limited to \$300 per capita, and payments to counties are limited to \$100 per capita. Each municipality and county is guaranteed \$75,000 if a production plant with a capacity of 200 megawatts or more is located within its borders. The \$75,000 payment for municipalities is phased-out at a rate of 10% per year when plants are decommissioned (this phase-out is not extended to counties, so their aid on decommissioned plants drops to \$0). The phase-out is terminated when the plant is returned to the local property tax roll. By definition, decommissioned property cannot be operating utility property and, therefore, is subject to local taxation. As a result, the phase-out of aid on decommissioned property is not likely to occur. Finally, each municipality and county where spent nuclear fuel is stored receives an annual payment of \$50,000.

## Description of 2001 Assembly Proposal

In 2001 Special Session Assembly Bill 1, the budget adjustment bill, the Assembly voted to replace the current distribution system with one based on the total electric generating capacity in each municipality, beginning with the distribution for 2004. The proposal would have retained the distribution for nuclear storage facilities, as authorized under current law, but would have eliminated aid payments on general structures. The following material describes the proposal, as modified to take effect with payments in 2005, the first year of the 2005-07 biennium.

Under this proposal, utility aid payments would be made from a separate, sum sufficient appropriation. A new distribution formula would be created based on the total capacity of light, heat, and power production plants in each municipality, as reported to DOR by each plant's owner or operator. Initial payments would be based on the following payment structure:

<u>Megawatt Rating of Electric Production Plant</u>	<u>Combined Municipal and County Payment Amount</u>
Over 3,000	\$2,000,000
2,400 to 3,000	1,500,000
1,800 to 2,400	1,300,000
1,300 to 1,800	1,150,000
800 to 1,300	1,000,000
400 to 800	800,000
300 to 400	700,000
200 to 300	500,000
100 to 200	300,000
50 to 100	150,000
25 to 50	50,000
10 to 25	25,000
Under 10	10,000

If a production plant is located in more than one municipality or county, such as a hydroelectric generating facility, the capacity associated with that plant would be divided between the two municipalities, or counties, based on the net book value of the plant. A similar division would occur for local governments where the electric generating facility is located in one municipality and a related facility with a net book value in excess of \$800,000, such as an ash disposal site, is located in another municipality. A hold-harmless provision would guarantee that the combined municipal and county payment could not be less than the amount that would be paid for the plant in 2004 under the current law distribution formula, provided the plant remains in operation. In the case of a facility under construction, the megawatts associated with the facility would be prorated for inclusion in the municipality's capacity based on the percentage of construction completed on December 31 of the prior year.

The proposal would maintain the current payment structure for substations, calculated by multiplying the net book value of the substation by a total of nine mills. The combined payments attributable to each municipality under the capacity-based distribution and the substation distribution would be divided between the municipality and its overlying county. Two-thirds of

each municipal payment would be apportioned to the county where the municipality is located if the municipality is a town, and one-third of each municipal payment would be apportioned to the county where the municipality is located if the municipality is a city or village. This is modeled after the municipal-county payment division that occurs under current law. The resulting payment for municipalities and counties would be subject to per capita payment limits, but at higher levels than the amounts authorized under current law. The current per capita limits of \$300 for municipalities and \$100 for counties would increase to \$450 for municipalities and \$225 for counties in 2005, to \$650 for municipalities and \$325 for counties in 2006, to \$950 for municipalities and \$475 for counties in 2007, and to \$1,200 for municipalities and \$600 for counties in 2008 and thereafter.

The proposal would create additional payments, called incentive payments, for municipalities and counties where certain new production plants are sited. Beginning in 2005, payments would be extended to municipalities and counties where production plants are sited that begin operation on, or after, January 1, 2004, provided the plant meets three conditions. First, the plant must be built on, or adjacent to, the site of an existing or decommissioned plant or on, or adjacent to, the site of a brownfield, as defined under current law. Second, the plant must be operating at a total production capacity of at least 50 megawatts. Third, the plant cannot be nuclear-powered. Payments to each municipality and county would equal the following amounts based on the total megawatt capacity of the new plant:

<u>Megawatt Rating of Electric Production Plant</u>	<u>Municipal and County Payment Amounts</u>
Over 600	\$420,000
400 to 600	300,000
200 to 400	180,000
100 to 200	90,000
50 to 100	45,000

Payments to municipalities would be double the preceding amounts if the production plant is coal-powered. Payments would not be made for construction work-in-progress, as under the distribution formula for existing plants.

The proposal would modify provisions regarding payments on decommissioned production plants. First, payments would be extended to counties, as well as to municipalities. Second, payments would be based on a percentage of the municipality's or county's aid on the plant in the last year the plant was exempt from general property taxes. The percentages would decline over five years from 100% in the first year the property becomes taxable, to 80% in the second year, 60% in the third year, 40% in the fourth year, and 20% in the fifth year. The payments would be reduced by any property taxes on the decommissioned property and any utility aid payments on facilities replacing the decommissioned property.

## Alternate Proposal

You also asked about an alternate proposal that would combine current law provisions for substations, general structures, and existing production plants with a capacity-based aid structure, including incentive aid, for newly-constructed production plants.

*new \$2K per*

A new distributional formula would be created for production plants that begin operation in 2004 and thereafter based on the total capacity of light, heat, and power production plants in each municipality, as reported to DOR by each plant's owner or operator. Initial payments would be set equal to \$2,000 per megawatt of generating capacity. Payments would be pro-rated for plants under construction based on the percentage of the plant that has been completed as of December 31 of the year preceding the year of the payment.

The proposal would create additional payments, called incentive payments, for municipalities and counties where certain new production plants are sited. Beginning in 2005, payments would be extended to municipalities and counties where production plants are sited that begin operation on, or after, January 1, 2004, provided the plant meets three conditions. First, the plant must be built on, or adjacent to, the site of an existing or decommissioned plant, on a site identified in an advance plan as a proposed site for a production plant that was purchased by a public utility before 1980, or on, or adjacent to, the site of a brownfield, as defined under current law. Second, the plant must be operating at a total production capacity of at least 50 megawatts. Third, the plant cannot be nuclear-powered. Payments to each municipality and county would equal \$600 per megawatt of the plant's total megawatt capacity. If the production plant meets the definition of a baseload plant, the incentive payment for each municipality and county would double. Incentive aid payments would also be extended to municipalities and counties where production plants that derive energy from a renewable source are located, provided the plant has a capacity of at least one megawatt. Incentive payments for such plants would equal \$1,000 per megawatt of capacity. Since incentive aid payments would not be made until plants begin operation, there would be no incentive aid paid for construction-work-in-progress.

*incentive \$600 per*

*baseload \$1K per (& renewable)*

The proposal would extend the per capita payment limits of \$300 for municipalities and \$100 for counties to the combined payment amounts under current law and under the proposal.

Finally, the proposal would include the Assembly proposal's provisions related to aid on decommissioned production plants.

## Fiscal Analysis

For 2003 (2003-04), the Department of Revenue has estimated that \$30.2 million in utility aid would be paid, if the current law distribution formula was operational. Under current law provisions, aid payments of \$31.4 million are estimated for 2004 (2004-05). For purposes of comparing the two alternative distribution formulas, aid payments were estimated for the 2005-07 and 2007-09 biennia. This required a number of assumptions. Historic trends were used to make

assumptions regarding depreciation, improvements to existing properties and facilities, and the construction of substations. In addition, assumptions were made regarding the construction of new production plants based on data provided by the Public Service Commission and conversations with industry representatives. In response, this analysis assumes that an additional 2,900 megawatts of generating capacity will be added to the state's production plant inventory by 2007, and an additional 500 megawatts of capacity will be under construction at that time:

<u>Plant Description</u>	<u>Generating Capacity (MW)</u>	<u>In Operation</u>
Calpine Rock River	600	2004
Existing Plants Added Capacity	100	2004
Wind Farm	50	2004
* We Energies Port Washington (adjacent) (gas)	500	2005
MG&E/U.W. Walnut Street	150	2005
Wind Farm	50	2005
Calpine Kaukauna or Fond du Lac	600	2006
Mid-American Power Stoneman	200	2006
* We Energies Oak Creek (loadshed)	600	2007
Wind Farm	50	2007
* We Energies Port Washington, Unit 2 (gas)	500	Under Construction

The speculative nature of the preceding assumptions should be noted. The public utility industry is capital-intensive and therefore sensitive to national economic conditions. In addition, the transmission of electricity across state borders makes the Wisconsin utility industry sensitive to events in other states. The preceding plants were chosen to illustrate the fiscal implications of the two proposals, and this analysis is not intended to be a forecast of actual aid payments.

