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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2009-10

(session year)

### Assembly

(Assembly, Senate or Joint)

### Special Committee on Clean Energy Jobs...

#### COMMITTEE NOTICES ...

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#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (December 2012)

Assembly Bill 649 (AB 649)  
Flint Hills Resources Testimony  
February 2, 2010

### **Jay Reinhardt Testimony**

Mr. Chairman and members of the committee, thank you for the opportunity to testify.

For the record, my name is Jay Reinhardt, director of operations for Flint Hills Resources.

Although I grew up in Wisconsin, this is the first opportunity I've had to testify at the State Capitol. It's a pleasure to be here.

As Mr. Schoepke indicated, my area of expertise is primarily technical. In this vein, I hope to answer questions you may have about a low-carbon fuel standard and explain why it is potentially a very harmful policy.

While on the surface an LCFS may sound appealing to some, its consequences are potentially quite serious. Specifically:

- An LCFS requires the use of a scarce and largely ill-defined fuel source. Such self-imposed restrictions on the marketplace will naturally lead to higher fuel prices and a less stable fuel supply for the state of Wisconsin.
- The policy also creates barriers that may discourage the importation of Canadian oil in favor of lighter, less carbon-intensive crudes found in places like the Middle East. This means the policy could very well lead to an increase in the amount of oil America receives from the Middle East and from other unstable regions.
- An LCFS also could result in considerable job losses within U.S. industries that are tied to the production of crude oil from Canada – including heavy equipment manufacturers, refineries and pipeline systems. Canadian crude is extremely important to our region both as a reliable fuel source and as a major source of jobs and economic activity. A policy that discriminates against Canadian crude will undoubtedly hurt our regional economy.
- And finally, we believe the LCFS policy, ultimately, will do little if anything for the environment. In fact, it could very well result in a net increase in global greenhouse gas emissions by displacing production to countries that have much lower environmental standards than the United States. There is no doubt Canada's oil will be developed. It will either be developed efficiently and responsibly in the United States for the United States, or it will go elsewhere and be used by other countries at a much higher cost to the environment.

Before I explain the basis of these concerns there are a number of practical issues I'd also like to address briefly:

1. First, there is no way to remove carbon from petroleum-based fuels. Oil is a hydrocarbon. There are also no commercially viable low-carbon alternatives that can be used with, or in place of, gasoline to meet a state-mandated carbon threshold for transportation fuels. Corn ethanol is the most prevalent alternative fuel currently in use, but its carbon intensity is equal to that of gasoline. Other potentially less carbon-intensive forms of ethanol are neither commercially viable nor proven in their ability to satisfy demand without significantly increasing costs to consumers and taxpayers. An LCFS essentially mandates the use of a fuel that scantily exists.
2. Second, without viable blending alternatives refiners have essentially two options for meeting an LCFS – produce less or find a different base fuel. While you can't remove carbon from oil, it's possible to find feedstocks that require less energy from which to produce fuel – which in turn could lower the fuel's carbon intensity on a "wells-to-wheels" basis. However, this type of feedstock – the Jed Clampett crude that rests just below the earth's surface – is in scare supply. What exists mostly resides in places like the Middle East. North American feedstocks – particularly oil drawn from Canada's oil sands – are more difficult to extract and somewhat more energy-intensive to use for producing fuels. Consequently, an LCFS provides a perverse incentive to use lighter crudes from places like the Middle East instead of oil found much closer to home.
3. Third, it's important to understand that no two refineries are exactly alike and several different refineries serve the Wisconsin market – most from outside the state. Each of these refineries uses its own unique blend of feedstocks based on the customization of its individual operations and the type of products its respective markets are calling for. In other words, the mix of feedstocks and fuels, and their corresponding carbon footprint, can vary. A fuel's carbon intensity also isn't something that can be measured through product sampling, so there is no way to know for sure if a product coming into Wisconsin from another state is more or less carbon-intensive than another. This underscores the complexity of LCFS modeling. The science on which this modeling is based is extremely immature. The definition of what constitutes a low-carbon fuel is changing constantly, and to date no definition has been proven absolute. An arbitrary standard for Wisconsin or for any other state would create barriers that would naturally divert product to more favorable markets. In effect, an LCFS would isolate Wisconsin's fuel market.

### **Importance of Canadian Crude Oil:**

The one thing that most of the refineries serving this region have in common is an increasing reliance on Canadian oil.

For your reference, in your packets you will find several maps illustrating the workings of the region's crude supply as well as a chart titled, "Crude GHG Life Cycle Estimates, Wells-to-Wheels," which shows the carbon intensity of various crude sources.

Our primary concern with a low-carbon fuel standard is the evaluation and treatment of a given fuel source's indirect carbon emissions – particularly crude oil derived from Canada and corn-based ethanol. Both of these fuel sources have been criticized by supporters of a low-carbon fuel policy and both were expressly targeted by California's low-carbon fuel standard in an effort to discourage their use.

It's important to keep in mind that California created the concept of an LCFS, and to date it is the only state to adopt and begin implementing the policy.

However, unlike California, which produces much of its own crude, the Upper Midwest gets a majority of its crude oil from Canada, which has the second-largest oil reserves in the world (second only to Saudi Arabia).

Although it's abundant, Canadian crude is typically denser and requires more energy to produce than lighter and sweeter crudes. Consequently, Canadian crude can generate more greenhouse gas emissions than traditional drilling during the production process, resulting in higher life-cycle emissions (See the Crude GHG Life-Cycle Estimates chart.) This makes some Canadian crude arguably more carbon-intensive than crude derived from places like the Middle East.

As you'll note from the CAPP (Canadian Association of Petroleum Producers) map in your packets, there are a number of major pipelines that carry crude oil from Canada into the region. You'll also note that the region can be easily bypassed. If the Wisconsin market adopts an LCFS and shuts out Canadian crude, existing and proposed pipeline infrastructure could be used to bypass the state to reach states without a low-carbon fuel standard. If other Midwestern states adopt the policy, Canadian crude will move to other regions or be produced for export to developing nations such as China and India. In fact, China recently announced a major investment in Canadian's oil sands to do just that. These nations, including China, have lower environmental standards than the U.S., which means there would be a net increase in emissions if Canadian crude is ultimately refined elsewhere. An LCFS may also increase the greenhouse gas emissions associated with transportation of crude oil. Canadian crude would travel half-way around the world to China because it can no longer be refined in Wisconsin and other Midwest states that supply the region with fuel. That Canadian crude could be replaced with Middle Eastern crude that will travel half-way around the world to Wisconsin and other Midwest states.

There is little doubt that Canada's oil sands will be developed; the only questions are where and for whom it will be produced.

The immaturity of the science on which an LCFS is based taken together with the lack of commercially viable alternatives, makes it near impossible for fuel producers to plan for and make the necessary long-term investments required to satisfy consumer demand for

transportation fuels. It further threatens the jobs of workers throughout the Midwest that are tied directly to the production of Canadian crude. This includes Flint Hills Resources and other regional producers that exist largely because of Canadian oil not to mention the many other businesses throughout the Midwest that support and benefit from its production.

### **The California Example:**

With due respect to our friends in California, we advise caution when looking to the Golden State for guidance on energy matters. California fuel prices, as we know, are higher and more variable than fuel prices in other states, in part because there are relatively few supply sources of its unique blend of gasoline.

Due to the relative isolation and the specific requirements of the California fuel market, California motorists are also vulnerable to short-term spikes in fuel prices. No pipelines connect California to other major U.S. refining centers, and California refineries often operate at or near maximum capacity due to a high demand for petroleum products. When an unplanned refinery outage occurs, replacement supplies must be brought in via marine tanker. Locating and transporting this replacement gasoline, which must conform to the state's strict fuel requirements, can take from two to six weeks.

California's LCFS is expected to make matters worse. The state's voracious appetite for transportation fuel together with a government-created demand for what is a limited product will naturally lead to higher fuel prices. Low-carbon fuels will become even scarcer, and thus more expensive, when California fully implements its LCFS. Other states that follow California's example and adopt low-carbon fuel standards of their own will have to compete directly with California for these scarce fuels (California has the world's ninth-largest economy).

The dramatic increase in the cost of diesel in recent years is further evidence of what can happen to gasoline prices when fuel standards like these are adopted. In this case, the federal mandate to produce ultra-low sulfur diesel led to supply reductions when some refiners couldn't make the necessary investment to produce the fuel. As a result, prices increased and diesel became more expensive than regular gasoline, and it remains more costly today. Incidentally, the federal requirement to make ultra-low sulfur diesel fuel led to an increase in greenhouse gas emissions. In order to meet the fuel specs for ultra-low sulfur diesel, refiners had to add more hydrogen production, which is a significant source of global greenhouse gas emissions.

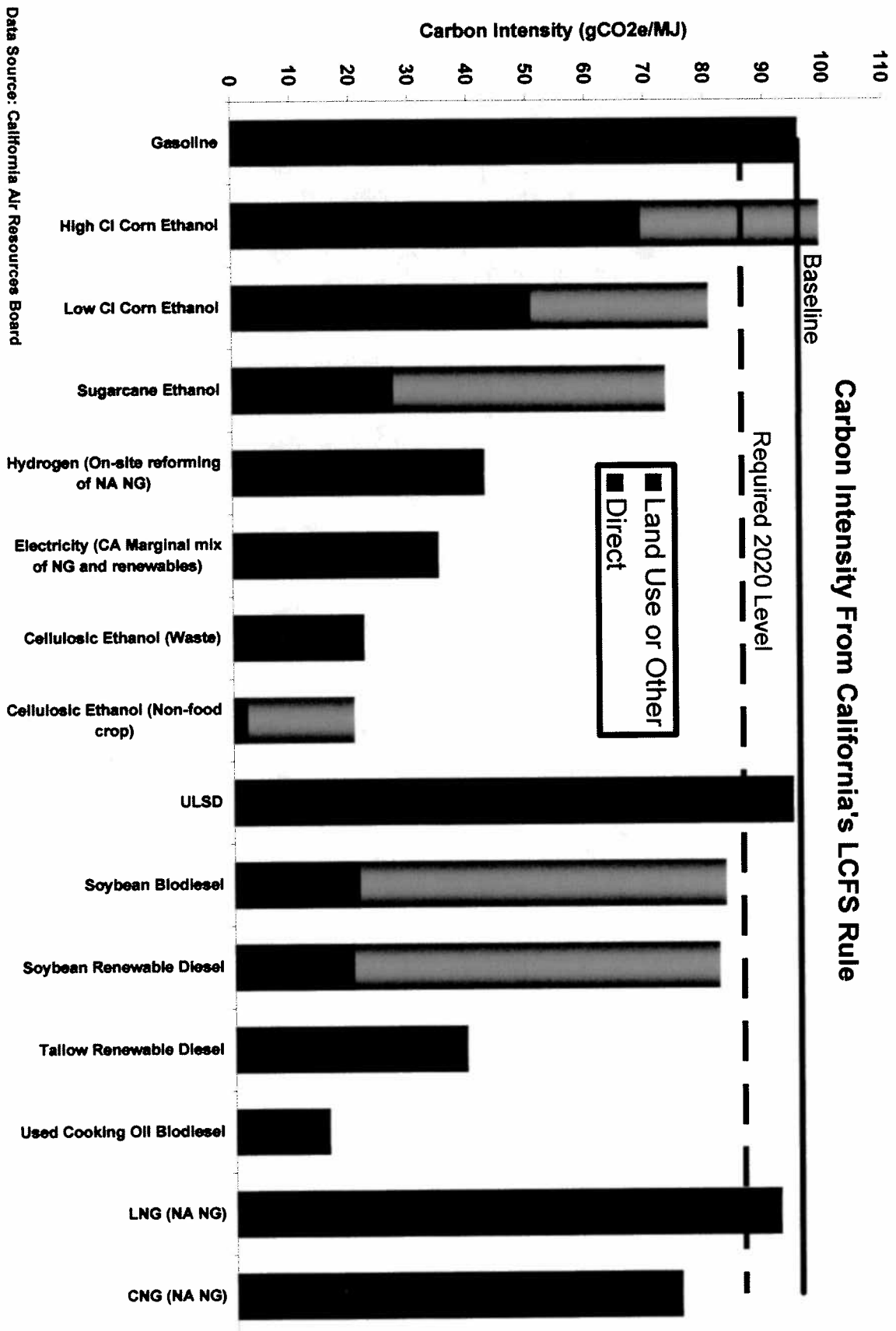
### **Conclusion:**

In closing, it is important to consider this legislation's economic impact in the context of its true environmental potential. According to most experts, transportation fuels make up just over 27 percent of Wisconsin's greenhouse gas emissions. Most of these emissions

come from the tailpipe, which would be largely unaffected by this legislation. With few refineries operating within the state, only a fraction of Wisconsin's total carbon footprint might be effected by a low-carbon fuel standard.

