**WCUTA Board of Directors Meeting**

**May 18, 2018**

The meeting was called to order at 10:35 by Chairman Willkom. A roll call was taken.

**PRESENT:** William Goehring – Sheboygan County Board, Chuck Hoffman – Manitowoc County, Robert Keeney – Grant County Board Chair, Vern Gove– Columbia County Supervisor, Columbia County Comptroller Lois Schepp, CPA ,: Lawrence Willkom – Chippewa County Supervisor, Bob Yeomans, Rock County Supervisor, Nick Osbourne, Rock County deputy administrator, Walt Christiansen, Jefferson County

**VIA PHONE**: Brad Lawrence, Buffalo County Corp. Counsel, Don Pazynski, Marinette County, Cory Cochart, Kewaunee County, Don Kriefall, Washington County.

**STAFF:** Alice O'Connor - WCUTA

**GUESTS:** Mark Radium – Outagamie County Lobbyist; Speakers from Legislative Fiscal Bureau, Rick Olin and Emma Drilias; League of Wisconsin Municipalities Legal Counsel, Curt Witynski.

**Minutes March 186 2018 meeting approved on** a motion by Supervisor Goehring, seconded by Supervisor Hoffman.

**President's Report – Supervisor Larry Willkom**

Supervisor Willkom said the agenda was so full he would keep his remarks to a minimum. He said the next meeting with the WCA staff would be an important one after today's discussion. Although the bylaws say to appoint an Audit committee at the March meeting, the Audit committee just met in May 2017.So, the Audit committee when the WCUTA books are examined next March 2019 will be WCUTA Treasurer Bob Yeomans, Supervisor Chuck Hoffman and Supervisor William Goehring,
Chairman Wilkom welcomed guests joining the meeting and encouraged them to consider joining the association.

Alice reported that since the last meeting Supervisor Yeomans and herself as well as Supervisor Hoffman and Goehring had met with the PSC and Dept of Revenue. After comparing notes from both meetings, it seems the Dept of Revenue simply does not wish to be forthcoming on the data we are asking for. It is unclear if they can't or what the roadblocks actually are to provide a greater breakdown of figures related to utility taxes. The meeting with the Legislative Fiscal Bureau proved most productive and they were asked to speak to the board today to lay out options that might serve counties to protect shrinking funding from future utility tax revenue decline.

Alice and Supervisor Yeomans reported the DOR's unwillingness to share the assessed value of power plants and substations by which they calculate the utility tax formula for distribution to local units of government. There was discussion about the fact that Wisconsin has among the highest utility rates in the country. It was also noted Excel Energy just stated they made $38 million in profits in 2018. Separately, it was noted solar energy panels pay back after 25 years.

There was also discussion about what the word "infrastructure" and what it means to utilities. There was no real conclusion. The DOR continues to say information about utility value is proprietary even though they are a monopoly.

Supervisor Yeomans says counties have a right to see the breakdown of what is being assessed for gas, electricity, phones, and pipelines. Are the rates the DOR assesses the same or different? The PSC says they do a straight-line depreciation while the DOR assumes power plants have no residual value, even if they continue to generate energy. Supervisors said this is flawed thinking.

She said that the payment to local government remains static or decreasing because of the way net book values are calculated for power plants and substation (one unit—not broken down). The net book value is based on the length of the life of a plant, the residual value and not replacement value of the plant. Unless generation capacity of a plant is increased or additional assets are brought on line, there is no way for an increase to occur. The trajectory for state payments to local governments as a percent of gross revenues from exempt utilities is steadily declining Most recently it declined 17 %. There are other factors. Off grid power generation (businesses using solar, wind, biomass, waste products to generate site electricity), new electricity grids are managed regionally, instead of by each monopoly utility, future power generation is being located closer to sources of fuel and the demand for power is not projected to grow very rapidly,

Utilities are State taxes on the revenue of the power plant not the value of the production of energy. The law does not give any revenue to *local* governments for pipelines or telephone structures.

Municipalities and counties basically "get what you get" when the state decides to disburse funds. They call all the shots. The formula kicks in after the state decides what it will share under the utility tax. There have been 3 reductions in aid to counties since 2009. The main source of revenue for the state are the individual income tax, general sales and use tax and corporate income taxes and cigarette taxes.

LFB has said it would be hard for the DOR to come up with a value to allocate dollars based on pipelines going through a municipality. Telephones are already valued by a municipality and it generates about $64 million into the state. Each year there is state aid equalization. in 2004 local fiscal controls came in. Then in 2010 and 2012 cuts occurred.

Supervisor Yeoman said in a nutshell. Utilities don't pay a property tax, so counties have always had a payment in lieu of taxes for those plants and substations, and the pot of money isn't increasing even though the value of some of those power plants is.

