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★ *Utilities State Government Organization* ★

Annual Conference

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State Reports



Midwest District Reports 2014

2014 Iowa Legislative Summary



I. Key Energy Bills Receiving Legislative Approval:

1. **SOLAR TAX CREDIT EXPANSION - (SF-2340) *Governor Signed into Law**

The legislature did approve the expansion of the state's solar tax credit program. In the closing days of the session, the Senate stood firm and the House receded on its attempt to scale back the increase in the annual limits for the existing solar tax credits. When the dust settled, the program's limits have been increased to \$4.5 million from \$1.5 million, and the credit cap for residential taxpayers has been increased to \$5,000 from \$3,000 and increased to \$20,000 from \$15,000 for business taxpayers. The available state credit has been increased to 60 percent (from 50 percent) of the federal solar tax credit.

2. **RENEWABLE ENERGY TAX CREDIT EXPANSION - (SF-2343) *Governor Signed into Law**

The Legislature also approved [SF-2343](#) that adds "methane and landfill gas or biogas" fueled cogeneration facilities associated with an ethanol plant to those facilities eligible for a renewable energy tax credit under 476C.1.

3. **"IOWA ONE-CALL" CHANGES – (HF-2408) *Governor Signed into Law**

On March 26, 2014, Governor Terry Branstad signed into law (House File 2408) new notification changes for the Iowa One Call program. The new laws under Chapter 480 will impact both underground facility operators and excavators.

Key Provisions (Exceptions and Conditions Not Listed): *Upon completing the locating and marking of their underground facilities, all underground facility operators shall notify the Iowa One Call (IOC) notification center that the marking is complete within forty-eight hours after receiving the locate notice from Iowa One Call, excluding Saturdays, Sundays, and legal holidays. All locate notices (locate tickets) will include an expiration date ("Life of a Ticket"). All locate notices shall be valid for twenty calendar days from the date the notice, as provided by the excavator, was received by the Iowa One Call notification center. Excavators will be required to "white-line" the proposed area of excavation (with exceptions). At the time of giving notice to the Iowa One Call notification center, an excavator shall use white paint, white flags, white stakes, or a combination thereof, to mark the proposed area of excavation. No excavation can occur within twenty-five feet of a natural gas transmission pipeline unless there is a representative of the pipeline present at the proposed area of excavation (with exceptions).*

4. **WIND ENERGY PRODUCTION TAX CREDIT EXTENSION Resolution**

Senate approved a resolution ([SR-103](#)) in support of extending the federal production tax credit (PTC) for wind energy.

5. **FUNDING FOR DNR'S AIR BUREAU (Title V Fees) *Governor Signed into Law**
 The Legislature did approve a transfer of \$1.4 million from the Hazardous Household Waste Fund of the Groundwater Protection Fund to be used in support of the DNR's air quality programs. The Legislature also directed the Air Bureau to establish a stakeholder group to study funding options for air quality programs and provide a report to the General Assembly.
Title V Fees Funding Background: *The Air Bureau faced a shortfall of \$1,872,000 for state fiscal year 2015. To address the shortfall Governor Branstad requested an appropriation of \$2,072,000 to provide funding for the same level of service for both major and minor source activities and to support reviews of air construction permit applications that are on backlog. The Iowa General Assembly allocated \$1,400,000 in House File 2473 from the Hazardous Household Waste Fund to the Bureau for Salaries, support, maintenance, and miscellaneous purposes. The additional funds, combined with unspent Title V funds from state fiscal year 2014 and fees from an extra 635 tons of emissions above the March projections, will offset the projected shortfall in the Bureau's funding. In addition to providing the \$1,400,000, the Iowa General Assembly established the Air Quality Stakeholder Group to study funding of air quality programs.*
6. **REC's – RECORDING OF DEEDS OR TRUSTS *Governor Signed into Law**
 Iowa's electric cooperatives gained approval (**HF-2131**) for changes in the county recording of deeds and trusts. The new law sets forth that such filings will be recorded in each county that contains any portion of the property described in the deed or a "memorandum" of the mortgage or deed may be filed in those counties.
7. **IUB BUDGET – ADDITIONAL TRANSMISSION ENGINEER *Governor Signed into Law**
 The budget of the Iowa Utilities Board (IUB) was approved with an additional \$150,000 for the IUB to add an additional transmission engineer to its staff. The industry supported this IUB staff addition.
8. **IUB CONFIRMATIONS**
 The Iowa Senate **DID CONFIRM** new terms for IUB members **Nick Wagner (April 30, 2019)** and **Sheila Tipton (April 30, 2015)**. (*Libby Jacobs Term Expires **April 30, 2017**.)
9. **STATE SUPPLEMENTAL FUNDING FOR LIHEAP**
 The Iowa Legislature did approve \$2 million in "one-time" additional funding for LIHEAP. ***Governor VETOED the bill (SF-2326) containing the LIHEAP funding.**
10. **"LINE WORKER APPRECIATION DAY"**
 The Iowa House adopted a resolution (**HR-125**) recognizing April 16, 2014 as Line Worker Appreciation Day in Iowa.
11. **"SPECIAL FUEL" - CNG & LNG EXCISE TAX RECALCULATION**
 The legislature did approve (**SF-2338**) that revises the method of calculating the excise tax on CNG used as special fuel and establishes an excise tax on LNG used as a special fuel. **Governor Signed into Law.**

II. Anticipated Key Energy Bills & Issues:

In January 2014 the industry was expecting/predicting a number of energy-related issues would/might likely receive legislative scrutiny. Those anticipated issues and their fate in the 2014 session are as follows:

- ❖ Anticipated
 - Actual

Distributed Generation

- ❖ Legislation that would allow third-party (Eagle Point Solar) owners of renewable energy facilities to sell directly to end-use customers and not be in violation of Iowa's service territory law.
 - Because of the pending Eagle Point litigation before the Iowa Supreme Court, legislation was not brought forward specifically addressing the Eagle Point issues. However, a proposal ([SF-2107](#)) was debated in subcommittee – but moved no further – that would have changed Iowa's long-standing 105 MW renewable energy purchase requirement to apply only to solar energy facilities located in Iowa with a minimum of 10 percent of that energy coming from solar facilities of 20 kW or less. That solar requirement would have applied only to investor-owned utilities and would have to be met by 2020! In addition, the bill mandated that investor-owned utilities establish "community solar garden facilities" that generate 1 MW or less for subscribers (utility customers) who would receive a billing credit based on the size of their subscription.