We urge the Committee to take into consideration the full scope of the environmental and economic impacts of a proposed low-carbon fuel standard. We also request that special consideration be given to the policy's unique impact on Midwestern states that depend on corn ethanol and crude oil from Canada to meet their transportation fuel needs. Policies that discriminate against these fuel sources will undoubtedly hurt the states that depend on them and have the potential to stall their economic recovery.

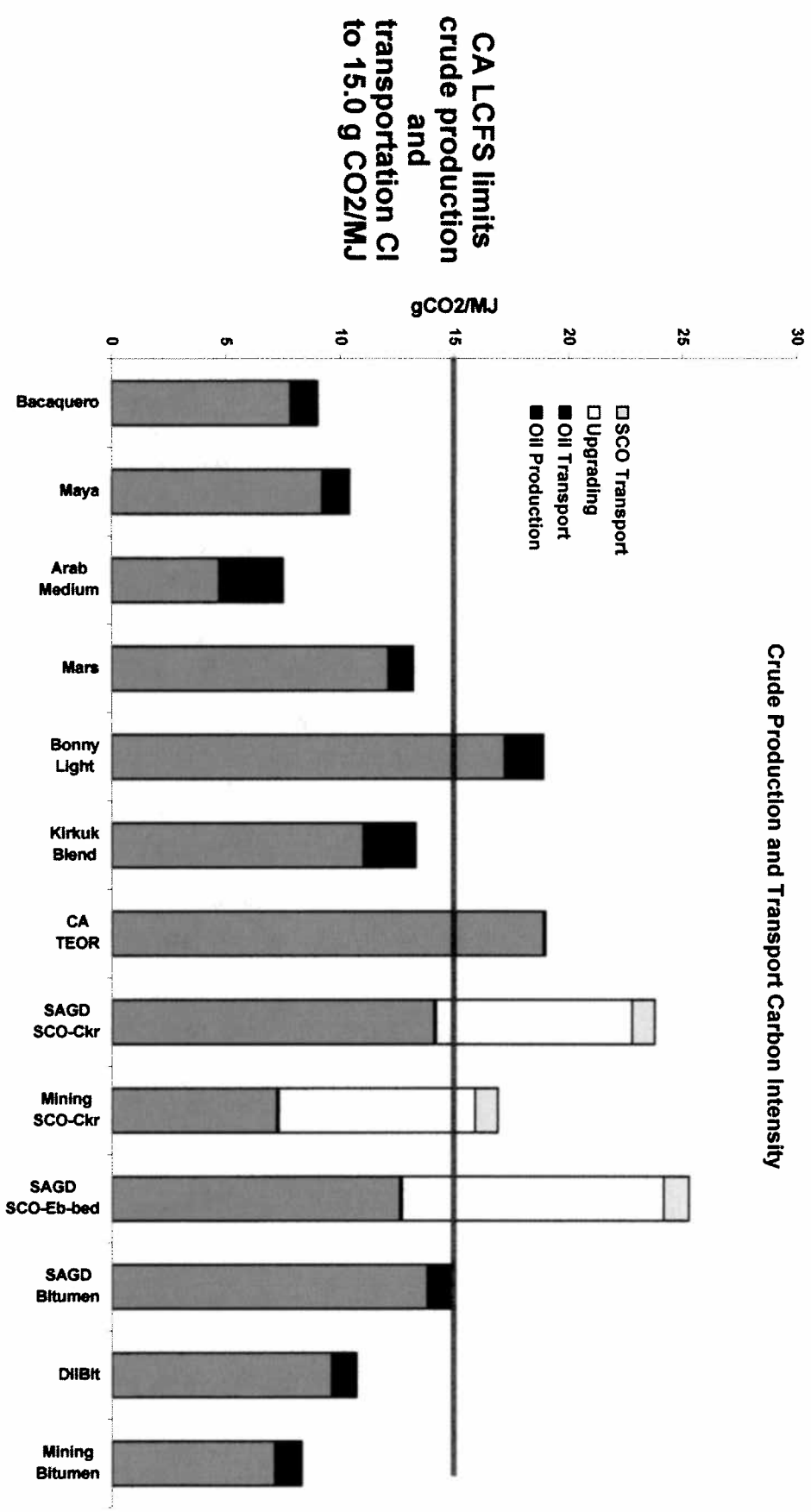
# Carbon Intensity of Selected Pathways



# LCFS Results in Displacing Canadian Crude

LCFS Could Push Canadian Oil Sands Out of the Supply Mix:

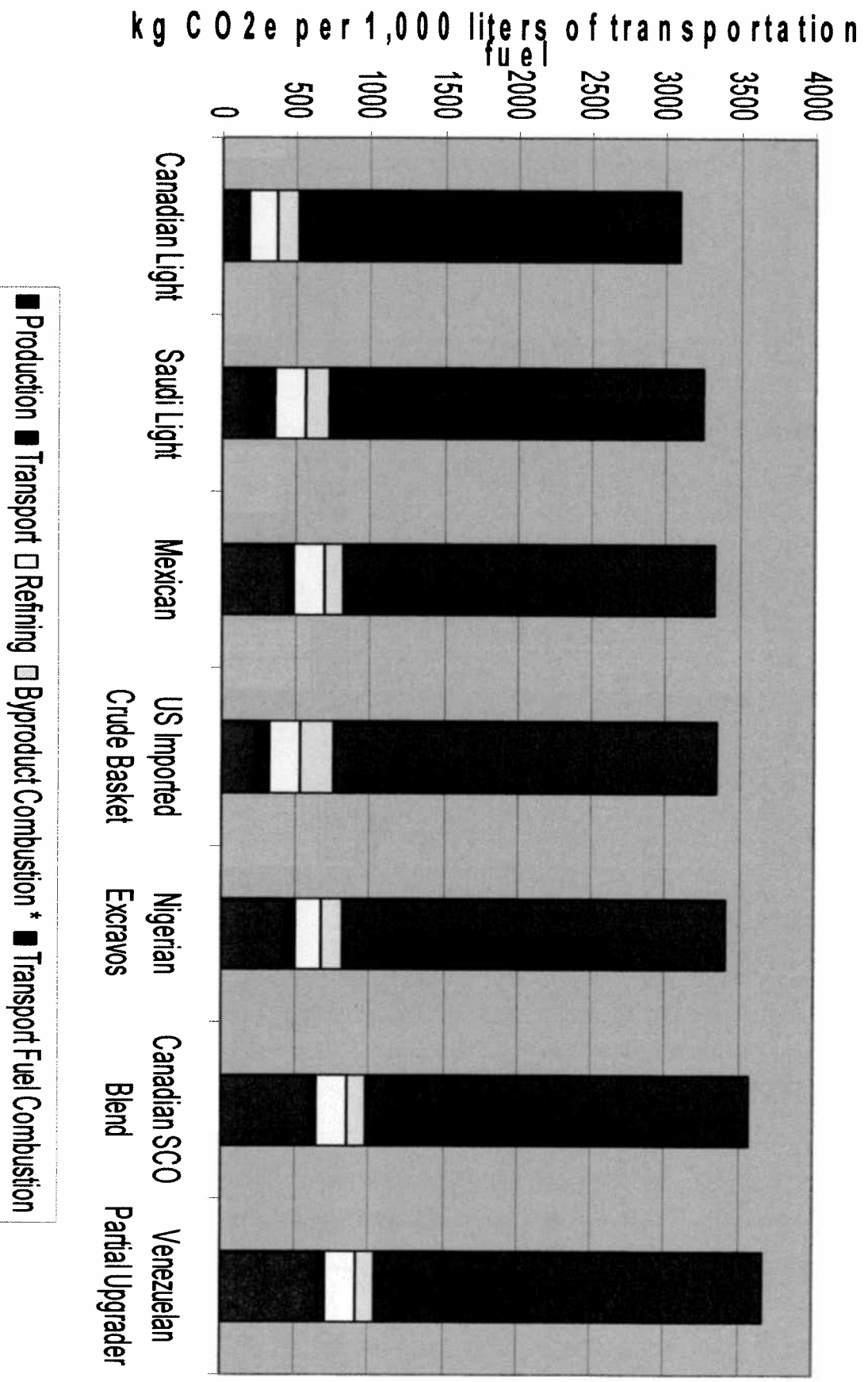
- This would exclude crude supply from the U.S.'s largest, most stable foreign crude supplier.



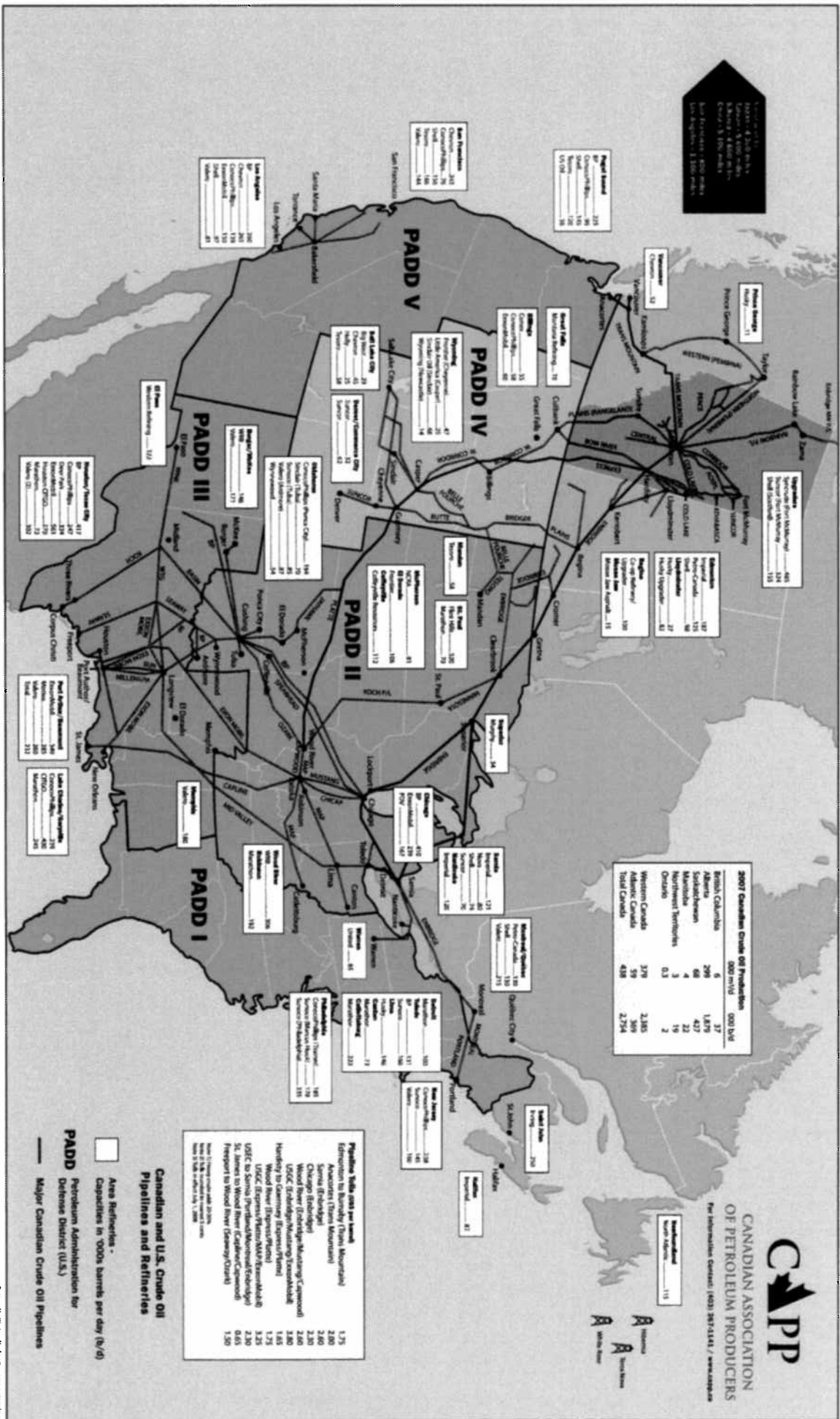
Source: JACOBS Consultancy "Life Cycle Assessment of North American and Imported Crudes" Prepared for AERI, June 2009



# Crude GHG Life Cycle Estimates Wells to Wheels



2007 Canadian Crude Oil Production  
 2,254,000 m³/d  
 1,387,000 bbl/d  
 1,387,000 bbl/d  
 1,387,000 bbl/d  
 1,387,000 bbl/d



**2007 Canadian Crude Oil Production**

Region	000 m³/d	000 bbl/d
British Columbia	6	37
Alberta	296	1,875
Saskatchewan	68	427
Manitoba	4	22
Northwest Territories	3	19
Ontario	0.3	2
<b>Western Canada</b>	<b>378</b>	<b>2,385</b>
<b>Total Canada</b>	<b>438</b>	<b>2,754</b>

**Pipelines (Bbls 2003 per week)**

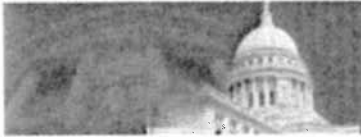
Eschscholtz (Alberta to Ontario)	175
Sarnia (Ontario to Michigan)	220
Chicago (Chicago to Midwest)	230
Wood River (Chicago/Midwest to Canada)	240
US/C (Chicago/Midwest to Canada)	330
Wood River (Chicago/Midwest to Canada)	145
Wood River (Chicago/Midwest to Canada)	135
US/C (Chicago/Midwest to Canada)	235
US/C (Chicago/Midwest to Canada)	520
US/C (Chicago/Midwest to Canada)	520
US/C (Chicago/Midwest to Canada)	150

**Canadian and U.S. Crude Oil Pipelines and Refineries**  
 Area Refineries - Capacities in '000s barrels per day (b/d)  
**PADD** Petroleum Administration District (U.S.)  
 Major Canadian Crude Oil Pipelines

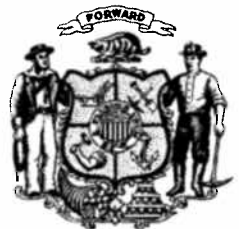


CANADIAN ASSOCIATION OF PETROLEUM PRODUCERS  
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# WISCONSIN STATE LEGISLATURE



Testimony of Keith Reopelle, Senior Policy Director for Clean Wisconsin

To the Assembly Select Committee on Clean Energy

February 2<sup>nd</sup>, 2010, Room 412 East

Co-Chairmen Soletski and Black, and members of the Select Committee on Clean Energy, I want to thank you for the opportunity to comment on this critical piece of legislation.

