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BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Investigation on the Commission's Own Motion of Appropriate Measures to Maintain or Enhance the Existing Levels of Energy Efficiency, Services to Low-Income Customers, Renewable Resources, and Research and Development ("Public Benefits") in Restructured Electric and Natural Gas Industries

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**ENUNCIATION OF POLICY AND PRINCIPLES**

**Introduction**

This Enunciation of Policy and Principles details current Public Service Commission of Wisconsin (Commission) policy and intent regarding the preservation and enhancement of four Public Benefit initiatives in the transition to restructured electric and natural gas industries: (1) energy efficiency programs; (2) services to low income customers; (3) renewable resource development; and (4) environmental research and development. The Commission will propose legislation to implement these policies and initiatives.

These Public Benefits have been important parts of electric and natural gas utility operations and regulation. As these industries are restructured and deregulated, these Public Benefits are at risk if an effort is not made to preserve or enhance them within the new industry and regulatory structures.

The Commission recognizes these Public Benefits as an integral part of public utility regulation. It has now made a special commitment to preserve these benefits as utility regulation

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undergoes dramatic changes. As a part of that continuing commitment, the Commission, herein, proposes principles to guide the drafting of state legislation to create the structures, authorities, and funding sources required to carry out the Commission's policies. Other initiatives which are focused on low income and small customer markets, such as universal service, the moratorium on winter shut-offs, provider of last resort, and treatment of utility uncollectibles will be addressed in other dockets.

## **PROCEDURAL HISTORY**

### **Industry Restructuring**

On September 9, 1994, the Commission opened docket 05-EI-114 (Investigation on the Commission's Own Motion Into the Probable Costs and Benefits of Changing Electric Utility Company Structure and Regulation) to examine issues related to electric industry restructuring. Natural gas industry restructuring issues are being addressed in docket 05-GI-108 (Investigation on the Commission's Own Motion Into the Need for Changes in Natural Gas Regulation for City Gas Company, [*et al.*]). The Commission also prepared statements on the environmental impacts of potential electric policy decisions. A draft Environmental Impact Statement (EIS) was issued in July 1995 and, after public comment, the final EIS was issued in October 1995.<sup>1</sup>

The Commission also convened an Advisory Committee of persons representing 22 diverse viewpoints on electric restructuring issues. The committee met between February and October 1995 in an effort to build consensus and to negotiate common recommendations for the

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<sup>1</sup> Public Service Commission of Wisconsin. (1995, October). The Future of Wisconsin's Electric Power Industry—Environmental Impact Statement. Docket 05-EI-114. Madison, WI.

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Commission's consideration. The "Report of the Advisory Committee on Electric Utility Restructuring,"<sup>2</sup> submitted to the Commission in October 1995, included recommendations on "public policy" issues. These public policy issues included low-income customer services and programs, energy efficiency programs, environmental protection, and the promotion of renewable energy. These issues would become the nucleus of this Public Benefits docket.

### **Report to the Wisconsin Legislature**

After consideration of the information and recommendations from the EIS, the Advisory Committee, public comments, and hearings, the Commission set the direction for electric industry restructuring in December 1995. The result was detailed in the "Report to the Wisconsin Legislature: Electric Utility Restructuring in Wisconsin"<sup>3</sup> on February 22, 1996. The report contained a 32-step plan and timeline for the transition to a new electric industry structure. Included in the report was a directive to safeguard "social benefits" as an initial key element to electric restructuring by:

Developing alternative means of funding and providing social benefits to customers, including low-income protections and programs, energy conservation and efficiency services, and expanded opportunities to use renewable energy supplies.

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<sup>2</sup> Public Service Commission of Wisconsin. (1995, October). Report of the Advisory Committee on Electric Utility Restructuring. Docket 05-EI-114. Madison, WI.

<sup>3</sup> Public Service Commission of Wisconsin. (February 22, 1996). Report to the Wisconsin Legislature: Electric Utility Restructuring in Wisconsin. Docket 05-EI-114. Madison, WI.