Based on the preceding assumptions, current law utility aid payments are estimated to increase from \$32.8 million in 2005 (2005-06) to \$37.5 million in 2008 (2008-09). Under the Assembly proposal, aid is estimated at \$31.3 million for 2005 and \$38.6 million for 2008. Under the alternate proposal, utility aid payments are estimated at \$31.4 million for 2005 and would increase to an estimated \$38.5 million for 2008. The following table compares the three sets of aid estimates.

**Estimated State Utility Aid Under Three Distribution Alternatives  
(In Millions)**

<u>Year</u>	<u>Fiscal Year</u>	<u>Current Law</u>	<u>Assembly</u>	<u>Alternate Proposal</u>
2005	2005-06	\$32.8	\$31.3	\$31.4
2006	2006-07	34.8	33.9	33.7
2007	2007-08	36.1	35.4	34.9
2008	2008-09	37.5	38.6	38.5

Under the current law estimates, the ten new production plants would add an estimated \$2,181 million in aidable value between 2005 and 2008. An additional \$180 million in new construction is attributed to substations and general structures. However, the value added by new construction is partially offset by depreciation and the demolition of the production plant at Port Washington. Because the Port Washington plant is heavily depreciated, its demolition will result in a value reduction of only \$11 million. The combined changes would produce an increase of \$674 million in aidable values, which would increase from an estimated \$3,462 million in 2004 to \$4,136 million in 2008. The current law aid estimates were calculated by multiplying the estimated values by nine mills and adding \$300,000 in nuclear storage payments.

Under the Assembly proposal, capacity aid on the state's existing inventory of production plants is estimated at \$20 million, less \$0.8 million when the Port Washington plant is decommissioned. Construction of new production plants will increase capacity aid and provide incentive aid, totaling an estimated \$1.1 million in 2005, \$3.2 million in 2006, \$4.2 million in 2007, and \$6.9 million in 2008. Annual payments of \$3.8 million for hold harmless adjustments and \$0.3 million for nuclear storage facilities are estimated. The per capita payment limit would reduce payments by an estimated \$0.5 million, but that reduction would be just under \$0.1 million by 2008, as the per capita limit is increased. Finally, payments on substations would total an estimated \$7.3 million in 2005, \$7.7 million in 2006, \$8.1 million in 2007, and \$8.5 million in 2008. Although the 2005 aid estimate is \$1.5 million below the corresponding estimate under current law, the Assembly proposal would provide aid payments that are estimated \$1.1 million higher in 2008.

Aid under the alternate proposal was estimated by making adjustments to the aid totals under current law provisions. Estimated capacity aid and incentive aid on the newly-constructed production plants would increase from \$1.5 million in 2005, to \$3.8 million in 2006, to \$5.1 million in 2007, and to \$8.7 million in 2008. Because these amounts in the first three years are less than would be paid under current law provisions, total aid under this alternative would be less than under current law by an estimated \$1.3 million in 2005, \$1.1 million in 2006, and \$1.2 million in 2007. In 2008, capacity and incentive aid payments would be higher than their equivalent payments under current law by \$0.6 million. Lower payments result under the proposal because renewable resource generating units have a high construction cost relative to their generating capacity. Otherwise, the capacity and incentive aid on new plants would generally be higher than the payments under current

law. Higher aid payments are estimated for 2008 because of the payments on the baseload plant to be constructed in Oak Creek.

The construction of the Oak Creek production plant, which is estimated to be on-line in 2007, has a noteworthy impact on each of the alternatives. Currently, there is approximately \$120 million in aidable value in the City of Oak Creek, which generates aid of \$892,600 for the City and Milwaukee County combined. As a result, only about \$5 million in additional value would be realized under the current law formula, and combined aid for Oak Creek and Milwaukee County would increase by about \$45,000. Under the Assembly proposal, capacity aid would equal \$1,000,000 based on the current plant's generating capacity of 1,200 megawatts. The addition of 600 megawatts in capacity would move the City into a higher aid tier, thereby increasing total aid by \$300,000. In addition, the production plant would qualify for the maximum amount of incentive aid because the plant would be adjacent to an existing plant (\$420,000 for the City and \$420,000 for the County) and would be coal-fired (\$420,000 for the City). As a result, a total increase of \$1,560,000 in combined city and county aid is estimated. Under the alternate proposal, the plant would qualify for capacity aid of \$2,000 per megawatt and incentive aid of \$2,400 per megawatt. Based on an estimated capacity of 600 megawatts, total payments on the plant would total \$2,640,000. The plant would qualify for the maximum amount of incentive aid since it is both adjacent to an existing plant and is designed to be a baseload plant.

If you have any questions on this information, please let me know.

RO/sas

## Kreye, Joseph

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**From:** Lovell, David  
**Sent:** Friday, May 16, 2003 2:29 PM  
**To:** Sen.Cowles; Rep.Jensen  
**Cc:** Kreye, Joseph; Stolzenberg, John; Halbur, Jennifer; Healy, Brett; Olin, Rick  
**Subject:** FW:

Here are some thoughts on one of the items that came up in our discussions on the utility shared revenue payments proposal yesterday. A decision on how to handle this will be needed.

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David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537

-----Original Message-----

**From:** Uselman, Tracey  
**Sent:** Friday, May 16, 2003 2:23 PM  
**To:** Lovell, David  
**Subject:**



16cowles\_jensen dll

Tracey Uselman  
Legislative Council Staff  
608-266-7676  
tracey.uselman@legis.state.wi.us





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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

TO: SENATOR ROBERT COWLES AND REPRESENTATIVE SCOTT JENSEN  
FROM: David L. Lovell, Senior Analyst  
RE: Utility Shared Revenue Proposal; Distinguishing Between Old and New Facilities  
DATE: May 16, 2003

The proposal you are developing regarding utility shared revenue payments creates separate formulae for calculating shared revenue payments related to existing facilities and those built after the new policy is put in place. Payments related to old facilities will be based on the value of the facilities, as under current law; payments related to new facilities will be based on the production capacity of the facilities. As we discussed yesterday, difficulty in applying this policy could arise when modifications, renovations, or additions are made to an existing facility. The question is: at what point does such work make an "old" facility into a "new" facility?

At your direction, I consulted with staff of the Public Service Commission (PSC). I identified two options that might work to address this situation and one option that probably will not work. These options are summarized below.

### **CONVERT OLD FACILITY TO "NEW" STATUS IF AN ENGINEERING THRESHOLD IS MET**

In the discussions yesterday, consideration was given to creating a threshold based on engineering concepts to determine when a renovated facility becomes, in essence, a new facility. This might involve specifying the replacement of a certain number of key elements of the facility, such as boilers or generators.

PSC staff suggested that this most likely is *not* a viable option. There are a multitude of components that would need to be considered and an excessive number of combinations in which a project might affect them, making this an unreasonable basis for a regulatory standard.

### **CONVERT OLD FACILITY TO "NEW" STATUS IF A COST THRESHOLD IS MET**

A second option is to adopt a policy under which an existing facility would be treated as a new facility if the cost of a renovation or expansion project exceeded a specified threshold. The threshold

could be specified as a percentage of the current value of the facility. While this could be set at any level, it presumably should be set at a high level, such as 50% or 75% or even higher, since it is intended to reflect an investment that warrants treating the facility as new.

This option would appear to be the most simple to implement from an administrative point of view.

### **SPLIT FACILITY BETWEEN "OLD" AND "NEW" STATUS**

A third option is to split a renovated facility between "old" and "new" status, if the renovation results in additional capacity at the facility. The increment of new capacity added by the renovation would be used as the basis for a payment under the new, capacity-based formula; the value of the facility that can be attributed to the pre-renovation facility would be used as the basis for a payment under the old, *ad valorem* formula.

