

2007 DRAFTING REQUEST

Bill

Received: **05/03/2007**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Jeffrey Plale (608) 266-7505**

By/Representing: **David Lovell**

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

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Public Util. - energy**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Plale@legis.wisconsin.gov**

Carbon copy (CC:) to: **david.lovell@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Exclusion of certain large electric utility customer revenues in determining spending required for statewide energy efficiency and renewable resource programs

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|------------------------|------------------------|----------------|------------------------|-----------------------|-----------------|
| /? | | | | | | | |
| /1 | mkunkel 05/03/2007 | wjackson 05/03/2007 | jfrantze 05/04/2007 | _____ | sbasford 05/04/2007 | | |
| | mkunkel 05/04/2007 | kfollett 05/04/2007 | | _____ | | | |
| /2 | | | rschluet 05/04/2007 | _____ | sbasford 05/04/2007 | cduerst 05/09/2007 | |

-per katie via phone

FE Sent For:

*at
intro*

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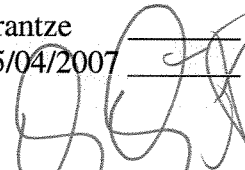
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12kf
5/4

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5-47

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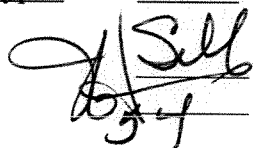
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| /? | mkunkel | 1 Wlj 5/3 | |  | | | |

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PUBLIC SERVICE COMMISSION OF WISCONSIN

Memorandum

April 19, 2007

TO: Eric Callisto, Executive Assistant

FROM: John Lorence, Deputy General Counsel
Office of General Counsel
Carol A. Stemrich, Energy Engineer
Gas and Energy Division

RE: Collection of Energy Efficiency and Renewable Resource Dollars

Background explaining unintended issue created by 2005 Wisconsin Act 141

Until July 1, 2007, the statewide energy efficiency and renewable resource programs are being funded through two sources. The first is a public benefits fee that is collected from all electric customers. The second source of funding is utility revenues from Class A electric and natural gas utilities (the largest utilities based on revenues) in the amount equal to that each utility spent on energy efficiency programs in 1998.

2005 Wisconsin Act 141 revises the statewide programs and sets the funding level for energy efficiency and renewable resource programs at 1.2 percent of a energy utility's operating revenues. It also caps the amount of dollars collected from large customers, as defined in the Act, at the level each at which these large customers contributed to public benefits, not including the public benefits fee, and ordered programs in 2005. This large customer cap remains in place until a Commission proceeding that determines the appropriate allocation of dollars to the various customer segments is completed, and acted on by the legislature. This should happen before mid-2009.

In 2005, only large energy customers of Class A utilities contributed to utility revenue dollars for statewide energy efficiency and renewable resource programs or ordered programs. However, the large energy customer of one Class A electric utility, Consolidated Water Power Company was not required to contribute to utility revenues for statewide energy efficiency programs in 2005.

The result of the Act 141 cap on large customer contributions is that beginning July 1, 2007, non-Class A energy utilities and Consolidated Water Power will need to collect all of the required energy efficiency and renewable resource funding from its smaller customers. For a utility that receives a significant portion of its operating revenue from its large customers, this can result in unacceptably large rate increases for smaller customers.

For instance, Consolidated Water Power has one large energy customer that will have its contribution capped at zero dollars. Under Act 141, Consolidated's required funding for the statewide energy efficiency and renewable resource programs, based on 1.2 percent of operating revenues is \$845,000. Consolidated has about 1,150 customers, about 970 residential and about

Kunkel, Mark

From: Lovell, David
Sent: Friday, April 27, 2007 11:00 AM
To: Kunkel, Mark
Cc: Stolzenberg, John; Venskus, Katy; Raschka, Adam
Subject: Plale drafting request
Attachments: Act 141 Trailer.Operating revenues amendment.doc

Mark,

Attached is an internal PSC memo describing a problem and offering two options for statutory language to address the problem. Senator Plale requests a draft based on Option 1 in this memo.