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Step six of the 32 steps established a group of stakeholders to recommend policy directions on Public Benefits issues by the end of 1996.

### **Public Benefits**

On April 2, 1996, the Commission opened this docket.<sup>4</sup> In its Notice, the Commission formally combined the electric and gas industry initiatives for the four Public Benefit initiatives.

The Commission set up a process for policy development with two phases. The purpose of the first phase was to develop stakeholder recommendations and to decide on a course of action. The second stage will include the implementation of those decisions, including drafting proposed legislation.

Throughout 1996, the Public Benefits Stakeholder Committee met to discuss policy options. Participation on this committee was open to all interested concerns and individuals. Participants included representatives from public advocacy organizations; public utilities (including investor-owned and municipal utilities and electric cooperatives); state agencies; academic institutions; unregulated energy providers; and industry trades and consultants. The goal of the stakeholder process was to develop as much consensus as possible on a recommended course of action. Where consensus could not be reached, clear alternatives were to be developed for Commission consideration.

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<sup>4</sup> Public Service Commission of Wisconsin. (1996, April 2). Notice of Investigation, Assessment of Costs, and Meeting. Docket 05-BU-100. Madison, WI.

The stakeholder process proceeded in phases covering several issues, including:

- Scope of work for the Public Benefits effort and level of funding;
- Authority of a public advisory body;
- Structure and composition of a public advisory body; and
- Funding mechanisms and responsibilities.

In developing consensus, the stakeholders first “brainstormed” potential approaches.

Stakeholders then began to seek consensus, or to narrow the range of options. Temporary subcommittees were formed for each of the four subjects—services to low-income customers; energy efficiency; renewable energy; and environmental research—to allow stakeholders to involve persons with specific expertise in each area.

While total consensus was not achieved through the 1996 stakeholder process, the level of consensus in many areas was significant. The process narrowed the range of disagreement in many areas and limited the alternatives that the Commission would have to consider. The process also resulted in recommendations that were well thought out, internally consistent, and workable.

All stakeholders agreed that the effort should address services to low-income customers, energy efficiency, renewable energy, and environmental research. There was nearly unanimous agreement that the effort would be funded through fees on energy users or providers. Nearly all stakeholders envisioned a public advisory body of about a dozen members, with expertise in the energy industry, community issues, or public interest. All envisioned that the actual programs would be fielded through contracts with an administrator who would perform or subcontract the work.

There was a high level of consensus on low-income issues. All agreed that the low-income scope of work should include weatherization assistance, bill-payment assistance, and crisis intervention. There was also agreement that the low-income funding for these items should be permanent and that future low-income funding levels should be based on an objective assessment of need.

The areas of major difference between the Public Benefit recommendations were on funding questions: choice of a funding mechanism, and funding levels. Recommendations ranged from \$41 to \$66 million per year for the non-federally funded low-income assistance effort and from \$31 to \$112 million for the “energy” issues of energy efficiency, renewable energy, and environmental research.

### **Commission Decision Process**

Written proposals were submitted by the stakeholders on January 31, 1997. Four proposals were received by the Commission. Two were comprehensive proposals—from the Public Benefits Alliance<sup>5</sup> (the Alliance) and the Customers First!<sup>6</sup> Coalition (the Coalition). Two other proposals focused primarily on low-income issues—from Wisconsin Gas Company<sup>7</sup> and the Low-Income Concerns Group<sup>8</sup> (a group of low-income advocates and agencies). The proposal of the Alliance was developed as an attempt to reach consensus among the state’s large investor-owned utilities (IOUs) and

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<sup>5</sup> Public Benefits Alliance. (1997, January 31). Delivery of Public Energy Benefits Proposal. Docket 05-BU-100.

<sup>6</sup> Customers First! Coalition Members for Preservation of Public Energy Benefits in a Restructured Utility Industry. (1997, January 31). Proposal of Customers First! Coalition Members for Preservation of Public Energy Benefits in a Restructured Utility Industry.

<sup>7</sup> Wisconsin Gas Company. (1997, January 31). Public Benefits Proposal. Docket 05-BU-100.

