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December 14, 2010

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Public Service Commission Proposal to Increase Investor-Owned Utility Contributions for Energy Efficiency and Renewable Resources Programs -- Agenda Item I

REQUEST

On November 9, 2010, the Public Service Commission (PSC) submitted a proposal to increase contributions from investor-owned electric and natural gas utilities for energy efficiency and renewable resource programs. Currently, state law requires these utilities to contribute 1.2% of their revenues to such programs, and PSC staff estimate contributions at approximately $100 million in 2011 and 2012. Under the proposal, contributions would not be tied to a percentage of revenues but, instead, would be set at $120 million in 2011, $160 million in 2012, $204 million in 2013, and $256 million in 2014 and thereafter. State law establishes a procedure by which the Joint Committee on Finance may object to the proposal, thereby prohibiting the increase.

In addition to the Commission's request to the Committee, the Commission submitted six documents for the Committee's review:

- a memorandum summarizing the Commission's decision rationale;
- the Commission's order;
- a report from the Energy Center of Wisconsin entitled, Energy Efficiency and Customer-Sited Renewable Resource Potential in Wisconsin for the Years 2012 and 2018;
- a report from PA Consulting Group entitled, Focus on Energy Evaluation - Benefit-cost Analysis - CY09 Evaluation Report;
- a memorandum by PSC staff summarizing issues for the Commission's consideration and the respective positions of commenting stakeholders; and
- a study by PA Consulting Group entitled, Focus on Energy Evaluation - Economic Development Benefits: CY 09 Economic Impacts.

BACKGROUND AND ANALYSIS

Statutory Requirements

Energy efficiency and renewable resource programs include multiple programs organized under one of four broad categories of programs enumerated in the statutes. These include: (1) statewide programs; (2) large energy customer programs; (3) utility-administered programs; and (4) voluntary utility-administered programs. Energy efficiency programs are intended to decrease energy usage or increase the efficiency of energy usage of utility customers. Renewable resource programs are intended to encourage the development or use by utility customers of renewable resource applications. State programs and utility-administered programs are funded through a statutory provision requiring investor-owned utilities to spend 1.2% of their annual operating revenues on energy efficiency and renewable resource activities. Municipal energy utilities and electric cooperatives may elect to participate in these programs. Otherwise, they must create commitment to community programs, which are self-administered.

The statutes permit large energy customers to administer and fund their own energy efficiency programs, with PSC approval, and to deduct the expense from their utility bills. The utility may then deduct that amount from its amount required under the 1.2% revenue requirement.

Utilities may self-administer energy efficiency programs limited to large commercial, industrial, institutional, or agricultural customers in their service territory, with Commission approval. In addition to these programs, utilities may offer voluntary energy efficiency or renewable resource programs, with Commission approval. The former programs are paid for with a portion of the utility's revenues required under the 1.2% provision, while the latter programs require additional funding.

The statewide energy efficiency and renewable resource programs are to be administered collectively by the state's energy utilities through competitively bid contracts with one or more individuals or organizations. The programs must include five components. First, a component must address the energy needs of residential, commercial, agricultural, institutional, and industrial energy users and local governments. Second, a component must reduce the energy costs of local governments and agricultural producers by increasing the efficiency of their energy use. Third, a component must address barriers to the manufacture or sale of energy efficient products or services. Fourth, a component must include initiatives for research and development regarding the environmental and economic impacts of energy use. Fifth, a component must implement energy efficiency or renewable energy resources in facilities of manufacturing businesses.

At least once every four years, the Commission must conduct a formal evaluation of the energy efficiency and renewable resource programs and set or revise goals, priorities, and measurable targets for the programs. The Commission's most recent quadrennial evaluation is the basis for the request to the Committee. The statutes confer oversight authority of the energy efficiency and renewable resource programs on the PSC and require the Commission to provide

annual reports to the Legislature summarizing the programs' expenses and accomplishments. Oversight was transferred to the PSC from DOA on July 1, 2007, so the Commission's first report to the Legislature covered the 18-month period from July 1, 2007, to December 31, 2008.

Programmatic Description

Currently, there are no large energy customer programs or utility-administered programs that have been approved by the Commission. While the Commission has authorized three voluntary utility-administered programs (with a 2010 budget of $39 million), these programs are outside the statutory revenue requirement that is currently under review by the Committee. Therefore, the statewide programs are the focus of this analysis.

