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Electric Utilities: Taxation and Retail Restructuring

This publication reports how different states tax electric utilities and if, and how, they are restructuring the electric utility industry to allow retail competition.

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Introduction

State Taxation of Electric Utilities and Retail Electric Restructuring

Currently in Minnesota and elsewhere around the country, there is an ongoing debate as to whether to restructure or "deregulate" the retail electric industry. Traditionally, retail electric service has been provided by a retail electric utility with a monopoly within a geographic area, known as a service territory. The retail electric utility provides electric generation, transmission, distribution, and related services, all for a single bundled price. In the past several years, some have suggested that the electric industry should be restructured to allow competition in the retail market for the electric generation component and other related services such as electric billing and metering.[1] Distribution and transmission services would continue to be provided by a retail electric utility with a regulated monopoly within a given service territory.

As of **February 2000**, almost half of the states in the country have restructured their electric industries by authorizing retail competition for electric generation service and in some cases for electric billing and metering services as well. Almost all the remaining states, including Minnesota, are actively considering whether to restructure their electric utilities to allow retail competition.

The question of whether and how to restructure the electric industry to allow retail competition involves many important and complex issues.[2] One of those issues is how taxation of electric generation facilities will affect a competitive retail market for electric generation.

This report presents information relevant to that issue. Part I covers state taxation of electric utilities. Part II covers the status of restructuring of the electric utility industry.

The primary purpose of this report is to be a reference document of state tax policies on electric utilities and the status of retail electric restructuring as of **February 2000**. Although all tax types are discussed, its emphasis is on the property tax. It does not analyze the total tax burden of electric utilities in the various states included in the document or make any tax policy recommendations.

State Survey

The information in this report is current as of **February 2000**, although significant changes made by any state after that date (of which we are aware) are noted in the report.

The taxation information was obtained through a multi-state survey conducted over the course of approximately two years. In the summer of 1998, a survey was sent to the revenue departments of the

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[1] Competition has already been authorized in the market for wholesale sales of electricity.

[2] For more information on issues relating to electric restructuring, see the House Research Information Brief "Restructuring the Electric Industry," January 1997.

various states included in the report. The results of the survey were then compiled into a tabular format. In the fall of 1999 a rough draft of the taxation tables was sent to the survey respondents for review, correction, and updating. The tables incorporate any changes and updates provided by survey respondents. Appendix C contains a listing of the survey respondents in each state along with their telephone numbers and e-mail addresses.

State Taxation of Electric Utilities

The report provides legislators and others with information on:

1) how various states tax electric utilities; and
2) changes in utility taxation relating to or resulting from electric restructuring.

Because the issue of taxation of electric utilities is an important issue relating to the broader question of whether and how to restructure the retail electric industry, this report focuses on the tax policies of the 22 states which have authorized restructuring of their retail electric industries as of **February 2000**.

The report also focuses on the tax policies of Minnesota and its neighboring states, even though none have authorized retail electric competition to date. These states are included in the report because the different tax policies of Minnesota and its surrounding states can effect decisions as to where or whether to build new electric generation power plants.[3] The effect of tax policy on the decision to build new facilities is particularly important because it is estimated that after 2005, Minnesota and its region may not have enough generation capacity to meet the demand unless additional facilities are built beyond those already planned. Additionally, information regarding the tax policies of surrounding states is an important consideration in determining whether to change Minnesota's tax policies, if Minnesota decides to restructure the retail electric industry.

This report presents taxation information in a tabular format on:

- property taxes;
- sales and use taxes;
- gross receipts taxes; and
- corporate income/franchise taxes applicable to electric utilities.

It also includes a review of the property taxation of electric utilities in Minnesota, and some additional information on the electric utility tax structures in our neighboring states.

Appendix B contains a review of Iowa's and Wisconsin's electric utility tax structures. Wisconsin changed from a property tax based system to a gross revenues license fee in the mid-1980s. Whereas, Iowa enacted a new electric utility tax structure effective January 1999.

[3] The pressure put on legislators in Minnesota to exempt from property taxation, attached machinery and other personal property of any potential *new* facilities in Minnesota provides evidence of the effect on plant location (see discussion of this on pages 6 to 9).

The report does not include the following:

- fees assessed by electric utility regulatory commissions to cover commission regulatory costs; or
- franchise fees imposed by municipalities for use of rights-of-way.

Retail Electric Restructuring and Rate Information

In addition to the information regarding electric utility taxation, the report presents information on the status of retail electric restructuring in each state in the country as of **February 2000**. It categorizes the states based on their restructuring status into three categories:

I. those that have authorized and begun implementation of retail electric restructuring;

II. those that have authorized restructuring but have not yet begun implementation; and

III. those that have not yet authorized restructuring.

It also presents the retail electric rates in each state as of **1998** broken down into residential, commercial, industrial, and average all-sector rates. The map containing the average all-sector electric rates is combined with the restructuring status of the states. Those rates are shown on U.S. maps for ease of regional comparisons.

Glossary

A glossary of the various terms dealing both with electric restructuring and taxation is included in Appendix A.

Property Taxation of Electric Utilities in Minnesota

Types of Utilities

Minnesota has three basic types of retail electric utilities. Varying ownership and regulatory structures apply to each type.

- Investor-owned (IOUs) are private, for-profit corporations whose rates are regulated by the Minnesota Public Utilities Commission (PUC).
- Rural electric associations (CO-OPs) are nonprofit organizations whose rates are overseen by a board composed of CO-OP members.
- Municipal utilities (Munis) are public, nonprofit utilities overseen by local public utilities commissions or city councils.

In addition to these types of retail electric utilities, there are also some power producers which generate electricity for sale only at wholesale. For purposes of this report relating to taxation, the terms "electric utility" and "utility" include both retail electric utilities and wholesale power producers.

Utility Valuations

Utilities are generally taxable in Minnesota, except in the case of municipal utilities which are exempt because they are governmental entities.[4] Municipal Power Agencies, which are entities that provide power to retail municipal utilities, are also exempt from property tax but pay "to each taxing authority within whose taxing jurisdiction its property is situated, in lieu of taxes on its property, the amounts of the taxes which would be payable if its property were owned by a private person." Currently three of these entities exist and are subject to this provision.

Utilities are valued and assessed under a "dual" system. Local assessors value all offices, garages, warehouses, and land, all of which are not part of the utility's "operating property." The Commissioner of Revenue values the property that constitutes the utility's operating property using the unit value system. The "unit value" method estimates the market value for the entity as an integrated whole, rather than valuing each part and parcel separately.

In general, there are three approaches to valuing property—cost, income, and sales. Cost and income are

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[4] Minn. Stat. § 453.54, subd. 20. Although Munis are not required by law to make payments in lieu of property taxes, many of them do make contributions (monetary and otherwise) primarily to their host city.

the two approaches used by Department of Revenue (DOR) in determining the unit value of the IOUs. Sales are considered, but are not used due to lack of data and other concerns. In determining market value for CO-OPs, cost is the only factor used.[5]

Property Tax

After the Commissioner of Revenue has determined the market value of the utility's operating property, that value is then allocated to the taxing districts where the property is located.[6] Since Minnesota has a classified property tax system, the county auditor applies the appropriate class rates to its market value. A listing of the five major property classes by type of property and their respective class rates for taxes payable in 2000 is shown in the table below.[7] These class rates apply statewide and are set by the legislature in statute.

Class Rate Schedule – Major Property Types by Class
Taxes Payable 2000

Class	Property Type	Class Rate
1	Residential homestead	
	<$76,000 market value	1.00%
	>$76,000 market value	1.65
2	Agricultural homestead (excluding house, garage, and 1 acre)	
	Agricultural land and buildings	
	<$115,000 market value	0.35
	$115,000 - $600,000 (no acreage limit)	0.80
	>$600,000 (no acreage limit)	1.20
	Agricultural non-homestead	1.20
3	Commercial/industrial/utility	
	Land and buildings	
	<$150,000 market value	2.40
	>$150,000 market value	3.40
	Utility attached machinery	3.40
	Transmission and distribution lines	3.40
4	Market-rate apartments (4 or more units)	2.40
	Seasonal recreational residential (e.g., cabins)	
	<$76,000 market value	1.20
	>$76,000 market value	1.65
5	Unmined iron ore and low grade ore	3.40

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[5] Cost is also used as the factor in determining the market value of Municipal Power Agencies.

[6] If the utility is located in more than one state, this allocation is done after the apportionment to Minnesota is made.

[7] The table is a very abbreviated listing of the class rates. There are numerous sub-classes of property and minor exceptions within the five major classes.

As shown in the table, the first $150,000 market value of utility land and buildings is at 2.4 percent and the market value over $150,000 is at 3.4 percent. Property of transmission and distribution lines and attached machinery receive the 3.4 percent class rate.[8] After the appropriate class rate is applied, the result is the utility's net tax capacity. Net tax capacity times the total local tax rate (i.e., the county, city/town, school district, and special taxing districts) yields its property tax.

For property taxes payable in 1999, the statewide market value and estimated property tax for utility property is listed in the table below.

Breakdown of Statewide Utility Market Value and Property Taxes, Taxes Payable in 1999[9]
(all figures in millions)

	Final Payable 1999			
	Market Value Amount	Market Value %	Net Tax Amount	Net Tax %
Land and buildings	$728	12.2%	$32.30	11.8
Electric generation machinery	1,561	26.2	67.80	24.8
Other machinery	976	16.3	44.60	16.3
Pipelines and transmission lines	2,708	45.3	128.90	47.1
Total	$5,972	100.0%	$273.60	100.0

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Exemptions

In Minnesota utility property attached machinery is taxable.[10, 11, 12] In recent years, the legislature has granted many property tax exemptions for attached machinery and other personal property for newly constructed facilities. These exemptions have been adopted in response to requests from companies proposing to build new electric generating plants in Minnesota. They argue that they will build in

[8] A utility is allowed to receive the 2.4 percent class rate (up to the $150,000 market value limit) on one property per county.

[9] The market value and taxes in this table are for all utilities—electric, gas, water, etc. Due to data constraints, it is not easy to separate the values and taxes by type of utility by type of property. However, in total, electric utilities constitute about 72 percent of the total value of all utility property.

[10] Personal property of commercial and industrial businesses is exempt.

[11] Companies in Minnesota which generate electric power for their own use, and not for resale, are exempt from taxation on the personal property used to generate the power. Minn. Stat. § 272.027 (Supp. 1999).

[12] Personal property used primarily for the abatement and control of air, water, or land pollution is exempt from property tax. Minn. Stat. § 272.01, subd. 10.

neighboring states with lower or no property tax on attached machinery if the tax on attached machinery is not exempted. With the potential for electric restructuring looming on the horizon, Minnesota's taxation of attached machinery and other personal property is an issue.[13]

The following list is a brief summary of the exemptions which have been enacted.

1) **L.S. Power Plant.** Exempted attached machinery and other personal property that was part of a facility containing a cogeneration system that used natural gas as a primary fuel. This exemption was for a specific generating plant and it was required that the plant be constructed before July 1, 1997. (Laws 1994, ch. 513.)

2) **Market Value Exclusion for Electric Power Generation Efficiency; Cogeneration.** Exemption for facility that produces electricity at very high efficiency levels and which has significantly lower pollution emissions than conventional power production facilities. It provides for a subtraction equal to 5 percent of market value of qualifying property for each percentage point that the facility is operating above 35 percent efficiency. Although this is a general exemption, it was designed for a specific company (Koch Refinery) and its required efficiency level could not be met by any existing power production facilities in Minnesota. (Laws 1996, ch. 444.)

3) **Wind energy conversion systems.** The property of wind energy conversion systems is taxable and/or exempt based on size. This law pertains to all systems installed after January 1, 1991. (Minn. Stat. § 272.02, subd. 22.) The table below summarizes the tax status of each.