<sup>8</sup> Low Income Concerns. (1997, January 31). Low Income Concerns Proposal. Docket 05-BU-100.

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one group representing small businesses. The Coalition proposal was developed as an effort to reach consensus between a diverse mix of advocates for low-income and residential consumers, environmental protection, energy efficiency, renewable resources, and small investor-owned and consumer-owned utilities.

Public meetings on the stakeholder proposals were held in Eau Claire on February 11; in Madison, Appleton, and Janesville on February 12; and in Wausau and Milwaukee on February 13, 1997. Written comments on the stakeholder proposals were filed by interested parties through March 5, 1997. The Commission began its deliberations and decisions on March 27, 1997.<sup>9</sup>

In reviewing the proposals, the Commission focused on the following criteria:

- Was the proposed scope of work adequate to preserve pre-existing levels of the four Public Benefit initiatives?
- Were adequate resources identified for the tasks in each area?
- Were there adequate opportunities for public input?
- Were there adequate controls for maintaining fiscal responsibility and legislative intent?
- Were the proposed mechanisms and structures workable and publicly acceptable?

## **THE COMMISSION DECISION**

The Commission finds that the most appropriate approach to preserve or enhance the levels of the four Public Benefit programs in the transition to new energy industry structures is to

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<sup>9</sup> Public Service Commission of Wisconsin. (1997, March 27). Issue List. Docket 05-BU-100.

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create a funding proposal that treats all energy suppliers equitably and that ensures continued support of these Public Benefits. This proposal is detailed in the remainder of this document. Many of these changes in institutions and authority will require changes to Wisconsin statutes, or will be more effective if such changes are made.

## **THE PUBLIC BENEFITS PROPOSAL**

### **Scope of Work and Funding Level**

The Commission finds that there is an overall initial need of \$105 million per year for services in the Public Benefits low-income effort. Of this total, the Commission assumes that \$46 million would be provided by existing federal low-income program funds. The remaining \$59 million would need to be collected through state Public Benefit funding. The energy effort (energy efficiency, renewable energy, and environmental research) has an initial need of \$107 million per year. Together, the two efforts would administer \$212 million in programming and services, of which \$166 million would need to come from state Public Benefits funding.

Use of the funds collected should be restricted to the activities outlined by the Legislature as the scope of work of the Public Benefits effort. Under the Commission's proposal, state agencies would have control over budgets and expenditures. Public Benefit funds should be segregated and not converted to use for other agency purposes.

The Commission also believes that it is important that the funds earmarked for the low-income initiative and for the energy initiatives be kept separate. Neither budget should be increased at the expense of the other. Funding transfers *within* each area can be more flexible, as

priorities and needs change, but the funding levels detailed in the following sections should be considered as a guide for future allocations.

## **Low Income**

**Goal of the Low-Income Effort.** The goal of the Public Benefits effort in the area of low-income protections and services should be to increase the affordability of energy services while protecting low-income customers from the health and safety consequences of losing access to energy sources and energy-efficient housing. At a minimum, the current level and quality of low-income services provided by utilities and government agencies should be maintained.

**Low-Income Scope of Work.** The scope of the Public Benefits effort in the area of low-income protections and services should include:

*Low-income weatherization and energy efficiency programs.* These programs include the design, development, and delivery of natural gas and electric energy efficiency programs which improve the affordability, quality, and safety of low-income housing, and reduce the amount of energy consumed for end-uses such as space heating, water heating, and lighting. This includes delivery of any current and future federal, state, and utility weatherization programs.

*Low-income bill payment assistance.* This includes the provision of funds which partially subsidize the payment of household energy bills by low-income customers. Households with very low incomes, very high bills, and special needs (children and elderly) should be the highest priority. This includes delivery of any current and future federal, state, and utility bill payment assistance programs.

***Early Identification Programs.*** These programs include the design, development, and delivery of bill payment and budgeting services which increase a low-income customer's ability to pay for energy services, reduce dependency on financial bill payment assistance, and mitigate bill payment crises in the future.