The state's energy utilities formed a nonprofit organization called the Statewide Energy Efficiency and Renewable Administration (SEERA) to manage the statewide programs. SEERA has contracted with the Energy Center of Wisconsin to administer the environmental and economic research and development program and with the Wisconsin Energy Conservation Corporation to administer the business, residential, and renewable programs. Program oversight is provided by the PSC, and the statutes require the Commission to contract for financial and performance audits. Currently, these services are provided by Wipfli LLP (fiscal agent), Baker Tilly Virchow Krause, LLP (compliance agent), and PA Consulting Group, Inc. (program evaluation).

The Energy Center of Wisconsin (ECW) solicits proposals and funds research regarding the impact of energy use on the Wisconsin environment and economy. In the most recent round of funding requests, proposals included research regarding wind energy impact, agricultural and general biomass, forestry biomass, climate change and carbon sequestration, energy economics, and particulate matter.

The programs administered by the Wisconsin Energy Conservation Corporation (WECC) are collectively known as the state's Focus on Energy program. Each of the three program categories (residential, business, and renewable) targets resources in four general areas, which include incentives, implementation, marketing, and administration. For the initial 18-month reporting period, incentives and implementation were the dominant program components accounting for 91% of all program expenditures. Incentives (57%) include financial inducements to consumers for installing energy efficient equipment and improvements and renewable resource applications. Implementation (34%) involves information and technical assistance provided to individuals and businesses, including those consumers participating in incentive programs. The remaining 9% of program expenditures in the 18-month period were attributable to marketing (6%) and administration (3%). Currently, there are only two program categories as the renewable resource programs were integrated into the residential and business program groupings, as of 2010.

Utility rates are structured so that utilities collect about 60% of all contributions from entities comprising the business category and about 40% from residential customers. Typically, the Focus on Energy budget allocates 60% to 65% of its resources to business programs and 35% to 40% of

its resources to residential programs. During the year, resources may be shifted in response to demand for the various programs. For 2010, the incentives budget, which totals $49.8 million, was allocated 64% to business programs and 36% to residential programs. As of November 30, resources have been shifted, and staff project that 72% of all incentives will be expended in the business programs.

The current contract period was scheduled to end on December 31, 2010, but was extended to March 31, 2011. On December 1, 2010, the PSC announced that SEERA would release a request for proposals for a program administrator for the period from April, 2011, through December, 2014. The PSC announcement indicates that the new contract will require a somewhat different administrative structure. A single program administrator will replace the two current administrators (WECC and ECW), and the new administrator will not be permitted to implement programs. In addition, the program administrator will be permitted to be either a for-profit or a not-for-profit organization. The current contracts were extended when 1999 Wisconsin Act 9 required non-profit administrators. When 2005 Wisconsin Act 141 restructured the program and moved oversight from DOA to the PSC, the non-profit requirement was removed.

The following table displays the fiscal history of the statewide programs since the transition to PSC oversight. The amounts for 2010 are either budgeted or estimates.

TABLE 1

Fiscal History of Statewide Energy Efficiency and Renewable Resource Programs, 2007 - 2010 (in Millions)

	2007-08*	2009	2010**
Revenues			
Investor-Owned Utilities	$104.1	$84.0	$94.0
Municipal Electrics and Cooperatives	1.0	1.7	1.7
Total Revenues	$105.1	$85.7	$95.7
Expenditures			
Focus on Energy	$93.0	$91.3	$87.0
Environmental & Economic Research & Development	0.9	1.0	1.6
Evaluation	2.8	2.8	2.0
Other	1.1	1.0	1.0
Total Expenditures	$97.8	$96.1	$91.6

* 18-month period from July 1, 2007 to December 31, 2008.

** Budgeted or estimated.

Year-end balances are carried forward to fund projects in succeeding years. Also, some projects span more than a single year. Therefore, revenues from future years may be committed to

projects authorized in an earlier year. PSC staff estimate that about $25 million in 2011 revenues will be used to fund projects approved in 2010, but completed in 2011.

This prior-year funding commitment coincides with a dramatic reduction in the rate of increase in contribution levels caused by the economic downturn. Based on the current 1.2% requirement, contribution levels are forecast at $99 million in 2011 and $100 million in 2012. This occurs amid growing demand for the program. In the first 11 months of 2010, relative to all of 2009, program participation rates have increased by 26% in the residential efficient heating and cooling program, 12% in the residential home performance program, and 24% in the business programs. For the same period, incentive payments have increased by 25% in the residential efficient heating and cooling program, 33% in the residential home performance program, and 9% in the business programs. The PSC attributes increased demand to the programs' reconfiguration in 2007, which was accompanied by increased marketing, outreach efforts, and incentive levels, as well as the more effective and efficient targeting of program efforts.