Tax Credits for Electric/CNG Fueling Facilities

- ❖ House approval of the 2013 Iowa Senate-passed bill that provides for a 30 percent tax credit for purchasing and installing electric and CNG vehicle fueling facilities.
 - Unfortunately, despite many efforts, the House did not debate (once again) the bill ([SF-434](#)) that would have provided \$5 million in tax credits to consumers installing CNG and electric vehicle fueling facilities.

Sales Tax Exemption for Utility Equipment Purchases

- ❖ The industry was reviewing the options for 2014 of seeking a sales tax exemption for utility equipment purchases.
 - In light of other (unsuccessful) business tax credit proposals, the energy industry did not pursue a sales tax exemption for utility equipment purchases.

Industrial "Opt-Out" of Energy Efficiency Programs

- ❖ The IUB had rejected the request of some industrials to develop rules that would allow industrial customers to "opt-out" of energy efficiency programs but had urged the industrials to seek legislative approval of such authorization.
 - No legislation was debated that would have provided industrial customers with an "opt-out" option for energy efficiency programs.

Industrial Opposition to Franchise Fees

- ❖ **Some industrial customers were expected to seek legislative exemption from community-imposed utility franchise fees.**
- No legislation was debated that would have exempted industrial customers from community-imposed utility franchise fees.

Transmission Line Approval

- ❖ **The Preservation of Rural Iowa Alliance (landowners) had indicated its intent to pursue legislation aimed at halting the high voltage transmission line across Iowa under development by Clean Line Energy Partners.**
- After several attempts to introduce and amend various legislative bills, the 2014 Iowa Legislature concluded without any additional restrictions on the further development of the Clean Line Energy project.

Utility Replacement Tax Revenues for Economic Development Projects - TIF's

- ❖ **An economic development group from northern Iowa had indicated its interest seeking legislation that would allow local utility replacement tax revenue to be used (diverted) to provide funding for certain area business development incentives.**
- [SF-2052](#) was introduced and a subcommittee meeting was held, but the bill moved no further.

III. Other Energy Bills Receiving Legislative Attention:

Silica Sand Mining

- Two bills ([HF-2028](#)) and ([HF-2029](#)) were introduced that would have directed a study of silica sand mining in Iowa and put a temporary moratorium on new mining. Neither bill was successful.

Nuclear Generating Restrictions

- Bills ([HF-2046](#)) and ([HF-2047](#)) were introduced, but never debated, in the House that would have restricted the issuance of certificates of public convenience for nuclear generating facilities.

Broadband Expansion in Iowa

- The expansion of telecommunications broadband was of the Governor's session priorities and the issue received attention right up to the end of the session. The issue was followed closely by industry lobbyists to make sure the state's rules on pole attachments remained in place. The issue was unsuccessful, clearly a defeat for Governor Branstad.

Municipal Utility Exemption from IUB Oversight of Deposits

- A proposal ([HF-2280](#)) by the Iowa Association of Municipal Utilities to gain an exemption from IUB oversight of local municipal customer deposits was approved by the House but did not receive final Senate approval.

Smart Meter Legislation Discussed but Withdrawn

- A bill ([HF-465](#)) that would have restricted the deployment of smart meters was discussed in a House subcommittee but was withdrawn for further consideration by the sponsor.

Stray Voltage

- With broad industry support, a proposal ([HF-2369](#)) making changes to the regulatory review of stray voltage claims was the topic of discussion/negotiation much of the session by the Iowa REC's and the Iowa Farm Bureau. Unfortunately, once again, the legislature did not vote on a measure and the topic remains under discussion during the interim.

Utility Replacement Tax Exemption for Large Gas Distribution Customers

- A Senate subcommittee discussed a proposal ([SF-2329](#)) brought forward later in the session would have exempted customers using less than 60 million therms of natural gas from the utility replacement tax and would have reimbursed local governments for the loss of tax revenue. The bill did not advance.

Energy Efficiency Financing Bill Not Debated

- A proposal ([HF-2391](#)) brought forward that was not debated would have authorized cities and counties to establish a program to finance energy improvements for the benefit of property owners within the city or county.

Resolution Urging EPA Reliance on States to Develop CO2 Standards Not Debated

- A Resolution ([HR-118](#)) in support of recognizing the lead role of states in the regulation of carbon dioxide emissions from existing power plants. See also amendment ([H-8211](#)) filed to the resolution that promotes Iowa's solar energy potential and adds renewable energy considerations to mix of policies EPA should review.

2014 Kansas Legislative Update

Capitol City: Topeka

Primary Elections: August 5, 2014 (All House members and statewide offices)

General Elections: November 4, 2014

Legislature convenes the second Monday in January for a 90-day session.

Governor: Sam Brownback(R). Elected Nov. 2010. Four year term. Governor has a two term limit. No term limits for legislators.

Senate: 32 R, 8 D

Term 4 years. Next Senate election in 2016

Senate President – Susan Wagle (R - Wichita), ALEC board member

Minority Leader – Anthony Hensley (D - Topeka)

Major Utility Committee – Senate Utilities Committee (11 members)

Interim Chair – Forrest Knox (R - Altoona)

House: 92 R and 33 D

Term 2 years

Speaker – Ray Merrick (R - Stilwell), ALEC board member

Minority Leader – Paul Davis (D - Lawrence). Democrat candidate for governor.