***Proactive and crisis management.*** These initiatives include the provision of energy services which respond to an immediate need. These include, but are not limited to: emergency heating system replacement, consumer education, unsafe appliance or structural repair, emergency cooling assistance, and special needs outreach.

***Low-income research and development.*** These research and development (R&D) programs provide a direct benefit to low-income customers. Appropriate projects could include, but should not be limited to, efforts to: improve cost-effectiveness of program delivery, increase energy savings, increase the reliability of service, increase and define the affordability of energy services, reduce the need for emergency services, and increase the sustainability of funding.

**Low-Income Funding Level.** The Commission finds that there is an overall initial need of \$105 million per year for services in the scope of the Public Benefits low-income effort. Assuming annual federal funding of \$46 million, this would require state Public Benefits funding of \$59 million per year. It is difficult to forecast exact federal funding levels, but Public Benefit funding should make up any shortfalls from the assumed \$46 million federal funding to result in total initial funding of \$105 million per year. Within the overall \$105 million budget, a minimum of \$50 million per year should be committed to low-income weatherization and energy efficiency efforts, including both federal and state programs.

The Commission believes that a periodic assessment of need is a rational and necessary basis for determining future annual low-income funding levels. All of the stakeholder proposals submitted as a part of the Public Benefits process agreed on this issue.

## **Energy Efficiency**

**Goal of the Energy Efficiency Effort.** The primary goal of the Public Benefits effort in the area of energy efficiency is market transformation. The Commission believes that an attempt should be made to create a sustainable market for efficiency and conservation services, that would not need public or regulatory intervention.

In past years, this Commission has relied on regulated utilities to achieve its policy goal helping customers to achieve significant levels of energy savings in the absence of effective markets for energy efficiency services. As part of the Commission's restructuring initiatives, utilities will no longer be required, or allowed, to provide energy efficiency services for customers as a part of their regulated, above-the-line activities. If utilities are no longer mandated to provide these services, and markets are not yet adequate, then the significant environmental, economic, and resource benefits of energy efficiency will not be fully realized by the citizens of Wisconsin. Therefore, another important goal of the Public Benefits effort should be to maintain historical levels of energy efficiency savings during the transition to sustainable markets.

The Public Benefits effort should accomplish its objectives with a minimum of interference with markets that are already competitive. Funds and efforts should generally be

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targeted to those market segments that are least developed, least sustainable, and least competitive.

However, there should be no up-front prohibitions on which customer sector markets can be targeted.

**Energy Efficiency Scope of Work.** The scope of the Public Benefits effort in the area of energy efficiency should include:

*Development of markets.* Facilitate the transformation of markets so that they effectively respond to customers' needs and public interests in increased energy efficiency.

*Delivery of energy efficiency services.* Administer, or otherwise insure, delivery of services where market failures and/or barriers continue to exist.

*Consumer education.* Provide education that supports the efforts to deliver services and to develop energy efficiency and small renewable resource markets.

*Customer-sited renewable energy.* Promote appropriate customer-sited, small-scale, renewable energy that displaces use of electricity, natural gas or other non-renewable fuels.

*Applied research.* Perform research in support of programming and market development, including:

- baseline and continuing evaluation of market status and success of market development efforts;
- estimates of energy efficiency potential, as needed;
- evaluation of programming and impacts;
- program planning and marketing research; and
- efficiency and end-use research and demonstration.

**Energy Efficiency Funding Level.** The Commission finds that there is an overall initial need of \$100 million per year for Public Benefits energy efficiency market development efforts. This

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Commission has often articulated its policy that there should be “no backsliding” in the level of effort to promote energy efficiency as the transition to new industry structures is made. This level of funding is needed to accomplish the Commission’s objectives in developing sustainable efficiency markets while, at the same time, maintaining historical levels of services and energy efficiency achievement. This level of funding is comparable to that currently expended by Wisconsin utilities and included in customers’ rates. It is likely that costs for needed programs will decrease over time if the effort is successful in its goal of developing sustainable markets.

