



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 7
[2005 Senate Bill 79]

**Rate-Making Principles for New
Electric Power Plants**

2005 Wisconsin Act 7 authorizes the Public Service Commission (PSC) to specify the rate-making principles applicable to certain electric generating facilities (i.e., electric power plants) and sets forth the procedures for the application for and review and approval of these principles.

PSC Order Setting Rate-Making Principles and Utility Acceptance

The Act authorizes a public utility that proposes to build or purchase an electric generating facility to request that the PSC determine, in advance and by order, the underlying principles by which the PSC will treat the recovery of the capital costs of the facility in setting rates for the utility. These costs include the purchase price and any necessary modifications or improvements to the facility made at the time of purchase.

The PSC may issue such an order if it finds that the proposed principles provide a sufficient degree of certainty to the utility, investors, and ratepayers with respect to future recovery of the facility's costs and that the order is otherwise in the public interest.

The utility has the option to accept or "waive acceptance," i.e., reject the rate-making principles that the PSC specifies within a deadline set by the PSC. The deadline must be at least 60 days after the PSC issues its order. If the utility accepts the principles, the principles then become binding on the PSC in all future rate-making proceedings regarding the utility. If the utility rejects the principles, the PSC will consider the costs of the facility in the manner in which it does under current law. If the utility does not either accept or reject the principles before the deadline, the utility is considered to have rejected the principles.

The PSC may not require a utility to apply for an advance determination of rate-making principles, nor may it require the utility to either accept or reject rate-making principles specified by the PSC. The principles shall be binding on the PSC in its treatment of the recovery of the capital costs of the facility that is the subject of the order. By implication, the order has no effect once the capital costs

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

of the facility have been fully recovered. The Act also specifies that the PSC may not consider the order or its effects in its treatment of the recovery of any other cost of the utility.

Application and PSC Review Process

In requesting an order for the advance determination of rate-making principles under the Act, the utility must describe its proposal for cost recovery, including all of the following:

- The economic useful life of the facility.
- The proposed return on equity and rate of return for the facility.
- The proposed financing mechanisms for the facility.
- The proposed method for determining the costs that may be recovered in rates.
- Any other proposals or information that are necessary to provide certainty for the utility, investors, and ratepayers in future rate-making proceedings.
- Any other information specified by the PSC.

The PSC must hold a hearing on a request for the advance determination of rate-making principles, and may combine the hearing with a hearing on the PSC's approval of a certificate for the utility to construct the facility or purchase the facility from an independent power producer. The PSC must take final action on the utility's request for advance determination of rate-making principles no later than the date that it takes final action on the utility's request for such a certificate. If no certificate is required, the PSC must take final action no later than 180 days after it determines that the utility's application for advance determination of rate-making principles is complete.

Rules

The Act directs the PSC to promulgate rules for administering the new procedure created by the Act. These rules must include information that the PSC will require be included in an application. The Act directs the PSC to submit its draft rules required by the Act to the Legislative Council Rules Clearinghouse by September 1, 2005.

Effective Date: In general, Act 7 takes effect on September 1, 2005. The Act also directs the PSC to submit a draft of the rules required by the Act to the Legislative Council Rules Clearinghouse by September 1, 2005.

Prepared by: John Stolzenberg, Chief of Research Services and
David L. Lovell, Senior Analyst

May 5, 2005