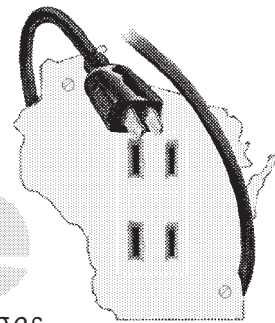


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Wisconsin wind bill in the works

There are big differences between wind energy facilities and traditional power plants, but not when it comes to getting everyone to buy in on decisions about where to build them. Now, state lawmakers are getting ready to erase one of those differences—in the sense of creating uniform wind-siting standards to apply statewide.

Long considered a key element in a broader package of climate legislation, statewide wind-siting standards will now apparently be introduced this spring as a separate bill.

State Senator Jeff Plale (D–South Milwaukee) said in March he had a stand-alone wind-siting bill in drafting and would soon introduce it. Plale indicated the bill will be similar to a proposal that attracted significant support in the 2007–08 Legislature but was introduced too late in the session to achieve passage. It received a



Plale

favorable committee vote within a week after introduction but stalled on the Senate floor, was sent back to committee, and died when the session ended days later.

The idea has gathered momentum in response to wind projects being blocked by varied local ordinances adopted in a number of Wisconsin municipalities.

One high-profile dispute lost a chance for a prompt resolution when a state appeals court last month upheld a Manitowoc County circuit court ruling that the challenge to a county wind-siting ordinance by Emerging Energies LLP was not yet ripe for judgment.

Emerging Energies obtained a conditional use permit in 2006 under an ordinance in effect

in 2004. Amendments to the ordinance adopted in 2006 established greater setbacks from roads or structures. A challenge to the permit by local opponents resulted in a finding that it needed to be reconsidered with the increased setbacks in mind.

The circuit court told Emerging Energies it would have to work through the revised permit process and could seek judicial relief only if the permit was denied. That ruling was affirmed by the appeals court in March.

Wind power advocates have complained that state renewable energy mandates are being thwarted by a patchwork of local ordinances. Public Service Commission Chairman Eric Callisto told electric cooperative managers in January some 600 megawatts of available wind development were being blocked.

Plale said his bill would help the commission address siting issues and prevent individual communities from setting energy policy for the whole state.💡

Rail reforms on track

Over the last session of Congress it slowly gathered momentum. Now railroad reform legislation looks to be rolling like a locomotive headed down a 10-percent grade.

The Railroad Antitrust Enforcement Act of 2009 advanced in the U.S. Senate's Judiciary Committee early last month, gaining bipartisan endorsement for passage by the full Senate.

Otherwise known as S.146, the bill authored by Wisconsin Senator Herb Kohl won committee approval on a 14–0 vote.

National Rural Electric Cooperative Association CEO Glenn English, who is also national chairman of Consumers United for Rail Equity (CURE), said the committee showed “great leadership” with its bipartisan endorsement of the bill.

English said the legislation would bring “much-needed scrutiny to freight railroad consolidation and monopoly practices.”

The proposal, also being offered in the House by Rep. Tammy Baldwin, would eliminate the railroads' existing exemption from federal antitrust law, give the U.S. Justice Department and Federal Trade Commission review powers over railroad mergers, require federal regulatory decisions to conform with antitrust law, and allow state-level and private actions to recover damages for anticompetitive conduct.💡



English



House author Rep. Tammy Baldwin speaks with CURE members at the March Rail Customer Day in Washington.

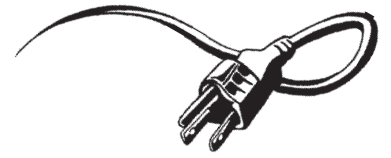
THE WIRE is a monthly publication of the *Customers First!* Coalition—a broad-based alliance of local governments, small businesses and farmers, environmental groups, labor and consumer groups, retirees and low-income families, municipal electric utilities, rural electric cooperatives, wholesale suppliers, and an investor-owned utility. *Customers First!* is a coalition dedicated to preserving Wisconsin's reliable and affordable electricity.

If you have questions or comments about THE WIRE or the *Customers First!* Coalition, please call 608/286-0784.