Funding levels in future years should be based on a scientific assessment of need and of the success in developing dynamic markets that do not require public or regulatory intervention to be sustained. The measure of success of the Public Benefits effort in developing sustainable energy efficiency markets should be how successfully it has overcome or eliminated market failures and barriers. The impact of market failures and barriers can be measured by an estimate of the level of unrealized cost-effective energy efficiency potential. To the extent that significant cost-effective energy efficiency potential is not being realized for all classes of customers, then it will remain in the public interest to continue government intervention in those markets.

The initial funding level of \$100 million is significantly lower than the historical high point of \$140 million (1993). This significant reduction is due to two factors. First, it reflects the fact that the large commercial and industrial (C&I) efficiency services marketplace has become increasingly competitive so that some utilities have reduced their funding without a decrease in energy efficiency in these markets. Second, this initial funding does not include historical levels of electric load management spending, because energy providers will continue to encourage load management in their own interest.

## **Renewable Energy**

**Goal of the Renewable Energy Effort.** Because of the long-term benefits to Wisconsin's economy, environment, and energy supply system, it is the goal of the Commission that renewable energy resources play an increasingly greater role in reducing energy requirements and increasing energy supply. The Public Benefits effort should help to bring renewable energy costs down and to stimulate demand for renewable resources. Programs should concentrate on the development of *customer-sited* renewable energy applications and small-scale, customer-sited renewable generation technologies.

**Renewable Energy Scope of Work.** The scope of Public Benefits in the area of renewable energy should include:

- Consumer education on the benefits and market availability of renewable energy.
- Coordination of research on the environmental costs and benefits of renewable energy resources.
- Promotion of customer-based renewable technologies (dollars for this component are included in the energy efficiency funding level).
- Continued support for the Renewable Energy Assistance Program (REAP), which provides grant support for innovative and developing renewable technologies.
- Research for wind, biomass, and solar energy during a limited transition period.

**Renewable Energy Funding Level.** The Commission finds that there is an overall initial need of \$5 million per year to promote renewable energy resources.

## **Environmental Research**

**Goal of the Environmental Research Effort.** Regardless of its future form, there is a need for the electric industry to continue its important role in funding, supporting, and participating in research related to the environmental impacts of electricity generation and use. Such research would benefit the environment and the quality of life. To address environmental concerns, environmental research will require a variety of disciplines and a variety of funding sources. The goal of the Public Benefits effort in environmental research should be to ensure that some of the environmental impacts of Wisconsin electricity use continue to be addressed, directly or indirectly, by Wisconsin electricity users.

While some environmental research may be ordered in portions of the electric industry still regulated by the Commission, environmental research related to newly deregulated portions of the industry would not be guaranteed such support. Electric Power Research Institute (EPRI) research on environmental quality and public health and safety is already beginning to feel the strain of industry restructuring. Federal programs that have historically provided baseline support for such research have been greatly reduced or eliminated. At the same time, private sector investment in mid- and long-range research has also declined. Within EPRI, utilities are making funding allocation choices that focus more heavily on R&D that provides high near-term

leverage in the marketplace. Such an emphasis could eventually lead to environmental research as short-term crisis management, a very expensive and inefficient way to solve environmental problems.

A commitment should be made to cover a reasonable amount of research in the areas that the market will not cover. The market may provide *some* of the necessary research, but the Commission is concerned about the accountability and accessibility of research done by the market. This is especially a concern where the implications of the research have the potential to make energy producers' costs go up, or where public release of the results will provide an advantage to the researcher's competitors.

**Environmental Research Scope of Work.** The scope of the Public Benefits effort in the area of environmental research should include projects aimed at studying impacts of the electric industry which:

- Are the type now funded and performed by utilities.
- Are a direct concern to people and resources of Wisconsin.
- Are not currently funded or available elsewhere.
- Are not handled well by the marketplace.
- Are not addressed by remaining regulation.

**Environmental Research Funding Level.** The Commission finds that there is an overall initial need of \$2 million per year for appropriate and necessary Public Benefits efforts to support environmental research within its scope. It is desirable that these funds be leveraged as much as possible through cooperative or joint efforts with other industry or academic research entities.