Major Utility Committees – House Energy and Environment (19 members)

Chair – Dennis Hedke (R - Wichita)

- House Utilities and Telecommunications (19 members)

Chair – Joe Seiwert (R – Pretty Prairie)

Regulatory Body: Kansas Corporation Commission

Three-person commission appointed by the Governor. No more than two can be of the same party as the governor. Confirmed by the Senate.

- Chairwoman Shari Feist-Albrecht appointed in 2014. Past chairman and executive director resigned. The two most recent chairmen of the Senate Utilities committee are now commissioners.

Has transmission siting authority.

2014 Kansas Legislative Update

The following utility-related bills were enacted during the 2014 Session of the Kansas Legislature.

Net Metering and Parallel Generation; Senate Sub. for HB 2101

Senate Sub. for HB 2101 amended the Net Metering and Easy Connection Act originally passed in 2009 as part of the RPS/Holcomb legislation. The IOUs in Kansas and a number of environmental groups worked together to preserve net metering while adjusting the Act to provide utilities the ability to propose, within an appropriate rate proceeding, the application of time-of-use rates, minimum bills, or other rate structures that would apply to all such customer-generators prospectively. Additionally, the new legislation:

- Grandfathers existing systems and those installed by July 1, 2014, until 2029;
- Moves the annual true-up date for grandfathered customers to March 31 of each year instead of Dec. 31;
- Provides new customers with retail rate for excess generation within the month and pays avoided cost for any excess generation at the end of the month (no rollover, month-to-month);
- Establishes system size limit of 15 kW for residential and 100 kW for commercial (includes religious institutions)
- Creates size limit of 150 kW for public and private post-secondary and K-12 schools

Energy Efficiency Investment Act; Senate Sub. for HB 2482

Senate Sub. for HB 2482 establishes the Energy Efficiency Investment Act, requiring the Kansas Corporation Commission (KCC) to permit electric and natural gas public utilities to implement Commission-approved programs and cost recovery mechanisms to reduce the consumption of electricity or natural gas by retail customers.

The Act also requires the KCC, in determining whether to approve a program, to consider the cost effectiveness of any such program, except that programs targeted to low-income customers are not required to meet a cost effectiveness test if the KCC determines they are in the public interest and supported by a reasonable budget. The bill requires each public utility to submit an annual report to the KCC describing the results of its energy efficiency programs by May 31 of each year.

Air Quality Standards; HB 2636

HB 2636 allows the Kansas Secretary of Health and Environment to establish separate performance standards for carbon dioxide emissions for coal-fired and natural gas electric generating units that have been constructed or received a prevention of significant deterioration permit by July 1, 2014. The bill allows the Secretary to use flexible regulatory mechanisms, including the averaging of emissions, emissions trading, or other alternative implementation measures, and to enter into voluntary agreements with utilities that operate fossil-fuel-based electric generating units within Kansas to implement the standards.

Keystone XL Pipeline resolution; HCR 5014

HCR 5014 urges the President of the United States (U.S.) to support the continued and increased importation of oil derived from Canadian oil sands and urges the U.S. Secretary of State to approve the Keystone XL Pipeline application from TransCanada.

2014 Kansas Legislative Update

Other legislation of note that did not receive a vote included:

Renewable Portfolio Standard

S Sub for HB 2014 attempted to repeal Kansas' RPS. Although it passed the Senate, repeated attempts to pass it in the House failed. It is expected there will be another attempt to repeal the RPS in the 2015 session.

Deregulation

SB 408, the Kansas Electricity Competition and Choice Act, was introduced but did not receive a hearing. It is expected to be reintroduced early in the 2015 session.

Unmanned Aerial Systems

SB 409, the Kansas Unmanned Vehicle Act, was of concern to utilities, because the bill did not exempt utilities from restrictions therein, thus inhibiting future potential use of UAS for transmission line, wind turbine, substation and boiler inspection. Current FAA policy prohibits commercial use of UAVs. Some legislators are concerned with the potential for invasion of a resident's privacy.

Lesser Prairie Chicken

Senate Sub. for Sub. for HB 2051 would have established the State Sovereignty Over Non-Migratory Wildlife Act, establishing the state as having the sole regulatory authority to govern the management, habitats, hunting, and possession of lesser and greater prairie chickens that exist within the state. In addition, the bill established that lesser and greater prairie chickens and their habitats existing within the state are not subject to the Endangered Species Act of 1973 (Act) or to any federal regulations or executive actions related to the Act. Any federal regulation or executive action pertaining to the federal Act that purports to regulate the lesser or greater prairie chicken, their habitats, farming practices that affect these species, or other human activity that affect these species are to have no effect within Kansas.

Workplace Safety

HB 2616 would have authorized and directed the Kansas Secretary of Labor to enter into agreements establishing a state-OSHA plan. The bill was amended to require a study and recommendations concerning whether the state should submit to the federal government a plan for state enforcement of occupational safety and health standards. The study must be presented to the Legislature on or before Jan. 15, 2015.

Missouri

Capitol City: Jefferson City

Governor: Jay Nixon (D). Elected Nov. 2012. Four year term.

Primary Elections: August 5, 2014

General Elections: November 4, 2014

The legislature convenes the first Wednesday after the first Monday of January. It adjourns on May 30, with no consideration of bills after 6:00 p.m. on the first Friday following the second Monday in May.

All House seats are up for election in 2014; only half of the Senate is up for reelection. Senators from even-numbered districts will be up for reelection in 2014. This will be the first election for some senators in new senate boundaries.

Governor has a two term limit. Legislators can serve eight years in each chamber.