This option presents a problem of its own: determining what portion of the facility's value to allocate to the pre-renovation facility, and so to the *ad valorem* formula shared revenue payment. The PSC staff indicated that it would likely be an accounting nightmare to attempt to track a portion of the value of the facility, accounting for continuing depreciation, maintenance costs, and future investments which benefit the entire facility. A much simpler approach would be to base the *ad valorem* payment on a portion of the total value of the facility. That portion would be the reciprocal of the proportion of the facility's capacity that was added by the project.

For example, consider a project that renovates a 200 megawatt (MW) facility, increasing its capacity to 250 MW. The increment of new capacity is 50 MW, which becomes the basis for capacity-based payments. The original 200 MW of capacity is 80% of the renovated facility's capacity, so 80% of the value of the entire facility becomes the basis for *ad valorem* payments.

If you have questions regarding these options, please contact me at the Legislative Council staff offices.

DLL:tlu

## Kreye, Joseph

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**From:** Halbur, Jennifer  
**Sent:** Monday, May 19, 2003 12:04 PM  
**To:** Healy, Brett; Kreye, Joseph  
**Subject:** "Repowering" language

Hi,

I am sending over via page language relating to "repowering." Joel Haubrich thought this may be useful in distinguishing between old and new facilities.

Thanks,  
Jennifer

(d) An increase or decrease in actual emissions of sulfur dioxide, nitrogen oxides or particulate matter measured as PM<sub>10</sub> which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(e) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(f) A decrease in actual emissions is creditable only to the extent that:

1. The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.

2. It is federally enforceable at and after the time that actual construction on the particular change begins.

3. It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(g) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

**(24m)** "Pollution control project" means any activity or project undertaken at an existing electric utility steam generating unit for purposes of reducing emissions from the unit. Activities or projects are limited to the following:

(a) The installation of conventional or innovative pollution control technology, including but not limited to advanced flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls and electrostatic precipitators.

(b) An activity or project to accommodate switching to a fuel which is less polluting than the fuel in use prior to the activity or project, including, but not limited to, natural gas or coal re-burning, or the co-firing of natural gas and other fuels for the purpose of controlling emissions.

(c) A permanent clean coal technology demonstration project conducted under title II, section 101 (d) of the further continuing appropriations act of 1985 (42 USC 5903 (d)), or subsequent appropriations, up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the U.S. environmental protection agency.

(d) A permanent clean coal technology demonstration project that constitutes a repowering project.

**(25)** "Potential to emit" means the maximum capacity of a stationary source to emit an air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit an air contaminant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

**(25g)** "Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit meets all of the following criteria:

(a) It has not been in operation for the 2-year period prior to the enactment of the clean air act amendments of 1990 on November 15, 1990, and the emissions from the unit continue to be carried in the department's emissions inventory at the time of enactment.

(b) It was as equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%.

(c) It is equipped with low-NO<sub>x</sub> burners prior to the time of commencement of operations following reactivation.

(d) It is otherwise in compliance with the requirements of the act.

**(25m)** (a) "Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the administrator, in consultation with the federal secretary of energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(b) Repowering shall also include any unit fired by oil or gas or both which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the federal department of energy.

(c) The department shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection and is granted an extension under section 409 of the act (42 USC 7651h).

**(25s)** "Representative actual annual emissions" means the average rate, in tons per year, at which the source is projected to emit a pollutant for the 2-year period after a physical change or change in the method of operation of a unit, or a different consecutive 2-year period within 10 years after that change, where the department determines that such period is more representative of normal source operations, considering the effect any such change will have on increasing or decreasing the hourly emissions rate and on projected capacity utilization. In projecting future emissions the department shall:

(a) Consider all relevant information, including but not limited to, historical operational data, the company's own representations, filings with the state or federal regulatory authorities, and compliance plans under title IV of the act.

(b) Exclude, in calculating any increase in emissions that results from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions following the change that could have been accommodated during the representative baseline period and is attributable to an increase in projected capacity utilization at the unit that is unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

**(26)** "Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this chapter, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

**(27)** (a) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the air contami-

Dockets 05-AE-109, 05-CE-117, 137-CE-104, 6650-CG-211

Commission for review and approval, with the revisions highlighted, no later than 45 days after the date this Final Decision is signed.

7. Statutory compliance

A leased generation contract must meet eleven separate conditions under Wis. Stat. § 196.52(9)(b), as well as requirements for land and property transfers under Wis. Stat. § 196.795(5)(k)3. The proposed leases and the Asset Purchase and Sale Agreement for PWGS Unit 1, as modified by this Final Decision, comply with these statutory requirements. The Commission also approves the modifications WEC proposes to convert these documents into a leased generation contract for PWGS Unit 2. Pursuant to Wis. Stat. § 196.52(9)(f), the Commission shall maintain jurisdiction to ensure that the construction of the PWGS facility is completed as provided in the leased generation contract.

The Commission retains continuing supervisory control only over the terms and conditions specified in this Order and in each Facility Lease, Ground Lease, Ground Sublease, and Asset Purchase and Sales Agreement. This is reasonable and in the public interest, to balance properly the parties' risks and responsibilities, and to protect WEPCO's ratepayers. In addition, any future changes to these leases, whether mutually agreed upon or otherwise, and any transfer or assignment of a lease or of the PWGS facility, must first receive Commission approval.

**Siting the PWGS facility**

WEC's CPCN application characterizes the conversion of the existing Port Washington Power Plant to the PWGS facility as a "repowering." The filing requirements under Wis. Admin. Code § PSC 111.53 are different for repowering projects. While Wis. Admin. Code

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§ PSC 111.53(1)(e) requires that an ordinary CPCN application must include at least two proposed sites for a proposed generating facility, for a repowering project this requirement can be met with two plant configurations on the site of the existing generating facility. Wis. Admin. Code § PSC 111.53(2)(b)(2). The Commission's rules do not define "repowering," but those of both DNR and the U.S. Environmental Protection Agency do. *See* Wis. Admin. Code § NR 405.02(25m) and 40 CFR 72.2. Because the PWGS proposal to replace existing coal-fired units with gas-fired, combined cycle generating plants fits within these rules, it is reasonable to conclude that this project would be a repowering and the CPCN application complies with the Commission's rules regarding proper siting information.

Reuse of the existing Port Washington Power Plant site would allow the PWGS facility to be located on and near areas supporting the existing power plant and would limit construction impacts to lands that were previously disturbed. WEC proposes to use once-through, open-cycle cooling, which would improve the efficiency of the plant. WEC's preferred plant configuration maximizes the reuse of the existing infrastructure, including the electrical substation and its tie into the transmission system, and the cooling water intake and discharge facilities. Aesthetically, it would also allow part of the plant to continue to look much as it does today because WEC proposes to maintain the exterior red brick facade of the west and north walls. The primary reasons WEC prefers this layout are lower cost and ease of construction. If the alternative layout were to be used, it would be necessary to retire all the units of the existing power plant before construction could begin.

Air emissions would change at the Port Washington site as a result of the proposed project. Nitrogen oxides (NO<sub>x</sub>), sulfur dioxide (SO<sub>2</sub>), mercury, sulfuric acid, fluoride, and lead emissions would all decrease. The decrease in NO<sub>x</sub> and SO<sub>2</sub> would be dramatic. On the other

**Kreye, Joseph**

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**To:** Lovell, David  
**Cc:** Stolzenberg, John  
**Subject:** Increment payments

David and John,

This is my shot at trying to address the "increment" problem related to renovated plants:

*subject to par. (1), (2), and (3)*  
*payment equal to*  
"If a production plant for which a municipality receives a payment under sub. (1) [current law] and a county receives a payment under sub. (2) [current law] is improved after December 31, 2003, and the improvement results in increasing the production plant's name-plate capacity, the municipality and county in which the production plant is located shall annually receive, in addition to the payments under subs. (1) and (2), a portion of a payment, as determined under par. (c) [~~one-third/two-third split~~], equal to the number of megawatts that represents the production plant's name-plate capacity after the improvement minus the number of megawatts that represents the production plant's name-plate capacity before the improvement, multiplied by \$2,000."