I was a member of the Governor's Global Warming Task Force, I co-chaired the cap and trade working group along with Barbara Swan of Wisconsin Power and Light and I was also a member of the stakeholder advisory group to the Midwest Governor's Association Greenhouse Gas Accord that made the recommendations for a Midwest cap and trade program.

This is obviously a very large and complex piece of legislation and we support the bill in its entirety. I have just a couple major points to make. The first point is that while we appreciate the author's intent to draft the legislation as closely as possible to what the Task Force recommended, we are concerned that the draft legislation is already significantly compromised from what the Task Force recommended and that bill needs to be strengthened. The definition of what is considered renewable energy under the RPS has been weakened significantly but the most important example is that the legislation doesn't include any direct regulation of greenhouse gases.

In creating the Task Force the Governor charged the Committee with recommending a level of GHG reductions for the state and the policies needed to get us there. The Task Force recommended that we need to make reductions that sufficient to reach a 22 percent reduction of emissions by 2022 and a 75 percent reduction by 2050. Without direct regulation of GHGs it will not be possible to reach these levels of reduction and Task Force modeling made that very clear. The policies in this bill will get us half way to those levels at best.

While it was relatively easy for the Task Force to agree that we need a federal cap and trade program the Task Force also recommended that until we have a federal program Wisconsin should take a leadership role in developing a Midwest cap and trade program and this legislation does not address that.

The second point I want to make is related to the cost of these policies. The Task Force did relatively rigorous analysis of the cost of these policies and found that in the power sector while rates would increase overall energy bills would decrease as a result of the energy efficiency investments. But most importantly the "off ramps" in current law will remain in place allowing the PSC to delay the implementation of additional renewable resource acquisition in the event that costs become prohibitive.

As for the low-carbon fuel standard and the price of gas at the pump there is no reason to believe that an LCFS would have a negative impact on gasoline prices. In fact, there are several reasons to believe

the opposite would likely occur. The most important reason is that diversifying our mix of fuels to include more ethanol, biogas, and other homegrown renewable fuels will hedge against rising petroleum fuel costs in the future. The more direct evidence is that some of the low-carbon fuels are cheaper today than imported petroleum. For example, compressed natural gas, at recent prices is the equivalent to \$.86/gallon.

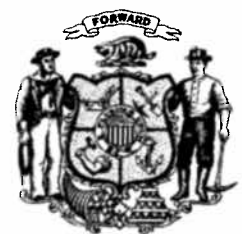
The last point I want to make is related to job creation. It is easy to imagine how building new renewable energy generation and investing in energy efficiency will create construction, maintenance and energy service jobs. However, the RPS and renewable tariffs policies also hold great potential for increased renewable technology component jobs. A study conducted by the Renewable Energy Policy Project in 2006 showed that with a major nation-wide investment in renewable resources Wisconsin and other Midwest states with strong existing manufacturing capacity would see much of the investment and job growth. The study shows the potential in every Wisconsin county for job growth based on existing manufacturing infrastructure and suggests that Wisconsin could see as many as 14,000 new jobs in the manufacturing of renewable components alone. This study demonstrates that the State's estimate of 15,000 new jobs is a very conservative estimate.

The world is transitioning to a clean energy economy and with that transition will come a lot of new jobs; we can either adopt these policies which create the markets that bring some of those jobs to Wisconsin, or we can stick our heads in the sand and concede those jobs to places like Illinois, California and China.

This concludes my remarks. I have a memo with suggested improvements to the bill from a number of different stakeholders and I will leave that memo with you. Thank you again for this opportunity.



# WISCONSIN STATE LEGISLATURE





February 2, 2010

**WI Assembly's Special Committee on Clean Energy jobs,  
AB 649:**

Co-Chairmen Black and Soletski, members of the Assembly committee, thank you for the opportunity to be here with you and to share with you how Assembly bill 649 will affect my company.

I am Tom Scharff, Director of Energy Services for NewPage Corp, my office is located in Wisconsin Rapids. I was a member of the Governors Task Force and one of three that voted "no" to the recommendations and the primary reason was due to a lack of a cost benefit analysis. We are opposed to AB 649 as now written.

Let me start by describing my company, NewPage Corporation:

NewPage Corporation is the largest coated paper manufacturer in North America based on production capacity. The company's product portfolio is the broadest in North America and includes coated freesheet, coated groundwood, supercalendered, newsprint and specialty papers. These papers are used for corporate collateral, commercial printing, magazines, catalogs, books, coupons, inserts, newspapers, packaging applications and direct mail advertising.

NewPage owns 12 paper mills in 6 different states and one located in Nova Scotia, Canada. But only 10 of the 12 mills are currently operating. We have 6 mills located in Wisconsin, but only 4 are still operating.

We were forced to shutdown our Niagara WI mill in July 2008 and our Kimberly WI mill in September 2008.

In 2000 when we were Consolidated Papers, we had 4,315 Wisconsin based employees; TODAY in Wisconsin we have 2,300! That is a loss of over 2,000 high paying manufacturing jobs in Wisconsin!

**NewPage Corporation**  
Energy Services  
P.O. Box 8050  
Wisconsin Rapids, WI 54495  
t: 715 422 3073

While I still consider it an honor to have been asked and to have served on the task force, it was quite frustrating for me that little concern was placed on what the cost impact of the recommendations would be.

I hear people advocating that we will have all these "green jobs", well frankly it is more expensive to try and create a new job than it is to retain a job and I would much rather have kept the 2,000 high paying paper company jobs than lose them for the possibility of green job creation!

We were a founding member of the Chicago Climate Exchange, thus we have been voluntarily tracking and reporting our CO2 reductions since 2003 with our total actual reductions to date exceeding 700,000 metric tons of CO2.

We have a very aggressive and focused energy efficiency program and have achieved a 16% reduction in overall energy consumed per ton of paper sold. We continue to attack our energy consumption, because it reduces our costs, and keeps us competitive!

My point with this is we have been and continue to be good environmental stewards, we know our GHG footprint; we understand energy efficiency and our results show it. We were reducing our GHG footprint and energy consumption before it became the popular thing to do.

We get it and I believe that is why I was asked to serve on the Governors Task force for Climate Change.

Energy is one of our top three highest costs of manufacturing paper, with fiber (Pulpwood) being #1 and labor #2.

We know what the cost to make a ton of paper is at each of our mill sites and from each paper machine. When we have to remove production capacity due to market conditions, we shutdown the most expensive machines first, when we removed over a million tons of paper capacity from the market in 2008 we shutdown the Niagara and Kimberly mills, both Wisconsin mills. There is a message there, that our costs in Wisconsin are already higher than the other states.....

My company consumes about \$400 million dollars of energy annually, within our energy portfolio 50% of our boiler fuels is biomass/renewable and 16% of our electricity is renewable.



Our current Central Wisconsin mills monthly electric bill exceeds \$6 million dollars! How would you like to get that whopper of a bill in the mail each month!

In 2000 the average cost of electricity to our mills was approximately 3.4 cents/kwh.

In 2009 the average was 5.8 cents per kwh for an increase of 70%!

With this background let me explain our concerns with this proposed legislation:

**Boiler efficiency and mandatory inspections** are problematic for us, we have a total of 16 operating boilers, if I add in Niagara and Kimberly's we have 25. Mandatory boiler inspections could significantly increase our costs or cause us to shutdown facilities. Additionally, required inspections could trigger the need to install expensive pollution controls under the Prevention of Significant Deterioration program. This program requires the installation of Best Available Control Technology when certain actions are taken, like boiler modifications. Our environmental folks have estimated this could cost us \$10-20 million PER boiler! With 16 operating boilers in our Wisconsin mills, you can do the math. If this is passed, we may be forced to consider moving production to one of the other 5 states where we have facilities since they would not have this onerous requirement. Let me add, as a member of the task force I do not recall this EVER being discussed at the task force meetings, I believe this goes beyond the original intent of the task force!

**Public Benefit fee increase:**

The bill is proposing to increase public benefit fees from a current 1.2% average to 3-4%. There currently is a cap on this which we support and feel needs to continue, however, if for some reason we are held to a 4% level of funding, this would increase our cost for Wisconsin operations only an additional \$3 Million dollars a year! We would once again have to look at moving orders away from WI operations to another state where this added cost does not hit us.

**Lastly, the Renewable Portfolio Standard (RPS):**

Why would we increase our states RPS to 25%? My understanding is that the utilities are currently at about 5%, with a requirement to get to 10% by 2015... We have already experienced a 70% increase in electricity costs and the state is not even at the 10% target yet.... How much of an increase in electricity costs will I see if the utilities are required to get to 25%?

I can't answer that because I don't know. Why? because a cost/benefit analysis was never conducted on this recommendation by the task force.

However, economists at the Boston based Beacon Hill Institute have and the number they have provided says for Wisconsin to get to a 25% RPS level, electric customers would see an increase in rates of \$16.2 Billion, even our own PSC data says \$15 Billion. Once again, if Wisconsin imposes additional costs that other States do not, we would be forced to move paper orders away from Wisconsin to one of the other 5 states or to Canada where we operate! This would be at the expenses of jobs and possibly additional mills being shutdown.

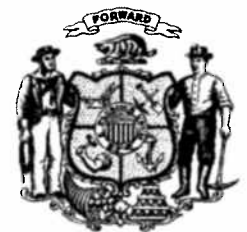
NewPage consumes about 3% of all energy in the state so to do a high level estimate of what impact this could have on NewPage Wisconsin operations, when asked, I would have to tell my company's senior leadership that a 25% RPS could potentially cost us 3% of \$15 or \$16 Billion dollars.

These are tough economic times and the paper industry is struggling against increased costs, a tough market and foreign competition. Why would Wisconsin, the number one papermaking state in the country add these additional costs to their core industry? We have already lost thousands of jobs; personally I have a very hard time seeing how this can be called a jobs bill!

Co-Chairmen Black and Soletski, and the committee members, thank you for your time and the opportunity to share with you how this legislation would impact our company.



# WISCONSIN STATE LEGISLATURE





February 2, 2010

To: Members of the Special Assembly Committee on Clean Energy Jobs  
From: Brandon Scholz – Wisconsin Grocers Association  
Subject: AB-649/SB-450

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The Wisconsin Grocers Association has registered neutral with reservations on AB 649/SB 450 for a number of different reasons. We believe the bill in its current form should not be passed and strongly encourage the Legislature to separate the bill and have the different components be considered on their own merits.

We further believe the current bill does not at all take into consideration the impact on retail businesses in Wisconsin. With utility rates being one of the highest costs in a grocery store, this bill will only increase those costs, not decrease them.

The bill will not create “green jobs” in the grocery industry and in fact, based on the cost and increased expense impact of the bill could in fact cut jobs in the retail sector.

It is extremely disappointing that the Governor’s Task Force on Global Warming did not investigate the impact on the retail sector of Wisconsin’s economy. There are in fact some components of the bill that members of the Wisconsin Grocers Association could support. However, that could only be done in the context of a set of bills rather than one comprehensive catch-all approach.