Senate: 24 R, 10 D

Term 4 years

Senate President – Tom Dempsey (R-St. Charles)

Minority Leader – Jolie Justus (D – Kansas City)

Major Utility Committee – Senate Commerce Committee (10 members)

Chair – Brad Lager (R - Savannah)

House: 108 R and 52 D

Term 2 years

Speaker – Tim Jones (R – St. Louis)

Minority Leader – Jake Hummel (D – St. Louis)

Major Utility Committees - House Utilities (24 members)

Chair – Doug Funderburk (R – St. Peters)

Regulatory Body: Missouri Public Service Commission

Five-person commission appointed by the Governor. Confirmed by the Senate. Currently one vacancy.

Chairman is Robert Kenney.

Missouri

Missouri session ended on May 16th. The governor has until July 15 to sign or veto bills. Successful bills go into effect on August 28 unless there is an emergency clause. Missouri legislators return to Jefferson City for a veto session (where they will consider any bills vetoed by the governor) September 10.

The legislature again spent a great deal of time on a tax cut proposal; similar to one that was vetoed by the Governor last year. They also debated a large transportation tax that will be put on the August ballot and voted on by citizens of the State. This was a tough vote for some republicans as they are generally against any tax increase. The original bill would have been a full 1 cent sales tax, however it was lowered to .75 cents to appease some of the republican senators. This would provide over \$600 million to the state for much needed transportation dollars. There will be a large campaign this year to get the issue passed.

There were several energy bills that were discussed during the past session. They include:

A bill that would allow transmission and property taxes to be tracked in between rate cases was voted out of both House and Senate committees, but did not receive final approval. Although many legislators agreed that property taxes were a business cost that should be recovered, opposition from the consumer and industrial groups slowed progress.

Several attempts to expand rebates for solar installations in KCP&L and Ameren territory were made, but none were successful. Solar rebates were part of the Renewable Energy Standard passed in 2008. Expecting these attempts to continue in future sessions.

Transmission was also a hot topic this year. A project in Southwest Missouri and Northwest Missouri had legislators wanting to do something for their constituents. Most of the ideas discussed would change the eminent domain process to prevent out-of-state companies or lines originating outside the state from entering Missouri. These bills did not progress, but expect transmission to be closely watched in future sessions.

A bill was passed in the last hour of session that would allow utilities to exempt transmission and distribution facilities from state sales tax. This is already being done for generation facilities. The Governor vetoed the bill in late June.

The State did fund the Utilicare program (to assist low income customers with gas and electric bills) at \$4 million dollars in the 2015 budget. This was the first time in several years that there have been dollars appropriated for the program. This will be used to help low income residents with bills. There was a separate appropriation for an additional \$3 million dollars in the 2014 supplemental budget that will be used this year.

Nebraska

Capital City: Lincoln

Governor: Dave Heinemann (R) He will be term limited at the end of 2014. The governor is limited to two, four-year terms.

Legislature: Nebraska has the only Unicameral, or one house, legislature in the country. Forty-nine senators serve in the Nebraska Unicameral. Another unique aspect of Nebraska's Legislature is its "official" nonpartisanship makeup. Every legislative bill introduced receives a public hearing. Hearings are video streamed and the public is encouraged to testify. Following advancement by committee, legislative bills must pass three rounds of debate by the Unicameral to become law.

The Legislature operates on a biennial system. The first session is 90 days. The second session is 60 days. The budget is adopted during the 90-day session.

In 2000 a Constitutional amendment was adopted to limit legislative terms to two, four-year terms. A senator may run for election again after sitting out one term. Since the adoption of the amendment, the Nebraska Legislature has completely turned over once and will begin the process again in 2015. Of the 25 senators up for election in 2014, 17 are term limited.

The leadership of the body will be significantly impacted by term limits. The Speaker of the Legislature, Greg Adams, and seven chairs of the 14 committees are among the senators term limited at the end of 2014.

Regulatory Body: Nebraska Power Review Board

Five person board appointed by the governor. No more than three members can be from the same party as the governor. Confirmed by the legislature.

Regulates Nebraska's publicly owned electrical utility industry. Nebraska is unique in that it is the only state in the country served entirely by consumer-owned power entities. These utilities include public power districts, cooperatives, and municipalities.

Regulates service territory and approves generation and transmission projects. Does not set rates. Rates are set by the elected board or city council of the individual utility.

2014 Legislative Session

The 2014 Legislative Session convened January 8 and adjourned April 16. In addition to varied issues carried over from the 2013 session such as Medicaid expansion and state aid to K-12 schools, a tax committee and a water task force, created during the 2013 session, brought forward legislation to implement their recommendations. In addition, energy related bills from eminent domain, water issues, net metering, project approval criteria, and public power makeup were carried over from the 2013 session and/or introduced in the 2014 session. Below are several of the more significant bills of interest to the electric industry acted on in the 2014 session:

LB 402, a bill introduced in the 2013 session and carried over to the 2014 session, expanded the definition of a community-based energy development project, or C-BED project. It changed the definition from a new wind project to a new generation project using wind, biomass, or landfill gas as the fuel source that has at least 25% of the gross power purchase agreement payments flowing to the qualified owner or owners or local community. It also changed the 33% Nebraska ownership requirement to 25% and provided that the ownership requirements can be met by payments made to purchase Nebraska products or services, lease payments paid to landowners, and property tax payments. The Governor signed the bill into law. The utility industry supported the bill.

LB 965, a bill providing new approval criteria, such as health, climate change, economic benefits, water use, etc., for the Power Review Board to use when approving generation and transmission projects, was introduced in 2014. A similar bill, LB 567, was introduced in 2013. LB 567 was not advanced from the Natural Resources Committee; the bill carried over to the 2014 session. LB 965 was debated on General File (first round of debate). Numerous amendments were filed to the bill. After a couple of hours of debate, the bill's introducer filed a motion to bracket the bill until April 17. The motion was adopted. This action killed the bill for the session. The electric utility industry was united in their opposition to the bill. The industry anticipates a similar bill will be introduced in 2015.