*our amount*  
**Joseph T. Kreye**  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263

**ASSEMBLY AMENDMENT ,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2001 ASSEMBLY BILL 584**

*NOT*

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 13, line 14: after that line insert:

3 **"SECTION 20m.** 196.20 (7) of the statutes is created to read:

4 196.20 (7) An electric public utility may recover in rates any costs that were  
5 prudently incurred or a result of any negotiated payment that the utility pays to a  
6 municipality in which the utility is located related to the generation, transmission  
7 or distribution of electricity."

8 (END)



## Kreye, Joseph

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**To:** Lovell, David  
**Cc:** Stolzenberg, John; Halbur, Jennifer; Healy, Brett  
**Subject:** RE: Increment payments

David,

I read the analysis below several times and I'm not sure I understand why it has to be that complicated. If the current law mechanism remains in place for existing plants why is there a need to keep track of pre-2004 and post-2004 values? Why do we need to allocate the increment between the old and new capacity? What happens under current law when a plant is renovated? I assume the renovation affects the net book value, which affects the shared revenue payment and the ad valorem formula payment. Why should that be any different under the draft, since the old net book value mechanism operates separately from the new capacity based mechanism?

Of course, the above discussion assumes having an increased payment under current law and an additional payment (both subject to the per capita cap) under the draft is OK with Senator Cowles, et al. And it might be, if that also results in an increased ad valorem formula payment (does it?). Otherwise, we could exclude improvements made after December 31, 2003, from net book value under s. 79.04 (1) and (2), but then I think that creates some of the problems mentioned below.

**Joseph T. Kreye**  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263

-----Original Message-----

**From:** Lovell, David  
**Sent:** Thursday, May 15, 2003 4:38 PM  
**To:** Kreye, Joseph  
**Cc:** Stolzenberg, John; Halbur, Jennifer; Healy, Brett  
**Subject:** RE: Increment payments

Joe,

John and I talked about essentially this option. It seems easy to determine the amount of shared revenue payment to allow under the new formula--the amount by which the capacity was increased by the renovation or improvement times \$2,000. The problem is setting the amount that is payable under the old formula, which is value-based. Presumably, the facility's value will be affected by the renovation (presumably increased)--how do we allocate this increment in the plant's value between the old and the new capacity and, consequently, how much of that increment of value is added to the *ad valorem* formula payment? And do we then have on-going accounting problems, trying to keep track of the pre-2004 and post-2004 values, as old investments are amortized and new investments are made to keep the facilities running?

I am hoping to talk to Scot Cullen, chief engineer for the PSC's Electric Division, yet today or first thing tomorrow morning to get his advice on this problem. We'll keep in touch as we gain insights that may help.

David

---

David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537

-----Original Message-----

**From:** Kreye, Joseph  
**Sent:** Thursday, May 15, 2003 4:17 PM  
**To:** Lovell, David  
**Cc:** Stolzenberg, John  
**Subject:** Increment payments

David and John,

This is my shot at trying to address the "increment" problem related to renovated plants:

"If a production plant for which a municipality receives a payment under sub. (1) [current law] and a county receives a payment under sub. (2) [current law] is improved after December 31, 2003, and the improvement results in increasing the production plant's name-plate capacity, the municipality and county in which the production plant is located shall annually receive, in addition to the payments under subs. (1) and (2), a portion of a payment, as determined under par. (c) [one-third/two-third split], equal to the number of megawatts that represents the production plant's name-plate capacity after the improvement minus the number of megawatts that represents the production plant's name-plate capacity before the improvement, multiplied by \$2,000."

**Joseph T. Kreye**  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263

## Kreye, Joseph

---

To: Halbur, Jennifer  
Subject: RE: Sec. 79.04(\_\_) is created to read:

Jennifer,

I should probably clarify my previous response. Because the ash disposal site payments are based on net book value, I assume Curt is referring to a "double" payment under current law: s. 79.04 (1) for municipalities and s. 79.04 (2) for counties. The language would therefore read as follows:

79.04 (3m) For purposes of determining the amount of the payments under subs. (1) and (2), the payments for a municipality and county in which an ash disposal facility is operating prior to the effective date of this subsection...(reviser inserts date) shall be calculated to include an amount that is equal to the net book value of the ash disposal facility multiplied by 2.

Let me know if you have any questions.

Joe

Joseph T. Kreye  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263

-----Original Message-----

From: Halbur, Jennifer  
Sent: Thursday, May 15, 2003 2:01 PM  
To: Kreye, Joseph  
Subject: FW: Sec. 79.04(\_\_) is created to read:

Joe,

Here is the ash disposal site language from Curt. Let me know if you see problems with this.

Thanks,  
Jennifer

-----Original Message-----

From: Curt Pawlisch [mailto:pawlisch@cwspb.com]  
Sent: Thursday, May 15, 2003 1:59 PM  
To: jennifer.halbur@legis.state.wi.us  
Subject: Sec. 79.04(\_\_) is created to read:

Sec. 79.04(\_\_) is created to read:

The payment for a municipality and county in which an ash disposal facility is operating prior to the effective date of this bill will be calculated to include a payment that is based on twice the net book value of the facility.

Intent: to double payments to munis and counties for the value of ash disposal facilities located in their boundaries.

**Kreye, Joseph**

---

**From:** Halbur, Jennifer  
**Sent:** Thursday, May 15, 2003 2:01 PM  
**To:** Kreye, Joseph  
**Subject:** FW: Sec. 79.04( ) is created to read:

Joe,

Here is the ash dipsoal site language from Curt. Let me know if you see problems with this.

Thanks,  
Jennifer

-----Original Message-----

From: Curt Pawlisch [mailto:pawlisch@cwpb.com]  
Sent: Thursday, May 15, 2003 1:59 PM  
To: jennifer.halbur@legis.state.wi.us  
Subject: Sec. 79.04( ) is created to read:

Sec. 79.04(<sup>(3m)</sup> ) is created to read:

The payments for a municipality and county in which an ash disposal facility is operating prior to the effective date of this bill will be calculated to include a payment that is based on twice the net book value of the facility.

Intent: to double payments to munis and counties for the value of ash disposal facilities located in their boundaries.

*For purpose of determining <sup>its amount of</sup> payments under subs. (1) and (2),*

5-15-03 Utility aid payments

\* Turn draft into new IABs for different requests  
▷ companion bills (2)

\* New payments — general structures & substrations?  
— doesn't matter for new payments based on non-plate  
(take out — "production plant" — amended def)

PSC — ch 196 — prohibit rate recovery on agreements  
to make payments (L. com)  
— bad date

PSC — also in review of leased generation contracts

\* consult with Mark Kunkel re language (may have drafted  
something last session similar)

\* CWP — not in draft now (payment based on CWP) — leave or is

\* Lower megawatt threshold to 1mw for purposes of new  
base payment (rather than 50mw)

What about current law? leave current threshold alone

5-7-03 Meeting with Cowles' office (utility aid payments)

1) problem with value added / in connection with depreciation  
subtracted

Rick's suggested language = the only practical  
alternative right now

\* possibility of keeping existing plants under old mechanisms?  
(address this problem) (use savings for incentives)

\* or go back to 2001 Assembly (Hard) proposal?

increased base load incentives? (based on keeping current system  
for existing plants)

2) excluding "general structures" from "production plant"?  
(" " from payments) policy issue

~ \$149 mill collected in gross revenue from utilities (annual)

~ \$30 mill going out annually in utility aid payments

3) if go to straight line function for megawatt capacity  
payments - can go with "production plant" def and  
delete "units"

low and high payments stay the same - straight  
line between (an amount per megawatt)

4) remove the increased per capita payments - retain current law



## **Robert L. Cowles**

State Senator  
2nd Senate District

*Attached is information you requested.*

*If you have any questions,  
please feel free to contact me.*

*Sincerely,*

A handwritten signature in black ink, appearing to read "R. Cowles".

Madison:  
State Capitol, P.O. Box 7882  
Madison, WI 53707-7882  
Phone: 608-266-0484 Fax: 608-267-0304  
Toll-free 1-800-334-1465

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## Legislative Fiscal Bureau

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

JK  
/

May 5, 2003

TO: Senator Robert Cowles  
Room 122 South, State Capitol

FROM: Rick Olin, Fiscal Analyst

SUBJECT: Comparison of Current Law Utility Aid Payments to Payments Under Two Alternate Proposals

At your request, this memorandum provides information on utility aid payments under current law and under two alternate proposals.