Taxation of Wind Energy Conversion Systems

Size of System	Land	Foundations and Support Pads	Structures	Turbines, Blades, Transformers, and Equipment
Small (less than 2 megawatts)	Taxable	Exempt	Exempt	Exempt
Medium (more than 2 megawatts, but less than 12 megawatts)	Taxable	Taxable	Exempt for 5 years; 30% taxable thereafter	Exempt
Large (more than 12 megawatts)	Taxable	25% taxable	25% taxable	25% taxable

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Currently there are nine utility wind energy projects in the state. Three of them are categorized small scale, three are medium scale, and three are large scale. Eight of them are located in southwest Minnesota (counties of Lincoln, Lyon, Pipestone, and Murry).

[13] It is assumed by most persons that transmission and distribution lines should remain taxable, even if electric restructuring occurs, because transmission and distribution will not be subject to competition.

One is in Clay County (city of Moorhead). The total 1999 estimated market value of wind energy conversion systems that has been exempted is about $92 million.

4) **Biomass Facility, Wood Waste.** Exempts from property taxation the attached machinery and other personal property, excluding transmission and distribution lines, that is part of a system that generates biomass electric energy and satisfies a statutory mandate in section 216B.2424, in whole or in part, or a system which produces energy using waste wood.

The governing bodies of the county, city/town, and school district must each approve, by resolution, the personal property exemption. Approval may be rescinded by a later referendum if a petition is signed by 10 percent of the voters in the county voting in the last general election. As of the current date, there are no facilities that qualify for this exemption. Any property exempted under this provision will be limited to a maximum of five assessment years, beginning with the assessment year immediately following when the personal property is put into operation. (Laws 1997, ch. 231, art. 2, sec. 8.)

5) **St. Louis County; utility personal property exemption.** Exempts the value of attached machinery and other personal property that is installed after July 1, 1997, that is part of an electric generating facility with a capacity of 110,000 kilowatts, is located in St. Louis County, and whose operation is integral to the development and operation of a new, adjacent industrial park. This exemption was enacted specifically for the Laskin Plant, owned by Minnesota Power, located in Hoyt Lakes.

The governing bodies of the county, city/town, and school district must each approve, by resolution, the personal property exemption. Approval may be rescinded by a later referendum if a petition is signed by at least 10 percent of the number of persons voting in the county in the last general election. Exemption may not exceed five years beginning with the assessment year immediately following when the property is put in operation, and expires thereafter. If the industrial park is not built by July 1, 2001, this exemption expires. (Laws 1997, ch. 231, art. 2, sec. 57.)

6) **Electric utility peaking facility.** Exempts from property tax an electric utility peaking facility proposed to be constructed in Martin County by NRG and Great River Energy that is part of a simple-cycle combustion-turbine electric generation facility that exceeds 250 megawatts of installed capacity that meets certain specified criteria.

Construction of the facility must begin after July 1, 1999, and before July 1, 2003. The exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility. (Laws 1999, ch. 243, art. 5, sec. 3.)

7) **Continued exemption for privately owned electric generation property sold to a utility.** Exempts tools, implements, and machinery of an electric generating facility if the electric generating facility was operational and met the requirements for exemption of personal property on January 2, 1999; and the generating facility is sold to a Minnesota electric utility. This was enacted for a plant proposed to be sold to Minnesota Power. Also exempts tools, implements, and machinery that increase the generation capacity of the facility. (Laws 1999, ch. 243, art. 5, sec. 4.)

8) **Exemption for electric power plant personal property; taconite and steel mill.** Exempts tools, implements, and machinery of an electric generating facility if the electric generating facility, when completed, will have a capacity of at least 450 megawatts; the electric generating facility is adjacent to a taconite mine direct-reduction steel mill; and the electric generating facility supplied over 60 percent of its electricity generated in the prior year to the adjacent direct-reduction plant and steel mill. (Laws 1999, ch. 243, art. 5, sec 4.)

9) **Electric utility peaking facility.** Exempts from property tax an electric utility peaking facility proposed to be constructed in Mower County by Great River Energy provided it meets specific requirements. Provides that attached machinery and other personal property that is part of a simple-cycle combustion-turbine electric generation facility that exceeds 250 megawatts of installed capacity is exempt from property taxation if it meets certain criteria.

Construction of the facility must begin after January 1, 2000, and before January 1, 2004. The exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility. It must be designed to provide peaking, emergency backup, or contingency services, and has received a certificate of need demonstrating demand for its capacity. (Laws 2000, ch. 490, art. 5, sec. 4.)

In addition to the above exemptions, Minnesota also exempts some energy and pollution control property from property tax. The following is a list of the 1999 estimated market value exempted for these property types under Minnesota Statutes, section 272.02, subdivisions 10, 24, 41, and 43.

1999 Estimated Market Value
(in millions)

Type of property	Market value
Pollution control property	
Buildings	$100.0
Equipment	428.7
Photovoltaic devices	.3
Pollution abatement from refuse-derived fuel	31.7
Total exemption	**$560.7**

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Part I: Electric Utility Taxes

This section contains five tables of tax information on states which have authorized retail restructuring, as well as Minnesota and its surrounding states, which have not yet authorized any retail restructuring. They are:

- Property tax
- Property tax comparisons of Minnesota and surrounding states—map and description
- Summary of other taxes
- Gross receipts tax
- Sales and use taxes
- Corporate income or franchise taxes

The states are listed in alphabetical order within each table. Each state is also identified with a roman numeral (I, II, or III) categorizing the state based on its restructuring status. The three categories are:

I. Those that have authorized and begun implementation of retail electric restructuring;

II. Those that have authorized restructuring but have not yet begun implementation; and

III. Those that have not yet authorized restructuring. (The only states included are those states which are geographically close to Minnesota.)

This section also contains a map and additional information on property taxes and in-lieu-of taxes in Minnesota and its surrounding states.

Property Tax - Electric Utilities

State	Electric utility property valuation (state or local level)	Modifications to property tax system due to electric utility restructuring	Taxable Property			
			Nonutility		Utility	
			Manufacturing Machinery	Furniture and Fixtures	Transmission and delivery poles, wires, attachments	Machinery in generating plants and substations
Minnesota (III)	State level (using unit values); land and some structures are valued by local assessors	n/a[14]	No	No	Yes	Yes
Arizona (I)	State level (using unit valuation)	None	Yes	Yes	Yes	Yes
Arkansas (II)	State level (using unit valuation but not a uniform formula of weighting indicators of value)	None	Yes	Yes	Yes	Yes
California (I)	State level (using unit and fair market value principles)	Any electric power plant that does not hold a certificate of public convenience and necessity will be locally assessed.	Yes	Yes	Yes	Yes
Connecticut (I)	Local level	See taxes in lieu	Yes	Yes	Yes	Yes
Delaware (I)[15]	Local level	None	No	No	Yes	No

[14] n/a applies where the state has not yet passed electric restructuring legislation.

[15] Information relating to Delaware's county-level real property taxes was obtained during conversations with Delaware Division of Revenue staff and county-level assessors.

Property Tax Exemptions	Valuation differences between co-ops and IOUs	Property Classification System?	Assessment/ sales ratio study applied to utility property?	Payments in lieu of taxes?
Municipals are exempt; also pollution control devices; inventory; fuel; vehicles, farm lines, tools; materials and supplies	IOU's: unit value formula; Co-ops: Effective 1/1/2000, may elect either unit value or cost less 2.5% per year depreciation to total depreciation of 25%	Yes, state has classified system	Yes, real property only	Electric co-ops pay a Membership Tax of $0.10 per member in lieu of property tax on co-op distribution lines outside city limits.
None	IOUs: Statutorily mandated cost less depreciation Co-ops: Standard appraisal methods.	Yes, utilities are class 2; commercial/ industrial is class 3 The assessment ratio is the same for both classes–25%	No	In lieu of property taxes, electric districts may make contributions to the state and to municipalities which levy property taxes. The Dept. of Revenue will determine full cash value of all properties related to generation, transmission, and distribution. County assessors will compute gross contribution to be made.[16]
Property owned by government entities (municipalities etc) used for a public purpose	None	No	No	An electric utility owned by a municipality can make payments in lieu of taxes to a school district for loss of taxes resulting from possible tax-exempt status.
Municipal electric utilities (provided property is within its designated boundaries)	None	No	No	No
§12-81v of the Connecticut General Statutes allows towns to abate the property taxes of certain co-ops	None	No	No	A partial payment in lieu (PILOT) is remitted to a municipality that is the location of an electric generation facility which sees its value decrease as a direct result of electric industry restructuring.[17]
None	None	Yes, utility property is a separate class, but all classes pay the same rate[18]	None	None

[16] The gross contribution is based upon valuation determined by DOR and the method of assessment applied to properties of like character and devoted to the same use in the county for the current taxable year. [§48 - 242]

[17] The PILOT is payable for ten years beginning the year in which the valuation decrease occurs, but not later than October 1, 2005. The PILOT equals 90 percent of a municipality's net property tax loss in the first year, and declines by 10 percent per year. Payments are calculated by the State of Connecticut but remitted by electric distribution facilities. [§12-94d of the Connecticut General Statutes]

[18] Depending on what county the property is located in, the rate is 50 percent, 60 percent, or 100 percent of assessed market value.

Property Tax - Electric Utilities (continued)

State	Electric utility property valuation (state or local level)	Modifications to property tax system due to electric utility restructuring	Taxable Property: Nonutility: Manufacturing Machinery	Taxable Property: Nonutility: Furniture and Fixtures	Taxable Property: Utility: Transmission and delivery poles, wires, attachments	Taxable Property: Utility: Machinery in generating plants and substations
Illinois (I)[19]	Local level	None	Yes	No	No (transmission poles, wires, attachments exempt from property tax)	Yes–when it is classified as real property[20]
Iowa (III)	State level (using unit valuation and uniform formula of weighting indicators of value)	In 1998, the state abolished property taxes on electric companies and enacted replacement excise taxes on generation, transmission, and distribution of electricity.[21] In addition, operating property is subject to a new statewide property tax of $0.03 per $1,000 of assessed value.[22]	No (phase-out by 2002)	No	Yes, before SF 2416 No, after SF 2416	Yes, before SF 2416 No, after SF 2416
Maine (I)	Local level, although the state prepares valuation guidelines which local taxing bodies may choose to employ	Still uncertain. As generation assets are sold off, the economic obsolescence, or depreciation, previously allowed due to rate base limitation on earnings may be reduced or eliminated.[23]	Yes	Yes	Yes	Yes

[19] Some information about Illinois' property tax changes was obtained during conversations with Illinois Department of Revenue policy research staff.

[20] Personal property taxes on business were eliminated in 1970, and at that time any property which was locally assessed as being personal property was exempted from taxation. New attached property is assessed according to the local determinations made in 1970. Because the determination was made at the local level, there is no uniformity, so some attached machinery is real property while some is personal property.

[21] Iowa Code, chapter 437A, was effective beginning January 1999, although Iowa to date has not restructured its electric utility industry. SF 2420, which passed during the 2000 session, contained many administrative and enforcement provisions related to the 1998 law, but made no significant changes to its tax rates or basic structure.

[22] Some supplemental information about changes related to Iowa's property taxes was obtained via outside research and conversations with Iowa Department of Revenue and Finance staff.

[23] Although the state probably will institute changes, decisions as to the extent of any reduction or elimination remain undetermined, in part because the manner in which sell-offs occur continues to change. [Per conversations with Maine Revenue Services property tax specialists.]