Another bill of significant interest to the industry would have created the Public Power Task Force to study the public power structure in Nebraska. The Nebraska Power Association had eight industry representatives testify in the opposed position. The bill was not advanced out of the committee. The bill's sponsor introduced a study resolution to study the issue during the 2014 interim. Due to the fact the chair of the committee is term limited, the industry does not anticipate much activity on the study during the interim.

LB 1115, a bill that allocates \$200,000 to study transmission and market opportunities for wind for export, was passed and signed by the Governor. The bill directed the Nebraska Power Review Board, in conjunction with a working group, to issue a Request for Proposal to hire a consultant to study transmission issues in Nebraska. The industry believes appropriate transmission studies have already been completed through SPP actions. Several industry representatives are on the working group.

An actionable Legislative Resolution, introduced by the Chair of the Natural Resources Committee, and 16 senator co-introducers, was passed with a majority vote of those senators present. LR 482 urges EPA, in developing carbon regulations for existing power plants to, among other things, respect the primacy of the states with regard to developing performance standards for CO2 emissions. It also urges EPA to give states maximum flexibility to implement such standards.

Prior to the end of the session, the Chair of the Natural Resources Committee, introduced an Interim Study Resolution, 628, to study the role of Nebraska state government in establishing and implementing standards of performance for existing carbon dioxide emissions from power plants within the state. It is possible a hearing could be held on LR 628 later this summer or early fall.

2013 Legislative Session

The 2013 Legislative Session began January 9 and adjourned June 5. There were various bills of significant interest to the industry including bills related to public records, water, tort claims, net metering, renewable energy, project approval criteria, etc. The session ended with significant issues remaining to be taken up in the 2014, 60-day or “short” session. These issues included continuing the debate on Medicaid expansion and state aid to K-12 schools. Several of the most significant issues for the industry in 2013 included:

LB 388, the electric industry’s bill to provide incumbent transmission owners belonging to a regional transmission organization the first right to construct, own, operate, and maintain new cost-shared, RTO-ordered transmission in Nebraska. LB 388 was passed by the Legislature and signed by the Governor.

LB 104 allows renewable energy projects with \$20 million or more of investment to receive tax exemptions under Tier 5 of the Nebraska Advantage Act. Renewable energy projects include, but are not limited to, wind, solar, geothermal, hydroelectric, biomass, and transmutation of elements. The bill was passed and signed by the Governor. The electric industry was neutral on the bill.

LB 402 expanded the definition of a community-based energy development project, or C-BED project, from a new wind project to a new generation project using wind, biomass, or landfill gas as the fuel source that has at least 25% of the gross power purchase agreement payments flowing to the qualified owner or owners or local community. The bill also changes the 33% Nebraska ownership requirement to 25% and provides that the ownership requirements can be met by payments made to purchase Nebraska products or services, lease payments paid to landowners, and property tax payments. A Committee Amendment added solar to the types of projects that qualify. Another provision to allow C-BED projects to build low-emission fuel sources was added to the Committee Amendment to LB 402. An amendment to eliminate the “low-emission” provision from the Committee Amendment was adopted. LB 402 did not advance in the 2013 session, but was carried over to the 2014 session.

It passed and was signed into law in April of 2014. The electric industry supported the bill.

LB 557 would have allowed the creation of community solar gardens with a nameplate rating of two megawatts or less which are located in or near communities served by local distribution utilities and provided that the beneficial use of the electricity generated by the facility belongs to the subscribers to the community solar garden. LB 557 was not acted on in 2013. It carried over to the 2014 session, however, it was not debated in the 2014 session. The electric industry opposed the bill.

LB 567 changed the criteria the Power Review Board uses to approve transmission or generation projects, if the projects are more than \$100M of investment or are 20 megawatts or larger in capacity. The new criteria included consideration of (i) health and environmental impacts, including impacts on air, water quality, and projected health care costs, (ii) economic impact to communities located near the proposed generation facility and the State of Nebraska, including job creation and tax revenue, (iii) impact on water usage from the proposed generation facility including amount of water to be used, source of water, and the impact on agriculture and domestic use, (iv) risk analysis related to the life-cycle costs of generation, including projected fuel costs, regulatory compliance costs, and other related factors, and (v) economic impact of obtaining fuels from outside the State of Nebraska. The electric industry opposed the bill. LB 567 was not acted on in 2013. The bill carried over to the 2014 session, but was not acted on in 2014. Instead, the introducer of LB 567 introduced a modified version of the bill, LB 965, in 2014. LB 965 was debated on first round of debate, but was bracketed after several hours of debate.

LB 622 provided that information about areas where renewable energy projects of less than 25 megawatts could be added without major additional transmission improvements was to be included as part of a Research and Conservation Report. The report is prepared by the electric industry and submitted to the Power Review Board upon request, but not more often than biennially. The electric industry opposed the bill. LB 622 was not acted on in 2013. The bill was carried over to the 2014 session. The bill was not taken up during the 2014 session.

LB 637 required if the Department of Environmental Quality intended to adopt a rule or regulation different than federal regulations or increase costs on regulated persons or entities, the Department had to prepare a statement that described the annual economic impact of the rule or regulation. The electric industry was neutral on the bill. LB 637 was not acted on in 2013. The bill carried over to the 2014 session, but was not acted on during the session.

WUA Issue Tracking 2013-14

May 1, 2014 Edition – The Assembly & Senate Stand Adjourned with no pending calendars.

Following are bills and issues on which WUA engaged or monitored during the 2013-14 Legislative Session. Bills include active links to the Legislature's homepage.