## **Authority Issues**

**Overview.** The basic fiduciary and oversight authority in the Public Benefits efforts should continue to lie with state agencies. The low-income effort should be attached to the Department of

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Administration (DOA), as recommended by the majority of stakeholders. The Division of Housing, within DOA has had years of experience in delivering low-income weatherization and energy bill assistance through its administration of the federal Low Income Weatherization Assistance Program (LIWAP) and Low Income Housing Energy Assistance Program (LIHEAP) programs, respectively. The energy effort should be attached to a state agency other than the Commission. The DOA and the Department of Commerce have been suggested. These are more appropriate state agencies for policy development and delivery of programs and services than a regulatory agency such as the Commission.

Programs, activities, and research that support the goals of the Public Benefits effort would be delivered by and performed by an administrator, or administrators. The state agencies would contract with, and direct the work of, the administrator(s). The administrator(s) would either perform the work directly or subcontract the work through competitive Request for Proposal (RFP) processes. The administrators would be paid for their work by the state agencies from the funds collected for the Public Benefits effort.

The Legislature, the state agencies, and the administrator(s) would all have roles to play in the Public Benefits effort. The specific tasks, responsibilities, and authority proposed for each are detailed below:

### Public Benefits Responsibilities

#### The Legislature

- Authorizes the new processes, institutions, funding, and powers in legislation.
- Sets the scopes of work and policy goals of the Public Benefits effort.
- Monitors progress towards the Legislature's goals and conformity with legislative intent through regular reports from the state agencies.

#### The State Agencies

- Set and adjust annual funding levels and allocations.
- Select the administrator(s).
- Contract with the administrator(s).
- Approve annual workplans and annual budgets for the administrators.
- Monitor, supervise, audit, and direct the work of the administrator(s).
- Report regularly to the Legislature on Public Benefits status, activities, expenditures, and progress.

#### The Administrators

- Design programs and services.
- Hire and direct their own staffs.
- Issue RFPs for work to be subcontracted.
- Report regularly to the state agencies.
- Evaluate programs and conduct supporting research.

The Public Benefits effort would be best facilitated if two separate administrative structures are established one primary reason is that the low-income effort is likely to be a permanent function whereas the energy effort, if successful, will not last beyond 5 years. The administration of the low-income effort and the energy effort should not be combined into one structure. One effort, the energy effort, could address the areas of energy efficiency, renewable energy, and environmental research. A second effort, the low-income effort, could address the areas of low-income energy services and bill payment assistance. Some stakeholders had recommended that there be only one, combined administrative structure. A single structure may be attractive in that it appears to limit the number of new bureaucracies. The low-income and energy areas, however, have very different goals. They have

different program and service delivery infrastructures and they will have different administrative and policy-making needs.

The Commission believes that it is important for the public, including advocates for the Public Benefits being protected, to have input on priorities and ideas for programs and services. The Commission does not, however, recommend a specific public input structure for the other state agencies. Each state agency has its own existing forms of public input. The state agencies that are eventually chosen to oversee the Public Benefits efforts should develop their own input structures.

**Permanence/Sunset.** The Public Benefits low-income effort and low-income funding source should be considered permanent. The character of the issue areas on the “energy” side, however, is different. It is the goal of the energy efficiency, renewable energy, and environmental research efforts to create the conditions for sustainable and adequate market-driven approaches to preserving these Public Benefits. The public’s interest is best served by legislating a “sunset” for the energy effort and its funding source five years after the effort is established. This will force a review of the continued need for these institutions and regulatory interventions. The progress in the ability of the marketplace to provide each of these “energy” benefits may vary significantly between areas.