I am sorry to add this to the request, but time is of the essence. The PSC points out that this language should be enacted before July 1, when the financial burden on certain rate payers described in the memo would occur. That puts this legislative effort on a very tight time line.

Please share correspondence regarding this request with Katy Venskus, Adam Raschka, John Stolzenberg, and myself. Call me if you have technical questions on the request, and Katy if you have other questions.

Thank you.

David

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

From: Callisto, Eric - PSC
Sent: Tuesday, April 24, 2007 9:08 AM
To: Lovell, David
Cc: Lorence, John - PSC; Stemrich, Carol - PSC
Subject:

Dave, here is one issue that we would like to discuss tomorrow. Thanks. Eric.

05/02/2007

180 commercial, from which it can collect these dollars. In 2005, revenues from these customers were about \$1,000,000. Consequently, in order to collect its required contribution to the statewide energy efficiency and renewable resource programs, revenue collections from Consolidated's residential and commercial customers would almost double. An average residential customer would receive an increase of about \$35 a month and an average commercial customer would receive a monthly bill increase of about \$450.

The Commission proposes an addition to Wis. Stat. § 196.374(5)(bm) which is intended to address the problem. The language will eliminate the need for very large rate increases for the smaller customers of a utility like Consolidated Water Power, which receives so much of its operating revenue from a large customer.

For the short transition period between July 1, 2007, when the Act 141 provisions described above take effect, and the date when the Commission's new allocation proposal can take effect, operating revenues that an electric utility receives from its large customers are not considered when determining the funding level for energy efficiency and renewable resource programs if the large customers were not contributing dollars for the statewide programs under pre-Act 141 requirements.

Two options are proposed below. The first option applies to Consolidated Water Power and to any small utility that is faced with the same situation. The second option only applies to Consolidated Water Power. Both options expire when the new allocation proposal takes effect.

Option 1:

Section X. 196.374(5)(bm)3. is created to read:

196.374(5)(bm)3. Until the Commission's allocation proposal under this paragraph takes effect, the Commission may not include the revenues received from a large energy customer in the calculation of operating revenues under sub. (3)(b)2. for an energy utility that in 2005 did not collect revenues from its customers under s. 196.374(3), 2003 Stats.

Option 2:

Section X. 196.374(5)(bm)3. is created to read:

196.374(5)(bm)3. Until the Commission's allocation proposal under this paragraph takes effect, the Commission may not include the revenues received from a large energy customer in the calculation of operating revenues under sub. (3)(b)2. for an electric Class A utility, as defined in

s. 199.03(4), that in 2005 did not collect revenues from its customers under s. 196.374(3), 2003 Stats.

(end)

Current language in Wis. Stat. § 196.374(5), to take effect July 1, 2007, regarding cost recovery:

196.374 (5) Cost recovery. (a) Rate-making orders. The commission shall ensure in rate-making orders that an energy utility recovers from its ratepayers the amounts the energy utility spends for programs under sub. (2) (a) 1.

(b) Large energy customers. 1. Except as provided in sub. (2) (c) and par. (bm) 2., if the commission has determined that a customer of an energy utility is a large energy customer under 2005 Wisconsin Act 141, section 102 (8) (b), then, each month, the energy utility shall collect from the customer, for recovery of amounts under par. (a), the amount determined by the commission under 2005 Wisconsin Act 141, section 102 (8) (c).

2. A customer of an energy utility that the commission has not determined is a large energy customer under 2005 Wisconsin Act 141, section 102 (8) (b), may petition the commission for a determination that the customer is a large energy customer. The commission shall determine that a petitioner is a large energy customer if the petitioner satisfies the definition of large energy customer for any month in the 12 months preceding the date of the petition. If the commission makes such a determination, the commission shall also determine the amount that the energy utility may collect from the customer each month for recovery of the amounts under par. (a). The commission shall determine an amount that ensures that the amount collected from the customer is similar to the amounts collected from other customers that have a similar level of energy costs as the customer. Except as provided in sub. (2) (c) and par. (bm) 2., each month, the energy utility shall collect from the customer, for recovery of amounts under par. (a), the amount determined by the commission under this subdivision.