PASSED

AB 1/SB 1 (Mining bill) Tiffany, Gudex/Suder, Honadel - Regulation of ferrous metallic mining and related activities, procedures for obtaining approvals from the Department of Natural Resources for the construction of utility facilities. WUA supported this bill which passed the Senate 17-16 (party-line minus Schultz) on Feb. 27, and was concurred-in by the Assembly March 7, on a 58-39 party-line (Pridemore not voting, 98th district vacant) vote. *The Governor signed it into law on March 12, 2013 as [2013 Act 1](#).*

SB 35/AB 39 (Transmission bill) Farrow/Honadel - Powers and duties of an electric transmission company and CPCN permits for certain electric generating facilities and high-voltage transmission lines. SB 35 had a public hearing February 26th. [SA 1, 2 & 3](#) were offered by the Senate Government Operations, Public Works and Telecommunications Committee and passage was recommended, as amended by SA 2&3, 7-0. AB 39, the companion bill, had a public hearing March 19th in the Assembly Energy & Utilities Committee which adopted [AA 1 & 2](#) and recommended passage, as amended. SB 35 was taken up on the Senate floor April 9 and passed 32-1 (Erpenbach), and was concurred-in by the Assembly on a voice vote the same day. *AB 39 was tabled. SB 35 was signed into law April 24th as 2013 [WI Act 10](#).* WUA supported this bill.

2013 AB 40 (Budget) WUA successfully engaged on several items in the most recent state budget, [2013 WI Act 20](#). For a more detailed summary see 2013 [Budget Summary](#).

SB 103 /AB 106 (Municipal Utility Customer Information Privacy) Farrow, Shilling/Honadel, Kahl – These companion bills were introduced March 22nd and 26th and referred to the Senate Committee on Government Operations, Public Works, and Telecommunications, and the Assembly Energy & Utilities Committee, respectively. The bills impose restrictions on a municipal utility's release of customer information, which they define as, "*any information received from customers which serves to identify customers individually by usage or account status*". The bills prohibit a municipal utility from releasing customer information without the customer's consent and provide that it is also exempt from disclosure under the open records law. SB 103 had a public hearing April 17, adopted [SA1](#) on May 14 and the bill was tabled. Companion bill AB 106 had a public hearing April 2nd in the Assembly Energy and Utilities Committee which executed the bill, as amended by [AA1](#), 8-0, on April 30. AB 106 passed the Assembly, as amended, on a voice vote May 8th, was concurred-in by the Senate May 14. AB 106 was signed by the Governor July 8th as [WI Act 25](#). *WUA supported these bills.*

[AB 214/SB 194 \(Ex Parte\)](#) Honadel/Farrow – These bills clarify the law regarding ex parte communications in contested case proceedings, so that only decision-makers are prohibited from ex parte communications with parties, instead of all personnel involved in the decision-making process. SB 194 received a public hearing May 29th by the Senate Gov. Ops., Public Works & Telecom Committee and AB 214 received a public hearing May 28 in the Assembly Energy & Utilities Committee which unanimously recommended passage May 30th. WUA lobbied in support of these bills. AB 214 passed the Assembly on a voice vote on June 6 and was concurred-in by the Senate on a voice vote June 11. *The bill was signed by the Governor on July 8th as [2013 WI Act 28](#).*

MONITORED

[SB 71/AB 83 \(Wind Siting by Local Govt.\)](#) Lasee, Ellis/Jacque, Murtha – Allows local governments to impose wind siting standards more stringent than state standards under PSC 128 to protect public health & safety, on a prospective basis. SB 71 was referred to the Senate Committee on Government Operations, Public Works, and Telecommunications and a public hearing was held March 13, 2013. AB 83 was referred to the Assembly Energy & Utilities Committee March 14. *No action has been taken since the hearing. WUA did not take a position on these bills.*

[SB 180 /AB-197 \(Wind Turbine Utility Aid Payment Split\)](#) Thiesfeldt/Lasee – This bill changes the current 1/3 town – 2/3 county split in utility aid payments to ½ and ½ for local governments that host wind turbine facilities. SB 180 was introduced May 8th and referred to the Senate Committee on Energy, Consumer Protection & Government Reform. AB 197 was introduced May 13th and referred to the Assembly Energy and Utilities Committee. *No action was taken on these bills and WUA did not take a position.*

[AB 34 \(Nuclear RPS\)](#) Jacque/Lasee – Allowing the use of nuclear energy to comply with renewable portfolio standards (Kewaunee only) and the time period for using credits to comply with such standards. This bill resides in the Assembly Energy & Utilities Committee. *No action was taken since Feb. 18, 2013. WUA did not take a position on this bill.*

[SB 47 \(RPS Freeze\)](#) Grothman/LeMahieu, Kestell – Freezes RPS at 2011 level of compliance. This bill was introduced on February 28, 2013 and resides in the Senate Energy, Consumer Protection, and Government Reform Committee. *No action was taken and WUA did not take a position on this bill.*

[SB 64 \(25% RPS Goal\)](#) Risser/Hesselbein – Raises RPS for state agencies to 30% and 25% statewide as a goal by 2025. The bill was introduced March 7, 2013 and resides in the Energy, Consumer Protection and Government Reform Committee. *No action was taken and WUA did not take a position on this bill.*

[AB 774/SB 625 \(Utility Facility Siting\)](#) Larson - These bills make numerous changes to utility facility siting procedures involving DNR permitting and PSCW certificate applications. For LRB analysis, see here: [AB 774](#). These bills were introduced on February 18 and 20, 2014 and reside in the Assembly Energy & Utilities Committee and Senate Natural Resources Committee, respectively. *No action was taken and WUA did not take a position.*

RECENTLY ACTIVE

[AB 257 \(Tort Reform/Utility Exemption\)](#) Honadel, Weatherston/Farrow – The bill provides an exemption from civil liability for electric service providers which include investor- owned utilities, co-ops and municipal electric utilities that prove by clear and convincing evidence that their facilities are operated and maintained in compliance with all applicable engineering and safety standards. The bill does not extend this exemption for reckless, wanton or willful acts or omissions or intentional misconduct. AB 257 was introduced June 28th and referred to Judiciary. Reps. Klenke, Kleefisch, Schraa & Czaja withdrawn as co-authors. *No action was taken. WUA supported this bill.*