Property Tax Exemptions	Valuation differences between co-ops and IOUs	Property Classification System?	Assessment/ sales ratio study applied to utility property?	Payments in lieu of taxes?
None	None	No (except in Cook County)	Yes, real property only	Electric Distribution Tax: 7-tiered tax on kWh, collected for local taxing districts to replace personal property tax. (See sales tax section)
Pollution control equipment	Rural electric co-ops are assessed at 25% of cost for rural distribution facilities and at 100% of cost for urban distribution facilities. Transmission facilities are assessed at depreciated costs.	Yes, utility real estate is a separate class from commercial/ industrial. But only minimal property tax is imposed (see modifications to property tax).	No	The utility replacement tax is in lieu of a former property tax for the electric industry. (See modifications to property tax)
None	Earnings limitations on co-ops generally warrant economic obsolescence to account for governmental regulation of public utility operation.	No	Yes, real property only	No

Property Tax - Electric Utilities (continued)

State	Electric utility property valuation (state or local level)	Modifications to property tax system due to electric utility restructuring	Taxable Property: Nonutility: Manufacturing Machinery	Taxable Property: Nonutility: Furniture and Fixtures	Taxable Property: Utility: Transmission and delivery poles, wires, attachments	Taxable Property: Utility: Machinery in generating plants and substations
Maryland (II)	State level (using unit valuation)	Poles, lines, cables, towers reclassified as personal property. Beginning July 1, 2001, 50% of personal property that is machinery or equipment used to generate electricity is exempt. From July 1, 2000, through June 30, 2001, 25% of such property is exempt.[24] (Also see taxes in lieu)	No	Yes (local level only)	Yes	Yes
Massachusetts (I)	Local level	Amended law to specifically make taxable all property used in the manufacture or generation of electricity.[25] Transition relief provided to communities with devalued generating facility property through payments in lieu of tax. (See taxes in lieu)	Depends on form of ownership	Depends on form of ownership	Yes, but most of this property has or will be sold to nonutilities	Yes, but most of this property has or will be sold to nonutilities
Michigan (III)	Local level (all real and tangible personal property not expressly exempted by law)	n/a	Yes	Yes	Yes	Yes

[24] See Chapters 5 and 6, Laws of 1999.

[25] Prior to restructuring, the law exempted from tax all property (except real estate, poles, and underground conduits, wires, and pipes) owned by a corporation classified as a manufacturing corporation. [Massachusetts G.L. c. 59, §5, cl. 16(3)]

Property Tax Exemptions	Valuation differences between co-ops and IOUs	Property Classification System?	Assessment/ sales ratio study applied to utility property?	Payments in lieu of taxes?
50% of personal property used to generate electricity is exempt. From July 1, 2000, through June 30, 2001, 25% of such property is exempt.[24]	None	Yes (real property is assessed at 40% of value, except real property for utilities is assessed at 100% of value.)	No	To offset property tax revenues lost at the local level due to exemptions created under restructuring, the state will reimburse counties in part, beginning July 1, 2001.[26] Several corporate income-related taxes were instituted partly to account for lost property tax revenue: A gross receipts tax (see gross receipts tax table); income tax imposed on profits; and a per kWh tax on electricity delivered.[27]
1) Certain pollution control property; 2) property of co-generation facility; 3) property used in the manufacture or generation of electricity of a corporation that has received a manufacturing classification effective on or before January 1, 1996. The property must have been owned by such corporation as of January 1, 1996.	There are currently no electric co-ops equivalent to investor-owned utilities. They are specifically authorized under the new restructuring law.	Yes–personal property is in a class separate from commercial/ industrial real property (includes electric company property). Personal property is taxed at the industrial property rate, which varies between communities.	No	An electric company that generates electricity, a distribution company entitled to transition (stranded) costs, or a generation company which has its generation facility property devalued for property tax purposes, must make transition payments to the municipality in which it is located. These payments are in addition to the property tax the owner pays on its generation facility property. The period for transition payments is FY98 to FY09.[28]
Pollution control facilities	Each co-op distribution system is given an economic allowance to recognize the difference in population density between areas served by co-ops and IOUs (co-ops serve fewer customers per mile than do IOUs).	Yes–utility personal property is a separate class. Utility real estate is not separate from commercial/ industrial. Property assessed at 50% of true cash value.[29]	Yes, real and personal property	No

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26 During the fiscal year beginning July 1, 2000, reimbursement rates will be 50 percent of those set to begin July 1, 2001.

27 Some information about tax changes obtained during conversations with Maryland Department of Assessment and Taxation staff.

28 Payments may either follow schedule set forth in statute or result from good faith negotiations for agreement for payments in lieu of tax. Such agreement is the equivalent of the property tax obligation based on full and fair case valuation. Any PILOT is translated into a value and maintained as part of the tax base for levy and classification purposes. [Massachusetts G.L. c. 59, §38H]

29 Multiplier schedules are used to arrive at true cash value. Local and county valuations are equalized by class each year.

Property Tax - Electric Utilities (continued)

State	Electric utility property valuation (state or local level)	Modifications to property tax system due to electric utility restructuring	Taxable Property			
			Nonutility		Utility	
			Manufacturing Machinery	Furniture and Fixtures	Transmission and delivery poles, wires, attachments	Machinery in generating plants and substations
Montana (I)	State level (using unit valuation), although potential exists for local assessment of generation property (See modifications to property tax)	Passage of HB 174 in 1999 created a new class of property, generation property, which is in a different class from other electric utility property.[30]	Yes	Yes	Yes	Yes
Nevada (II)	State level (using unit valuation)[31]	To address concerns about sell-offs to third parties in a single system with multiple electric utility operators, property previously assessed at the state level still will be assessed at that level.[32]	Yes	Yes	Yes	Yes
New Hampshire (II)	State level[33] (using unit valuation and a uniform formula of weighting indicators of value)[34]	None	No	No	Yes	Yes
New Jersey (I)	Local level	Electric utility contributions to the property tax relief fund derived from sales and corporate taxes (gross receipts repealed)	No	No	No	No

30 Generation property is taxed at 6 percent of value, other electric utility property is taxed at 12 percent.

31 Unless the operating property is not interstate/intercounty in nature, then local assessor values the property.

32 If two or more companies perform separate functions collectively needed to deliver electricity services, the property used in performing the functions will be centrally assessed if at least one company is operating interstate/intercounty. [NRS 361.320(5)]

33 Values are made available to localities that request them, but localities are free to use other appraisals.

34 State appraises a variety of utility property and taxes those utilities based on the appraised values at the rate of $6.60 per $1,000 of valuation. Tax proceeds are redistributed to the municipalities to fund the cost of an adequate public school education as set by the state. Municipalities are free to tax utility property in their jurisdiction for anything considered above state's value for cost of an adequate education.

Property Tax Exemptions	Valuation differences between co-ops and IOUs	Property Classification System?	Assessment/ sales ratio study applied to utility property?	Payments in lieu of taxes?
None	None	Yes–utility real estate is separate from commercial/ industrial.[35] Generation property is a separate class from other electric utility property and is assessed at 6%, versus 12% for other electric property.[36]	No	In 1999, HB 174 created a new wholesale energy transaction tax which, while not in lieu of property tax, replaces lost revenue due to a reduced tax rate for generation property. The new tax is imposed at a rate of 0.015 cents per kWh of electricity transmitted, including electricity generated or sold in Montana but not electricity passing through the state.
Property used in pollution control; vehicles; business inventories and consumables; and intangible personal property (per 1999 legislation)	Since it is difficult to establish accurate capitalization rates for co-ops, more reliance placed on cost indicator than income indicator of value.	Yes[37]	No	No
Property related to water and air pollution control, the value of which is approved and verified by the state's Department of Environmental Services (per 1999 legislation).	None	No	Yes, for real property only	Prior to 1997, municipalities could enter agreements with local power producers for payment in lieu of taxes. Any agreements in place when the law was repealed in 1997 can continue for the time remaining.
Utilities may be eligible for exemptions and abatements on improvements and new construction of real property under general real property laws. Local municipality must approve ordinance.	None	All real property valued at same rates–no entity differentiation (No personal property)	Yes, real property only	Ad valorem taxation is prohibited. The state tax collections from certain utility activities are deposited in a tax relief fund, which is then distributed back to the municipalities where personalty is located. (See modifications)

[35] Montana has 12 property classes with subclasses and different assessment rates, often within each class. Assessment rates vary from 0.79 percent for forest land to 100 percent for net proceeds of mines and mining claims (excluding coal and metal mines).

[36] Co-ops taxed at 3 percent of value.

[37] The rates are the same for all property–there is only a de facto classification from the standpoint that unit valuation using all approaches to value are applied to public utilities, whereas residential and locally assessed commercial is limited to a calculation of new replacement cost less depreciation.

Property Tax - Electric Utilities (continued)

State	Electric utility property valuation (state or local level)	Modifications to property tax system due to electric utility restructuring	Taxable Property			
			Nonutility		Utility	
			Manufacturing Machinery	Furniture and Fixtures	Transmission and delivery poles, wires, attachments	Machinery in generating plants and substations
New Mexico (II)	State level	None to date (law recently passed)	Yes	Yes	Yes	Yes
New York (I)[38]	Local level, with some exceptions[39]	None	No	No	Yes	Yes
North Dakota (III)[40]	State level (using unit valuation but not a uniform formula of weighting indicators of value), with exception of land that is operating property of a rural electric co-op, which is valued locally.	n/a	No	No	Yes	Yes

38 In May 2000, New York passed a law, Chapter 63, which has a minor effect on property tax of electric utilities. The information in this report is current only as of **February 2000**, and therefore does not incorporate the May 2000 changes.

39 State values property only for equalization purposes. Poles, cable wire, conduit located in the public right-of-way valued by state.

40 Some information about North Dakota property taxes and taxes in lieu was obtained during conversations with North Dakota State Tax Commission Office staff.

Property Tax Exemptions	Valuation differences between co-ops and IOUs	Property Classification System?	Assessment/ sales ratio study applied to utility property?	Payments in lieu of taxes?
50% of construction work in progress; licensed vehicles	None	No, only residential and nonresidential (The assessment ratio for both classes is 33.3%.)	No	Apply to properties owned by local governments and located within a 5-mile radius of that locality
Pollution control equipment	None	Generally no; only New York City and Nassau County have separate classes of property for utility personal property and a class for utility real estate separate from commercial/industrial.	Yes, for valuation of real property located in public right-of-way (state assessed). Also for apportioning school and county taxes and education aid (all property types).	No
Vehicles licensed in North Dakota (license is in lieu of property tax)	IOUs are valued by the unit method for ad valorem taxation. In contrast, rural electric co-ops pay a 2% gross receipts tax in lieu of property tax on all operating property except land. (See gross receipts tax table)	Yes–all real and personal utility property is in a single class separate from commercial real property. For both classes, assessed value is 50% of true and full, and taxable value is 10% of assessed. Commercial personal property is exempt.	No	All coal-fired generating plants meeting specified minimum capacity pay a coal conversion facility privilege tax in lieu of property tax. Rural electric co-ops pay a gross receipts tax (see valuation differences) and an annual tax of $225 per mile on transmission lines of 230 kv or larger in lieu of property taxes on all operating property, except land.

Property Tax - Electric Utilities (continued)

State	Electric utility property valuation (state or local level)	Modifications to property tax system due to electric utility restructuring	Taxable Property			
			Nonutility		Utility	
			Manufacturing Machinery	Furniture and Fixtures	Transmission and delivery poles, wires, attachments	Machinery in generating plants and substations
Ohio (II)	State level (using uniform formula of weighting indicators of value).[41] Real property is valued locally by county auditor.	Starting tax year 2001, the assessment rate imposed on personal property is reduced to 25% for most personal property.[42, 43] Only transmission and distribution personal property remains unchanged, and is assessed at 88%. Apportionment of personal property will be changed to situs; all generation property to location.	Yes	Yes	Yes	Yes
Oklahoma (II)	State level (uses unit valuation and a uniform formula of weighting indicators of value)	None	Yes	Yes	Yes	Yes
Oregon (II)	State level (using unit valuation but not a uniform formula of weighting indicators of value)[44]	None[45]	Yes	Yes	Yes[45]	Yes[45]

41 Ohio does not use a unitary appraisal valuation methodology to value electric company property. Electric company property is valued at book cost less allowances (for depreciation and obsolescence).