Over the past year, the Wisconsin Grocers Association has implemented a pilot program called the Green Grocer Certification Program. The pilot project has significantly reduced energy demand and costs in 6 of the 10 stores to date.

- Decreased utility costs by \$200,000/year
- Electricity Saved – 2,389,010 kWh
- Peak Demand Saved – 245 kW
- CO2 Saved – 1,993 Tons

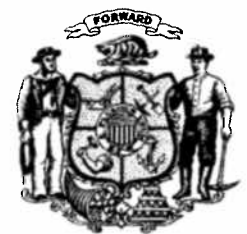
These results came from six grocery stores. If this program had support, imagine the impact when 1,000 grocery stores implemented the program. This was done without government mandates, fees or other limiting factors. And even more disappointing is the fact that the bill is absent of any incentives or components like this that would in fact produce demonstrated results rather than punitive efforts to achieve goals.

The worst thing that could be done is to rush this bill through without a true understanding of the costs to all segments of Wisconsin’s economy and some effort to look beyond far-reaching mandates.

Thank you for your consideration of our position.



# WISCONSIN STATE LEGISLATURE





44 East Mifflin Street • Suite 202 • Madison, Wisconsin 53703 • 608/257-3151

**To:** Wisconsin Legislature

**From:** Bill Skewes, Executive Director  
Wisconsin Utilities Association

**Re:** Utility Comments on the Global Warming Task Force Legislation

**Date:** February 2, 2010

On behalf of Wisconsin's investor-owned gas and electric utilities, the Wisconsin Utilities Association (WUA) submits the following comments that represent the collective concerns of our industry regarding the draft legislation that is intended to implement the recommendations of the Governor's Task Force on Global Warming. Generally, these concerns are related to discrepancies between what participating utility task force members approved for the next level of discussion and how they appear in AB 649/SB 450. In addition, individual WUA members will submit comments specific to their companies. WUA appreciates the opportunity to provide these comments.

**ARTs:** WUA members oppose the imposition of mandatory advanced renewable tariffs required in the bill. 2005 Act 141 provides utilities with the regulatory certainty that they will not be ordered to install additional renewables if they are in compliance with an existing RPS, but the LRB draft opens the door to additional renewable mandates on top of the 25% RPS requirement, such as ARTs, which threatens this certainty. It also forces customers across the rate base to subsidize the cost of renewables that are above the avoided-cost threshold, as federal law prohibits under the Public Utility Regulatory Policy Act (PURPA) of 1978. WUA maintains that the draft language is inconsistent with recommendations of the Task Force and requests that the ARTs language be removed from the bill. Delete Section 196.379.

**Nuclear Moratorium:** WUA members oppose the provisions in the draft which require that all changes to the current nuclear construction moratorium be invalidated if any one portion is found to be unconstitutional, i.e. the "non-severability" language, and questions the requirement that any new nuclear energy be sold only to serve Wisconsin load. The bill draft seems to deliberately attempt to provoke a constitutional challenge to ensure that any easing of the moratorium would be struck down. This is clearly contrary to the intentions of the task force and should, therefore, be eliminated. Remove applicable sections on page 130-132 and page 170, Section 9141, as well as the Nuclear Findings on page 127, Section 242.

**RPS Legislative Findings:** The legislative findings on pages 101-102 of the LRB draft reveal an apparent misunderstanding of the regional energy market and do not seem to consider

renewable energy in a broader geographical context to meet the enhanced RPS goals contained in the legislation. Dramatically increasing the RPS while simultaneously limiting from where renewable energy may be obtained is counterintuitive, especially so in light of other provisions within these same findings that state "the most abundant and affordable sources of electricity that can be used to comply with the RPS are wind resources in western Minnesota, the Dakotas, and Iowa." This would appear to discourage investment in long-distance transmission lines. WUA requests that the legislative findings be removed from the draft.

**Energy Efficiency & Conservation:** WUA members object to the elimination of oversight by the Legislature's Joint Committee on Finance as currently prescribed in 2005 Act 141 for requiring additional state energy efficiency and conservation spending beyond the Act's 1.2%. This is contrary to the understanding of participating utility members on the task force and the page 81, line 7 section 105 changes in the draft should NOT be adopted, thus retaining JFC oversight per 196.374 (b) 2-4 Wis. Stats.

In addition, clarification and/or change is needed in 229.03 (3m) (a) Wis. Stats for the calculation of the Statewide Energy Conservation Goals. The Task Force Reports Enhanced Conservation and Energy Efficiency Program paper called for annual savings targets to be "established over a program year (e.g. 3-4 years)" and that for purposes of the estimates "it was assumed that the underlying growth rate for electricity is 1.8%" [Task Force Final Report pg. 69]. Section 229.03(3m) (a) does not seem to take the Task Force Report's recommendation on this issue into account for the calculation and could be read to potentially lead to 0% energy consumption if a 2% reduction is incorporated continually every year after 2015 without inclusion of load growth. This section should be changed to reflect, at the very least, the Task Force's recommendation to include growth.

**Freight Idle Restrictions:** WUA requests language to exempt utility trucks that use a PTO (power take off) to operate aerial and digger units or cranes, DC to AC power invertors, safety lighting, and under-deck air compressors, equipment repair, all of which require the truck or equipment to remain idling during such use. Currently, there are approximately 11 states that have idle restriction laws. Attached is a link showing the states.

[http://www.atri-online.org/research/idling/2009ATRIdlingComp\\_Aug09.pdf](http://www.atri-online.org/research/idling/2009ATRIdlingComp_Aug09.pdf) This link also includes those idling policies. WUA requests that the exceptions be added to those in 346.94 (21) (d).

WUA also requests an idling restriction exemption for utility power-operated equipment such as back hoes, trenchers, and skid steers. This exemption is needed because this equipment will need to idle in certain situations, such as in cold weather conditions. This equipment utilizes complex hydraulic systems, and in the cold winter months, the engine must idle in order to circulate and warm the hydraulic fluid before the attachments can be operated.

**Biomass Definition:** The draft bill removes Refuse Derived Fuel from the definition of biomass. It adds the existing RDF qualification to the definition of renewable energy. It also removes wood from the definition. WUA does not support these changes as they were

not within the scope of the Task Force discussions, and, the new biomass definition would no longer compliment the Energy Priorities Law (Wisconsin Statutes §§ 1.12(3)(b)). In fact, the LRB draft would weaken the existing biomass definition as it applies to the proposed expansion of the RPS. Therefore, WUA requests that the current biomass definition be retained.

**Alignment with Federal Law:** In order for a utility to comply at the lowest cost to customers, it should have one compliance strategy for meeting both the federal and State RES/RPS. Lack of one master strategy to comply with both sets of regulations could cause Wisconsin customers significantly higher costs than customers in other states and bear a higher burden than people in other states – putting Wisconsin at a competitive disadvantage.

The LRB draft should address this issue by identifying how state and federal compliance targets will be aligned to achieve least cost compliance. The draft should address how issues such as the RPS, monitoring of sequestration for forestry and greenhouse gas reporting requirements and other potential federal-state differences will be addressed when similar federal laws are passed.

**RECs:** The LRB draft should clarify that REC's can be created when a utility enters a power purchase agreement and that REC's can be "banked" from year to year. In addition, LRB draft language should be deleted that requires that the REC be used in the same year in which it is generated.

**PSC Exercise of Regulatory Authority:** Section 67 on pages 72-73 of the LRB draft requires PSC to exercise its regulatory authority to reduce demand through efficiency & conservation. WUA requests that this section be deleted because these goals are adequately addressed by the revised quadrennial proceedings in the bill and could otherwise lead to unintended consequences and regulatory uncertainty.





February 2, 2010

Wisconsin  
Assembly Committee

RE: Clean Energy Jobs Act- AB649 and SB450

Representatives of the people of Wisconsin:

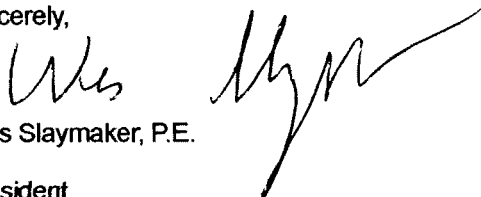
I am expressing my support for the passage of Governor Doyle's Clean Energy Jobs Act, which will allow Wisconsin businesses like mine to design and construct wind energy projects around the State where there are good wind resources. These projects employ many Wisconsin businesses in design, construction and operations. The projects also include benefits for the local communities, including revenues, employment and energy generated from a Wisconsin resource without any carbon emissions, water usage, or other harmful emissions.

Several parts of this legislation are important, including increasing the renewable portfolio standard for Wisconsin utilities from 10% to 25%, AND including an in-state requirement of 10%. Currently many Wisconsin utilities have met or exceeded 10% and demand for Wisconsin renewable projects has softened; there are many permitted and sitting idle waiting for a purchaser of their power. Second is the tariff for distributed generation projects, I have Wisconsin business clients interested to install renewable generation at their facilities so they can produce products more competitive in the marketplace because they have a lower carbon footprint, but these projects cannot proceed without a tariff rate to offer them some security that their investment will be repaid during the project's 20 year life.

Wind turbines are not perfect, but when compared to most other available sources of electricity I believe the facts will speak for themselves that its the safest and least harmful, and the explosive worldwide growth in wind turbines shows its support throughout for these reasons.

Thank you for your time.

Sincerely,

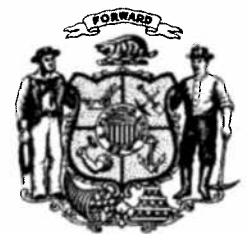


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# WISCONSIN STATE LEGISLATURE





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To: Assembly Special Committee on Clean Energy Jobs

From: Todd Stuart, Executive Director  
Wisconsin Industrial Energy Group, Inc.

Re: Governor's Task Force on Global Warming Legislation, AB 649/SB 450

Date: February 2, 2010

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### **INITIAL REMARKS**

Thank you, Mr. Chairman and members of the Committee, for the opportunity to testify on this important subject. I am Todd Stuart, executive director of the Wisconsin Industrial Energy Group, Inc. ("WIEG"). I am testifying on behalf of its members in opposition to Governor Doyle's Task Force on Global Warming Bill, Assembly Bill 649/Senate Bill 450 (the "Bill").

WIEG is a non-profit association of 30 of Wisconsin's largest energy consumers. The group has long advocated for policies that support affordable and reliable energy. Since the early 1970s, WIEG has been the premier voice of Wisconsin ratepayers and an engine for business retention and expansion. Each year its members collectively spend more than \$200 million on electricity in Wisconsin. Together they employ, with well-paying jobs, more than 50,000 Wisconsin residents who are themselves state taxpayers and utility customers. WIEG members represent most major Wisconsin manufacturing industries including paper, food processing, metal casting and fabricating.

### **THE GLOBAL WARMING TASK FORCE BILL IS TOO EXPENSIVE**

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### **THERE IS NO SUPPORT FOR THE CLAIM THAT THE BILL IS COST-EFFECTIVE AND THAT IT WILL CREATE JOBS**

WIEG's concerns with the Bill primarily are economic. The Bill's costs simply have not been studied sufficiently to permit WIEG to lend its support. A product of Governor Doyle's Task Force on Global Warming (the "Task Force"), whose mission in proposing the legislation was to "make Wisconsin a leader in implementation of global

warming solutions,” the Bill instead is being sold to the public as the cornerstone of Wisconsin’s economic development efforts.

If the Bill truly is intended to be a cornerstone of our state’s economic development efforts, we all should be greatly troubled because no one knows what the Bill will cost, much less the benefits it will create. Without even a rudimentary cost/benefit analysis, WIEG is bewildered by the efforts many proponents of the Bill are making to sell the Bill as one that will create thousands of jobs. As you know, this Bill works to capture the recommendations made by the Task Force. But at best, the Task Force considered the potential for job creation as secondary to its primary purpose, which was to present a path to reduce Wisconsin’s greenhouse gas emissions.

WIEG cautions that the Bill should not be passed before its costs and benefits are better understood. To the best of our knowledge, none of the Bill’s initiatives have been given serious consideration by the legislative standing committees on jobs/economic development. Over the last two years, few (if any) economic forums around the state addressed the Task Force and its proposals as directed to job creation or economic development.

Perhaps such an analysis will provide unequivocal evidence that the Bill’s costs are clearly outweighed by its benefits. But to assume that to be the case is foolhardy and inconsistent with good governance. This is true in the best of times; it is particularly true in today’s very poor economic conditions. WIEG disagrees with the premise of the recommendation which, at bottom, is this: no price is too great to pay in our State’s effort to reduce greenhouse gas emissions.