(bm) Allocation proposal. 1. The commission shall commence a proceeding for for creating a proposal for allocating within different classes of customers an equitable distribution of the recovery of the amounts under par. (a) by all energy utilities. The purpose of the allocation is to ensure that customers of an energy utility within a particular class are treated equitably with respect to customers of other energy utilities within the same class. No later than December 31, 2008, the commission shall submit the proposal to the governor and chief clerk of each house of the legislature for distribution to the appropriate standing committees of the legislature under s. 13.172 (3).

2. If, by July 1, 2009, legislation based on the proposal under subd. 1. has not been enacted, the commission shall, beginning on July 1, 2009, annually increase the amount that an energy utility may recover from a large energy customer each month under par. (b) only by a percentage that is the lesser of the following:

- a. The percentage increase in the energy utility's operating revenues during the preceding year.
- b. The percentage increase in the consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor, during the preceding year.

05 Wis. Act 141, s. 102 - continued

(8) LARGE ENERGY CUSTOMERS.



05 Wis. Act 141, s. 102 - continued

(a) In this subsection:



05 Wis. Act 141, s. 102 - continued

1. "Commission" means the public service commission.



05 Wis. Act 141, s. 102 - continued

2. "Energy utility" has the meaning given in section 196.374 (1) (e) of the statutes, as created by this act.



05 Wis. Act 141, s. 102 - continued

3. "Large energy customer" has the meaning given in section 196.374 (1) (em) of the statutes, as created by this act.



05 Wis. Act 141, s. 102 - continued

4. "Ordered program" has the meaning given under section 196.374 (1) (i) of the statutes, as created by this act.



05 Wis. Act 141, s. 102 - continued

(b) No later than July 1, 2007, the commission shall determine the customers of energy utilities that, for any month during the 12 months preceding the date of the commission's determination, satisfy the definition of large energy customer.



05 Wis. Act 141, s. 102 - continued

(c) For each customer of an energy utility that the commission determines is a large energy customer under paragraph (b), the commission shall, no later than July 1, 2007, determine the monthly average that the customer paid the energy utility in 2005 for recovery under s. 196.374 (3), 2003 stats., and for recovery of the costs of ordered programs.





WLj

Tomorrow
5-4
4:30pm

2007 BILL

Gen Cat

1 AN ACT Gen Cat; relating to: calculation of operating revenues of certain energy
2 utilities for the purpose of determining spending on certain energy efficiency
3 and renewable resource programs.

Analysis by the Legislative Reference Bureau

* Under current law, investor-owned electric and natural gas utilities, which are referred to as "energy utilities," are required to spend a specified percentage of their operating revenues on certain energy efficiency and renewable resource programs, and the Public Service Commission (PSC) is required to ensure in rate-making orders that such energy utilities recover from rate payers the amounts spent on the programs. Current law directs the PSC to submit, no later than December 31, 2008, a proposal to the governor and legislature on how energy utilities should allocate the amounts recovered within different classes of customers.

Current law also imposes requirements on how much energy utilities may recover from "large energy customers" during the period before legislation based on the proposal is enacted. A "large energy customer" is defined as a customer that satisfies certain requirements, including having a monthly demand of at least 1,000 kilowatts of electricity or 10,000 decatherms of natural gas. During the period before such legislation is enacted, an energy utility may recover from a large energy customer the amount that the energy utility recovered from the customer under former law in 2005 for similar programs. As a result, if an energy utility did not, under former law in 2005, collect any revenues from a particular large energy customer for the purpose of recovering the costs of the similar programs, then, during



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2654/1

MDK:wlj:jt

Today

2007 BILL

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v. k. j. f.
R m has
been
PNN

Regen

goes into effect

1 AN ACT to create 196.374 (5) (bm) 3. of the statutes; relating to: calculation of
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3 spending on certain energy efficiency and renewable resource programs.

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