42 This rate now equals the assessment rate imposed on general business personal property.

43 Assessment rate for generation property was reduced from 100 percent, and assessment rate for all other property reduced from 88 percent. Instead of using the current 50 percent of cost valuation methodology, generation property purchased, transferred, or put into service after the effective date of the bill (October 5, 1999) is valued at cost less annual allowances.

44 Because a headquarters office building of one large investor-owned utility is leased, it is locally assessed.

45 Oregon has only just begun to address restructuring.

Property Tax Exemptions	Valuation differences between co-ops and IOUs	Property Classification System?	Assessment/ sales ratio study applied to utility property?	Payments in lieu of taxes?
Pollution control, AFUDC (capitalized interest), construction-in-process, licenced motor vehicles. Property must "be used in business" to be taxable.	Under current law, all rural electric personal property valued at 50% of cost with a 50% assessment rate.	All real property taxes, including public utility real property, are calculated using a reduced rate.[46] All personal property taxes, including public utility personal property, are calculated using the full rate. (See modifications to property tax for changes)	No (assessment sales ratio studies are conducted for non-utility real property only)	None in lieu of property tax
Motor vehicles that are tagged in Oklahoma	Co-ops pay gross receipts tax in lieu of property tax. (See gross receipts tax table)	Essentially, two classes: property valued locally and property valued at state level. Public service corporation property is state-valued and assessed at 22.8%.	No	For rural electric co-ops (See gross receipts tax table)
Co-ops exempt	No, but co-ops pay a gross revenue tax in lieu of certain property tax. (See gross receipts tax table)	No	No	For co-ops (See gross receipts tax table)

[46] There are two real property classes: residential/agricultural and all other. Tax rate reductions are calculated for each real property class based on inflationary changes in the value of residential/agricultural and commercial/industrial property.

Property Tax - Electric Utilities (continued)

State	Electric utility property valuation (state or local level)	Modifications to property tax system due to electric utility restructuring	Taxable Property: Nonutility: Manufacturing Machinery	Taxable Property: Nonutility: Furniture and Fixtures	Taxable Property: Utility: Transmission and delivery poles, wires, attachments	Taxable Property: Utility: Machinery in generating plants and substations
Pennsylvania (I)	State level	None	No	No	No	No
Rhode Island (I)	Local level	None	Manufacturing process exempt	Yes	Yes	Yes
South Dakota (III)	State level (using unit valuation but not a uniform formula of weighting indicators of value)	n/a	Yes	Yes	Yes, except transmission lines subject to gross receipts tax in lieu of property tax	Yes
Texas (II)	State level valuation only for purposes of a ratio study for allocating state education funding, using unit valuation.[47, 48]	None, although discussion continues as to what needs to be changed in determining market value in the process of electric restructuring.	Yes	Yes	Yes	Yes
Virginia (II)	State level (does not use unit valuation or a uniform formula of weighting indicators of value)	None	Yes	Yes	Yes	Yes
Wisconsin (III)	No property taxes on light, heat and power companies and co-ops (See taxes in lieu.)[49]	n/a	No	Yes	n/a	n/a
West Virginia passed a resolution in March 2000 adopting an electric restructuring plan adopted by the West Virginia Public Service Commission.						
West Virginia (As of February 2000, III; as of March 2000, II)	State level (using unit valuation but not uniform formula of weighting indicators of value)	Not to date	Yes	Yes	Yes	Yes

[47] Local level is responsible for property tax assessments, but localities contract out to private firms that determine valuations, using unit valuation methodology.

[48] Some information regarding property valuation in Texas was obtained during conversations with staff in the Texas Comptroller of Public Accounts office.

[49] Essentially, only municipal electric association projects are subject to a property tax. Investor-owned utilities, co-ops, and independent power producers with greater than 50 MW production which sell more than 95 percent to other light, heat, and power companies are not subject to property tax.

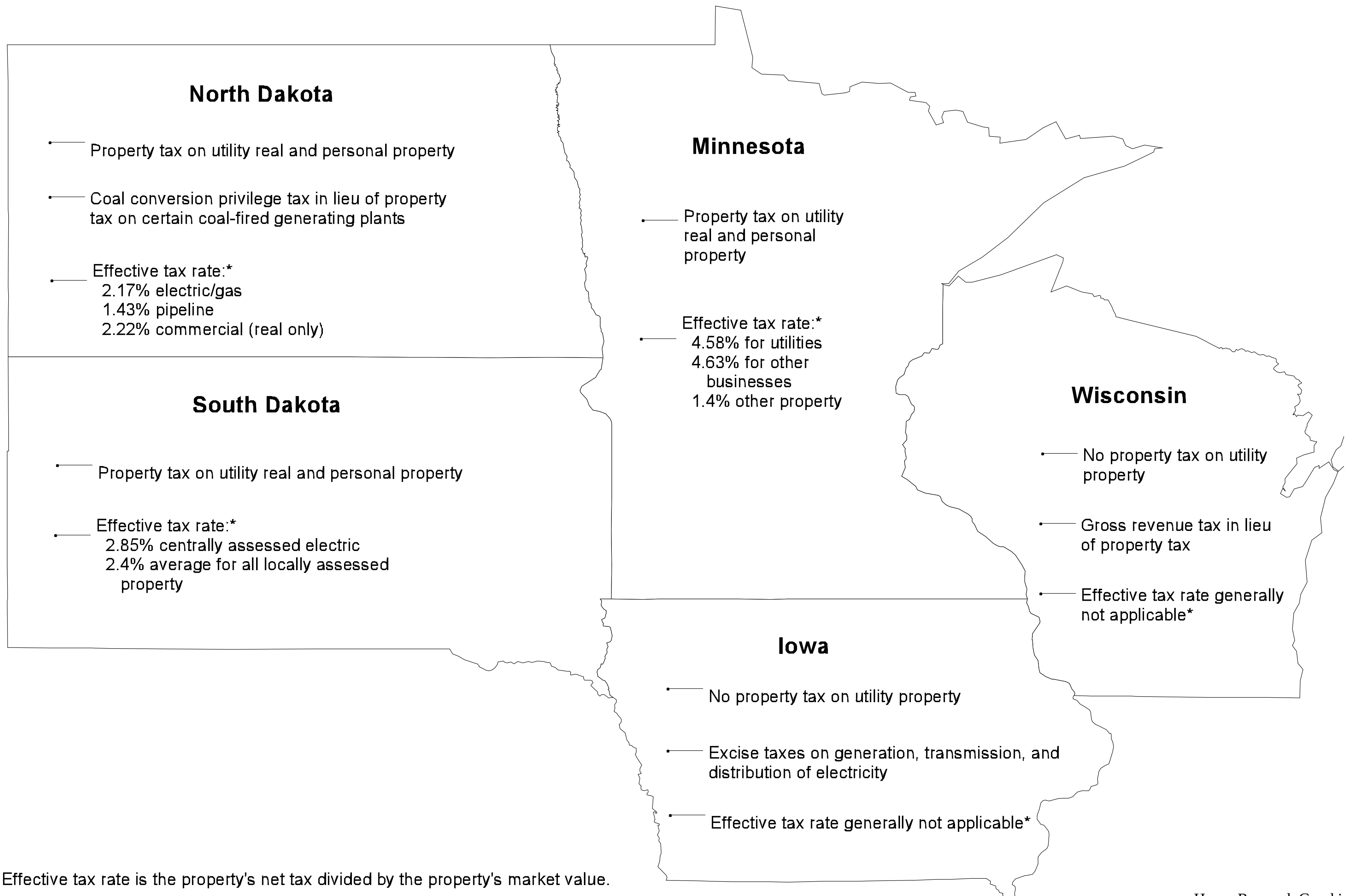
Property Tax Exemptions	Valuation differences between co-ops and IOUs	Property Classification System?	Assessment/ sales ratio study applied to utility property?	Payments in lieu of taxes?
Machinery, equipment, transmission poles, towers, etc.	Yes	No	No	Public Utility Realty Tax–state tax imposed on realty of public utilities and distributed to local government in lieu of local property tax, which is not permitted.[50]
None	None	No	No	No
Noncentrally assessed personal property, licensed vehicles	Yes, currently studying alternative methods; cap rate based on capital structure	Yes, but all classes are assessed at 100%	No	For rural electric co-ops (See gross receipts tax table)
Municipal electric utilities; pollution control property, if utility qualifies; Texas Tax Code §11.28 allows local taxing units to abate taxes of privately owned utilities.	None	No	Yes, all on 100% except farm and timber which are based on productivity.	No
None	None	No	Yes, applied to all property except land	No
Waste treatment and pollution abatement equipment; motor vehicles	None	No	No	See gross receipts tax table
Pollution control facilities which are taxable personal property are valued at salvage (5% of cost)	None	Yes, utility real and personal property are grouped with commercial/ industrial[51]	No	No

[50] 72 P.S. §8101-A et sec.

[51] Such property is then classed according to whether it is located in or outside a municipality. The two classes are assessed at different rates.

Property Tax Comparisons of Minnesota and Surrounding States

(More detailed information begins on next page)



* Effective tax rate is the property's net tax divided by the property's market value.

Source: Minnesota House Research Electric Utility Survey, February 2000

House Research Graphics

Description of Property Tax in Minnesota and Surrounding States

Minnesota

- Property tax on utility real and personal property, including co-ops
- No property tax on nonutility personal property (i.e. commercial/industrial)
- Classified system: Ranges from 1.0 percent homestead to 3.4 percent utility, commercial/industrial (taxes payable in 2000 and thereafter)
- Statewide effective tax rate: 4.58 percent for utilities, 4.63 percent for other businesses (1999 tax year)
- Cooperative membership tax at a rate of $10 per 100 members in lieu of property tax on rural distribution lines

Iowa

- Existing property taxes abolished in 1998, and replaced by excise taxes on generation, transmission, and distribution of electricity:

Generation:	six-hundredths of one cent per kWh this tax applies to all electricity generated within the state
Transmission:	ranges from $550 per pole mile of transmission line ≤ 100 kV to $7,000 per pole mile of transmission line > 300 kV this tax applies to companies owning or leasing lines within the state
Distribution:	kWh delivered within a service area multiplied by "electric replacement delivery tax rate," a figure based on average centrally assessed property tax liability in years 1993 to 1997, minus generation and transmission (all three tax components figured in 1998) this tax applies to distribution to customers within the state

- Statewide property tax of $.03 per $1,000 assessed value on operating property
- No tax on nonutility personal property (tax on manufacturing machinery being phased out)
- Assessment ratio: Generally not relevant; the primary tax is an excise tax on utility's activities
- Effective tax rate: Not relevant since primary tax is an excise tax, utility property not valued for property tax purposes

Wisconsin

- No property tax on utility property (except municipal electric association projects)
- Gross revenue license fee of 3.19 percent on gross receipts, imposed in lieu of property tax The 3.19 percent gross receipts tax is determined based upon an arithmetic average of the utility's total property, payroll and sales (same as its corporate income tax formula)
- Municipal power companies pay the 3.19 percent on gross receipts from power sold outside the municipality
- Property tax on nonutility personal property (except manufacturing)
- Assessment ratio: 100 percent; no classified property system
- Effective tax rate: Not relevant since utility property not subject to property tax

Regional Property Tax Comparison (continued)

North Dakota

- Property tax on utility real and personal property, excluding co-ops and coal-fired qualified generating plants (see below)
- No property tax on nonutility personal property (i.e., commercial/industrial)
- Co-ops pay gross receipts tax in lieu of property tax on everything except land, which is locally assessed and subject to property tax
- Coal-fired generating plants with at least one generating unit at capacity of ≥ 120,000 kV subject to coal conversion facility privilege tax in lieu of ad valorem taxes on all property except land (Paid monthly); tax based on installed capacity and kWh produced for sale
- The coal conversion facility privilege tax applies to all power, regardless of where it is sold (in-state or out-of-state)
- Assessment ratio: For all classes, assessed value is 50 percent of true and full value[52]; taxable value is 10 percent of assessed value for all classes but residential (residential is 9 percent); Utility personal and real property are a single class, separate from commercial/industrial real property but subject to same assessment ratios
- Effective tax rate (1998 tax year): 2.17 percent[53] for electric/gas
  1.43 percent for pipeline
  2.22 percent for commercial (real only)

South Dakota

- Property tax on utility real and personal property (excluding transmission lines)
- Gross receipts tax of 2 percent on rural electric companies in lieu of personal property taxes (i.e., transmission lines)
- Property tax on nonutility personal property (i.e., commerical/industrial)
- Assessment ratio: 100 percent (classes all subject to same assessment ratios)
- Effective tax rate (1998): 2.85 percent for centrally assessed electric, light, gas, water
  2.4 percent average (range 1.6 percent to 3.1 percent) for all locally assessed property

[52] True and full value includes market value, earning or productive capacity, and any other matters affecting a property's actual value.