While unfortunate for the debate, it should not be surprising that we do not know its costs. The Task Force itself either did not consider—or does not want to clearly show—how costly its recommendations would be to the state, its people and the economy. (Nor did it include in its discussions and deliberations a review of the Bill’s impact on the future of jobs in Wisconsin.) In fact, the Task Force expressly disclaimed an interest in such considerations:

The Task Force also was not asked to evaluate whether the costs of addressing climate change will be greater or less than the benefits achieved. Many members of the Task Force believe that the costs of not addressing climate change substantially outweigh the costs of reducing GHG emissions. Several members of the Task Force disagree or would proceed on a slower track. Under Executive Order 191, the Task Force is not charged with resolving this debate.<sup>1</sup>

Moreover, and surprisingly, a word search of the Bill returns zero results for phrases such as “rate mitigation,” “cost caps” and “cost containment” although such references appear

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<sup>1</sup> See WISCONSIN’S STRATEGY FOR REDUCING GLOBAL WARMING, Governor’s Task Force on Global Warming, Final Report (the “FINAL REPORT”), at 8 (July 2008).

throughout the Task Force Final Report. We also found no references linking the Bill to federal energy legislation.

As you know, 23 of the state's leading business associations are publicly opposing this legislation. If businesses believed that the Bill really could create the 15,000 jobs as supporters claim, they would get behind the Bill. But even then, at a cost that likely will be around \$16 billion or more, the resulting jobs would cost more than \$1 million each. And that does not even include the very likely loss of jobs that will result from the higher energy rates that will be certain to be passed on to customers and push Wisconsin manufacturers to move production out of the state. In our view, it would be much more cost-effective to work to retain Wisconsin's existing, high-paying jobs than it would be to hope that the Bill will create comparable, high-paying jobs. A bird in the hand, we believe, is better than two in the bush.

Wisconsin manufacturers are not resistant to the goal of reducing greenhouse gas emissions. However, they do believe that, before Wisconsin embarks on the radical changes that would be brought about by this Bill, the state must know well the Bill's cost. And through today, that cost has not been quantified. What we do know is that the current law has already produced unnecessary generation at unnecessary costs. It is certain that this Bill will make the costs of the current RPS pale in comparison.

There should be no doubt that Wisconsin businesses are interested in both less expensive energy and greater job creation. If WIEG believed that the Bill had any reasonable likelihood of reducing energy bills and/or creating jobs, it would be first in line to lend its support. Unfortunately for all of us, the Bill simply does not live up to its billing. This Committee should have absolutely no doubt that, if passed, this legislation will unreasonably and unnecessarily drive up energy costs for all customers and will be a net job killer.

WIEG MEMBERS SUPPORT GREEN ENERGY AND ENVIRONMENTAL SAFEGUARDS, BUT THEY CANNOT AFFORD TO SIMPLY IGNORE THE ACCOMPANYING COSTS.

WIEG has been closely involved with the development of this legislation. WIEG's board chairman served on the Governor's Task Force, and a number of WIEG members participated as working members of Task Force committees. As this Committee is probably aware, the three dissenting "no" votes opposing the Task Force Final Report were from traditional manufacturers, including WIEG's representative.

This Committee should know that WIEG is not opposed to environmental controls on emissions, conservation or renewable energy. Indeed, many of its members have invested millions of dollars in their own efforts to go green, both as a matter of principle and as a matter of economic survival. But at the same time, WIEG believes it is shortsighted and foolhardy to ignore the cost of the Bill on Wisconsin businesses, consumers, and the Wisconsin economy more generally. A close study of these costs is imperative.

## **WISCONSIN'S ENERGY COSTS ALREADY ARE TOO GREAT AND PUT BUSINESS TO A COMPETITIVE DISADVANTAGE**

Wisconsin's energy costs have risen dramatically the past decade and have quickly outstripped those of its neighbors, harming the state's competitiveness. Not long ago, Wisconsin's electric rates were among the lowest in the country. In 2000, residential rates were significantly below the U.S. and Midwest<sup>2</sup> averages.<sup>3</sup> The same was true also of commercial and industrial rates.<sup>4</sup> At the time, less than a decade ago, each was the third lowest in the Midwest. By 2007, though, Wisconsin's electricity rates had reversed course relative to these averages. All customer groups' rates in that year were above the Midwest average and nearing or above the U.S. average.<sup>5</sup> Indeed, among Midwest states, residential rates were highest, industrial rates second highest, and commercial rates third highest.<sup>6</sup> In 2008, the most recent year for which figures are available, Wisconsin's residential rates remained highest and its commercial and industrial rates were second highest in the Midwest.<sup>7</sup> Moreover, the rates for all three customer classes rose more quickly than did the Midwest averages, increasing the distance between Wisconsin and its neighbors.

Many WIEG members already spend more than a million dollars every month for the electricity necessary to produce their goods and keep their employees working. The dramatic rise in electric rates that now finds Wisconsin with rates nearly the highest in the Midwest harms business competitiveness. And competition does not exist only between companies. It exists within companies as well, as sister facilities compete to expand and, all too often of late, simply to remain operating. Think General Motors, for example.

Many WIEG members have manufacturing facilities in several states, Canada, and/or other countries. While energy costs may not be the most important consideration in determining whether to expand or remain open in Wisconsin, there should be little doubt that in these energy-intensive industries energy costs figure large in the decisions. For some Wisconsin businesses, electricity is their most significant expense.

Wisconsin's unique business climate must be included in consideration of the Bill. Wisconsin has the most manufacturing jobs per capita of any state in the country. It has the country's largest papermaking industry. Wisconsin remains one of the most significant states for cast metal production. Both industries have significant energy needs. In fact, manufacturing makes up approximately 20 percent of Wisconsin's overall

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<sup>2</sup> Midwest states, as used by the Public Service Commission of Wisconsin in its Strategic Energy Assessment Final Report, are Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

<sup>3</sup> See STRATEGIC ENERGY ASSESSMENT 2014 FINAL REPORT ("2014 SEA"), Docket 5-ES-104, at 44 (April 2009).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See ELECTRIC SALES, REVENUE, AND PRICE 2008, U.S. Energy Information Administration, Figures 7.5, 7.6 and 7.7 (Released January 2010.) at [http://www.eia.doe.gov/cneaf/electricity/esr/esr\\_sum.html](http://www.eia.doe.gov/cneaf/electricity/esr/esr_sum.html).

economy, totaling nearly \$49 billion annually. But all of this has been eroding over the years. For instance, Wisconsin lost 164,000 jobs—5.7% of its workforce—since December 2007. Manufacturing losses were the largest—40 percent of the total jobs lost; 63,000 high-paying positions. Although there are too many to name, some of the more notable manufacturers to shut down or substantially reduce their work force include General Motors (Janesville), NewPage (Kimberly and Niagara), and Domtar (Port Edwards). More than 1,000 jobs were eliminated from two Wisconsin paper mills recently, as Tom Scharff of NewPage testified before the Committee, in large part because the Wisconsin facilities had the highest energy costs of all the factories operated by the company in other states, Canada, and other countries. We do not know how many more jobs will be lost with the increases in electricity costs that come with the Bill, but we are confident that traditional manufacturing jobs will not be better secured with the passage of the Bill.

*COSTS WILL INCREASE UNDER THE CURRENT RPS. AND LEADING WISCONSIN BUSINESSES HAVE ALREADY WRUNG COST-EFFECTIVE EFFICIENCIES OUT OF THEIR FACILITIES.*

Wisconsin utilities are currently required to provide approximately 10% of their electric sales from renewable sources by the end of 2015.<sup>8</sup> We are currently at about 5% —and we've got a long, expensive way to go. Under current law, utilities will need to spend billions more on the capital expenditures necessary to meet the RPS mandate, even though Wisconsin already has more than twice as much “planning reserve margin” generation than is required by law.<sup>9</sup> When the Commission issued an Order in 2008 to lower the planning reserve margins to 14.5%, the Commission recognized the benefit that came in the form of lower costs to customers, and it noted that reducing the planning reserve margin has “the potential to produce additional wholesale electric revenues that reduce costs retail customers would otherwise cover in rates.”<sup>10</sup> Yet now, the

<sup>8</sup> Wisconsin's RPS is commonly recognized to be 10 percent by 2015. However, the actual requirement of sales that must be generated from renewable energy by 2015 differs for each utility. The 2015 RPS requirement for each utility is set at six percentage points above the utility's baseline renewable percentage in the years 2001-2003. See Wis. Stat. §§ 196.378(1)(ag) and (2)(a)2.d. Madison Gas and Electric's RPS is 7.73%; Northern States Power—Wisconsin's is 12.89%; WE Energy's is 8.27%; Wisconsin Power and Light Company's is 9.62%; and Wisconsin Public Service Corporation's is 9.74%. See Commission Staff's report in PSC Docket No. 5-GF-173, Electric Provider Renewable Portfolio Standard compliance for CY2007.

<sup>9</sup> The planning reserve margin is the amount of generation above that which is necessary to meet anticipated demand in the planning year. In October 2008, the PSC adopted a 14.5 percent planning reserve margin for Wisconsin utilities, based in large measure on the increased security accompanying the Midwest Independent Transmission System Operator (“MISO”). See ORDER, Investigation on the Commission's Own Motion To Review the 18 Percent Reserve Margin Requirement, Docket No. 5-EI-141 (October 10, 2008).

<sup>10</sup> Also, the Commission's Strategic Energy Assessment Energy 2012 Final Report, prepared in 2007, indicated the Commission's intent to investigate lowering the planning reserve margin while still maintaining reliability, in an effort to lower costs. Quoting Wisconsin Public Power, Inc., the Commission noted that “by 2012 a reduction in reserve margins from 18 to 15 percent would enable a reduction in Wisconsin's installed generation capacity of as much as 500 MW. Assuming conservatively a price of \$500 per kW for new capacity, this would represent an avoided capital investment of \$250 million. As the system becomes more interconnected and more generation comes online, it may even be possible to drop the reserve margin to as low as 12 percent, doubling the potential avoided capital cost to \$500 million.”



Commission has dramatically reversed its decision by approving generation that is being built far in advance of need—a decade in advance of need in the case of one utility. Furthermore, it is not even the case that the capacity surplus of about 2000 MW over the planning reserve margin is producing any significant wholesale electric revenues. Indeed, capacity auction prices are very low as the Midwest ISO region is currently long on capacity. Thus, while this surplus capacity costs billions of dollars to build, it is mostly sitting idle. This is neither reasonable nor justifiable.

Additional renewable generation is only a part of the picture, though. It is in addition to the billions of dollars that Wisconsin is now paying for newly-added large power plants (like Weston 4, and Power-the-Future), transmission upgrades (like Arrowhead Weston), and air emissions retrofits (on many coal plants throughout the state). In other words, it is the “pancaking” of major expenditures on top of each other that already is leading to a future rate shock, even without enacting the Task Force recommendations in this Bill.

Manufacturers can mitigate costs, and have been working to do so for years. However, our energy bills simply cannot and will not ever go down—unless we manufacture and sell fewer products or shut our factory doors. Members have already invested millions of dollars in energy efficiency measures in order to compete and survive in this difficult economy. Despite significant investments, thousand of jobs have been lost recently because there is not much more that leading businesses can do to keep their electricity costs in check.

Without the addition of significant new cost containment measures, WIEG will continue to oppose the Bill, particularly the RPS, ARTs, and energy efficiency mandates. Perhaps during the legislative process the Bill can be improved and amended to protect Wisconsin’s manufacturing base and gain our support.

### **THE PROPOSED ENHANCED RENEWABLE PORTFOLIO STANDARD AND ADVANCED RENEWABLE TARIFF ARE TOO COSTLY**

As we have made clear, WIEG’s biggest concerns with the Bill are focused on the renewable mandates due to the unprecedented levels of capital expenditures necessary to meet the mandates, the resulting rate increases, and the lack of any meaningful cost containment measures.

The proposed 25% RPS—known as the “25 by 25” mandate—forces our utilities to continue to add new, renewable energy generation until 25% percent of its electric sales are derived from those sources, whether the additional energy is needed or not. And it forces the Commission to approve renewable generation projects whether the additional energy they generate is needed or not. This policy, which ignores need, is a radical departure from the more than 100 years of traditional regulatory principles that looked

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*See Strategic Energy Assessment Energy 2012, Final Report, Docket 05-ES-103, at 57, n.25 (February 2007).*

first to the need for reliable energy, before turning to consider more closely which generation was least-cost. Under the proposed RPS mandate—as is true under the current RPS mandate—the generation would be built with little concern about actual need, much less cost.

Renewable energy is particularly expensive in Wisconsin because the resources here are not as great as they are in other parts of the country. First, Wisconsin obviously does not have significant solar resources.