### Current Law

Under current law provisions, 2004 utility aid payments will be made from a sum sufficient appropriation to municipalities and counties equal to the net book value of qualifying utility property multiplied by a rate of nine mills. Qualifying property includes production plants, substations, and general structures of light, heat, and power companies, qualified wholesale electric companies, electric cooperatives, and merchant plants. If the qualifying property is in a city or village, the municipality's payment is calculated at a rate of six mills, and the county receives a payment based on three mills. If the qualifying property is located in a town, the town's payment is calculated at a rate of three mills, and the county receives a payment based on six mills. The value of a utility's property at any single site is limited to \$125 million. Also, payments to individual municipalities are limited to \$300 per capita, and payments to counties are limited to \$100 per capita. Each municipality and county is guaranteed \$75,000 if a production plant with a capacity of 200 megawatts or more is located within its borders. The \$75,000 payment for municipalities is phased-out at a rate of 10% per year when plants are decommissioned (this phase-out is not extended to counties, so their aid on decommissioned plants drops to \$0). The phase-out is terminated when the plant is returned to the local property tax roll. By definition, decommissioned property cannot be operating utility property and, therefore, is subject to local taxation. As a result, the phase-out of aid on decommissioned property is not likely to occur. Finally, each municipality and county where spent nuclear fuel is stored receives an annual payment of \$50,000.



## Description of 2001 Assembly Proposal

In 2001 Special Session Assembly Bill 1, the budget adjustment bill, the Assembly voted to replace the current distribution system with one based on the total electric generating capacity in each municipality, beginning with the distribution for 2004. The proposal would have retained the distribution for nuclear storage facilities, as authorized under current law, but would have eliminated aid payments on general structures. The following material describes the proposal, as modified to take effect with payments in 2005, the first year of the 2005-07 biennium.

Under this proposal, utility aid payments would be made from a separate, sum sufficient appropriation. A new distribution formula would be created based on the total capacity of light, heat, and power production plants in each municipality, as reported to DOR by each plant's owner or operator. Initial payments would be based on the following payment structure:

<u>Megawatt Rating of Electric Production Plant</u>	<u>Combined Municipal and County Payment Amount</u>
Over 3,000	\$2,000,000
2,400 to 3,000	1,500,000
1,800 to 2,400	1,300,000
1,300 to 1,800	1,150,000
800 to 1,300	1,000,000
400 to 800	800,000
300 to 400	700,000
200 to 300	500,000
100 to 200	300,000
50 to 100	150,000
25 to 50	50,000
10 to 25	25,000
Under 10	10,000

If a production plant is located in more than one municipality or county, such as a hydroelectric generating facility, the capacity associated with that plant would be divided between the two municipalities, or counties, based on the net book value of the plant. A similar division would occur for local governments where the electric generating facility is located in one municipality and a related facility with a net book value in excess of \$800,000, such as an ash disposal site, is located in another municipality. A hold-harmless provision would guarantee that the combined municipal and county payment could not be less than the amount that would be paid for the plant in 2004 under the current law distribution formula, provided the plant remains in operation. In the case of a facility under construction, the megawatts associated with the facility would be prorated for inclusion in the municipality's capacity based on the percentage of construction completed on December 31 of the prior year.

The proposal would maintain the current payment structure for substations, calculated by multiplying the net book value of the substation by a total of nine mills. The combined payments attributable to each municipality under the capacity-based distribution and the substation distribution would be divided between the municipality and its overlying county. Two-thirds of

each municipal payment would be apportioned to the county where the municipality is located if the municipality is a town, and one-third of each municipal payment would be apportioned to the county where the municipality is located if the municipality is a city or village. This is modeled after the municipal-county payment division that occurs under current law. The resulting payment for municipalities and counties would be subject to per capita payment limits, but at higher levels than the amounts authorized under current law. The current per capita limits of \$300 for municipalities and \$100 for counties would increase to \$450 for municipalities and \$225 for counties in 2005, to \$650 for municipalities and \$325 for counties in 2006, to \$950 for municipalities and \$475 for counties in 2007, and to \$1,200 for municipalities and \$600 for counties in 2008 and thereafter.

The proposal would create additional payments, called incentive payments, for municipalities and counties where certain new production plants are sited. Beginning in 2005, payments would be extended to municipalities and counties where production plants are sited that begin operation on, or after, January 1, 2004, provided the plant meets three conditions. First, the plant must be built on, or adjacent to, the site of an existing or decommissioned plant or on, or adjacent to, the site of a brownfield, as defined under current law. Second, the plant must be operating at a total production capacity of at least 50 megawatts. Third, the plant cannot be nuclear-powered. Payments to each municipality and county would equal the following amounts based on the total megawatt capacity of the new plant:

<u>Megawatt Rating of Electric Production Plant</u>	<u>Municipal and County Payment Amounts</u>
Over 600	\$420,000
400 to 600	300,000
200 to 400	180,000
100 to 200	90,000
50 to 100	45,000

Payments to municipalities would be double the preceding amounts if the production plant is coal-powered. Payments would not be made for construction work-in-progress, as under the distribution formula for existing plants.

The proposal would modify provisions regarding payments on decommissioned production plants. First, payments would be extended to counties, as well as to municipalities. Second, payments would be based on a percentage of the municipality's or county's aid on the plant in the last year the plant was exempt from general property taxes. The percentages would decline over five years from 100% in the first year the property becomes taxable, to 80% in the second year, 60% in the third year, 40% in the fourth year, and 20% in the fifth year. The payments would be reduced by any property taxes on the decommissioned property and any utility aid payments on facilities replacing the decommissioned property.

## Alternate Proposal

You also asked about an alternate proposal that would combine provisions of the current law payment structure with provisions of the Assembly alternative. This proposal has been advanced by a group of individuals representing a variety of interests in public utility issues. This proposal would modify the distribution formula in five areas:

- a. incorporate modifications into the basic aid structure for substations, general structures, and existing production plants;
- b. provide aid for municipalities and counties that contain newly-constructed production plants based on the plants' generating capacities;
- c. create incentive payments for municipalities and counties containing certain newly-constructed production plants, including plants that are based on renewable energy sources;
- d. increase the \$300/\$100 per capita payment limits; and
- e. make several miscellaneous changes to current law provisions.

The proposal would hold "communities that currently host electric facilities harmless by freezing payments at present levels to eliminate the effect of depreciation." This provision could be modeled after a 1989 law change that provides that the aidable value in a municipality cannot be less than the aidable value used to calculate payments in 1990. The 1989 provision could be amended to apply to payments beginning in 2005 based on aidable values as of 2004. In addition, the proposal would require payments on newly-constructed substations and general structures to be based on the original cost of those facilities.

A new distributional formula would be created for production plants that begin operation in 2004 and thereafter based on the total capacity of light, heat, and power production plants in each municipality, as reported to DOR by each plant's owner or operator. Initial payments would be based on the following payment structure:

<u>Megawatt Rating of Electric Production Plant</u>	<u>Combined Municipal and County Payment Amount</u>
Over 2,400	\$2,000,000
1,800 to 2,400	1,500,000
1,300 to 1,800	1,300,000
800 to 1,300	1,150,000
400 to 800	1,000,000
300 to 400	700,000
200 to 300	500,000
100 to 200	350,000
50 to 100	150,000
25 to 50	50,000
10 to 25	25,000
5 to 10	10,000

This aid structure differs from that under the Assembly proposal by extending higher payments for the larger production plants. Like the Assembly proposal, payments would be divided between municipalities and counties on a two-to-one basis, depending on whether the municipality is incorporated or a town.