[53] The coal conversion tax is not included because no valuations are available. Similarly, rural electric cooperatives not included.

Summary Table: Other Taxes

State	Sales and Use Tax			
	Base Tax Rate	**Exemptions for equipment installed in electric systems**	**Is sales tax imposed on sales of electricity?**	**Exemptions for sales of electricity (other than that used in manufacturing)[54]**
Minnesota (III)	6.5%	Capital equipment (see footnote 93, page 42)	Yes, at 6.5%	Home heating (November through April)
Arizona (I)	5.0%	Machinery, equipment, or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.[55]	Yes, at 5.0%	Sales for resale; sales to qualifying hospitals and qualifying health care organizations. Sales of electricity to be used in manufacturing *are* subject to tax.
Arkansas (II)	4.625%	Manufacturing exemption for new equipment used directly in the production of electricity	Yes, at 4.625%	None[56]
California (I)	7.25%[57]	None	No	n/a
Connecticut (I)	6.0%	Materials, tools, and fuel used in furnishing of electricity	Yes, at 6.0%	Agricultural production, residential and first $150 per business
Delaware (I)	No general sales and use tax	- - -	Yes–Utility tax of 4.25% on nonresidential consumption of electricity (tax imposed on distributors of electricity but may be passed on to consumer). A 2.0% rate applies to certain exceptions.[58]	Residential consumers or users; municipalities

[54] It is assumed that generally, inputs like electricity used in manufacturing are exempt from sales tax.

[55] See ARS §42-5061 (B)(4).

[56] The only exemption is for qualified manufacturers of steel, defined as an entity that must use more than 50 percent of its electricity in the manufacture of steel and must have invested in excess of $120 million in the steel mill.

[57] Statewide base tax rate is composed of 6 percent state, 0.25 percent county, and 1 percent local.

[58] The rate is 2.0 percent on commodities and services consumed in manufacturing, food processing, agribusiness, and chicken hatching. Electric consumed in the automobile manufacturing, electrolytic, electroarchthermal, or air separation process is exempt from the utility tax.

Corporate Income Tax		
Base Tax Rate	**Exemptions to electric companies**	**Gross Receipts and Miscellaneous**
9.8% (federal income)	None	None
7.968%	None	None
1% on first $3,000; 2% on next $3,000; 3% on next $5,000; 5% on next $14,000; 6% on next $75,000, up to $100,000; flat 6.5% applies to entire income if over $100,000	None	Franchise tax–Flat fee based on value of stock
8.84%	None	None
1998 income year–9.5%; 1999 income year–8.5%; 2000 income year and beyond–7.5%	None	8.5% gross earnings (6.8% residential) from electric transmission and distribution services[59]
8.7%	None	Franchise tax up to $150,000, computed by the lesser of amounts based on the authorized capital stock or amounts based on the assumed no-par capital of the corporation.

[59] This tax replaced an older gross earnings tax. When that tax was replaced, gross receipts tax on generation was eliminated.

Summary Table: Other Taxes (continued)

State	Sales and Use Tax			
	Base Tax Rate	**Exemptions for equipment installed in electric systems**	**Is sales tax imposed on sales of electricity?**	**Exemptions for sales of electricity (other than that used in manufacturing)**[60]
Illinois (I)[61]	6.25%, of which 1.25% is distributed to county and municipal governments	Purchases by municipality owned utilities and purchases of pollution control facilities by all utilities are exempt.	No	- - -
Iowa (III)	5.0%	None	Yes, at 5.0%	Electricity used in processing; sale of electricity to water companies solely for pumping water from a river or a well
Maine (I)	5.5% (5.0% beginning July 2000)	Machinery and equipment used directly and primarily in the production of electricity	Yes, at 5.5%	First 750 kWh per month of residential electricity
Maryland (II)	5.0%	Machinery and equipment used to produce electricity for sale or use in another production activity	Yes, at 5.0%	Sales delivered under a residential or domestic rate schedule on file with the Public Service Commission are exempt, as are sales to non-profit, religious, charitable, or educational organizations and sales to members of a foreign diplomatic corps.
Massachusetts (I)	5.0%	Sales of materials, tools, and fuel that are used in the furnishing of electricity to consumers; and sales of machinery that are used directly in the furnishing of electricity to consumers[62]	Yes, at 5.0%	Electricity used for residential purposes; electricity used by any business that has five or fewer employees; electricity (as a fuel) which is consumed and used directly and exclusively in any activity exempt under G.L. c. 64H, §6(r).
Michigan (III)	6.0%	Industrial processing (manufacturing) exemption for equipment used in the production of electricity (Equipment used for distribution is not exempt)	Yes, at 6.0%; 4.0% for residential use	Same as general sales tax exemptions (*e.g.*, tax-exempt organizations)
Montana (I)	No sales tax	- - -	- - -	- - -

[60] It is assumed that generally, inputs like electricity used in manufacturing are exempt from sales tax.

[61] Information about tax structure changes in Illinois, including its Electric Distribution Tax and Electric Excise Tax, was obtained during conversations with Illinois Department of Revenue policy research staff.

[62] Massachusetts G.L. c. 64H, §6(r)(s).

Corporate Income Tax		
Base Tax Rate	**Exemptions to electric companies**	**Gross Receipts and Miscellaneous**
7.3%, composed of 4.8% state rate and 2.5% personal property replacement tax[63] returned to location	None	1) Electric Distribution Tax (7-tiered tax on kWh–tax is on utility) 2) Electric Excise Tax (10-tiered tax on units consumed–tax is on power user)
6.0% to $25,000; 8.0% $25,001 to $100,000; 10% $100,001 to $250,000; 12% over $250,000	None	Utility Excise Tax–a replacement to property tax–on electricity generation, transmission, and distribution.
3.5% on first $25,000; 7.93% on next $50,000; 8.33% on next $175,000; 8.93% on all income over $250,000	None	None
Base income tax: 7%	None	1) 2% gross receipts on transmission and distribution, 2% of net income not subject to gross receipts tax 2) Specific use tax: 0.062 cents/kWh on some nonresidential electricity[64] 3) Five counties impose taxes on electricity: two on a kWh basis, three as a percentage of sale price
9.5% corporation excise rate; 6.5% for utility corporation (Utility Franchise Tax)	None	If an electric company is taxed as a corporation (and not as a utility corporation), there is a 0.26% tax on either a) taxable Massachusetts tangible property or b) the taxable value of intangible property allocated to Massachusetts.
Single Business Tax 2.3% (first $45,000 is exempt)	None[65]	None
6.75% (if corporation makes a waters-edge election, the tax rate is 7.0%)	None	1) Wholesale energy tax on generation or sales within the state 2) An electrical energy producers' license tax of $0.0002 per kWh also is charged on the generation, manufacture, or production of electricity

63 The 2.5 percent income tax was instituted in 1979 to replace tax losses following the constitutional elimination of property taxes. This tax applies to Illinois business generally, but additional taxes imposed on utilities also are designed to replace property tax losses, so utilities essentially are taxed twice (see Electric Distribution Tax on sales tax section). The revenues from this income tax go to school and park districts, municipalities, and other local entities which previously received income from the property tax.

64 Applies to electricity not delivered by a public service company, not for residential use, not used exclusively for emergency backup generation, and not generated on-site.

65 Corporations allowed a 5 percent credit for public utility property tax paid.

Summary Table: Other Taxes (continued)

State	Sales and Use Tax			
	Base Tax Rate	**Exemptions for equipment installed in electric systems**	**Is sales tax imposed on sales of electricity?**	**Exemptions for sales of electricity (other than that used in manufacturing)[66]**
Nevada (II)	6.5%, of which 2% is state tax and 4.5% is distributed to county and municipal governments	None	No	- - -
New Hampshire (II)	No general sales tax	- - -	- - -	- - -
New Jersey (I)	6.0%	Machinery, apparatus, and equipment for use directly and primarily in the production, generation, transmission or distribution of electricity for sale[67]	Yes at 6.0%	None (no exemption for electricity used in manufacturing)
New Mexico (II)	5.0%	None	Yes, at 5.0%	None (no exemption for electricity used in manufacturing)
New York (I)[68, 69]	4.0%	Machinery and equipment, parts, tools, and supplies used directly and predominantly in producing electricity for sale, including services (installing, maintaining, servicing) to said exempt machinery and equipment; energy (gas, electric, oil, etc.) used directly and exclusively in producing electricity for sale[70]	Yes (but a compensating use tax on electricity is not imposed)	Residential use, use in research and development, use in farming, use by governmental entities and tax-exempt organizations
North Dakota (III)	5.0%	None	No	- - -

[66] It is assumed that generally, inputs like electricity used in manufacturing are exempt from sales tax.

[67] See NJSA 54:32B-8.13(b)

[68] Some information about New York's corporate income tax structure was obtained during conversations with New York Department of Taxation and Finance staff.

[69] In May 2000, New York passed a law, Chapter 63, which significantly alters its corporate and gross receipts tax structure for utilities. The information in this report is current only as of **February 2000**, and therefore does not include the May 2000 changes.

[70] See New York Consolidated Laws chap. 60, art. 28, sec. 1115(a)(12) and sec. 1105-B.

Corporate Income Tax		
Base Tax Rate	Exemptions to electric companies	Gross Receipts and Miscellaneous
No general corporate income tax	- - -	2% Net Profits Tax
Business profits tax 8%	None	1) Consumption Tax applied to the consumer's electric bill at the rate of $.00055/kWh (replaces 1% gross receipts tax) 2) Business enterprise tax of 0.5% of employee compensation paid by the company, which can be applied as a credit to the business profits tax
9.0% (7.5% if $100,000 or less entire net income)	None	1) Gross receipts tax of 13% repealed and replaced by sales tax on electricity in 1998 2) State tax collections from certain utility activities are deposited in a tax relief fund which is disbursed back to municipalities because they cannot collect ad valorem taxes. (See property tax table)
4.8% for $0 to $500,000; $24,000 + 6.4% for $500,000 to $1 million; $56,000 + 7.6% for more than $1 million	None	State franchise tax of $50 per year as well as local franchise taxes
9% (general corporate franchise tax)	Public utilities are exempt.	1) Gross receipts tax of 2.5% for ultimate consumption (3.25 % in 1990) 2) Franchise Tax: 0.75% of gross earning in state. Municipalities, public authorities, and noncorporations exempt.[71]
3% up to $3,000; 4.5% $3,000 to $8,000; 6% $8,000 to $20,000; 7.5% $20,000 to $30,000; 9% $30,000 to $50,000; 10.5% over $50,000	None	1) A coal-fired electrical generating plant (both IOU and co-op) meeting specified minimum capacity pays coal conversion facility privilege tax in lieu of ad valorem taxes on all property except land. This tax also is in lieu of a co-op franchise tax (see below). 2) Gross receipts tax of 2% applicable to rural electric co-ops, as well as an annual tax of $225 per mile on transmission lines of 230 kV or larger. Both in lieu of property tax on all operating property except land. 3) There also is a franchise tax on co-op generating plants operating at least one single generation unit with a capacity of 100,000kW or more, however it currently does not apply to any plants within the state.[72]

[71] In addition, the franchise tax subjects utilities to a tax of 4.5 percent upon amount of dividends paid in excess of 4 percent on actual amount of paid-in capital.

