



Customers First!

Plugging Wisconsin In

Statement by Customers First! Coalition Assembly Energy Committee Hearing Environmental Trust Financing Proposal (LRB 4030/1) January 28, 2004

Customers First! is an alliance of customer groups, municipal utilities, rural electric cooperatives, labor unions, environmental groups and one investor-owned utility. Since 1996 it has been providing input to policymakers and encouraging bipartisan consensus on Wisconsin's energy policy.

CFC generally supports a sequential, one-step-at-a-time approach to change in the electric industry and advocates putting the interests of Wisconsin customers & users first.

In concept, CFC is interested in this legislation, LRB 4030/1, which proposes to finance environmental control activities through bonds rather than through the traditional rate recovery approach. As the state enters a building cycle, measures to control costs for ratepayers are welcome ideas.

However, as the legislation is currently drafted, CFC has some serious concerns:

Scope

- The scope of the bill should be limited to environmental control equipment and plant retirements for purposes that the PSCW finds to be prudent, reasonable, and appropriate (including as to level of costs)(see below under "Standards")
- Energy efficiency and conservation expenditures should not be included (p.4)
- Only capital costs, not operating expenses, should be bondable
- The definition of removing or remediating "pollution" under "environmental control equipment" (p. 4) needs to be better defined

Standards

- The trust instruments should be 100% debt
- The "public interest" standard (p. 6) should be supplemented with a more specific standard of benefit to ratepayers

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- One such standard is that applicants should demonstrate that there are material net benefits to customers that will result in lower rates than traditional financing by the utility
- The PSC should find that the applicant acted reasonably and prudently in incurring the environmental-control costs (i.e. nothing in the bill affects the Commission's existing authority to determine the extent to which environmental-control costs and retirement costs should be borne by ratepayers and/or shareholders)
- The PSC should find that all costs included in such charges are reasonable and prudent
- Especially for plant retirements, bond proceeds should be used in an order of preference that provides the greatest benefit in reducing customer costs
- Use the true-up mechanism (p. 6-7) to insure that such costs are not more than actual costs, and that any adjustments are reasonable and prudent (i.e. that the adjustment process does not turn into cost-plus approvals)
- Delete the provision that requires the PSC to exclude from recovery only costs which the applicant does not propose to finance with bonds (p. 7, l. 5-7).

Procedure

- A contested-case hearing should be required prior to the approval of an application for such bonds
- More discussion is needed about whether expedited PSCW action and judicial review are required
- The bill should clarify that it does not repeal the PSCW's existing authority to approve an application with reasonable conditions, not just accept or reject the application (p. 6)
- Standard judicial review under the Administrative Procedure Act (Chapter 227) is appropriate. (p. 7)
- The applicant should have the obligation (and not just the option (p. 7)) to initiate PSCW consideration of refinancing or retirement of the bonds if this will provide a material net benefit to ratepayers

Other Issues

- Clarify the revised "non-bypassable" language (p. 6, l. 17-19); insure non-bypassability for the duration of the bonds without reference to retail competition
- Clarify that the utility owns (or at least has the management and control of) the environmental control equipment and will benefit from its use
- Determine whether the provisions that allow transfer, sale, or assignment of the right to receive environmental control charges to a third party (including an affiliate of the public utility) (p. 9, l. 10-13) are essential to placement of the bonds
- Determine whether the many "irrevocability" provisions in the bill (p. 8-14) are all necessary in order to obtain a AAA bond rating for these bonds

- Insure that existing statutory standards regarding construction or installation of environmental-control equipment and plant retirements (including sec. 196.49 regarding CAs and sec. 196.491(3) regarding CPCNs) remain in effect

Customers First! looks forward to working with policy-makers to find a consensus solution to this matter.