The proposal would create additional payments, called incentive payments, for municipalities and counties where certain new production plants are sited. Beginning in 2005, payments would be extended to municipalities and counties where production plants are sited that begin operation on, or after, January 1, 2004, provided the plant meets three conditions. First, the plant must be built on, or adjacent to, the site of an existing or decommissioned plant, on a site identified in an advance plan as a proposed site for a production plant that was purchased by a public utility before 1980, or on, or adjacent to, the site of a brownfield, as defined under current law. Second, the plant must be operating at a total production capacity of at least 50 megawatts. Third, the plant cannot be nuclear-powered. Payments to each municipality and county would equal the amounts shown below, based on the total megawatt capacity of the new plant. If the production plant meets the definition of a baseload plant, the incentive payment for each municipality and county would double. Incentive aid payments would also be extended to municipalities and counties where production plants that derive energy from a renewable source are located, provided the plant has a capacity of at least one megawatt. The following amounts would be provided both to the municipality and county where the eligible plant is sited, rather than be divided between the municipality and the county.

#### Municipal and County Incentive Aid Payments

<u>Megawatt Rating of Production Plant</u>	<u>"Regular" Incentive Aid</u>	<u>Baseload Incentive Aid</u>	<u>Megawatt Rating of Production Plant</u>	<u>Renewable Incentive Aid</u>
600 or More	\$420,000	\$840,000	300 or More	\$500,000
400 to 600	300,000	600,000	200 to 300	400,000
200 to 400	180,000	360,000	100 to 200	200,000
100 to 200	90,000	180,000	50 to 100	100,000
50 to 100	45,000	90,000	10 to 50	50,000
			5 to 10	25,000
			1 to 5	10,000

The proposal would increase the current per capita limits of \$300 for municipalities and \$100 for counties to \$450 for municipalities and \$225 for counties in 2005, to \$650 for municipalities and \$325 for counties in 2006, to \$950 for municipalities and \$475 for counties in 2007, and to \$1,200 for municipalities and \$600 for counties in 2008 and thereafter.

Finally, the proposal would include several miscellaneous provisions. First, payments for certain ash disposal sites would be doubled. This would be drafted in a way that applies to a single property where the part of the property used as an ash disposal facility is classified as utility operating property, which is exempt from local property taxes, and the remainder of the property,

which is held in reserve for future expansion of the disposal site, is nonoperating property and subject to local property taxation. Second, the value associated with construction-work-in-progress would not be eligible for aid, including incentive aid. Third, the Assembly proposal's provisions related to aid on decommissioned production plants would be included.

### **Fiscal Analysis**

For 2003 (2002-03), the Department of Revenue has estimated that \$30.2 million in utility aid would be paid, if the current law distribution formula was operational. Under current law provisions, aid payments of \$31.4 million are estimated for 2004 (2004-05). For purposes of comparing the two alternative distribution formulas, aid payments were estimated for the 2005-07 biennium. This required a number of assumptions. Historic trends were used to make assumptions regarding depreciation, improvements to existing properties and facilities, and the construction of substations. In addition, assumptions were made regarding the construction of new production plants based on data provided by the Public Service Commission and conversations with industry representatives. In response, this analysis assumes that an additional 750 megawatts of generating capacity will be added to the state's production plant inventory by 2004, and an additional 1,050 megawatts of capacity will be added or under construction by the end of 2005:

<u>Plant Description</u>	<u>Generating Capacity (MW)</u>	<u>In Operation</u>
Calpine Rock River	600	2004
Existing Plants Added Capacity	100	2004
Wind Farm	50	2004
We Energies Port Washington	500	2005
Wind Farm	50	2005
Unspecified	500	Under Construction

The speculative nature of the preceding assumptions should be noted. The public utility industry is capital-intensive and therefore sensitive to national economic conditions. In addition, the transmission of electricity across state borders makes the Wisconsin utility industry sensitive to events in other states. Finally, no coal-fired or baseload generating facilities are assumed during the two-year period due to a longer lead time associated with their construction. The construction of such a facility would increase the cost of the two alternatives.

Based on the preceding assumptions, current law utility aid payments are estimated at \$31.9 million in 2005 (2005-06) and \$33.8 million in 2006 (2006-07). Under the Assembly proposal, aid is estimated at \$31.3 million for 2005 and \$33.0 million for 2006. Assuming the Port Washington facility is near completion by the end of 2004, capacity aid would total \$19.7 million for 2005 and \$20.4 million for 2006. The proposal's hold-harmless provision would add approximately \$4.0 million in payments annually, and the combined incentive aid payments for Port Washington and Ozaukee County would equal \$600,000 in 2006. Finally, current law provisions regarding

substations and nuclear storage facilities would result in payments estimated at \$7.6 million for 2005 and \$8.0 million for 2006.

Under the alternate proposal, utility aid payments are estimated at \$31.1 million for 2005 and \$33.0 million for 2006. The provision establishing minimum values for existing utility property would increase eligible utility values by over \$100 million in each year, increasing aid payments by about \$1 million annually. However, this provision would be more than offset by eliminating payments on construction-work-in-progress. The value of those improvements is estimated at \$188 million in 2004 and \$228 million in 2005. Consequently, payments would be reduced by an estimated \$1.7 million for 2005 and \$2.1 million for 2006. For the production plants that are assumed to begin operations in 2004 and 2005, the combined effects of the proposed capacity aid and incentive aid is estimated to be lower than the payments under current law by \$325,000 for 2005 and by \$50,000 for 2006. Lower payments result under the proposal because renewable resource generating units have a high construction cost relative to their generating capacity. A larger aid reduction is estimated for 2005 than for 2006 because the Calpine Rock River production plant is not believed to be eligible for incentive aid. The proposal's higher per capita payment limits would have the effect of increasing aid payments by an estimated \$0.2 million for 2005 and \$0.3 million for 2006. Finally, estimates were not made relative to the proposal's miscellaneous provisions. The following table displays these effects.

**Estimated Fiscal Effects of Alternate Proposal Relative to Current Law**

<u>Provision</u>	<u>2005</u>	<u>2006</u>
Minimum Value for Future Utility Aid Payments	\$963,400	\$955,200
Eliminate Payments for Construction-Work-In-Progress	-1,699,100	-2,050,000
Capacity Aid and Incentive Aid on New Plants	-325,000	-50,000
Increase Per Capita Payment Limits	<u>195,100</u>	<u>306,700</u>
Total Estimated Change in Payments	-\$865,600	-\$838,100

*depreciation*

If you have any questions on this information, please let me know.

RO/sas

JK

From: Curt Pawlisch

**Suggested Drafting Instructions for a Substitute Amendment on Generation Siting Incentives Legislation LRB 1685 P2**

**DRAFT**

On p. 3 line 6, after "appropriation" insert "under s. 79.04" *- not accurate*

On p. 3 line 19 (Clarify that the draft continues to compensate transmission substation under current law method and clear with ATC) *- if del payments stay in place - need bifurcated definition*

On p. 6, line 25, after "s. 66.0813", insert "unless the production plant is owned or operated by a local governmental unit outside the municipality." [Provides decommissioning payments to municipalities with eligible municipal utility property]

On p. 7, line 14, after "s. 66.0813", insert "unless the production plant is owned or operated by a local governmental unit outside the municipality." [Provides decommissioning payments to counties with eligible municipal utility property]

On p. 8 line 12 after (a) insert "for a plant placed in operation after January 1, 2004" We need to also indicate that plants placed in operation before January 1, 2004 will continue to receive utility aids under the old formula. Obviously, this latter change is needed only if Senator Cowles and other legislators agree with the bifurcated approach (old plants, old formula, new plants, new formula.)

On p. 9 lines 16, 18 and 21, after "(b)" insert "(d)" (~~renewables reference~~)???

On p. 9 line 24, after "pars." Insert "(c)"

On p. 10, line 2, after "net book value" insert "as of January 1, 2004."

On p. 10, line 11 after "66.0825.", insert and before ":", insert Curt Pawlisch draft language on freezing net book value For substations or general structures placed in operation after January 1, 2004, each municipality and county shall receive a payment based on the original book value of the plant.

On p. 11, lines 7-17 seek clarification of origin of reference to "\$800,000" (Joel Haubrich)

On p. 11, line 18, after "The", delete "total" and delete "combined payments", also on p. 11, line 19, after "the", delete "combined"


On p. 11, line 25, after "a" delete "baseload electric generating facility or"

On p. 12, lines 1 and 21, after "is", delete "built" and insert "placed in operation"

---

On p. 13, line 13, after “is” delete “built” and insert “placed in operation”

Committee amendments:

- Add an appeal process for definition of “baseload” when capacity is increased
  - Check current law regarding treatment of aborted or never operated plants
  - Define “unit”, per We Energies language
- 



## Kreye, Joseph

---

**From:** Halbur, Jennifer  
**Sent:** Wednesday, May 07, 2003 9:41 AM  
**To:** Lovell, David; Olin, Rick; Kreye, Joseph  
**Subject:** FW: Drafting Instructions

More changes from the "workgroup."