[72] The tax is 1 percent of gross receipts from the plant for two years, 2 percent thereafter. However, the coal facilities privilege tax is in lieu of this tax for generating plants with at least one single generating unit with a capacity of 120,000 kW or more.

Summary Table: Other Taxes (continued)

State	Sales and Use Tax			
	Base Tax Rate	**Exemptions for equipment installed in electric systems**	**Is sales tax imposed on sales of electricity?**	**Exemptions for sales of electricity (other than that used in manufacturing)[73]**
Ohio (II)	5.0%	Prior to restructuring effective date (October 5, 1999), equipment used directly in the rendition of a public utility service.[74] After effective date, equipment used directly and primarily in production, transmission, or distribution of electricity for use by others.[75]	No	- - -
Oklahoma (II)	4.5%	Generators of electric power are manufacturers and are exempt from sales tax on the purchase of machinery, equipment, other items used at the site of manufacturing and fuel.	Yes, at 4.5%	Residential use, sales to political subdivisions and U.S. government, use in farming
Oregon (II)	No sales or use tax	- - -	- - -	- - -
Pennsylvania (I)	6.0%	Public utility electric companies may claim an exemption on equipment, materials, supplies used directly in producing, delivering, and rendering of the service; also equipment used to construct, reconstruct, remodel, or repair and maintenance of directly used facilities.	Yes, at 6.0%	Residential use
Rhode Island (I)	7.0%	Machinery and equipment used in generation	Yes, at 7.0%	Residential sales
South Dakota (III)	4.0%	None	Yes, at 4.0%	Governments, nonprofit hospitals, and relief agencies

[73] It is assumed that generally, inputs like electricity used in manufacturing are exempt from sales tax.

[74] ORC § 5739.01(E)(2) and (P)

[75] ORC § 5739.02(B)(43)

Corporate Income Tax		
Base Tax Rate	**Exemptions to electric companies**	**Gross Receipts and Miscellaneous**
Basic rate is 5.1% for first $50,000, 8.5% for income over $50,000.	There is a coal tax credit for using Ohio coal.	1) Beginning May 1, 2001, a new kWh tax will be imposed, replacing a repealed gross receipts tax of 4.75%. 2) A net worth tax is imposed if that tax is greater than the income tax. The net worth tax assesses 0.004 of net worth apportioned to the state, not to exceed $150,000.
6.0%	Rural electric co-ops pay a 2% gross receipts tax and a fee of $1/1000 subscribers in lieu of income tax.	1) Franchise tax of $1.25 per $1,000 of the amount of capital invested or used in an Oklahoma business enterprise[76] 2) Gross receipts tax of 2% on rural electric co-ops, in lieu of property tax
6.6%	None	Co-ops pay tax computed as 4% of gross revenue less cost of power, in lieu of property tax.
9.99%	None	1) Gross Receipts Tax: rate of 44 mills 2) Capital Stock–Franchise Tax: 10.99 mills on capital stock value which is based on net worth and income under a formula. 3) Public Utility Realty Tax, a state tax imposed on public utility realty and distributed to local governments in lieu of local property tax.
Not applicable to utilities (general corporate income tax is 9%)	Public Service Corporations exempt from tax (Chap. 44-11)	1) 4% Gross Earnings Tax–electric companies are subject to this tax in lieu of a business corporation tax; minimum tax is $100. 2) Electric utilities also collect and distribute a charge of 2.3 mills/kWh over 5 years for efficiency and renewable energy programs.
No general corporate income tax	- - -	Gross receipts tax of 2% on rural electric companies, in lieu of personal property tax

[76] Information about Oklahoma's franchise tax was obtained via independent research.

Summary Table: Other Taxes (continued)

State	Sales and Use Tax			
	Base Tax Rate	**Exemptions for equipment installed in electric systems**	**Is sales tax imposed on sales of electricity?**	**Exemptions for sales of electricity (other than that used in manufacturing)[77]**
Texas (II)[78]	6.25%	Equipment used in electricity generation	Yes, at 6.25%	Residential use; use in powering equipment used to process or manufacture tangible personal property for sales as tangible personal property, including lighting, heating, and cooling manufacturing areas during actual manufacturing; use in agriculture; use directly in electrical processes; use in exploring for, producing, transporting extracted materials; use in off-wing processing, overhaul, or repair of jet turbine engines or parts
Virginia (II)[79]	3.5%	There is a broad exemption for equipment purchased by Public Service Corporations for use in the rendering of public service.	No	Separate exemption for electricity delivered through lines
Wisconsin (III)	5.0%	Machinery and equipment exclusively and directly used in manufacturing electricity	Yes, at 5.0%	Residential and farming purchases of electricity exempt from November through April. No general manufacturing exemption. Exemptions are electricity consumed in the manufacture of steam to be resold and electricity consumed in manufacture of shoppers guides, newspapers, or periodicals.
West Virginia passed a resolution in March 2000 adopting an electric restructuring plan adopted by the West Virginia Public Service Commission.				
West Virginia (As of February 2000, III; as of March 2000, II)	6%	Electric power companies are exempt from paying sales tax on purchases for direct use in the production of electric power.	No	- - -

77 It is assumed that generally, inputs like electricity used in manufacturing are exempt from sales tax.

78 Some information about sales taxes related to electric utilities was obtained during conversations with staff in the Texas Comptroller of Public Accounts office.

79 Updated information regarding changes in Virginia's corporate income taxes related to electric utilities was obtained via independent research.

Corporate Income Tax		
Base Tax Rate	**Exemptions to electric companies**	**Gross Receipts and Miscellaneous**
4.5% for income tax-based component of franchise tax (generally, corporate franchise tax applies to utilities)	An electric cooperative corporation incorporated under the Electric Cooperative Corporation Act that is not a participant in a joint powers agency is exempted from the franchise tax.	Gross receipts tax, rate varies from 0.581% to 1.997% based on size incorporated city or town in which the utility is located[80]
6.0%	Electricity generators receive a Virginia coal tax credit of $3 per ton of Virginia-mined coal they purchase (not to exceed to liability).[81]	The electric utility consumption tax, which replaces a gross receipts tax, imposes on consumers a monthly assessment[82] of: $.00155/kWh up to 2,500 kWh, $0.00099/kWh up to 50,000kWh, and $.00075/kWh greater than 50,000 kWh.
7.9%	None	Gross revenue license fee assessment of 3.19%, in lieu of property tax
9%	None	1) Business Franchise Tax–net worth tax based on value of capital stock, paid in capital retained earnings less treasury stock. Tax rate is 0.7% 2) Business and Occupation tax on gross income derived from sales of electric power. Tax is based on kWh sold. This tax is a credit against the business franchise tax.

[80] Rates are 0.581 percent if population is 1,000 to less than 2,500; 1.07 percent if population is 2,500 to less than 10,000; and 1.997 percent if population is more than 10,000.

[81] In addition, co-ops are subject to the tax on all modified net income derived from nonmember sales.

[82] The overall assessment rate includes a state consumption tax, a special regulatory consumption tax, and a local consumption tax.

Gross Receipts Tax - Electric Utilities[83]

State	Tax	In Lieu Of?	Repealed or Replaced?
Connecticut (I)	8.5% gross earnings (6.8% residential) from electric transmission and distribution services[84]	Not in lieu of anything	
Maryland (II)	2% gross receipts on transmission, distribution	Property	
New Hampshire (II)	Through 1997, franchise tax of 1% gross receipts	Not in lieu of anything	In 1997, replaced by consumption tax, rate of $.00055/kWh
New Jersey (I)	Through 1997, 13% gross receipts tax		Repealed, replaced by sales tax on electricity beginning January 1, 1998 (See Property Tax)
New York (I)[85]	1) 2.5% gross receipts tax (3.25% in 1999); Municipalities, public authorities, non-corporations exempt 2) Utility franchise tax, 0.75% of gross earnings[86]	Not in lieu of anything	
Ohio (II)	Through April 30, 2001, gross receipts tax of 4.75%	Sales, corporate income taxes	Repealed, to be replaced in May 2001 by kWh-based tax, rate varies from $.00465 to $.00363[87]
Pennsylvania (I)	Gross receipts tax at rate of 44 mills	Not in lieu of anything	Tax was amended to adjust for revenue losses/gains and to include other nonutility entities
Rhode Island (I)	4% gross earnings tax (minimum tax of $100)	Corporate income tax	
Texas (II)	Gross receipts tax, rate varies from 0.581% to 1.997%, based on size of incorporated city or town in which the utility is located[88]	Not in lieu of anything	
Virginia (II)	2% gross receipts tax	Not in lieu of anything	Replaced by consumption tax–a monthly assessment–with rates varying from $.00155/kWh to $.00075/kWh[89]
Wisconsin (III)	Gross revenue license fee assessment of 3.19%	Property tax	

83 This gross receipts tax comparison encompasses only those states included in the Minnesota House Research Department survey of electric utility taxation, and therefore does not represent all state gross receipts taxes imposed on electric utilities.

84 Information about gross earnings tax changes obtained via outside research and Connecticut Department of Revenue Services staff.

85 In May 2000, New York passed a law, Chapter 63, which significantly alters its corporate and gross receipts tax structure for utilities. The information in this report is current only as of **February 2000**, and therefore does not include the May 2000 changes.

86 Franchise tax also taxes utilities 4.5 percent of amount of dividends paid in excess of 4 percent on actual amount of paid-in capital.

87 The kWh tax will apply only to electricity distributed through the meter of an end-user. Electricity not subject to the kWh tax still will be subject to Ohio's general gross receipts excise tax. Large customers may self-assess and remit directly to the state. (O.R.S. 5727.81)

88 Rates are 0.581% if population is 1,000 to less than 2,500; 1.07% if population is 2,500 to less than 10,000; and 1.997% if population is more than 10,000.

89 The overall assessment rate includes a state consumption tax, a special regulatory consumption tax, and a local consumption tax. Specific rates are: $.00155/kWh up to 2,500 kWh, $0.00099/kWh up to 50,000kWh, and $.00075/kWh greater than 50,000 kWh.

Gross Receipts Taxes Specific to Electric Cooperatives

State	Tax	In Lieu Of?	Repealed or Replaced?
North Dakota (III)	2% gross receipts tax;[90] also, franchise tax of 1% gross receipts (2% after first two years), on certain co-op generating plants, although this tax currently does not apply to any plants within the state.[91]	All property tax, except land	
Oklahoma (II)	2% gross receipts tax	Corporate income, property	
Oregon (II)	4% gross revenues minus cost of power	Tax on transmission, distribution property[92]	
South Dakota (III)	2% gross receipts tax	Personal property tax (i.e., transmission lines)	

[90] For the first five years of operation, electric co-ops pay a 1 percent gross receipts tax; thereafter, it increases to 2 percent.

[91] The tax applies to plants operating at least one single generation unit with a capacity of 100,000kW or more. However, the coal facilities privilege tax is in lieu of this tax for generating plants with at least one single generating unit with a capacity of 120,000 kW or more.

[92] Co-ops pay property tax on land and buildings.