### **Funding Responsibility and Mechanisms**

**Responsibility for Costs.** The responsibility for the costs of the Public Benefits efforts should be borne by electric and natural gas energy providers. This responsibility will come with the right to sell energy in the state of Wisconsin. This responsibility includes all entities that wish to sell electricity or natural gas at retail, including, but not limited to: investor-owned electric and natural gas utilities;

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municipal electric and natural gas utilities; electric cooperatives; and all non-utility electric and natural gas retail merchants. It is the Commission's intent that this responsibility not be bypassable. Customers purchasing natural gas or electric energy supplies directly, without the services of a merchant such as the local distribution company (LDC) or a marketer, would be subject to assessment, either directly or indirectly. Natural gas sold for use in electric generation should be exempted, if the electricity generated is to be sold at retail. This will help to avoid a double assessment on these electric customers.

Providers of unregulated fuels such as heating oil and liquid propane will not be responsible for these costs. As a result, their retail customers should not have access to bill payment assistance for purchasing heating oil or liquid propane funded by the state Public Benefit funding assessments. These customers will, however, have access to federally funded bill payment assistance dollars, as in the past. Inasmuch as these customers are almost certainly retail electric customers, and may also be natural gas customers, they will be funding many of the other Public Benefit efforts. It is, therefore, appropriate to include fuel oil and propane heating customers in all of the other Public Benefits services and programs.

**Assessment Mechanism.** The nature of the funding assessment mechanism was perhaps the most controversial of all the Public Benefits issues considered by the Stakeholder's Committee and the Commission. The Commission sought a mechanism that was: 1) competitively neutral; 2) sustainable; 3) easy to administer; 4) non-bypassable; 5) politically feasible; and 6) fair—a difficult task by any measure. The Commission finds that the mechanism that best meets these criteria is to collect revenues from electric and natural gas energy providers on the basis of Btu equivalency at the customer meter. (One kWh of electricity equals 3,413 Btu; and one therm of natural gas equals 100,000 Btu.)

The first step in the assessment process should be to establish the total year's budget for each of the low-income and energy efforts separately. Responsibility for the total dollars needed in any fiscal year will be prorated to all retail energy providers based on the Btu content of all energy that they sold in the previous calendar year. Each provider will then pay its share throughout the fiscal year in 12 equal monthly installments.

There are several advantages to this approach. One advantage is simplicity of administration. Another is that Public Benefits revenues would closely match budgeted levels. Energy providers would know for certain what their payments would be for a full year in advance. Finally, the Commission believes that it is fairest and most competitively-neutral to assign responsibility for energy services and programs, the bulk of which will be targeted to conserving energy usage or paying energy bills, on the basis of the energy content of each company's sales.

No method is perfect, however. One weakness of this approach is that there will be a year or more lag between the time natural gas and electricity sales are made and that Public Benefits payments based on those sales will be assessed. In addition, new entrants to the energy sales market will not incur fees until the beginning of the next cycle.

Because it will be difficult to forecast exactly what future Public Benefits budgets will be, it will also be difficult to establish rates in a forward-looking test year rate case process. If rate-regulated utilities are to be assured of recovery of these costs, and if ratepayers are to be protected from significant mis-estimation of those costs, then it may be advisable to establish an escrow mechanism similar to that which has been used in the past for utility demand-side management expenses.

The state agencies which oversee Public Benefits will be responsible for adjusting total funding levels from year to year, and for allocating funds between program areas over time, based on assessments of need.

As stated earlier, once collected, low-income funds should be totally segregated from energy funds. In the case of electric cooperatives and municipal utilities, the revenue responsibility may have to be calculated separately for the low-income and energy areas (see section on “Municipal Utility and Electric Cooperative Flexibility” below).

This assessment mechanism can and should be revisited as changes are made in regulation, in levels of funding, and in the types of programs being funded.

**Recovery of Costs and Ratemaking.** Electric and natural gas energy providers whose rates are regulated by the Commission should be allowed to recover the expenses for the Public Benefit assessment through their regulated rate structure. The responsibility for these revenue requirement dollars should be allocated to customer classes and rates through the Commission’s existing rate setting process. As with the collection of the telecommunications Universal Service Fund, the portion of customers’ rates devoted to Public Benefits support should not be separately itemized on customers’ bills.