Second, Wisconsin does not have the quality wind resources of its Western neighbors, requiring not only expensive wind generation, but otherwise unnecessary, new transmission costs to bring the wind energy long distances to the state. Moreover, wind generation is intermittent and therefore cannot replace either base load or peaking generation. As one might expect, then, the intermittency of wind has both operational and reliability implications. As a backup to wind (to make it reliable), natural gas fired units are necessary for times when the wind simply doesn't blow (think a hot August day when demand on utilities from, among other things, air conditioners, is at the highest). The result: greater capital expenditures and increased imports and use of natural gas.

Third, while biomass holds potential, it too is expensive new generation. And biomass generation will create considerable pressure on the paper industry which will compete with biomass generation for the same biomass resources. Indeed, each large biomass plant would require a 50- to 100-mile radius for fuel supplies, which will add to the paper industry's top costs (inputs/raw materials and energy). In our view, the "25 by 25" mandate is guaranteed to add significant costs to our state's already high cost of energy. And the Bill's in-state requirement,<sup>11</sup> as well as the Advanced Renewable Tariff, will add even more unnecessary costs.

#### FEDERAL LEGISLATION SHOULD BE CONSIDERED

WIEG also believes that, in order for Wisconsin businesses to remain competitive throughout the country, any enhanced state renewable energy mandate must be compatible with, and not exceed the cost of, federal renewable legislation. Federal renewable standards are currently under consideration by Congress. For example, the U.S. Senate is considering legislation that would mandate a 15 percent RPS by 2021, with a portion of that renewables mandate being satisfied by energy efficiency programs. This Bill absolutely must link state renewables policy to the national standard, whatever that might be. Wisconsin businesses will be at a distinct disadvantage should others, outside this state, have less onerous renewable and energy efficiency mandates and costs than we do.

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<sup>11</sup> An in-state requirement only makes sense if it is least-cost compared to other alternatives. Wisconsin must continue to adhere to the established principles of reliability, need and least-cost in order to maintain, and hopefully improve, business competitiveness.

TASK FORCE RECOMMENDATIONS ARE MADE WITHOUT IMPORTANT ANALYSIS

With so much at stake, WIEG finds remarkable the areas the Task Force ignored when preparing its proposal. For instance, the Task Force completely ignored federal energy proposals and legislation; the Bill is silent as to how Wisconsin law will fit in with the nation as a whole. Worse still, the Task Force did not consider, much less propose, more substantial cost containment initiatives—“safety valves” or “circuit breakers”—that could be used when costs were escalating beyond all common sense. Nor did the Task Force consider an RPS alternative to its “25 by 25” mantra. We may never know if the current 10 percent mandate is the most cost effective as compared to another amount. Which raises an interesting question: just how did the “25 by 25” mandate get settled upon? The ink wasn’t even dry on the current RPS, in Act 141, when Governor Doyle announced his support for a 25 percent RPS in 2025. We suspect the honest answer is that “25 by 25” has a nice ring to it.

AT \$16 BILLION AND MORE. THE PRICE IS TOO GREAT

Independent researchers have concluded that the Bill will cost ratepayers more than \$16 billion. In a recent study for the Wisconsin Public Research Institute (“WPRI”), the Beacon Hill Institute concluded that the 25% renewables mandate would have a net cost of over \$16 billion, **not** including transmission costs. Although proponents of the Bill have criticized the WPRI report, our review of the assumptions and figures used in the WPRI study are not inconsistent with those used in the PSC’s Strategic Energy Assessment (pp. 19-20) or the Task Force’s Final Report (p. 114). When we considered the cost per megawatt of new wind farms that the PSC recently approved, such as Crane Creek, Bent Tree, and Glacier Hills, together with proposed biomass facilities, the \$16 billion figure from the WPRI study was in the ballpark with the SEA and Task Force’s Final Report (which included the projected impacts of enhanced energy efficiency spending).

And after receiving rough estimates from Wisconsin’s major utilities of the capacity each would need to reach the enhanced RPS, the \$16 billion price tag from WPRI study is not an unreasonable cost estimate. In fact, that number does not include the cost of the new transmission that will be needed to bring wind from the Dakotas or hydro from Canada. These are additional costs, necessary to comply with the RPS, that cannot be ignored.

These are merely projections. Let’s look at some real-world examples, which confirm that renewable energy projects are being approved by the Public Service Commission even though they are more costly than non-renewable energy projects and, more importantly, not necessary to meet our energy needs.

WISCONSIN'S COMMISSION HAS ALREADY APPROVED MORE THAN ONE AND A HALF BILLION DOLLARS IN RENEWABLE ENERGY PROJECTS THAT IT HAS ITSELF ACKNOWLEDGED ARE NOT NEEDED FOR YEARS TO COME.

Wisconsin's current RPS mandate already provides contrary direction to the Commission and utilities. On the one hand, Wisconsin law requires a showing of need before new generation is built, and it gives priority to conservation. On the other hand, the RPS mandate requires a certain percentage of retail electric sales to be derived from renewable generation. So what happens when a utility does not need new generation to serve its customers, but does need new generation to meet the RPS obligation? Unfortunately, the Commission appears to have concluded that the RPS requirement trumps need, cost, and conservation. Thus, Wisconsin gets unnecessary generation at a premium cost.

- Crane Creek – Wisconsin Public Service Corporation – 2008

The PSC approved the 99 megawatt Crane Creek project for Wisconsin Public Service Corporation (“WPSC”) in April 2008 at a cost of **\$251 million**.<sup>12</sup> The PSC's decision makes clear that, but for Wisconsin's RPS requirement, it would not have approved Crane Creek. Commission staff concluded after substantial study that WPSC needed no new generation before 2018. And, in 2018, it recognized that the least expensive generation would not be wind.<sup>13</sup> Nevertheless, because of the state's RPS, the PSC approved generation that it knew was not needed for at least nine more years. And today, Crane Creek is almost certainly less necessary than when approved because its “need” was estimated with energy sales forecasts made before our current financial and economic collapse that has resulted in a double-digit reductions in WPSC's sales of electricity, particularly from industrial customers.<sup>14</sup> That is, its need for electricity in 2018 is very likely much lower today than was forecast when the PSC approved Crane Creek. The state cannot afford to allow Wisconsin utilities to build more, expensive, intermittent generation, particularly at a time of double-digit decreases in electricity sales.

- Bent Tree – Wisconsin Power and Light – 2009

Wisconsin Power and Light Company's (“WPL”) 200 megawatt wind farm will cost ratepayers nearly **\$500 million**.<sup>15</sup> It too was approved on sales forecasts that did not take into consideration the extraordinary loss of electric sales over the past year and more—and recall that it is within WPL's service territory that Wisconsin lost such important manufacturers as General Motors and Domtar and, recently, almost lost Mercury Marine.

<sup>12</sup> See CERTIFICATE AND ORDER, Docket No. 6690-CE-194 (May 23, 2008) (the “CRANE CREEK ORDER”)

<sup>13</sup> *Id.*, at 4.

<sup>14</sup> See MOTION OF WISCONSIN PUBLIC SERVICE CORPORATION TO AMEND AMENDED FINAL DECISION TO REPLACE ELECTRIC AND NATURAL RATE ADJUSTMENT CAPS ON REVENUE STABILITY MECHANISM WITH EARNINGS CAP, Docket No. 6690-UR-119, ¶¶ 8-10 (October 3, 2009) (WPSC residential sales declined 2.09 % from 2006 to 2007, and by 4.16 % from 2007 to 2008, with expectation that residential and commercial customer electric sales will continue to be lower than forecast and used in WPSC rates through at least 2010. Industrial customer sales declined more sharply still with a 12 % reduction).

<sup>15</sup> See FINAL DECISION, Docket No. 6680-CE-173 (July 30, 2009) (the “BENT TREE ORDER”).

Despite its reduced need, WPL requested about \$30 million in its last rate case (Docket 6680-UR-117) for the up-front construction costs of the wind farm that has not yet put any iron in the ground.

- Blue Sky Green Field – WE Energies – 2007

As was the case with Crane Creek, in approving WE Energies' 145 megawatt Blue Sky Green Field Wind Farm in 2007 at a cost of more than **\$300 million**, the PSC expressly recognized that the energy from this project would not be needed until near 2015 and that it was more expensive than fossil fuel generation.<sup>16</sup> So why did the Commission approve the project? Simply stated, the RPS: "Even though fossil fuel generation would likely be more cost-effective than WEPCO's wind project, the Commission must consider its obligation to ensure WEPCO increases the amount of renewable energy resources in its system."<sup>17</sup>

- Glacier Hills – WE Energies – 2010

Just last month the Commission approved yet another wind project for WE Energies—this one up to 207 megawatts and at a cost to ratepayers of up to **\$452 million**.<sup>18</sup> It is clear from this decision as well that the very existence of the RPS drove the decision to a much greater extent than did WE Energies' current—or even near future—need for more generation. As the Commission explained,

Because of the requirements of the RPS, WEPCO will require by 2015 more renewable resource generating facilities than it currently owns or has under contract.

...

To the extent there is any concern that this project may be providing energy sooner than demand indicates, the need for this utility to develop renewable energy sources at a reasonable cost, a priority established by the legislature, outweighs any such concern.<sup>19</sup>

And, in her concurring opinion, Commissioner Azar expressly recognized that Wisconsin may soon be exporting energy that it does not itself need, given "the current excess of capacity in Wisconsin."<sup>20</sup>

<sup>16</sup> See FINAL DECISION, Docket No. 6630-CE-294 (February 1, 2007) (the "BLUE SKY GREEN FIELD ORDER").

<sup>17</sup> *Id.*, at 10.

<sup>18</sup> See FINAL DECISION, Docket No. 6630-CE-302 (January 22, 2010) (the "GLACIER HILLS ORDER").

<sup>19</sup> *Id.*, at 10, 14.

<sup>20</sup> *Id.*, Concurring Opinion of Commissioner Lauren Azar, at 4.

- Bay Front Generating Facility – Northern States Power Company-  
Wisconsin – 2009

The PSC also recently approved Northern States Power-Wisconsin’s (“NSPW”) proposal to convert a coal-fired generation unit with woody biomass which, when used 100 percent, would generate 20 megawatts.<sup>21</sup> The cost for the conversion is expected to be more than **\$58 million**. It is apparent from the Commission’s decision that NSPW’s proposal was made consistent with NSPW’s stated interest in reducing its emissions of greenhouse gases. It is also apparent that, like the wind projects that have been approved recently, the Bay Front facility was not “needed” to meet energy needs.

Perhaps most troubling, the Commission’s approval of Bay Front appears from the Final Decision not to have been the result of the current RPS, but instead based on consideration of a possible enhanced RPS. The Commission acknowledged that NSPW had conceded that it currently was in compliance with the RPS, and that “the record does not conclusively demonstrate whether this project is necessary for NSPW to meet the RPS for 2015. Nonetheless, no party challenged the Commission staff’s testimony that the RPS is likely to change and increase further.”<sup>22</sup> In short, the Commission approved Bay Front’s \$58 million cost not because NSPW needs the generation to meet customer demand; not even because NSPW needs the generation to meet its current RPS obligation; instead, the project was approved in anticipation of an RPS that is still only being debated—*i.e.*, this Bill.

These four wind projects and the biomass facility together will cost ratepayers more than \$1.5 billion—and they are (or will be, once constructed) producing energy that Wisconsin does not need. The projects were approved because of the existing RPS (or, worse, as in the case of Bay Front, an anticipated RPS). Imagine, now, what a 150% increase in RPS requirement (from 10 percent to 25 percent) will do to customer bills, at a time when the generation simply is not needed. We will be generation rich, yes. But cash poor.

THESE RENEWABLE PROJECTS WERE APPROVED EVEN BEFORE WISCONSIN’S NEED FOR GENERATION DECREASED SUBSTANTIALLY AS A CONSEQUENCE OF THE RECESSION.

Each of the above renewable projects was approved with forecasts of energy needs prepared before the recession. Each of Wisconsin’s utilities had dramatic reductions in their electricity sales from 2007 through 2009. While utilities had long seen electricity sales increase at a rate of about two percent a year, the recession has reduced the forecast substantially and many anticipate that the need will not return to pre-recession numbers for years to come.

The loss of sales brought with it perverse results: utilities sought rate increases from the Commission to replace the revenues they lost with decreasing electric sales. In 2009, Wisconsin’s utilities requested more than \$300 million in new rate increases. Roughly half of the requested increases were directly related to lost electric sales due to

<sup>21</sup> See FINAL DECISION, Docket No. 4220-CE-169 (December 22, 2009) (the “BAY FRONT ORDER”).

<sup>22</sup> *Id.*, at 6.

the recession. WIEG and others filed testimony to block utilities from collecting higher rates from their lost electric sales, or at least delay the recovery. The PSC rejected the arguments. Imagine, then, what customers can expect if our utilities actually do sell less electricity due to the policies in the Bill. If history serves as a guide, utilities will be allowed to charge higher rates to cover the lost sales revenues. In other words, when our factories use less electricity, the PSC authorizes higher electric rates; the electric bill does not go down. This results in further rate increases, leading to further reductions in manufacturing, leading to more rate increases, and then more reductions in manufacturing, and so on. A classic death spiral.