PSC Proposal to Increase Contribution Levels

On April 3, 2008, the Commission opened a docket on the quadrennial planning process, as required by statute, and based on that process, promulgated its decision to increase contribution levels as an order, adopted unanimously on November 9, 2010.

Currently, the state statutes establish the amount of revenue available for the statewide programs by requiring investor-owned energy utilities to contribute 1.2% of their revenues. Based on the available revenues, the PSC and the program administrator set goals for reductions in energy use and structure the programs to achieve those goals. The Commission's request would reverse this process by first establishing program goals and then determining what level of revenues is necessary to achieve those goals. Goals are established in terms of percent reductions in kilowatt hours of electricity sales, in kilowatts of peak electricity demand, and in therms of natural gas or propane sales.

Under the Commission's order, contribution levels would increase each year over a four-year period, beginning in 2011. Table 2 reports the program goals established in the order, the revenue required to meet those goals, and the estimated percentage of utility revenues that contributions represent. Relative to the current 1.2% requirement, it is estimated that the order would increase the contribution level to 1.5% of revenues in 2011, with additional increases in succeeding years peaking at 3.2% in 2014. Because the adopted electric sales and electric peak demand percentages are identical, this memorandum consolidates them in subsequent references.

TABLE 2

PSC Order Increasing Contribution Levels: Energy Savings Goals, Contribution Levels, and Estimated Percent of Utility Revenues

	Energy Savings Goals			Utility	Estimated	Pct. Chg.
	Electric	Electric	Natural Gas/	Contributions	Percent of	to Current
Year	Sales	Peak Demand	Propane Sales	(millions)	Revenues	1.2%
2011	-0.75%	-0.75%	-0.50%	$120	1.5%	25%
2012	-1.00	-1.00	-0.75	160	1.9	58
2013	-1.25	-1.25	-1.00	204	2.5	108
2014	-1.50	-1.50	-1.00	256	3.2	166

In establishing the program goals, the PSC examined the 2008 Final Report by the Governor's Task Force on Global Warming (Global Warming Report), the 2009 final report on Energy Efficiency and Customer-Sited Renewable Resource Potential in Wisconsin (Potential Study) by the Energy Center of Wisconsin, and energy efficiency programs in other states. In addition, the 2009 Potential Study was preceded by a similar study in 2005.

The Commission's order incorporates the goals established in the Global Warming Report, although that report, the Potential Study, and the review of other states suggest similar energy savings benchmarks. The Commission's order modifies the Global Warming Report's recommendations by delaying the recommendations for 2009 to 2012 by two years to cover the period from 2011 through 2014. Also, the Commission's order, and request to the Committee, do not include the final three years recommended in the Global Warming Report. In that report, the goal for natural gas savings would remain at 1.0% after the third year, while the goal for electricity savings would increase to 2.0% at the end of the seven-year period. Under the Commission's order, the energy savings goals and required contribution level in 2014 would be maintained in future years, unless modified in a subsequent order. Any recommendation to increase the contribution level beyond $256 million annually would be subject to a future passive review by the Joint Committee on Finance.

Although the Commission adopted the recommendations included in the Global Warming Report, much of the PSC staff analysis utilized data in the Potential Study. Under contract with the PSC, the Energy Center of Wisconsin prepared the study for the express purpose of assisting in the PSC quadrennial planning process. Currently, annual savings equaling 0.99% of electricity sales and 0.88% of natural gas sales are attributed to the energy efficiency and renewable resources programs, according to PSC staff. The Potential Study indicates that more aggressive programming could increase these savings to 1.6% and 1.0%, respectively, but would require an annual contribution estimated at $350 million. The Potential Study indicates that the higher contribution level would have to be accompanied by the modification or reconfiguration of existing programs in order to realize the projected savings. Despite the higher contribution level, the Potential Study

indicates that realizing the projected energy savings "will reduce energy-related expenditures for Wisconsin consumers" resulting in a net savings.