Electric and natural gas energy providers whose rates are not regulated by the Commission may charge their customers to recover expenses for Public Benefits support, as they see fit, just as they would to recover any other expenses. Prior to the establishment of, or expansion of, retail competition, the Commission will revisit the mechanism by which all energy providers are able to recover Public Benefits expenses.

**Municipal Utility and Electric Cooperative Flexibility.** The Commission is supportive of allowing municipal utilities and electric cooperatives some level of flexibility on the “energy” side of the Public Benefits effort (energy efficiency, renewable energy, and environmental research). It is not, however, appropriate to allow such flexibility on the low-income side of the effort. Issues of energy efficiency, renewable energy, and environmental research may vary widely in nature and level of benefit received depending on fuel source, utility, and location in the state. Low-income consumers, on the other hand, need the same level of protection regardless of their type of fuel, who their utility is, or where they live.

Low-income funds should be collected uniformly from all electric and gas energy providers, including municipal utilities and electric cooperatives. The low-income services being protected are often matters of life, death, and public safety, especially in a cold winter climate like Wisconsin’s. Low-income customers should have access to the same level and character of low-income services statewide, regardless of what company serves their energy needs.

In the energy area, municipal utilities and electric cooperatives should have the option to fund their own “Commitment to Community” programs, instead of funding and participating in the state-wide Public Benefit energy effort. The “Commitment to Community” programs would provide energy services on a local basis rather than through statewide programs. It is likely, however, that many municipal utilities and electric cooperatives will consider participating in the statewide programs as an easy way to meet their responsibilities, with very low administrative cost and with little or no need for additional staffing resources. If these utilities choose to provide their own services, they should be

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required to use funding only for the same scope of work, and at the same funding level for which they would have been assessed under the statewide effort.

Electric cooperatives and municipal utilities choosing to provide their own “energy” services and programs should be required to report their activities and expenditures for Public Benefits purposes to the Commission or other applicable state agency annually. Conformity with legislative intent (or lack thereof) could then be communicated to the legislature in the Commission’s regular reports to the Legislature.

## **CONCLUSION**

The Commission would like to compliment and thank the stakeholders in the Public Benefits process for their sincere and good-faith efforts to see that the Public Benefits of low-income services, energy efficiency, renewable energy, and environmental research are preserved. While the stakeholders did not always agree, they spent countless hours trying to find answers to some of utility regulation’s toughest questions. Without their efforts, the policies and principles detailed in this document would not have been nearly as rich or as useful.

The Commission’s support of the Public Benefits of energy utility regulation is not new. Neither is the support shown by the stakeholders in this process. Many of the institutions, mechanisms, and authorities described in this document, however, are new. It is clear that most of these changes will require legislative action. The Commission will request the Wisconsin Legislature to consider these principles as a mechanism to protect these goals. The Commission sincerely hopes that the Public

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Benefits stakeholders will continue to support the goal of preserving Public Benefits as the Legislature considers these complex issues.

In sum, the purpose of this document is to provide a policy framework which the Commission at this time considers reasonable for consideration by the Legislature to achieve an orderly and rational transition into the new marketplace.

Dated at Madison, Wisconsin, \_\_\_\_\_

By the Commission:

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Lynda L. Dorr  
Secretary to the Commission

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See attached Notice of Appeal Rights

Notice of Appeal Rights

Notice is hereby given that a person aggrieved by the foregoing decision has the right to file a petition for judicial review as provided in s. 227.53, Stats. The petition must be filed within 30 days after the date of mailing of this decision. That date is shown on the first page. If there is no date on the first page, the date of mailing is shown immediately above the signature line. The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

Notice is further given that, if the foregoing decision is an order following a proceeding which is a contested case as defined in s. 227.01(3), Stats., a person aggrieved by the order has the further right to file one petition for rehearing as provided in s. 227.49, Stats. The petition must be filed within 20 days of the date of mailing of this decision.

If this decision is an order after rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not an option.

This general notice is for the purpose of ensuring compliance with s. 227.48(2), Stats., and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

Revised 4/22/91