KEEPING CURRENT

With CFC Executive Director Matt Bromley



With federal rail-reform efforts gaining steam, the big railroads are groping for reasons why Congress should retain the status quo. In this edition of *The WIRE*, we report the Senate Judiciary Committee's endorsement of the Railroad Antitrust Enforcement Act (S. 146)—legislation repealing the antitrust exemption that currently exists for railroads.

The *Customers First!* Coalition supports repeal because the exemptions have allowed railroads to engage in anticompetitive behavior that's led to extraordinarily high rail costs to transport coal to Wisconsin power plants—costs that are passed on to customers through higher electricity rates.

The Judiciary Committee's unanimous endorsement of S. 146 and the willingness of key leaders in both houses of Congress to consider pro-rail customer legislation this year has made the railroad industry step up its lobbying efforts. But the arguments they use to justify maintaining their special treatment don't carry a lot of weight. For example, the railroads claim they need the exemptions to prevent dual, and potentially conflicting, oversight by federal agencies and the courts. They claim it's a recipe for disaster. Yet, other industries, like wholesale electric power, are subject to both oversight by a regulatory body and federal antitrust law without calamitous effect.



Bromley

In fact, dual oversight often works in tandem as market regulation and antitrust share a common mission of protecting customers in markets that don't necessarily lend themselves naturally to competition.

Rail lobbyists also claim no additional oversight is needed because they are already subject to extensive regulation by the federal Surface Transportation Board (STB). This process, they assert, is working and protects rail customers. Yet, rulings from the STB have denied rail customers the benefits of competition, and the agency's rate-challenge process is costly, time-consuming, and virtually inaccessible for many rail customers. If the STB process was working so well for rail customers, it is doubtful that so many would be asking for changes.

Members of Congress contemplating this issue may want to ask how railroads were able to increase their profits last year despite moving less freight. The answer is obvious, according to Bob Szabo, executive director of Consumers United for Rail Equity (CURE), who says the railroads are exploiting their monopoly power. "The antitrust exemptions," Szabo says, "allow railroads to avoid competition and keep their shipping rates artificially and unfairly high, even during the worst economic recession since the 1930s." Now *that* sounds like a recipe for disaster. 💡

Stimulus cash "seed money"

The \$11 billion appropriated in federal economic stimulus legislation for upgrades to the nation's transmission system is only the beginning for efforts to expand use of wind power and other renewable energy, according to the top federal energy regulator.

While President Obama called it "a big step down the road to energy independence," Jon Wellinghoff, acting chairman of the Federal Energy Regulatory Commission, called the \$11 billion "seed money" for a much bigger effort to pump renewable energy into the grid.

Wellinghoff said he foresees a price tag exceeding \$200 billion for projects to transport renewable energy from remote locations to population centers, and he said proposals already submitted to his agency suggest most of the money will be private-sector investment. He made the remarks in February to Platts Energy Podium. Platts is a global provider of energy and commodities information.

The stimulus legislation calls for 3,000 miles of new or improved transmission lines, 40 million residential "smart meters," and upgrading transmission and distribution technologies.

Nevertheless, Wellinghoff told the Platts audience, the stimulus package "really isn't enough money to make huge advances in the overall backbone grid that we're talking about to integrate substantial amounts of wind." Wellinghoff also said he would push for Congress to give federal regulators greater authority over siting of interstate high-voltage transmission projects to move wind energy to populous metro areas. 💡

Promises, promises

Every now and then someone comes up with a study that says electric deregulation has really worked pretty well in Texas. Then somebody else comes up with one that shows how much power prices have gone up. It's somebody else's turn again.

This time it's the Cities Aggregation Power Project (CAPP), a coalition of 103 Texas municipalities and other political subdivisions. Earlier this year under the headline "Electric Deregulation Promises Remain Unfulfilled," CAPP released a report it calls "one of the most comprehensive ever produced on the state's deregulation law."

CAPP Chairman Jay Doegey says the report shows that "consumers have paid too much for too long" under a restructuring program that, ironically, was supposed to solve the problem of what Texans once saw as excessive electricity prices.