Relative to the Commission's adopted goals of 1.5% in electricity savings and 1.0% in natural gas savings phased-in over a four-year period, four groups submitted testimony to the Commission indicating the estimated contribution levels that would be required. Those estimates are displayed in Table 3.

TABLE 3

Contribution Levels Required to Achieve Electricity Savings of 1.5% and Natural Gas Savings of 1.0% Under a Four-Year Phase-In, Comparison of Estimates by Four Groups of Organizations to PSC Proposal (in millions)

Year	American Council for an Energy Efficient Economy	WECC	Customers First! Coalition	Joint Public Intervenors*	PSC Proposal
2011	----	$133	$165	$141	$120
2012	----	181	209	187	160
2013	----	228	250	265	204
2014	$188	285	279	319	256

* Includes Citizens Utility Board, RENEW Wisconsin, and Clean Wisconsin.

Since the program's 2007 reconfiguration, PSC staff indicate that increased energy savings have been achieved. As noted above, energy savings approximately doubled in 2009, relative to preceding years, from 0.50% to 0.99% for electricity sales and from 0.40% to 0.88% for natural gas sales. The higher savings percentages had not been quantified at the time of the Global Warming Report and the Potential Study. This realization contributed to the Commission's adoption of more conservative contribution levels than those recommended by Groups 2, 3, and 4. That is, by assuming that the programs were achieving annual savings of 0.50% (electricity) and 0.40% (natural gas), Groups 2, 3, and 4 estimated a greater revenue need to achieve annual savings of 1.50% (electricity) and 1.00% (natural gas), than the PSC, where current annual savings of 0.99% (electricity) and 0.88% (natural gas) were assumed.

In addition, the Commission notes that lower contribution levels will require program administrators to concentrate "efforts on the most cost-efficient measures and programs" thereby mitigating the effect of higher contributions on rates. Relative to the lower contribution levels estimated by Group 1, there was some indication that Group 1 assumed that higher savings percentages could be achieved through current program configurations, contrary to the findings in the Potential Study. As noted above, the Potential Study predicts a need to reconfigure existing

programs under the higher savings goals.

Estimated Consumer Impact

In its quadrennial planning process, PSC staff examined the impact of three higher contribution levels (2.0%, 3.0%, and 4.2%) on utility rates and customer bills using a computer model available on the Environmental Protection Agency website. The model estimates average changes to rates and bills for all customer classes, combined. At the request of this office, PSC staff re-programmed the model to estimate the effects of the Commission's proposal, where higher contribution levels would be phased in over four years until they equal an estimated 3.2% of revenues in 2014. Even though the proposed contribution level would remain unchanged after 2014, PSC staff modeled rates and bills to 2016 to show the proposal's impact when fully phased-in. Under the Commission's proposal, the model predicts that utility rates would increase each year and be 4.3% higher in 2016. The model predicts that customer bills would increase more slowly than rates through 2014, and that bills would decrease in 2015 and 2016. These results are displayed in Table 4. A reduction in energy sales due to expanded energy efficiency efforts explains both why rates increase at a faster pace than contributions and why customer bills are predicted to eventually decrease.

The table indicates that the impact of higher contribution levels on rates is projected to increase geometrically over time. This occurs because higher contribution levels would fund an expanded energy efficiency program, which should result in less energy use. Through the rate-making process, the fixed costs of generating, transmission, and distribution facilities would be recovered by being spread over fewer sales of kilowatt hours or therms, thereby causing rates to increase disproportionately to the increase in the proposed revenue requirement.

The model predicts reductions in customer bills in 2015 and 2016 because decreases in energy use attributable to expanded energy efficiency programs are projected to offset the impact of higher rates. That is, if rates are predicted to increase by 4.3% by 2016, the units of energy consumed are assumed to decrease by more than 4.3%.

TABLE 4

Estimated Impact of the Proposed Increase in Contribution Levels on Average Utility Rates and Average Customer Bills

Year	Estimated Change in Average Rates	Estimated Change in Average Bills
2011	0.2%	0.2%
2012	0.7	0.4
2013	1.4	0.6
2014	2.4	0.6
2015	3.3	-0.2
2016	4.3	-1.0

PSC staff indicate that the model may understate the impact of energy efficiency programs on rates and bills because it is designed to reflect the impact on the "average" customer. For example, the model does not consider Wisconsin's large customer contribution "cap" that limits contributions from certain customers based on their 2005 contribution levels. These customers' rates would be unaffected by higher statewide contribution levels. PSC staff indicates that adjusting for these customers produces an average 2016 rate increase of 5.4%, instead of 4.3%. Also, reductions in energy consumption should be attributed only to customers who participate in energy efficiency programs, but the model spreads those reductions across all customers. Therefore, customers who do not participate in programs and do not change their consumption would experience percentage increases in their bills comparable to the increases in rates.

