



WISCONSIN UTILITY INVESTOR'S INC.

LEGISLATIVE ISSUE BRIEFING

LEASED GENERATION CONTRACTS

BACKGROUND - More than 15 years ago the Legislature authorized the use of "leased generation contracts" to help finance the construction of much needed, new electric generating capacity in Wisconsin. Under the law, public utilities are able to lease electric generating facilities from their affiliates as part of the financing for these new facilities. The contracts involve various terms including the rate of return the parent utility would be authorized to earn on its investment.

A critical aspect of the law was that if utilities agreed to invest the billions of dollars required to construct needed generation, and if the PSC approved the generation leases as "reasonable and consistent with the public interest," no future PSC could modify or terminate the leases during their terms, except as specifically provided in the PSC's order or the leases themselves.

Since then, leased generation contracts have been used by multiple utilities to finance the construction of several electric generating facilities in Wisconsin. These contracts were reviewed and approved by the Public Service Commission (PSC). The contracts typically have a term of 20 to 30 years.

LEGISLATION – Recently, two identical bills were introduced (Senate Bill 115 and Assembly Bill 198) that authorize the PSC to unilaterally modify or terminate these leased generation contracts. The objective of these bills is to force utilities to accept a lower rate of return on their investment in electric generating facilities than the rate currently specified in the contracts.

ISSUES – Wisconsin Utility Investors, Inc. is opposed to Senate Bill 115 and Assembly Bill 198 for the following reasons:

- **The bills are unconstitutional.** Article I, Section 12 of the Wisconsin Constitution states that, "No bill...impairing the obligation of contracts, shall ever be passed." Because these bills authorize the abrogation of existing contracts, they violate this constitutional provision.
- **The bills are unfair to investors.** Individuals in Wisconsin have purchased stock in electric utilities with the expectation they would receive a fair and steady rate of return in exchange for the use of their capital. Their investment helped finance the construction of many new generating facilities in Wisconsin. These bills would allow the PSC to step in and unilaterally impair the investment they made in good faith reliance on the leased generation financing mechanism.
- **The bills hurt small investors.** More than 40,000 individual Wisconsinites have invested in Wisconsin public utilities. Many of these individuals are retirees of modest means that chose utility investments for part of their retirement savings due to the inherent price stability and reliability of dividends. These bills undermine the fundamental characteristics that attracted retirees to utility investment and are likely to reduce the rate of return they currently enjoy.
- **The bills hurt consumers.** If passed, these bills will make investment in Wisconsin utility stock less attractive for many small investors, making it more difficult for Wisconsin utilities to raise the necessary capital to maintain and upgrade our electrical system. In the long run, this hurts consumers who will have to pay higher rates to finance the additional borrowing and internally generated capital needed to replace equity investment.

Therefore, we urge the Legislature to reject Senate Bill 115 and Assembly Bill 198.