**Speakers: Rick Olin, Senior Policy Advisor Legislative Fiscal Bureau – taxes and & Emma Drilias, LFB municipal taxes policy advisor. They explained:**

There are two types of property for aid payments. Gross receipts taxes (like WPS and WEPCO, MGE and others pay an ad valorem tax that dates back ot the 1850s. Valuation of units is difficult to break down because they are valued as one big unit. The value is how much does that utility contribute to its profit. This is difficult to measure. Telephone companies changed in 2000 to an ad valorem tax so it has over 100 different tax rates depending upon which municipality it is in.

If TELCO's used the 9-mil value by municipality, then applied an ad valorem rate, the question becomes how to value it.  Manufacturers have previously proposed that local units of government pay for fee to fund the costs for assessing.

It is Mr. Olin's sense that generating fees for energy are flat. As old plants have been retired and replaced with gas or co generating capabilities, plants are also torn down.
Capacities changed in 2011-2012 and incentive aid generated a new formula by 2003.
Utility aid was calculated as 9 mil rate times the net book value of the qualifying property. Production plant payments are based on $2000 per megawatt of production capacity.

Incentive payments were added if a new plant was based loaded, put next to an existing plant or in a brownfield.

He said, even though the value is based on $2000 per megawatt, costs have increased and this value has not since 2003. This might be a place for the WCUTA to seek a legislative change.  He said 9 mils rate also applies to substations and structures of power plants.

Supervisor Christiansen mentioned that someone is looking to generate wind in Jefferson County. The demarcation is that the wind must generate at least 50 megawatts of energy or higher to be considered an independent power producer and taxed at the 9 mil rate & *$2000/megawatt rate.*
I.e. RENEW ENERGY pays no taxes but if you own Utility owned, your own light, heat and power, state taxes *are paid.*

Said a different way, an Independent power producer designing a plant that produces less than 50 megawatts of plant capacity (gas, wind, solar, or geothermal) is not considered in the State formula for taxing revenue or for compensating local governments.  The wind farm proposal in Jefferson County mentioned by Supervisor Christiansen is planned to have a capacity of 45 megawatts.

Supervisors believe DOR is keeping too much revenue for the state by saying the utility tax is based on usage, not value.

Mr. Olin said that of the total $227 million collected in  with the 2017-2018 estimates for utility taxes, utility aid  under the 9 mil formula returned approximately $34, 893,426 million to counties,  (a .8% reduction from 2016-2017). Municipalities received $37,446,370 million (or a .9% reduction from the 2016-2017 year.

He said there is no correlation between what the state collects and what they return to counties. You get what you get. He thought the easiest way to try to capture more revenue for counties might be to change the megawatt dollar amount that has not changed since 2003. That would be easy to calculate and lawmakers would understand that.

Other possible suggestions were to look at taking a percent that would be established of all revneue collected under utility taxes and give that to counties. Another suggestion was to give counties the authority to add to your own property taxes. Or to charge a user fee for example when new pipelines are laid.

It was suggested that a meeting be scheduled with Mark O'Connell and Kyle Christiansen before the next regularly scheduled board meeting to see if the WCA would have any interest in pursuing this as a legislative priority in 2019. Dates in June will be identified then shared with the full board. The meeting will be held at the WCA. It was suggested to avoid the last week of June.

**SPEAKER: Curt Witynski League of Municipalities discussed the impact of dark store legislation failure to pass in the 2017-2018 session.**

Mr. Witynski shared a chart showing how the assessed value of closed retail stores was lower than what the stores actually sold for. He said closing the loop hole came after a court decision that was first used by Meiijers and Menards, Target, Lowes and Home Depot. He said they had 84 co-sponsors on their dark store legislation. That proposed to close the loop hole and look at comparable values of stores in non-hot markets. It became a chess game. Big box stores lobbied hard to keep the loophole. The Assembly leadership then dodged a tough vote by saying, let the Senate pass it first, then we will take it up. At the end a compromise was presented to the League who was not involved in developing it and they said, No, it was worse than current law.

Since the failure of this bill the bigger question being asked is what is the best way to fun local government? It is possibly there will be a Legislative Study Committee on dark stores. Mark Wadium said Outagamie County plans to have an advisory referendum on this issue in November. Other counties may do the same. Counties and cities feel they are paying for services for these stores who are getting a free pass (fire, EMS, police, emergency management, etc.) for local services.

**Other business**

From the March 16th meeting ATC said by June 2018, ATC will provide the location and value of its equipment and all depreciable assets to DOR. He was asked if ATC could depreciate its equipment down to zero. He is going to get the answer.

**The next meeting date** was not set. It will be set after the meeting takes place with the WCA, projected to occur sometime in June.

**The meeting adjourned** at 1:00 pm on a motion by Supervisor Hoffman, seconded by Supervisor Goehring.

Minutes Prepared by M. Alice O'Connor