"We have a deregulated market but not a fully competitive one," Doegey said. "Instead of excuses or ignoring the problem, Texans deserve

meaningful reform."

Oddly, the study finds the number of electricity providers in Texas has increased; yet prices have gone up. Prices that were below the national average prior to restructuring are now well above it and have increased in Texas by a greater percentage than in other restructured states.

The fingerprints of Enron are detected. The CAPP report notes that current problems with today's market structure may be attributable to the key role played by the Houston-based energy buccaneer in shaping the 1999 legislative package.

The state's regional grid operator, the report says, is having major problems managing its system and a market overhaul is "years behind schedule and approximately 900 percent over initial cost projections."

Reforms proposed by CAPP include stronger protections against abuses of the wholesale energy market, which the report calls "pervasive and uncorrected."

Also proposed: Allowing market partici-

pants who are harmed by anticompetitive behavior to participate in enforcement action, and a legislative mandate to drop the over-budget market overhaul.

The 1999 restructuring of Texas electric utilities was sold with the promise of future price reductions driven by competition, but instead, prices have risen, notes CAPP Vice Chairman Randy Moravec. "The people of Texas are still waiting," Moravec says. 💡

Energy saver tip

If you have central air conditioning, now is a good time to check the outdoor equipment, before you actually need it. Winter winds may have packed last year's leaves in and around the unit and they'll make it run harder trying to dissipate excess heat, wasting energy and stressing the system. Luckily, this is one of the simplest energy problems to solve. A few minutes with a garden hose is usually enough to clear away the debris, clean accumulated grime off the components, and make your system run more efficiently. 💡

Dumping the dump: End of the Renaissance?

In January *The Wire* noted some of the unresolved and contradictory issues surrounding a much-discussed revival of nuclear power-plant construction in the United States. Then came word that the Obama administration would cut funding to all but kill the planned Yucca Mountain radioactive waste site, a move seen in some quarters as also killing off the so-called "nuclear renaissance."

Maybe and maybe not. The demise of Yucca Mountain unquestionably shifts the debate, but so far doesn't end it.

For instance, whether the new developments dim the prospects for new plants with applications pending—almost 30 new reactor proposals are under early licensing review by the Nuclear Regulatory Commission (NRC)—or open new paths for them by erasing a longstanding uncertainty is a question with no immediate answer.

With the national repository still far from completion more than 11 years after its statutory opening date and expected to miss its revised target of 2017 by three to eight additional years, it hadn't been hard to find industry

insiders who believed Yucca Mountain would never see its first shipment of spent fuel.

The Obama budget allocates only enough money for Yucca Mountain to continue its NRC license review. Energy Secretary Steven Chu told a Senate committee in March he did not intend to withdraw last year's license application but that the facility was no longer an option.

That outcome had been previously signaled from many directions.

As a candidate last year, Obama told Nevada audiences he would block further development of the site.

Earlier, in January 2008, congressional funding cuts prompted the first of a double wave



Chu

of layoffs by Bechtel Corp., the chief contractor for the project, and construction activity all but ceased.

Soon after, one congressional enthusiast for new nuclear development, then-Senator Pete Domenici (R-NM), said he preferred to resume reprocessing of spent fuel. In April 2008 Domenici, who retired at the end of last year, said it would be "foolhardy" to expect spent fuel would ever be stored at Yucca Mountain.

The following month brought signs that the NRC would not be entirely unhappy to see the beleaguered project fade away. Commissioner Gregory Jaczko told a Florida conference of the Nuclear Energy Institute he favored current arrangements with storage at power plants, saying, "Spent fuel can be safely and securely managed at reactor sites for many years to come."

In March, Chu told senators a special panel would be convened to report back within a year on alternatives, including a resumption of spent-fuel reprocessing.

At one time the established federal policy, reprocessing effectively ended in the 1970s. 💡



Quotable Quotes

“Electric deregulation has led to dramatically higher energy prices for consumers, serious abuses in the wholesale power market, and reduced profits for businesses...”

—Statement by the Cities Aggregation Power Project (CAPP), an organization of Texas municipalities, introducing its latest report on the history and status of Texas electric restructuring, February 9, 2009

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