Sales and Use Tax - Electric Utilities

State	Base Sales Tax Rate	Rate applied to equipment purchased for installation in electric system	Exemptions for equipment installed in electric system	Is sales tax assessed at point of purchase or point of sale on tangible personal property?
Minnesota (III)	6.5%	6.5%	Capital equipment[93]	Point of purchase by contractor-installer
Arizona (I)	5.0%[94]	5.0%	Machinery, equipment, or transmission lines used directly in producing or transmitting electrical power, but not including distribution; transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power[95]	Point of sale (tax is levied on vendor)
Arkansas (II)	4.625%	4.625%	Manufacturing exemption for new equipment used directly in the production of electricity	Point of purchase
California (I)	7.25%[96]	7.25%	None	Local sales tax generally is allocated to the jurisdiction where the sale occurs. Construction contractors are generally classified as retailers of equipment/ fixtures and consumers of materials which they furnish and install. As consumers, the local sales tax applies based on jurisdiction of sale. As retailers (or when items purchased out-of-state are shipped directly), the local sales/use tax applies to location of job site.[97]
Connecticut (I)	6.0%	6.0%	Materials, tools, and fuel used in furnishing of electricity	- - -
Delaware (I)	No general sales and use tax	- - -	- - -	- - -

93 Capital equipment means machinery and equipment essential to the integrated production process. It does not include building materials, motor vehicles, office equipment, or machinery or equipment used for non-production purposes such as pollution control, space heating and lighting, or support operations.

94 See “other non-income based taxes” on corporate income tax table for county use tax.

95 See ARS §42-5061 (B)(4).

96 Statewide base tax rate is composed of 6 percent state, 0.25 percent county, and 1 percent local.

97 Sales and Use Tax Regulation 1521.

Is sales tax imposed on sales of electricity?	Exemptions for sales of electricity (other than that used in manufacturing)[98]	Modifications to sales tax relating to electricity due to restructuring
Yes, at 6.5%	Home heating (November through April)	n/a
Yes, at 5.0%	Sales for resale; sales to qualifying hospitals and qualifying health care organizations. Sales of electricity to be used in manufacturing *are* subject to tax.	All services now provided by the local, full-service electric utilities are now specifically enumerated to ensure that if a business only provides one of the services related to electricity sales, that service will be taxable.
Yes, at 4.625%	None[99]	None to date (discussions underway)
No	None	None
Yes, at 6.0%	Agricultural production, residential, and first $150 per business	Definition of "tangible personal property" now includes the distribution, generation, or transmission of electricity.[100]
Yes–Utility tax of 4.25% on nonresidential consumption of electricity (imposed on distributors but may be passed on to consumer). A 2.0% rate applies to certain exceptions.[101]	Residential consumers or users; municipalities	When electricity is purchased from an out-of-state distributor and such distributor does not have a nexus in Delaware, an electric use tax is imposed on the consumer at rates that parallel the utility tax rates. (See sales tax imposed on sales of electricity)

98 It is assumed that inputs like electricity used in manufacturing are generally exempt from sales tax.

99 The only exemption is for qualified manufacturers of steel, defined as an entity that must use more than 50 percent of its electricity in the manufacture of steel and must have invested in excess of $120 million in the steel mill.

100 Public Act 98-28, Sec. 116

101 The rate is 2.0 percent on commodities and services consumed in manufacturing, food processing, agribusiness, and chicken hatching. Electric consumed in the process of automobile manufacturing, electrolytic, electroarchthermal, or air separation is exempt from the utility tax.

Sales and Use Tax - Electric Utilities (continued)

State	Base Sales Tax Rate	Rate applied to equipment purchased for installation in electric system	Exemptions for equipment installed in electric system	Is sales tax assessed at point of purchase or point of sale on tangible personal property?
Illinois (I)[102]	6.25%, of which 1.25% is distributed to county and municipal governments	6.25%, of which 1.25% is distributed to county and municipal governments	Purchases by municipality-owned utilities and purchases of pollution control facilities by all utilities are exempt.	Point of sale
Iowa (III)	5.0%	5.0%	None	Point of purchase by contractor-installer
Maine (I)	5.5% (5.0% beginning July 2000)	5.5%	Machinery and equipment used directly and primarily in the production of electricity	Point of purchase
Maryland (II)	5.0% [103]	None (See exemptions)	Machinery and equipment used to produce electricity for sale or use in another production activity	Point of purchase by contractor-installer
Massachusetts (I)	5.0%	5.0%	Sales of materials, tools, and fuel that are used in the furnishing of electricity to consumers; and sales of machinery that are used directly in the furnishing of electricity to consumers[104]	Generally, sales tax is imposed at the point of sale to the retail purchaser of tangible personal property or of services performed within the state.
Michigan (III)	6.0%	6.0%	Industrial processing (manufacturing) exemption for equipment used in the production of electricity (Equipment used for distribution is not exempt)	Point of purchase by contractor-installer
Montana (I)	No sales tax	- - -	- - -	- - -
Nevada (II)	6.5%, of which 2% is state tax and 4.5% is distributed to county and municipal governments	6.5%	None	Point of purchase by contractor-installer

102 Information about tax structure changes in Illinois, including its Electric Distribution Tax and Electric Excise Tax, was obtained during conversations with Illinois Department of Revenue policy research staff.

103 See "other non-income based taxes" on corporate income tax table for county sales tax.

104 Massachusetts G.L. c. 64H, §6(r)(s).

Is sales tax imposed on sales of electricity?	Exemptions for sales of electricity (other than that used in manufacturing)[105]	Modifications to sales tax relating to electricity due to restructuring
No	- - -	The Electric Distribution Tax, a 7-tiered tax on kWh, was instituted during restructuring to replace an invested capital tax on utilities (which in turn replaced personal property taxes following their constitutional elimination). This tax is on the utility. A 10-tiered Electric Excise Tax based on units consumed (kWh) is applied to the power user. This tax replaces a gross receipts tax that was capped at the lesser of 5% or 0.32 cents/kWh.[106, 107]
Yes, at 5.0%	Electricity used in processing; sale of electricity to water companies solely for pumping water from a river or a well.	n/a
Yes, at 5.5%	First 750 kWh per month of residential electricity.	None
Yes, at 5.0%	Sales delivered under a residential or domestic rate schedule on file with the Public Service Commission are exempt, as are sales to nonprofit, religious, charitable, or educational organizations and sales to members of a foreign diplomatic corps.	1) A taxable service means a transportation service for transmission, distribution, or delivery of electricity if the sale or use of the electricity is subject to the sales and use tax. 2) A specific use tax has been imposed on use of electricity not delivered by a public service company and not used for residential purposes, not used exclusively for emergency back up generation, and not generated on site. The rate is 0.062 cents per kWh.
Yes, at 5.0%	Electricity used for residential purposes; electricity used by any business that has five or fewer employees; and electricity (as a fuel) which is consumed and used directly and exclusively in any activity exempt under G.L. c. 64H, §6(r).	Following the unbundling of service charges, the Dept. of Revenue's Tax Administration determined that the charges subject to sales tax will include: the generation charge, the transmission and distribution charges (as transportation charges) with some contractual exceptions,[108] and the transition charge. (See TIR 98-16)
Yes, at 6.0%; 4.0% for residential use	Same as general sales tax exemptions (*e.g.,* tax-exempt organizations)	None
- - -	- - -	- - -
No	- - -	None

[105] It is assumed that generally, inputs like electricity used in manufacturing are exempt from sales tax.

[106] The old gross receipts tax was on the utility. Under the new system that taxes the power user, Illinois taxes power used in Illinois, but it is collected by the distributor.

[107] Both tiered taxes are based on the amount used, so that the more used, the lower the rate (but users must go through each rate).

[108] Title transfer of the electricity usually occurs at the retail customer's meter, after transmission and distribution have occurred. However, if a contract transfers title to the electricity to occur at some point before it reaches the meter, and before transmission and distribution of the electricity, then these charges are not subject to the sales tax.

Sales and Use Tax - Electric Utilities (continued)

State	Base Sales Tax Rate	Rate applied to equipment purchased for installation in electric system	Exemptions for equipment installed in electric system	Is sales tax assessed at point of purchase or point of sale on tangible personal property?
New Hampshire (II)	No general sales tax	- - -	- - -	- - -
New Jersey (I)	6.0%	None (See exemptions)	Machinery, apparatus, and equipment for use directly and primarily in the production, generation, transmission, or distribution of electricity for sale[109]	Contractor is responsible for tax on materials incorporated into real property; however, property owner may pass §8.13(b) exemption to contractor with an Exempt Use Certificate (ST-4).
New Mexico (II)	5.0%	5.0%	None	Transaction receipts are attributed to the vendor's place of business, unless the equipment is installed as part of a construction project, in which case the taxable event takes place at the construction site.
New York (I)[110]	4.0%	None (See exemptions)	Machinery and equipment, parts, tools, and supplies used directly and predominantly in producing electricity for sale, including services (installing, maintaining, servicing) to said exempt machinery and equipment; and energy (gas, electric, oil, etc.) used directly and exclusively in producing electricity for sale[111]	Point of purchase by contractor
North Dakota (III)	5.0%	5.0%	None	Point of purchase by contractor-installer
Ohio (II)	5.0%	None (See exemptions)	Prior to restructuring effective date (October 5, 1999), equipment used directly in the rendition of a public utility service.[112] After effective date, equipment used directly and primarily in production, transmission, or distribution of electricity for use by others.[113]	Tax is on contractor
Oklahoma (II)	4.5%	4.5%	Generators of electric power are manufacturers and are exempt from sales tax on the purchase of machinery, equipment, other items used at the site of manufacturing and fuel.	Point of purchase by contractor
Oregon (II)	No sales or use tax	- - -	- - -	- - -

[109] See NJSA 54:32B-8.13(b)

[110] In May 2000, New York passed a law, Chapter 63, which alters the sales and use tax as it applies to electricity. The information in this report is current only as of **February 2000**, and therefore does not include the May 2000 changes.

[111] See New York Consolidated Laws chap. 60, art. 28, sec. 1115(a)(12) and sec. 1105-B.

[112] ORC § 5739.01(E)(2) and (P)

[113] ORC § 5739.02(B)(43)

Is sales tax imposed on sales of electricity?	Exemptions for sales of electricity (other than that used in manufacturing)[114]	Modifications to sales tax relating to electricity due to restructuring
- - -	- - -	- - -
Yes, at 6.0%	None (no exemption for electricity used in manufacturing)	Electric utilities are now considered corporations, rather than utilities. Electricity is subject to 6.0% New Jersey sales tax effective January 1, 1998. Replaced gross receipts tax. (See gross receipts tax table) No exemptions for manufacturing, research and development, state and local governments.
Yes, at 5.0%	None (no exemption for electricity used in manufacturing)	None to date, but there are proposals to create a separate tax on consumers.
Yes (but a compensating use tax on electricity is not imposed)	Residential use, use in research and development, use in farming, use by governmental entities and tax-exempt organizations	No legislation has passed, although an administrative interpretation announced in January 1999 of §1105(b) of the Tax Law would makes the distribution fee a utility charges nonresidential electricity customers subject to state and local sales tax. The effective date (currently April 1, 2000) of this interpretation has been postponed on multiple occasions.[115]
No	- - -	n/a
No	- - -	Yes, but the changes maintain current exempt status and do not substantively change the application of sales and use tax to the electric industry. A new kWh tax will be imposed beginning May 1, 2001, to replace a repealed gross receipts tax (see gross receipts tax table).
Yes, at 4.5%	Residential use, sales to political subdivisions and U.S. government, use in farming	None
- - -	- - -	- - -

[114] It is assumed that generally, inputs like electricity used in manufacturing are exempt from sales tax.