PSC staff indicate a number of limitations with regard to the model. For example, the model does not account for changes in utility infrastructure needs. Also, the model does not distinguish between programs that are being initiated and programs that are being expanded. Staff indicate that a program that has been effective in the past may be able to produce greater energy savings than a program in its infancy.

In addition to the expected reduction in energy consumption and aggregate utility bills under the proposal, the Commission also believes that expansion of the program could result in environmental benefits and a small net increase in employment in the state.

Other Issues

The proposal before the Committee relates only to the increase in the revenue requirement. The PSC order adopting the increase also pertains to other issues regarding the operation of the energy efficiency and renewable resource programs. While these issues are not before the Committee, they give some indication of how the programs would be structured under the proposal:

- the Commission would create an evaluation work group to assist the PSC on "specific measurement and evaluation issues" relating to program efficacy;

- the Commission would keep the voluntary utility-administered program budgets separate from statewide program budgets;

- the program administrator would be responsible for allocating goals and targets (i.e., funding) between the residential and business programs so that the programs can be as cost-effective as possible;

- funding for the environmental and economic research and development program would be increased from $1.6 million in 2010 to $2.0 million annually; and

- the Commission would consider rate mitigation options separately for each utility through docketed rate proceedings.

Joint Committee on Finance Decision Alternatives

On November 9, 2010, the PSC notified the Committee of the proposal to increase the revenue requirement, and on November 23, the Committee notified the Commission that the Committee had scheduled a meeting to review the proposal. If the Committee does not object within 90 days of the notice, or by Monday February 21, 2011, the statutes permit the PSC to implement the proposal. Under the proposal, the PSC would impose the higher revenue requirement beginning in 2011. A timely response by the Committee would assist the PSC in implementing the program, even if the higher revenue requirement is not approved.

If the Committee adopts a motion objecting to the proposal, the PSC cannot impose the higher revenue requirement, and the Committee's vote resolves the issue. If the Committee adopts a motion approving the proposal, the PSC could impose the higher revenue requirement beginning in 2011. A vote to approve the proposal could be interpreted as the Committee waiving its right to object at a future date, even though the statutes allow the Committee to object until February 21, 2011. This office consulted with attorneys at the Legislative Reference Bureau (LRB) on this issue, and the LRB indicates that if the Committee "votes to approve a PSC proposal before the expiration of the 90 day period, it would seem that the PSC could immediately require energy utilities to spend the greater percentage under the proposal and not wait until the expiration of the 90 day period." The LRB notes that this question is "not a simple one" and that neither case law nor past Committee actions give guidance in formulating an answer. A copy of the LRB memorandum is attached. If the Committee takes no action, including a vote to approve or object which fails, the PSC will not know how to proceed until February 21.

Other options may also be available to the Committee. The Committee may vote to modify the proposal. The proposal could be modified by limiting the proposal to two years, as opposed to four years. Also, the Committee could authorize different contribution levels such as those

suggested by one of the four groups of organizations that commented on this issue.

ALTERNATIVES

1. Approve the Commission's proposal to increase revenues required for the energy efficiency and renewable resources programs to $120 million in 2011, $160 million in 2012, $204 million in 2013, and $256 million in 2014 and annually thereafter.

2. Modify the Commission's proposal to increase revenues required for the energy efficiency and renewable resources programs by limiting the contribution level to $160 million after 2012. Under this option only the first two years of the Commission's proposal would be approved at this time.

3. Modify the Commission's proposal to increase revenues required for the energy efficiency and renewable resources programs by authorizing different contribution levels.

4. Deny (object to) the Commission's proposal and maintain the 1.2% revenue requirement authorized under current law.

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Attachment

Stephen R. Miller
Chief

State of Wisconsin

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November 23, 2010

MEMORANDUM

To: Director Bob Lang, Legislative Fiscal Bureau

From: Rick A. Champagne, Senior Legislative Attorney
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Subject: Joint Committee on Finance Action under Energy Efficiency and Renewable Resource Programs

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Currently, under s. 196.374 (3) (b) 2., investor–owned electric and natural gas utilities (energy utilities) must spend 1.2% of their annual operating revenues on certain energy efficiency, conservation, and renewable programs. In addition, the Public Service Commission (PSC), under s. 196.374 (5) (a), must ensure in its rate–making orders that energy utilities recover from ratepayers the amounts spent on the programs.