-----Original Message-----

**From:** Bill Skewes [mailto:bskewes@wisconsinutilities.com]  
**Sent:** Thursday, May 08, 2003 9:27 AM  
**To:** jennifer.Halbur@legis.state.wi.us  
**Subject:** FW: Drafting Instructions

Attached are Mike Vaughn's suggested changes as well. I heard that you already had them from Broydrick, so I didn't forward them. Sorry Jennifer.

-----Original Message-----

**From:** Michael R. Vaughan [mailto:MVaughan@murphydesmond.com]  
**Sent:** Wednesday, April 30, 2003 8:56 AM  
**To:** Bill Skewes; Andy Franken; Bill Broydrick; Bonnie Cosgrove; Brian Rude; Curt Pawlisch; Forrest Ceel; gary mathis; peter kammer; joel haubrich; Tom Meinz; Scott Neitzel; Rebecca A Larson; molly mulroy; Martha Paskey; Kenyon Kies; Jon Lundgren; Jim Rosenberg; Jim Morrison; Genie Kelly; Eric Peterson; Donna Sarow; dave helbach; Charlie Gonzales; Bill Jordahl; john garvin; Phil Uekert  
**Subject:** RE: Drafting Instructions

Bill, Here are a few corrections to your draft instructions:

1. Your fourth point re page 9, lines 16, 18 and 21 should read: after "(b)" insert "and (d)". Per your question re renewables, I believe we determined to leave the renewables incentive payment like the other incentive payments--i.e., equal payments to the county and to the town, city or village.
2. Your fifth point re page 9, line 24, should be deleted because we took care of the problem in a different way in the fourth point mentioned above.
3. Your eighth point re page 11, line 18 is slightly incorrect. Don't delete "combined payments"; just delete "combined".

-----Original Message-----

**From:** Bill Skewes [mailto:bskewes@wisconsinutilities.com]  
**Sent:** Wednesday, April 30, 2003 5:32 PM  
**To:** Andy Franken; Bill Broydrick; Bonnie Cosgrove; Brian Rude; Curt Pawlisch; Forrest Ceel; gary mathis; Michael R. Vaughan; peter kammer; joel haubrich; Tom Meinz; Scott Neitzel; Rebecca A Larson; molly mulroy; Martha Paskey; Kenyon Kies; Jon Lundgren; Jim Rosenberg; Jim Morrison; Genie Kelly; Eric Peterson; Donna Sarow; dave helbach; Charlie Gonzales; Bill Skewes; Bill Jordahl; john garvin; Phil Uekert  
**Subject:** Drafting Instructions

Attached is the draft of suggested drafting instructions to LRB 1685 P2 re;  
Generation Siting Incentives, per the 3:00 WUA meeting. Please review and contact me if there are problems.

Bill Skewes  
WUA



**Robert L. Cowles**

State Senator  
2nd Senate District

Attached is information you requested.

If you have any questions,  
please feel free to contact me.

Sincerely,

Joe -

Per our conversation,  
here are ~~the~~ some  
initial changes to the  
generation saving bill. Rob  
would like to discuss these  
at the same time we meet

Madison:  
State Capitol, P.O. Box 7882  
Madison, WI 53707-7882  
Phone: 608-266-0484 Fax: 608-267-0304  
Toll-free 1-800-334-1465

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Thanks

**Suggested Drafting Instructions for a Substitute Amendment on Generation Siting  
Incentives Legislation LRB 1685 P2**

**DRAFT**

On p. 3 line 6, after "appropriation" insert "under 79.04"

On p. 3 line 19 (Clarify that the draft continues to compensate transmission substation under current law method and clear with ATC)

On p. 8 line 12 after (a) insert "for a plant placed in operation after January 1, 2004"

On p. 9 lines 16, 18 and 21, after "(b)" insert "(d)" (renewables reference) ???

On p. 9 line 24, after "pars." Insert "(c)"

On p. 10, line 11 after "66.0825" and before ".", insert Curt Pawlisch draft language on freezing net book value

On p. 11, lines 7-17 seek clarification of origin of reference to "\$800,000" (Joel Haubrich)

On p. 11, line 18, after "The", delete "total" and delete "~~combined~~ payments", also on p. 11, line 19, after "the", delete "combined"

On p. 11, line 25, after "a" delete "baseload electric generating facility or"

On p. 12, lines 1 and 21, after "is", delete "built" and insert "placed in operation"

On p. 13, line 13, after "is" delete "built" and insert "placed in operation"

**Committee amendments:**

- Add an appeal process for definition of "baseload" when capacity is increased
- Check current law regarding treatment of aborted or never operated plants
- Define "unit", per We Energies language

4-30-03  
Jennifer

Bill Broderick — has list of things for danger

Rick Olin has memo coming out to go over issues

will e-mail the list

Will meet after Rick's memo comes out

## Kreye, Joseph

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**From:** Lovell, David  
**Sent:** Friday, April 25, 2003 12:13 PM  
**To:** Kreye, Joseph; Halbur, Jennifer  
**Cc:** Olin, Rick  
**Subject:** RE: Memo

Joe,

If we have only one term related to "units," how will we be able to treat a wind farm, containing perhaps dozens of units, as the entity subject to our new statute? In this example, each unit may be small enough that it will not even result in a base shared revenue payment, while the collective grouping would. That is why I felt the need for a second term--unless you see a way to get that idea incorporated into the earlier definition.

David

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David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537

-----Original Message-----

**From:** Kreye, Joseph  
**Sent:** Friday, April 25, 2003 10:02 AM  
**To:** Lovell, David; Halbur, Jennifer  
**Cc:** Olin, Rick  
**Subject:** RE: Memo

Hello all.

Actually, "prime mover" made me think of St. Thomas Aquinas, but that's just my roots showing.

I tend to agree with David's analysis of the definitions, although, assuming it's accurate, I would prefer to have one definition to address the concept of "unit" and I prefer our original suggestion. Thanks.

Joe

Joseph T. Kreye  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263

-----Original Message-----

**From:** Lovell, David  
**Sent:** Friday, April 25, 2003 9:40 AM  
**To:** Kreye, Joseph; Halbur, Jennifer  
**Cc:** Olin, Rick  
**Subject:** RE: Memo

Jennifer, et al.,

I apologize for joining the conversation a little late--I was in hearings earlier this week. I would like to comment on the "unit" and "capacity factor" definitions.

UNIT

I put the two definitions of "unit" side-by-side for comparison:

1: "Unit" means a complete set of electric generating equipment that collectively is sufficient to generate electric power.

2: A unit means a complete set of electric generating equipment, consisting of a prime mover(s), generator(s), and related equipment and structures that is collectively sufficient to generate electric power independent of other units.

First, I don't see a need to specify the categories of equipment (prime mover, generator and related equipment and structures). If we want to specify them, though, we need to EXCLUDE the things that are common between units, such as water intake structures, fuel and ash handling facilities, etc., not include them, because they are part of more than one unit. They are necessary for the functioning of the unit, but not for the determination of shared revenue payments.

Second, "prime mover" sounds like engineering jargon. In addition, it excludes solar and fuel cell technologies. (It seems to include hydro and wind, though I'm not sure.) Look instead at the language used in the definition of "electric generating equipment" in s. 196.52 (9) (a) 1. It identifies the same equipment, I think:

1. "Electric generating equipment" means any of the following:

- a. An electric generator.
- b. A machine that drives an electric generator, including an engine, turbine, water wheel, or wind mill.
- c. Equipment that converts a fuel or source of energy into energy that powers a machine that drives an electric generator, including a boiler, but not including a nuclear reactor.
- d. A fuel or photovoltaic cell.

Third, it may be helpful (or at least harmless) to include "independent of other units" but I think that concept is implied in the words "complete set...collectively sufficient".