[AB 345 \(Smart Meters\)](#) Thiesfeldt - Generally, this bill creates an opt-out for smart meters for utility customers but requires customers to pay expense of reading the meter, and, among other things, limits meter reading to annual measurements. According to LRB: “This bill prohibits public utilities, (sic) from installing certain meters at the premises of customers who object to the meters. The bill defines a smart meter as one that is capable of transmitting any data that is in addition to data measuring a customer’s usage of public utility service. Also, if a utility installed a smart meter at the premises of a customer who objects, the utility must remove it. This bill resides in the Energy & Utilities Committee. *No action was taken. WUA opposed this bill.*

[SB 341 \(Poles & Pipes\)](#) Petrowski/Ripp - Restores an exemption to generally allow utility vehicles to transport poles and pipes that extend up to 10’ beyond the front bumper. A public hearing was held October 31st and the Transportation committee recommended passage, 5-0. The Senate passed SB 167 on a voice vote November 12, 2013 and was concurred-in by the Assembly on a voice vote on February 18, 2014. *It was signed by the Governor on April 23 as [2014 WI Act 369](#). WUA registered in favor of this bill.*

[AB 513 \(Dry Cask Storage of Spent Nuclear Fuel\)](#) Bies/Lasee - Under this bill, a utility would pay a municipality \$250,000 for each year or portion of the year the utility uses dry cask storage to store spent fuel. In addition, the utility or person would pay \$150,000 to each county. The bill was introduced November 14, 2013 and resides in the Energy & Utilities Committee. [ASA 1](#), introduced January 10th, 2014, is pending. *No action was taken. WUA [opposed](#) this bill.*

[AB 506 /SB-394 \(Land Surveyors\)](#) Weatherston - This bill, among other things, requires anyone practicing surveying to be state-licensed. Under the bill utilities would be exempt until 2019, when the exemption would sunset. The bill was referred to the State Affairs & Govt. Operations Committee and had a public hearing December 12, 2013. WUA [testified](#) in opposition but successfully sought adoption of [AA3](#) which includes a permanent exemption for utilities and others. The Committee adopted the amendment unanimously on Jan. 22. Thus, *WUA ultimately supported this bill.* The Assembly took up AB 506l on 2/13/14. Am. 2 adopted, voice vote. **Am. 3 adopted, voice vote.** Am. 4 adopted, voice vote. Am. 1 to Am. 5 adopted, voice vote. Am. 5 adopted, voice vote. Passed, voice vote. *AB 506 was concurred in by the*

Senate on a voice vote on March 18 and was signed by the Governor April 23, 2014 as [2014 WI Act 358](#).

[SB 167 \(Wind Turbine Liability\)](#): Lasee/Thiesfeldt – This bill provides that, in an action for damages caused by a wind turbine, the prevailing plaintiff may recover damages for physical and emotional harm, reasonable attorney fees, and damages for loss of property value and expenses incurred if he or she moves as a result, and other damages. Under the bill, if the wind turbine is within 1.5 miles of the plaintiff's residence, it is not a defense to assert that it was operating pursuant to a legal permit or local governmental approval. This bill was introduced April 30 and referred to the Judiciary and Labor Committee. SB 167 had a public hearing November 20 and WUA submitted written [testimony](#) in opposition. *No action was taken.*

[AB 594/SB 474 \(PSC Trailer Bill\)](#) Krug/Farrow - This bill relieves small utilities that had already reached a 14% RPS in 2010, or had a 12% or higher baseline, from further RPS requirements. WUA provided [written comments](#) in support. AB 594/SB 474 had a joint public hearing on January 9, 2014 and AB 594 was voted out of committee 10-0 on January 16. AB 594 passed the Assembly on a voice vote on January 21 and concurred-in by the Senate January 22, 2014. *The Governor signed the bill on April 16, 2014, as [2014 WI Act 290](#)*

[SB 470 \(PSC Trailer Bill\)](#) Kuglitsch/Cowles - Public Service Commission certificates for certain activities; tampering with telecommunications or electric wires; regulation of pay telephone service providers and cable television telecommunications service providers; accident reporting by telecommunications utilities; the definition of transmission facility; availability of public utility rate schedules. ([See the more detailed plain language summary here](#)). WUA provided [written comments](#) in support. AB 595/SB 470 had a joint public hearing on January 9, 2014 and AB 595 was voted out of committee 10-0 on January 16. AB 595 passed the Assembly on a voice vote Jan. 21 and was concurred in by the Senate Jan. 22 2014, also on a voice vote. *Report approved by the Governor on 2-5-2014. [2013 Wisconsin Act 125](#)*

[AB 596/SB 473 \(PSC Trailer Bill\)](#) Kuglitsch/Cowles - Relating to renewable resource credits, removal of certain natural gas service laterals, natural gas public utility service in municipalities. ([See the more detailed plain language summary here](#)). WUA provided [written comments](#) in support. AB 596/SB 473 had joint public hearings on January 9, 2014 and AB 596 was voted out of committee 10-0 on January 16. AB 596 passed the Assembly on a voice vote Jan. 21 and is available for scheduling. Senate companion bill SB 473 was exec'ed by the Senate Committee Jan. 22 on a 5-2 vote (Shilling, Harris opposed). It was taken up on the Senate floor on 2/11/14 and concurred-in on a voice vote. *It was signed by the Governor [as Act 300](#) on April 16, 2014.*