The PSC may also require energy utilities to spend an even greater percentage of their annual operating revenues on the programs. To do this, under s. 196.374 (3) (b) 3., the PSC must submit a proposal specifying the greater percentage to the Joint Committee on Finance (JCF). During a period of 10 working days after the PSC submits the proposal, the JCF cochairpersons may notify the PSC that JCF has scheduled a meeting to review the proposal. If the cochairpersons do not notify the PSC, the PSC can require energy utilities to spend the greater percentage. If the cochairpersons notify the PSC within the 10–working–day deadline, however, then another deadline applies. If JCF does not object to the proposal within 90 days of notifying the PSC, then the PSC can require energy utilities to spend the greater percentage. But if JCF objects to the proposal within the 90 day period, then the PSC cannot require energy utilities to spend the greater percentage.

A question has arisen concerning the effect of JCF's approving the PSC's proposal before the 90 day review period has lapsed. More specifically, it has been asked, does JCF's *approving* PSC action constitute *not objecting* under s. 196.374 (3) (b) 3., thereby authorizing the PSC to require energy utilities to spend the greater percentage for energy efficiency, conservation, and renewable resource programs?

The answer to this question is not a simple one. The passive review procedure under s. 196.374 (3) (b) 3. allows JFC to block the PSC from requiring energy utilities to spend additional moneys on energy efficiency and renewable resource programs. If JCF does not block the PSC's proposal, by not objecting within the 90 day period, the PSC may proceed with its proposal. But if JCF does object within the 90 day period, the PSC may not proceed with its proposal. The passive review

procedure therefore contemplates two possible JCF actions: objecting to the proposal within the 90 day period and not objecting to the proposal within the 90 day period. The passive review procedure is silent on what happens if JCF votes to approve a PSC proposal before the expiration of the 90 day period.

There is no case law on this specific issue, nor is there a JCF practice that gives guidance in determining the effect of a JCF approval on a PSC proposal. Read literally, the statute provides that the only way JCF can approve a PSC proposal, after notifying the PSC that it has scheduled a meeting, is to take no action for 90 days. The PSC must simply wait for the 90 day period to lapse, on the grounds that JCF could object at any time before the close of the 90 day period. However, if JCF has specifically approved the PSC proposal before the expiration of the 90 day period, then there does not seem to be any reason for the PSC to wait until the 90 day period is expired to require energy utilities to spend the greater percentage for energy efficiency, conservation, and renewable resource programs. After all, the purpose of the passive review procedure, which is to give JFC the power to block a PSC proposal, has been fulfilled when JCF chooses instead to approve the proposal.

If JCF votes to approve a PSC proposal before the expiration of the 90 day period, it would seem that the PSC could immediately require energy utilities to spend the greater percentage under the proposal and not wait until the expiration of the 90 day period. The actions of JCF have indicated that the committee has chosen not to object to the PSC proposal and has informed the PSC of that decision before the expiration of the 90 day period. The only reason for JCF to take action in approving the PSC proposal before the expiration of the 90 day period is to allow the PSC immediately to begin to require energy utilities to spend the greater percentage. After all, if JCF wanted the PSC to wait until the expiration of the 90 day period before taking action, JFC would simply do nothing. The 90 day period would run its course and the PSC could then act on its proposal.

The effect of a JCF approval action under s. 196.374 (3) (b) 3. seems to be to waive the 90 day period for JCF to object to the PSC proposal. The 90 day period is the time allotted JCF under the statutes to object to a PSC proposal to require energy utilities to spend the greater percentage for energy efficiency, conservation, and renewable resource programs. By approving the PSC proposal before the expiration of the 90 day period, however, JCF has effectively reduced the time available to it to object to the PSC proposal and, in so doing, has indicated by committee action that it does not to object to the PSC proposal. Thus, the most likely effect of a JCF vote to approve of a PSC proposal is a vote to not object to the proposal. The JCF has approved the proposal and has chosen to do so by affirmative action before the close of the 90 day period.

I hope this memorandum is helpful, and I stress again that this issue is not a simple one.