Based on these considerations, I would advocate the following definition:

"Unit" means a complete set of electric generating equipment, as defined in s. 196.52 (9) (a) 1., that collectively is sufficient to generate electric power.

However, PSC staff tell us that there are "units" as the utilities use the term (e.g., Columbia Unit 2, Oak Creek Unit 4, whatever) that contain more than one complete set of equipment. This would include, for example, units that may consist of two gas turbines powering two generators. To further complicate things, there may be a single mechanism recovering heat from both turbines to run a third generator. All this is one "unit" in the sense that I think we are trying to define, but is two and possibly three units under any of the engineering-based definitions we have tried. Similarly, an installation of 50 wind turbines would be 50 units, by these definitions; an array of 10,000 photovoltaic cells would, arguably, be 10,000 units.

So, maybe we need two terms. What I defined above could be called a "base unit" or some such term. Then a term such as "generating unit" or "operating unit" could be defined to refer to the less precise concept that we seem to be trying to capture. The definition might be:

"Operating unit" means one or more base units that are constructed or operated as a single electric generating facility."

Since judgments would be required in determining what is an operating unit, the PSC could be directed to determine what constitutes each operating unit, as well as determining what its capacity factor is (for purposes of the base-load incentive payment).

#### CAPACITY FACTOR

Again, the two options, for comparison:

1. "Capacity factor" means the actual output of an electric generating facility, expressed as a percentage of potential output.

2. The percentage of power that an electrical generating source actually produces in a given period of time.

The first has the whole concept of percentage--actual as percent of potential; the second has only part of that concept--actual as percent of ????

The first may imply time, since some time period must be chosen to make the calculation; second explicitly includes the concept of time, but still doesn't say what time period is to be used.

My suggestion would be to use the first definition and either pick a time period that makes sense (e.g., over a period of one year, to account for seasonal variation in weather and load, maintenance outages, etc.) or be silent on time, letting the PSC do what makes sense when they implement the law.

I apologize for my verbosity, but hope this is useful.

David

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David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537

-----Original Message-----

From: Kreye, Joseph  
Sent: Thursday, April 24, 2003 2:40 PM  
To: Halbur, Jennifer  
Cc: Lovell, David; Olin, Rick  
Subject: RE: Memo

Jennifer,

Although I would rather defer to David and Rick regarding this, it seems to me that a better definition may be a hybrid between the one suggested by Curt and the one suggested by David.

With all due respect to Curt, I think that David's definition does address the "percentage element." ( "Capacity factor" means the actual output of an electric generating facility, expressed as a percent of the [facility's] potential output.)

I think I would prefer to use the definition that David and I talked about with, perhaps, an addition addressing the time element. For example: "Capacity factor" means the actual output of an electric generating facility over a period of time [as determined by the PSC?], expressed as a percent of the facility's potential output.

Joe

Joseph T. Kreye  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263

-----Original Message-----

From: Halbur, Jennifer  
Sent: Thursday, April 24, 2003 2:11 PM  
To: Kreye, Joseph  
Cc: Lovell, David; Olin, Rick  
Subject: FW: Memo

Joe,

Below is a suggested definition for capacity factor. Do you see any problems with it?



Thanks,  
Jennifer

-----Original Message-----

From: Bill Skewes [mailto:bskewes@wisconsinutilities.com]  
Sent: Friday, April 25, 2003 1:04 PM  
To: jennifer.halbur@legis.state.wi.us  
Subject: FW: Memo

Jennifer: This came from Curt Pawlisch as a potential definition.

-----Original Message-----

From: Curt Pawlisch [mailto:pawlisch@cwpb.com]  
Sent: Wednesday, April 23, 2003 4:05 PM  
To: bskewes@wisconsinutilities.com  
Subject: Re: Memo

Bill,

Definition of capacity factor:

The percentage of power that an electrical generating source actually produces in a given period of time.

I like this better. The definition that LRB came up with fails to include the concept of percentage or an understanding that capacity factor is determined over a period of time.

For example, a wind energy site that has an installed capacity of 100 MWe, but actually only produces an average of 30 MWe (due to maintenance and/or weather conditions) has a capacity factor of 30%.

## Kreye, Joseph

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**From:** Lovell, David  
**Sent:** Friday, April 25, 2003 4:37 PM  
**To:** Kreye, Joseph; Halbur, Jennifer  
**Cc:** Olin, Rick  
**Subject:** RE: Units

Joe,

1. Yes.

2. This sounds like ridiculous splitting of hairs, but out there in the real world (if such truly exists) there are power plants--say, the Pogo Possum Power Plant--that consist of several units (known as PPPP Units 1, 2, 3, etc.) that are located on the same site and share some common facilities (e.g., access roads, cooling water intake and discharge, fuel and waste handling, etc.) but that were probably built at different times and are operated more or less independently of each other. As we have already discussed, these units can consist of multiple sets of equipment each sufficient to generate electricity (e.g., multiple gas turbine-generator combinations, multiple wind generators, etc.) It is this middle level, PPPP Units 1, 2, 3, etc., that we are trying to describe.

I sure hope this is making sense!

David

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David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537

-----Original Message-----

**From:** Kreye, Joseph  
**Sent:** Friday, April 25, 2003 4:24 PM  
**To:** Lovell, David; Halbur, Jennifer  
**Cc:** Olin, Rick  
**Subject:** Units

David,

I've had a change to review your e-mail and I believe you may be right: we need definitions for "base unit" and for "operational unit." However, I have 2 follow-up questions:

1. Would payments then be based on the name-plate capacity of operational units? (as opposed to base units)
2. What's the difference between basing payments on the name-plate capacity of operational units ("base units that are...operated as a **single electric generating facility**) and basing payments on the name-plate capacity of the production plant? In other words, why not just go back to basing payments on production plant capacity?

Joe

**Joseph T. Kreye**  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263

## Kreye, Joseph

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**From:** Lovell, David  
**Sent:** Monday, April 28, 2003 9:32 AM  
**To:** Halbur, Jennifer; Kreye, Joseph  
**Subject:** definition of "unit"

Jennifer and Joe,

Sorry to come back to this topic, but I just realized something that could be important (I don't know yet).

If we use the language that includes "electric generating equipment, as defined in s. 196.52 (9) (a) 1." we have to keep track of the fact that the cross-referenced definition excludes nuclear reactors. If the term gets used to apply the payments to existing power plants, we will need to get nuclear reactors back into the definition--or else Kewaunee and Two Rivers will be very unhappy municipalities when they don't get any shared revenue payments for their nuclear reactors!

David

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David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537

**BILL**

1 megawatts that represents the production plant's name-plate capacity, multiplied  
2 by \$1,000.

3 (c) Subject to sub. (6) (e), beginning with payments in 2005, if a production  
4 plant, as described in sub. (6) (a), that derives energy from a renewable resource, as  
5 defined in s. 196.378 (1) (h), is built after December 31, 2003, and is operating at a  
6 name-plate capacity of at least 1 megawatt, each municipality and county in which  
7 such a production plant is located shall receive annually from the public utility  
8 account a payment in an amount that is equal to the number of megawatts that  
9 represents the production plant's name-plate capacity, multiplied by \$1,000.

10 **SECTION 11.** 196.20 (7) of the statutes is created to read:

11 196.20 (7) (a) In this subsection, "mitigation payment" means an amount paid  
12 to a municipality in which an electric generating facility is located to mitigate the  
13 effects of the facility on the municipality.

14 (b) Except as provided in par. (c), an electric public utility may not recover in  
15 rates any of the following:

- 16 1. The cost of mitigation payments paid by the utility.
- 17 2. The cost of mitigation payments paid by the owner/<sup>or operator</sup> of an electric generating  
18 facility that the <sup>owner or operator</sup> facility recovers from the utility by selling electricity to the utility,  
19 by leasing the facility to the utility, or by any agreement between the owner/<sup>or operator</sup> of the  
20 electric generating facility and the public utility.

21 (c) Paragraph (b) does not apply to any public utility for which the commission  
22 has determined that an application for a certificate under s. 196.491 (3) is complete  
23 prior to the effective date of this subsection ... (revisor inserts date).

24 **SECTION 12. Initial applicability.**