[LRB 3719/1 \(FOE changes\)](#) Cowles - This bill makes numerous changes to energy efficiency & conservation programs and the laws creating them. Generally, the bill 1) creates a 12-member state energy council; 2) requires PSCW to, by 2018, plan to

reduce annual electric load statewide by 2% and gas by 1.5%; 3) requires PSCW to report on how to achieve energy savings through various code changes (wiring, dwelling, appliances, etc.); 4) establishes programs to make small businesses more competitive by reducing energy costs; 5) requires PSCW to hold-harmless within the FOE budget the renewables affected by the Commission's priority shift to biogas/biomass away from wind & solar; 6) reinstates the "energy tax" repealed by GOP in 2011 that allows PSCW to order utilities to exceed the 1.2% spending on efficiency & renewables, with JFC approval; and 7) requires PSCW to contract every five years for an efficiency "potentials" study, similar to those conducted in 2005 and those conducted as a result of the Gov. Doyle's Global Warming Task Force that proposed CEJA and one in 2009 that was used by the PSCW to support its recommendation for increasing the FOE budget that was submitted to JFC on November 9, 2010. *This proposal was not circulated for co-sponsorship or introduced. WUA was opposed.*

[AB-803](#) / [SB 629](#) (**Workers in R.O.W. Drug Testing, Move-Over**) Kahl/Farrow - Requires employers and employees working in utility R.O.W. to be subject to the same substance abuse programs currently required of employees on projects of public works, with an exemption for those already covered under federal DOT rules; and extends the "move over or slow down" law that currently applies to emergency vehicles, tow trucks and highway work vehicles, to utility vehicles. This bill was introduced February 20, 2014 and referred to the Energy & Utilities Committee. The Senate bill was introduced February 24 and referred to the Governor Ops, Public Works and Telecommunications Committee. A joint public hearing was held March 5th and [AA1](#) was adopted 9-0. AB 803 was approved, as amended, 9-0 and made a special order of business at 10:20 AM on 3-20-2014. WUA registered in favor. *AB 803 passed the Assembly on a voice vote March 20th and was concurred in by the Senate April 1st. It was signed by the Governor on April 16, 2014 as [2014 Act 291](#).*

[SB 660](#) / [AB 876](#) (**Renewable Energy**) Miller, Shankland - Renewable portfolio standards and credits; electricity derived from biofuels; electric utility purchases of renewable energy and customer-generated electricity; distributed generation rules. SB 660 was introduced March 10, 2014 and referred to Energy, Consumer Protection, and Government Reform Committee where it currently resides. AB 876 was introduced March 18 and resides in the Energy & Utilities Committee. *WUA opposes these bills. No action was taken.*

[AB 878](#) (**EE in Schools**) Barca - Requires the Department of Administration to provide information to school districts regarding opportunities to minimize expenses and environmental impacts through the modification of facilities and operational practices that maximize the efficiency of energy use, maximize the use of renewable energy resources, and otherwise minimize emissions of greenhouse gases. Introduced March 19 and resides in the Energy & Utilities Committee. *No action was taken and WUA did not take a position.*

[AJR 122](#) (**Clean Energy Task Force**) Sargent, Shankland - The bill establishes a joint task force on clean and renewable energy. Introduced March 25th, 2014 and

referred to Assembly Organization. *No action was taken and WUA did not take a position.*

AB 899 (Value of Solar Tariff) Shankland- Among other things, this bill creates a Value of Solar Tariff for electric utilities. Environmental value must also be taken into account, the value to the electric utility of lower generation and transmission costs and fewer distribution and transmission losses. Kilowatt hour rates may not be less than retail for customers in the same class. It requires customers to sell their electricity generated by solar facilities to their own utility; and the tariffs must credit customer bills for net inputs to the utility's system that result from purchases. This bill was introduced March 31 and referred to Committee on Energy and Utilities. *No action was taken and WUA did not take a position.*

AB 900 (Integrated Resource Plan, Study) Shankland - This bill requires each investor-owned utility to, among other things, prepare and submit a 20-year integrated resource plan to the Public Service Commission and conduct a study of energy supply and demand by 2016. Introduced March 31st and referred to Committee on Energy and Utilities. *No action taken. WUA did not take a position.*

AB 901 (Studies of energy storage and solar thermal devices) Shankland. - Requires PSC analyze the costs and benefits of residential and commercial energy storage devices managed by utilities and the legal and economic barriers to such installation; the costs and benefits of solar thermal devices at such properties; and a PSC reports to the legislature. Referred to Committee on Energy and Utilities. *No action was taken and WUA did not take a position.*

AB 902 (WI Renewable Energy Development Authority) Shankland - Creates the Wisconsin Renewable Energy Development Authority, an independent public entity modeled after WHEDA, to steer and expand investment in renewable energy and energy efficiency. The bill forms an 11-member board to oversee the authority, which will operate loan and loan guarantee programs, a grant program, an equity financing program, provide technical assistance, oversee environmental credits, and may acquire technology licenses. Introduced March 31, 2014 and referred to Energy & Utilities. *No action was taken and WUA did not take a position.*

AB 903 (Energy Assistance) Shankland - Current law provides that certain low-income households are eligible for a heating assistance benefit under that program in an amount of not more than \$1. This bill provides that those households are eligible for such a heating assistance benefit in an amount equal to \$20. *Introduced March 31, 2014. No action was taken and WUA did not take a position.*

LRB 4412 (3rd Party Ownership) Tauchen/Taylor - Exempts the owner/operator of a customer-sited renewable generator from PSC Regulation; Requires Focus on Energy to provide financial incentives for customers to participate in 3PO; Requires PSCW to set this funding level in the Quadrennial Planning Docket; Requires PSCW to balance the benefits of the incentives vs. cost of decreasing funds for other programs. *This*

bill circulated for co-sponsorship with a due date of March 27, 2014 but was never introduced before the Session adjourned. WUA opposed this proposal.

Following is the remainder of the Session calendar for 2014

- Bills sent to Governor May 8, 2013
- Veto review floor period May 20 to 21, 2014
- Interim, committee work May 2, 2014 to Jan. 5, 2015
- Bills sent to Governor June 4, 2014