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May, 2021

Joint Committee on Finance

Paper #536

Intervenor Compensation (Public Service Commission -- Departmentwide and Energy Programs)

[LFB 2021-23 Budget Summary: Page 506, #5]

CURRENT LAW

The Public Service Commission's (PSC) intervenor compensation program provides financial assistance to organizations and individuals who choose to become an intervenor on behalf of an affected group in a Commission proceeding. While a typical rate case considered by the Commission requires substantial planning and investment by a utility, the diffuse set of ratepayers affected by the proposal lack the individual financial incentive to participate. Lack of participation by all affected parties may limit the evidence and perspective considered by the Commission during a proceeding. This could lead to appeals and additional litigation costs, or other undue costs being passed on to utility ratepayers.

An individual ratepayer seeking to intervene in a case may incur costs well beyond any increase in rates being considered. Thus, the intervenor compensation program provides reimbursement for reasonable expenses of intervenors participating in Commission proceedings. Costs related to intervenor compensation are assessed as program revenues (PR) from utilities participating in the proceeding, which may then allocate those costs to ratepayers as part of their bill. As a result, ratepayers being represented by an intervenor each pay a small portion of those costs, roughly commensurate with their benefit of being represented.

During the 2019-21 biennium, the Commission is authorized to expend up to \$842,500 PR each year for intervenor compensation. This amount includes an annual grant of up to \$300,000 for the Citizens Utility Board (CUB) to support its general operating expenses. CUB is a nonprofit organization that routinely intervenes in Commission proceedings on behalf of residential, small commercial, and small industrial customers to advocate for reliable and affordable utility services.

DISCUSSION POINTS

1. From 2009-10 through 2020-21, CUB received annual grants from the intervenor compensation appropriation to support its general operating expenses, including salaries, benefits, rent, and utility expenses. 2021 Wisconsin Act 24, enacted on April 1, 2021, modified the process for allocation of funding to CUB. Under Act 24, CUB must annually submit a budget of up to \$900,000 to PSC for modification and approval. If the budget is approved, investor-owned utilities in Wisconsin are required to provide payment directly to CUB for their proportionate share of the budget based on the number of residential, small commercial, and small industrial meters served by each utility. Act 24 eliminates the \$300,000 direct grant provided to CUB and further limits the amount of intervenor compensation CUB may receive to \$100,000 each year. A provision of Assembly Bill 68/Senate Bill 111 contains the same budget mechanism for CUB, but is no longer necessary.

2. Intervenor compensation is authorized \$842,500 each year as base funding. Historically, \$300,000 of this authorization each year was allocated for the grant to CUB. Alongside the Act 24 budget mechanism for future CUB operating funds, AB 68/SB 111 would delete \$300,000 each year in funding provided for intervenor compensation to reflect the reduced state cost for the CUB grant. However, Act 24 did not delete this funding, effectively increasing the Commission's authorization for intervenor compensation by \$300,000 each year, as CUB funding will no longer be provided from the \$842,500 annual allocation.

3. Intervenor compensation is provided under a program revenue appropriation that receives funding from assessments on utilities based only on actual costs of intervenors. Thus, the amounts provided in the schedule for intervenor compensation represent the maximum allowable amount PSC may expend, but may not necessarily reflect actual expenses. The Commission has not regularly reached its expenditure authority limit in recent years, suggesting it may already have sufficient ability to provide compensation to intervenors. 2019 Act 9 increased the intervenor compensation appropriation authorization from \$742,500 to \$842,500 each year, \$300,000 of which was for allocation to CUB. The Commission expended \$675,100 in 2019-20, including the \$300,000 grant to CUB. If the Committee wished to return the Commission's authorization for non-CUB intervenor compensation to \$542,500 each year, as provided during the 2019-21 biennium, it could reduce expenditure authority for intervenor compensation by \$300,000 each year [Alternative 1].

4. It is difficult to anticipate need for intervenor compensation due to the variability and uncertainty in both the Commission's schedule and the level of interest in items being considered. Given that the Commission considers intervention requests on a case-by-case basis according to need and relevance, increased expenditure authority associated with the program would allow the Commission more flexibility to allow intervenors if larger or more controversial cases came before it. If the Committee wished to retain the increased expenditure authority of \$842,500 each year, it could take no action [Alternative 2].

ALTERNATIVES

1. Delete \$300,000 PR each year from the Commission's intervenor compensation appropriation, previously associated with an annual grant to the Citizens Utility Board. Intervenor

compensation would be budgeted at \$542,500 each year of the 2021-23 biennium.

ALT 1	Change to Base
PR	- \$600,000

2. Take no action. Intervenor compensation would be budgeted at \$842,500 each year during the 2021-23 biennium.

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