Clearly, this is a highly undesirable, though plausible, outcome should the Bill be enacted. Subjecting businesses to costs associated with fulfilling a political agenda of a subjective mandate is a risk we cannot afford to take. Therefore, large customers are seeking opt-out provisions from the cost assignments related to RPS mandates. The exemption from such costs is needed so that manufacturing jobs and businesses can be retained in Wisconsin.

STATE GOVERNMENT IS PAYING TOO MUCH FOR OTHER STATUTORY MANDATES.

On top of the higher rates we pay our utilities, we as state taxpayers are also paying an unnecessary price for renewable power. The state recently had to back away from a pledge to get UW campuses “off the grid” as it was too expensive and not technically feasible. As part of 2005 Act 141 the largest state agencies have a goal, not a hard mandate, to get 20% of their electricity from renewable sources by December 2011. The state now gets only 10% from renewables. And all of us paid a premium of \$1.4 million last year, which is 29% more than expected.

If these “green” programs for the state government are expensive and can’t feasibly be met by the mandated year, do we really want to place a multi-billion dollar gamble on our state’s overall economy? Proponents of the Bill claim these premiums will pay off in the long term. But the stakes are incredibly high, and some of the state’s businesses and the good-paying jobs they bring with them, very well might not survive in the short term.

THE PROPOSED ADVANCED RENEWABLE TARIFFS ARE TOO COSTLY.

Advanced Renewable Tariffs (or Feed-In Tariffs or “ARTs”) are just as problematic, perhaps even more problematic, than the 25% renewables mandate. By definition, an ART subsidizes higher cost, small scale renewable generation with above-market rates. That adds to upward pressure on electric rates, and we already have some of the highest rates in the Midwest. ARTs are designed to force in some of the highest cost generation, which is not very efficient nor is it least cost, and further deviates from traditional and established rate making and rate setting principles.

The goal of this provision is to maximize distributed generation “without unreasonable impacts on electric utility rates.” However, as we have seen with the implementation of the current 10% renewables mandate (despite the Act 141 “off ramp”

language for “unreasonable impacts”) provides little or no relief for ratepayers. There are currently no real safety valves to protect ratepayers.

We suggest that ARTs remain voluntary and the mandatory language be removed. Further, a utility should not have to purchase renewable energy through ARTs if their RPS requirements have been met.

## **WIEG RECOMMENDATIONS WITH RESPECT TO AN ENHANCED RENEWABLE PORTFOLIO STANDARD AND ADVANCED RENEWABLE TARIFF**

WIEG opposes the RPS and ART proposals. If these provisions can't be removed from the Bill, then WIEG suggests adopting circuit breakers, cost containment, and opt-out measures to protect Wisconsin ratepayers.

- “Circuit breakers” must be adopted in connection with the RPS, including direct retail rate caps or per customer bill impact limits.
- Wisconsin’s RPS must not exceed a future federal RPS.
- The RPS mandate must be limited by a cap on excess generation capacity. Wisconsin cannot afford to build new generation when there is no showing of need for new generation.
- Rate mitigation strategies such as levelization of cost recovery should be added to the Bill.
- The RPS must be technically feasible and clearly provide benefits that outweigh its costs.
- Exempt industrial customers from costs related to RPS mandates as other states have done in an effort to retain well-paying manufacturing jobs and businesses. *See Appendix.*
- Energy efficiency initiatives must count toward fulfilling the RPS obligation, just as renewable generation does under current law and as contemplated by federal standards, and as already is the case in some states.
- ARTs must not be mandatory; instead, ARTs should be strictly voluntary.

## **ENERGY EFFICIENCY PROGRAMS**

As mentioned earlier, WIEG does not oppose reasonable measures for energy efficiency and conservation as we already have a strong incentive to save energy and costs because of global competition. The industrial sector is the only part of our economy to have flat or declining energy consumption and air emissions over time due largely to those efficiency efforts.

Some WIEG member companies have pledged to support EPA’s Climate Leaders and DOE’s Save Energy Now programs to reduce energy consumption, relative to output,



by 25%. That is a big difference from the system created in the Bill. The companies and their pledge to the federal agencies are all relative to output, but not absolute reductions, as in the Bill. The absolute reductions the Bill proposes are anti-growth for our companies and our state's economy.

Energy efficiency programs (also commonly known as Public Benefits or Focus on Energy) have traditionally been supported out of the need to control costs by deferring or eliminating the need to build new power plants. But with the renewables mandate, utilities are forced to build new power plants, albeit "green" power plants. The economic benefit of additional spending on energy efficiency is greatly diminished and probably nullified by the "25 by 25" mandate. It undermines the claim that energy bills will go down, especially in the short term. In reality, we are adding cost upon cost onto our monthly electric bills. It is especially acute for energy-intensive industries that invested early in efficiency programs.

WIEG therefore has serious concerns over the "sum sufficient" language in the Bill. The legislation as drafted takes the current approach of collecting and spending 1.2% of utility revenues (currently about \$94 million annually) on energy conservation, efficiency and renewables programs, and changes it to a method that funds an energy savings goal of 2% annually. There are few, if any, checks and balances regarding this funding mechanism. Further, WIEG has concerns over how realistic this 2% savings goal would be in the real world, and we have doubts over the cost effectiveness and rate impacts, especially when combined with the 25% renewables mandate.

Reducing our electric consumption by 2% each year is very aggressive and most likely very unrealistic, especially sustained over the long term. In the post-WWII history of the United States, we have never reduced electric consumption by 2%. We came very close in 1982 and 2001, but those reductions in consumption were driven by very poor economic conditions. Although the electric consumption data is not in for 2009, it is very possible that we will finally hit the 2% reduction milestone in that year. The broader question for lawmakers is this: is 1982, 2001 and the 2009 recession really the goal we want to set for ourselves? Can we sustain those reductions indefinitely? Are we simply signing a blank check for these programs?

Under current law, budgets for the state's energy conservation, efficiency and renewables programs are determined periodically by the PSC in a contested case hearing process taking account of relative benefits and costs of such program efforts. We believe that was also the intent of the Governor's Task Force.<sup>23</sup> However, the Bill does not have the contested case process described or detailed. This will essentially create a black box process at the PSC.

Under current law, the PSC can approve funding levels for Public Benefits greater than the 1.2% of utility revenues after the conclusion of a contested case process. If the PSC approves budget levels, it must be sent to the Joint Committee in Finance for review and approval. The Bill removes the approval by the Joint Committee on Finance. The current structure of the Public Benefits programs was originally created in 1999 Act 9

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<sup>23</sup> FINAL REPORT, at 73.

and then modified by the 1.2% funding levels of 2005 Act 141. WIEG believes that legislators need to make sure that the Bill keeps the review of funding levels and the oversight of the cost effectiveness of these programs. At a minimum, the current checks and balances need to be kept in place regarding funding for Public Benefits. Cost caps should also be considered, especially due to the rate impacts of the renewables mandate.

WIEG opposes the proposed tripling or even quadrupling of the Public Benefits fees<sup>24</sup> on electricity bills because large energy consumers will be paying dramatically more in contributions for programs that have been politically abused. We absolutely must have greater assurances that the current programs are being conducted in accordance with a cost effectiveness standard.

We are very concerned that the Bill is going to continue the disturbing trend of turning Wisconsin's utilities into hidden-tax collectors. Since 2002, \$166 million of utility ratepayer dollars have been collected to pay for non-energy-related government spending. Over these years, \$111 million was transferred from energy efficiency programs and spent elsewhere, \$37 million was transferred from low-income energy assistance and spent on Wisconsin Works (W-2) payments, and, for this two-year period, \$18 million will be collected to help pay for district attorney offices. The \$18.3 million in salaries and fringe benefits for district attorney offices will be paid for by "public utility assessments." Electric utilities in Wisconsin are required, by state law, to charge their customers for these assessments, though some utilities are assessing the new tax as part of the existing low-income energy assistance tax and some are assessing it as a stand-alone tax. Given the troubles with the state budget, we believe more raids and taxes are likely.

Due to all the reasons listed above, large customers are seeking opt-out/opt-in provisions regarding Public Benefits programs. Industrial customers naturally have done, and continue to do, projects that are as energy efficient as possible. Large energy consumers already have a built-in incentive to conserve energy as they face global competitive and economic pressures. It is difficult to design conservation programs for large sophisticated companies with unique and complicated manufacturing processes. It can often be more cost effective for these customers to design and implement their own conservation programs rather than through the generic programs sponsored by Focus on Energy or the utilities. Additional utility-managed energy efficiency programs may not provide the desired outcome. There are examples of opt-outs in many other states around the country that can be used as a model.

Finally, WIEG is troubled by the language in which a utility may be allowed by the PSC to earn a return on capital invested under a utility-administered or supplemental utility program for energy conservation or efficiency equipment that is located on a customer's premises, including equipment owned by either the energy utility or the customer. It is the reference to equipment owned by a customer that creates problems for us. The Bill should be amended to clarify that this applies only if it is utility shareholder capital.

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<sup>24</sup> *Id.*, at 70.

## **WIEG RECOMMENDATIONS WITH RESPECT TO ENERGY EFFICIENCY MEASURES**

WIEG currently opposes the energy efficiency mandates in the Bill. The following amendments could help protect manufacturers and potentially gain our support for the revised energy efficiency programs:

- Public Benefits budgets should be determined periodically by the PSC in a contested case hearing process, taking account of relative benefits and costs of such program efforts. A contested case is not referenced in the Bill draft but should be.<sup>25</sup>
- Cost effectiveness standards must be established prior to program implementation.
- Legislative oversight of the Public Benefits programs must be retained.
- Opt-out/opt-in provisions related to energy efficiency for large energy customers must be expanded. There are examples of opt-outs in many other states that can be used as a model. *See* Appendix.
- Implement a rate crediting mechanism that rewards substantial early action in conservation and energy efficiency taken by large, energy-intensive industry at its own expense after 2004.<sup>26</sup>
- Clarify that utilities can only earn a return on efficiency if it is the utility shareholder's capital, not the customer's capital, used in the project.

### **INDUSTRIAL BOILER ENERGY EFFICIENCY LANGUAGE SHOULD BE REMOVED**

This provision mandates annual boiler inspections<sup>27</sup> and must be deleted. Specifically, this provision would create a requirement that industrial boiler owners (excluding industrial boilers owned by cooperatives, utilities, and wholesale merchant plants to generate electricity) must inspect boilers annually and, based on this inspection, owners must take action to maximize energy efficiency and minimize GHG emissions.

We are not exactly sure where this provision came from. WIEG assumes this was drawn from the Task Force Final Report, at page 92, but we object to the legislative language in the Bill. Further, we believe if it is to be included at all, it should be replaced with the recommendations of the Task Force Final Report on pages 187-193.

A big part of the cost concern is regulatory consequences, like Prevention of Significant Deterioration (PSD) / New Source Review (NSR). The concern is that, in

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<sup>25</sup> *Id.*, at 73.

<sup>26</sup> *Id.*, at 71.

<sup>27</sup> The Bill, section 51.

order to achieve very small gains in energy efficiency or air emissions, hundreds of millions of dollars in upgrades might be triggered. There is no cost-benefit consideration, so the efficiency and emission criteria would control, regardless of cost or economic impact. We urge the committee to delete this provision.

**INTRODUCTION OF NEW REGULATORY AUTHORITY LANGUAGE  
SHOULD BE REMOVED BECAUSE IT IS UNNECESSARY  
AND WILL RESULT IN UNCERTAINTY WITH RESPECT TO OTHER  
STATEMENTS OF REGULATORY AUTHORITY**

“Exercise of Regulatory Authority” should be deleted.<sup>28</sup> This language creates regulatory authority for the PSC that is way too broad and vague. This new duty is written in such a way that it could arguably trump other PSC duties such as least-cost, need and reliability. The PSC should have the tools necessary regarding energy efficiency, conservation and renewables under existing statutes.

**GHG EMISSION REPORTING SHOULD BE DROPPED IN FAVOR OF  
ADOPTING FEDERAL REPORTING REQUIREMENTS**

The proposed GHG Emission Reporting requires DNR to promulgate rules requiring the reporting of CO<sub>2</sub> at levels of 10,000 tons per year or more, and to require the reporting of methane and nitrogen oxide emissions from combustion sources. The EPA’s greenhouse gas “Tailoring Rule” has proposed a 25,000 ton standard. WIEG therefore recommends deleting this provision or requiring that the rules mirror EPA’s standards.

**CONCLUSION**

Energy, economic development and environmental policy are all inextricably linked. As a percentage of total employment, Wisconsin employs the highest number of manufacturing workers in the U.S. Wisconsin is also one of the most dependent states in the nation on coal-fired electricity.

In 2009, Wisconsin’s utilities requested more than \$300 million in new rate increases. Roughly half of the increase requests were directly related to lost electric sales due to the recession. WIEG and others filed testimony to block utilities from collecting higher rates because of their lost electric sales. The Public Service Commission rejected our arguments. If utilities actually do produce less electricity because of the policies in the Bill, they then will be allowed to charge higher rates to cover the difference. In other words, when we use less electricity the PSC allows higher rates and our bills do not go down. Again, there are billions in new energy costs that must be paid for. We can only mitigate the extreme rate pressure Wisconsin is facing. Unfortunately, the renewables mandate in the legislation piles on even higher rates at the worst possible time.

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<sup>28</sup> *Id.*, section 67.

The Final Report, at page 4, shows that Wisconsin might get to 2005 levels of carbon emissions by 2025 under the best case scenarios. In other words, the Bill is very expensive and it doesn't even make a dent in fossil fuel use at the corresponding \$16 billion in annual expenditures. We would be spending billions to mitigate only a negligible amount of "costs of inaction." Wisconsin's carbon emissions are a fraction of a percent of the world's carbon emission. As for economic development benefits and "getting ahead of the curve," we are certain that progressive and sophisticated companies can leverage their capital and invest in more cost effective strategies better than this massive grab bag of policies.

Wisconsin would be imposing billions of dollars in new costs that other states—and certainly nations—won't face. That's a potential disaster. We can pretend that economic competitiveness doesn't matter, but we've already raised electric rates higher than all other Midwestern states. Perhaps not coincidentally, Wisconsin lost 164,000 jobs, 63,000 of which were manufacturing jobs that paid above average wages. Imposing huge new costs on manufacturers today is like throwing anchors to drowning victims.

The last couple years have been a bloodbath for manufacturing jobs. Manufacturers can't fully pass these increases along to their customers. We can't raise energy costs further and potentially ship more jobs to other states and other countries.

We can pretend costs don't matter or that energy bills will go down. But with double-digit unemployment in manufacturing-dependent areas of Wisconsin, it's pretty clear economics do matter. So let's elevate the debate and work toward realistic energy policies that will improve the environment and improve our economic competitiveness. We need a real cost-benefit analysis performed on this controversial legislation and we absolutely need stronger cost caps and cost containment initiatives added to state energy law.

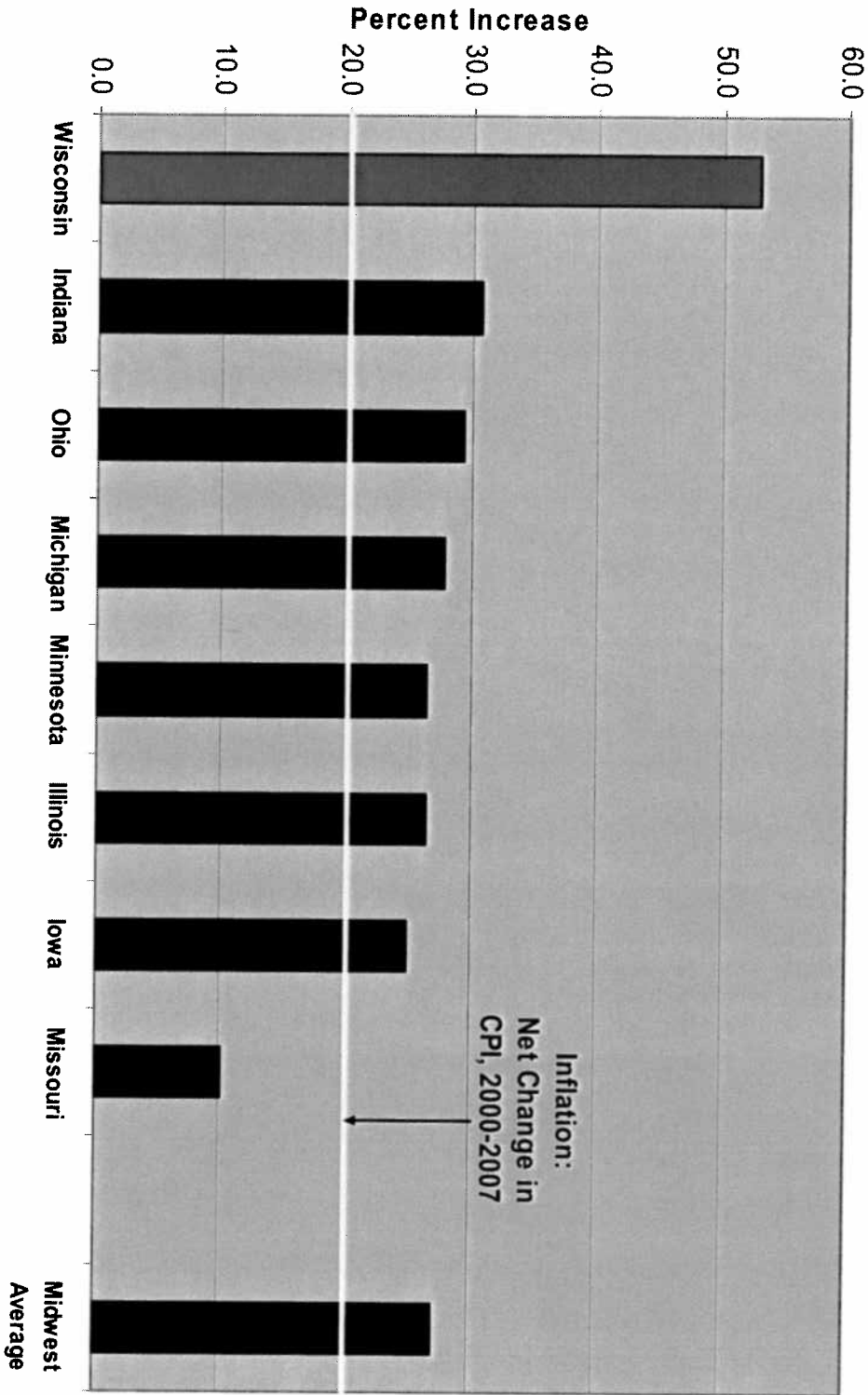
**- APPENDIX -**  
**RPS Mandates:**  
**Opt-Out Provision Examples for Large Customers**

State	Exemptions	Comments
Delaware 26 Del. C., § 353	Customers with peak demand 1500 KW or greater	RPS is calculated as percentage of total retail sales in the state that is to be derived from Eligible Energy Resources. Total retail sales are defined as sales exclusive of sales to any industrial customer with a peak demand in excess of 1,500 kilowatts
Texas PURA §39.904(m-1),	Customers taking service at transmission level voltage	A customer receiving electrical service at transmission-level voltage who submits an opt-out notice to the commission for the applicable compliance period shall have its load excluded from the RPS calculation.
Maryland § 7-703	Customers using 300,000 MWh annually	
Illinois, Maine, Nevada, Texas, Delaware	Publicly owned utilities (and therefore, customers served by them) can be exempt	

## Energy Efficiency Programs: Opt-Out Provision Examples for Large Customers

State	Customers Eligible for Opt-Out	Comments
Texas PUCT §25.181	Customers on transmission service level voltage only participate in load management/DR Programs	
Missouri MO Statutes Section 393.1124.7	Any of the following three criteria make customers eligible to opt out: <ol style="list-style-type: none"> <li>1. 5 MW or larger</li> <li>2. Operating an interstate pipeline station regardless of size</li> <li>3. Accounts within the service territory of the electrical corporation that have, in aggregate, a demand of 2,500 kilowatts or more, and the customer has a comprehensive demand-side or energy efficiency program and can demonstrate an achievement of savings at least equal to those expected from utility-provided programs</li> </ol>	
Oklahoma (OG&E Settlement, January 2010 – Awaiting Final Order from Commission)	Customers using more than 15,000 MWh annually, regardless of number of meters or service locations, can opt out of the energy efficiency programs.	Explicitly states that lost revenues not assignable to customers that opt out
Virginia VA code Chapter 23, 56- 585.1 a 5 c,	<ol style="list-style-type: none"> <li>1. Customers with more than 10 MW can opt out without conditions.</li> <li>2. A large general service customer defined as using 500 KW or above from a single meter of delivery can opt out provided energy efficiency programs have been implemented (with verifiable results consistent with industry standards) at the customer's own expense.</li> </ol>	Explicitly states that lost revenues not assignable to customers that opt out
Minnesota MN Statutes 216B.241 Subd. 1 (b)	A large electric customer can petition to be exempt from energy conservation related programs and costs. At a minimum, the petition must be supported by "evidence relating to competitive or economic pressures on the customer and a showing by the customer of reasonable efforts to identify, evaluate and implement cost-effective conservation improvements at the facility."	

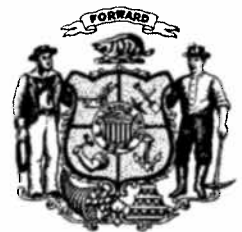
## Industrial Electric Rate Increases: Midwest States: 2000-2007







# WISCONSIN STATE LEGISLATURE





## MEMORANDUM

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**DATE:** February 2, 2010  
**TO:** Members of the Assembly Select Committee on Clean Energy Jobs  
**FROM:** John Sumi, Legislative Affairs Manager  
**SUBJECT:** Assembly Bill 649, the Clean Energy Jobs Act

A representative of Madison Gas and Electric Company (MGE) served on Governor Doyle's Global Warming Task Force and on the earlier Task Force on Energy Efficiency and Renewables which produced the recommendations enacted by the Legislature in 2005 as Wisconsin Act 141. MGE is pleased its expertise has regularly been sought for the development of major Wisconsin energy policy proposals and looks forward to working with the Assembly Select Committee on Clean Energy as it considers SB 450, the legislation that seeks to implement the recommendations of the Global Warming Task Force.

MGE supports the major elements of SB 450/AB 649. We favor increasing the State's energy-efficiency effort as a way to curb the increase in the use of electricity and natural gas and thereby achieve reductions in GHG emissions from the energy sector. We also support the idea of shifting the approach of the energy-efficiency policy away from one based on a budget level (1.2 percent of utility gross revenue) to instead center the policy on the achievement of statewide energy savings goals with the Public Service Commission of Wisconsin recommending, and the Legislature through the Joint Committee on Finance approving, the funding level necessary to meet that goal. Reducing the GHG emissions from Wisconsin sources will require a variety of strategies, but among those cost-effective, energy efficiency stands out as the most promising way of reducing GHG emissions in the energy sector.

MGE would also like to state its support for the proposal to increase our state's renewable portfolio standard and for accelerating implementation of the standards to achieve greater early GHG emission reductions. The proposed 25 by 25 policy represents a long-term commitment to utilize additional renewable resources to supply Wisconsin's electricity. The Legislature will need to do a careful job of designing the policy so customers gain the benefits of renewable energy without unreasonable costs that will be painful for customers during tough economic times like those we are currently experiencing. Although the challenge of meeting the enhanced renewable standard seems greater than when it was first recommended by the task force, MGE continues to support enactment of a 25 by 25 standard.

If the energy-efficiency and renewable portfolio standard recommendations of the task force are enacted through this bill, it is clear Wisconsin utilities and their customers will carry out or fund the actions that will produce the most significant reductions in GHG of all the sectors of our state's economy. For that reason, the Legislature should take care to avoid adding policies such as the mandatory renewable tariffs proposal that will raise the cost of attaining the emission reductions that are counted on as coming from this sector.

MGE is specifically concerned that the use of mandatory renewable tariffs will undermine green power programs currently administered by Wisconsin utilities. MGE offers a nationally recognized green power program to its customers. The program is successful in part because MGE carefully manages the renewable resources it uses in the program to blend higher-cost renewables like solar with lower-cost renewables such as wind and keeps the premium customers pay for green power reasonable. Forcing more high-cost renewables into our green power program would

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put the program at risk of being too expensive for our customers. We are also concerned that if we are mandated to purchase higher-priced renewable electricity and that cost is shifted onto our other customers, that cost shift will be away from customers who voluntarily pay for additional levels of green energy onto all MGE customers including those least able to pay.

Apart from your consideration of these major proposals, we also request the Committee take notice of the additional informal meetings of the Global Warming Task Force that have taken place since the bill draft was first released. The meetings have continued a dialogue aimed at addressing some of the issues caused by the difficulty of transforming the Governor's Task Force recommendations into legislation. We understand the task force cochairs Roy Thilly and Tia Nelson have forwarded the Select Committee a number of additional recommendations for fine-tuning of the bill. While the group was not able to resolve all differences between task force members, we agree with the task force cochairs that adoption of the additional changes will strengthen the bill. We look forward to working with the Select Committee to continue to refine the bill into a better package.

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