[115] TSB-M-99(1.4)S

Sales and Use Tax - Electric Utilities (continued)

State	Base Sales Tax Rate	Rate applied to equipment purchased for installation in electric system	Exemptions for equipment installed in electric system	Is sales tax assessed at point of purchase or point of sale on tangible personal property?
Pennsylvania (I)	6.0%	6.0% (Those systems rendering a public service)	Public utility electric companies may claim an exemption on equipment, materials, supplies used directly in producing, delivering and rendering of the service; also equipment used to construct, reconstruct, remodel, or repair and maintenance of directly used facilities.	Point of purchase by construction contractor
Rhode Island (I)	7.0%	7.0%	Machinery and equipment used in generation	Point of purchase by contractor-installer
South Dakota (III)	4.0%	4.0%	None	Point of sale if seller is licensed, otherwise at point-of-use by user
Texas (II)[116]	6.25%	6.25%	Equipment used in electricity generation	Point of sale, if the contract is for new construction (facility) under lump-sum, single charge (property and labor) contract. At the construction site, for new construction under separate contract (separate charges for personal property and labor).[117] For contracts to repair, restore, or remodel an existing nonresidential facility, tax on materials is due at service providers' location.
Virginia (II)	3.5%	None (See exemptions)	There is a broad exemption for equipment purchased by Public Service Corporations for use in the rendering of public service.	Generally, at point of purchase (with the exemption for Public Service Corporations previously noted)
Wisconsin (III)	5.0%	5.0%	Machinery and equipment exclusively and directly used in manufacturing electricity	If the tangible personal property retains its character as such after being attached to the real estate, the owner-user would be assessed the tax. If the tangible personal property becomes real property after installation, the contractor-installer would be assessed the tax.
West Virginia passed a resolution in March 2000 adopting an electric restructuring plan adopted by the West Virginia Public Service Commission.				
West Virginia (As of February 2000, III; as of March 2000, II)	6%	None (see exemptions)	Electric power companies are exempt from paying sales tax on purchases for direct use in the production of electric power.	Point of purchase by contractor (on all purchases of equipment, materials, and supplies)

116 Some information about sales taxes related to electric utilities was obtained during conversations with staff in the Texas Comptroller of Public Accounts office.

117 Contractor may accept an exemption certificate from the owner for the generating equipment. New construction labor is not taxable.

Is sales tax imposed on sales of electricity?	Exemptions for sales of electricity (other than that used in manufacturing)[118]	Modifications to sales tax relating to electricity due to restructuring
Yes, at 6.0%	Residential use	None
Yes, at 7.0%	Residential sales	None
Yes, at 4.0%	Governments, nonprofit hospitals, and relief agencies	n/a
Yes, at 6.25%	Residential use; use in powering equipment used to process or manufacture tangible personal property for sales as tangible personal property, including lighting, heating, and cooling manufacturing areas during actual manufacturing; use in agriculture; use directly in electrical processes; use in exploring for, producing, transporting extracted materials; use in off-wing processing, overhaul, or repair of jet turbine engines or parts	Prior to October 1, 1999, utilities generated, transmitted, and sold electricity, for which the total charge was taxable. Effective October 1, 1999, transmission and distribution services become taxable, but this tax change will not have any real effect until January 1, 2002, the date by which electricity generators must divest themselves of all transmission or distribution facilities. Generators then will become strictly wholesale providers of energy, and retail marketers will collect tax on transmission and distribution services.
No	Separate exemption for electricity delivered through lines	None to date
Yes, at 5.0%	1) Residential and farming purchases of electricity exempt from November through April. 2) No general manufacturing exemption. Exemptions are electricity consumed in the manufacture of steam to be resold and electricity consumed in manufacture of shoppers guides, newspapers, or periodicals.	n/a
No	- - -	None to date

[118] It is assumed that generally, inputs like electricity used in manufacturing are exempt from sales tax.

Corporate Income or Franchise Tax - Electric Utilities

State	Base Rate(s) for income tax	Exemptions to electric companies	Is unitary filing of corporate tax returns required?
Minnesota (III)	9.8% (federal taxable income)	None	Yes
Arizona (I)	7.968%	None	Yes
Arkansas (II)	1% on first $3,000; 2% on next $3,000; 3% on next $5,000; 5% on next $14,000; 6% on next $75,000 up to $100,000; flat 6.5% applies to entire income if over $100,000	None	No
California (I)	8.84%	None	Yes
Connecticut (I)	1998 income year–9.5%; 1999 income year–8.5%; 2000 income year and beyond–7.5%	None	No
Delaware (I)	8.7%	None	No
Illinois (I)	7.3%, composed of 4.8% state rate and 2.5% personal property replacement tax[119] returned to location	None	Yes
Iowa (III)	6.0% to $25,000; 8.0% $25,001 to $100,000; 10% $100,001 to $250,000; 12% over $250,000	None	No
Maine (I)	3.5% on first $25,000; 7.93% on next $50,000; 8.33% on next $175,000; 8.93% on all income over $250,000	None	Yes
Maryland (II)	Base income tax: 7%	None	Yes
Massachusetts (I)	9.5% corporation excise rate; 6.5% for utility corporation (Utility Franchise Tax)	None	No

[119] The 2.5 percent income tax was instituted in 1979 to replace tax losses following the constitutional elimination of property taxes. This tax applies to Illinois business generally, but additional taxes imposed on utilities also are designed to replace property tax losses, so utilities essentially are taxed twice (see Electric Distribution Tax on sales tax section). The revenues from this income tax go to school and park districts, municipalities, and other local entities which previously received income from the property tax.

Other non-income based taxes imposed on electric companies[120]	Is an investment tax credit allowed to apply to electric utility equipment and structures?	Modifications to corporate income taxes due to restructuring
Minimum fee on all corporations, from $100 to $5,000, depending on corporation sales, property, and payroll in MN; local franchise taxes imposed by cities on gross earnings	No	n/a
Counties meeting population restrictions may levy a use tax on electricity purchased and used within the county. Tax is collected by the state.	Yes–same calculation as federal credit	None
Franchise tax–flat fee based on value of stock	No	None
None	No	Administrative change only[121]
See gross receipts tax table	Yes–fixed capital investments, 3.0% in 1998, 4.0% in 1999, 5.0% beginning in 2000	New credit for hiring displaced electric workers of $1,500, if hired for at least six months
Franchise tax up to $150,000, computed by the lesser of amounts based on the authorized capital stock or amounts based on the assumed no-par capital of the corporation[122]	No	None
Electric Distribution Tax (7-tiered tax on kWh–refer to sales tax section)	Yes–½ percent of property, pursuant to IRC Section 167, placed in service in an Illinois enterprise zone	None
None	Yes–10% of cost of improvements to real estate and machinery and equipment if under the new jobs and income program	n/a
None	No	None
1) See gross receipts table 2) Five counties impose taxes on electricity; two on a kWh basis, three as a percentage of sale price 3) Also, kWh tax on electricity delivered for use in the state	No	1) Addition of gross receipts franchise tax, per kWh franchise tax (See gross receipts table and property tax section.) 2) Large customer exception 3) Tax credits for property tax paid and wages paid[123]
If an electric company is taxed as a corporation (and not as a utility corporation), there is a 0.26% tax on either a) Massachusetts taxable tangible property or b) the taxable value of intangible property allocated to the state.	Has not been determined[124]	None

120 Does not include fees or assessments paid to the state's utility regulating body.

121 For regulatory purposes, the service contract business of a regulated utility was transferred from the Insurance Commission, resulting in the removal of that activity from gross premiums taxation to regular franchise and income taxation. (SB 2075)

122 Information about Delaware's franchise tax was obtained from outside research and Delaware Division of Revenue staff input.

123 Chapters 5 and 6, Laws of 1999

124 A utility corporation is not eligible for an investment tax credit (ITC). Corporations classified as manufacturing corporations are eligible for ITC. The Department of Revenue has not ruled on whether a corporation generating electricity can be classified as a corporation, thereby making it eligible for classification as a manufacturing corporation.

Corporate Income or Franchise Tax - Electric Utilities (continued)

State	Base Rate(s) for income tax	Exemptions to electric companies	Is unitary filing of corporate tax
Michigan (III)	Single Business Tax 2.3% (first $45,000 is exempt)	None[125]	No
Montana (I)	6.75% (if corporation makes a waters-edge election, the tax rate is 7.0%)	None	Yes
Nevada (II)	No general corporate income tax	- - -	- - -
New Hampshire (II)[126]	Business profits tax 8%	None	Yes
New Jersey (I)	9.0% (7.5 % if $100,000 or less entire net income)	None[127]	No
New Mexico (II)	4.8% for $0 to $500,000; $24,000 + 6.4% for $500,000 to $1 million; $56,000 + 7.6% for more than $1 million	None	No
New York (I)[128, 129]	9% (general corporate franchise tax)	Public utilities are exempt	No
North Dakota (III)	3% for $0 to $3,000; 4.5% for $3,000 to $8,000; 6% for $8,000 to $20,000; 7.5% for $20,000 to $30,000; 9% for $30,000 to $50,000; 10.5% over $50,000	None	Yes
Ohio (II)	Basic rate is 5.1% for first $50,000, 8.5% for income over $50,000	There is a coal tax credit for using Ohio coal.	No

125 Corporations allowed a 5 percent credit for public utility property tax paid.

126 Some information about New Hampshire's corporate income tax structure was obtained during conversations with New Hampshire legislative research staff.

127 Municipals are exempt provided they existed as of January 1, 1995, and that, beginning on that date, they do not provide electricity outside their jurisdictions (see New Jersey Code, 54:10A-3(j)).

128 Some information about New York's corporate income tax structure was obtained during conversations with New York Department of Taxation and Finance staff.

129 In May 2000, New York passed a law, Chapter 63, which significantly alters its corporate and gross receipts tax structure for utilities. The information in this report is current only as of **February 2000**, and therefore does not include the May 2000 changes.

Other non-income based taxes imposed on electric companies[130]	Is an investment tax credit allowed to apply to electric utility equipment and structures?	Modifications to corporate income taxes due to restructuring
None	No	None
An electrical energy producers' license tax of \$0.0002 per kWh is charged on the generation, manufacture, or production of electricity[131]	No	None at this point
Utilities pay 2% Net Profits Tax	- - -	- - -
Consumption Tax applied to the consumer's electric bill at the rate of \$.00055/kWh (See gross receipts tax table). Also, there is a business enterprise tax of 0.5% of employee compensation paid by the company, which can be applied as a credit to the business profits tax.	No	Consumption tax replaced gross receipts tax (See gross receipts tax table)
None	Perhaps–it depends on the size of income and certain other factors.	Yes; prior to restructuring, electric utilities were not subject to corporate business tax. During the restructuring process, provisions were incorporated into corporate business tax law in order to facilitate its applicability to electric utilities.
State franchise tax of \$50 per year as well as local franchise taxes	No	None to date
See gross receipts tax table	No	New York charges parent/holding companies a subcapital tax (tax on the capital of subsidiaries). When restructuring took place, parent companies were formed in the electric utility industry which would have been subject to this tax in addition to the gross receipts tax. A law enacted in 1999 specifically excludes from taxation any subcapital attributable to those subsidiary electric utilities.
Gross receipts tax applicable to rural electric co-ops. (See gross receipts tax table) There also is a franchise tax on certain co-op generating plants. (See gross receipts tax table)	No	n/a
1) See gross receipts tax table 2) Also, a net worth tax is imposed if that tax is greater than the income tax. The net worth tax assesses 0.004 of net worth apportioned to the state, not to exceed \$150,000.	No (the law was changed so as not to apply to electric utility equipment)	Special situsing provision for bundled and unbundled sales

[130] Does not include fees or assessments paid to the state's utility regulating body.

[131] Information about the electrical energy producers' license tax was obtained from outside research and Montana Department of Revenue staff input.

Corporate Income or Franchise Tax - Electric Utilities (continued)

State	Base Rate(s) for income tax	Exemptions to electric companies	Is unitary filing of corporate tax returns
Oklahoma (II)	6.0%	Rural electric co-ops pay gross receipts tax (see gross receipts tax table) and a fee of $1/1,000 subscribers in lieu of income tax.	No
Oregon (II)	6.6%	None	Yes
Pennsylvania (I)	9.99%	None	No
Rhode Island (I)	Not applicable to utilities (general corporate income tax is 9%)	Public Service Corporations exempt from tax (Chap. 44-11)	No
South Dakota (III)	No general corporate income tax	- - -	- - -
Texas (II)	4.5% for income tax-based component of franchise tax (generally, corporate franchise tax applies to utilities)	An electric cooperative corporation incorporated under the Electric Cooperative Corporation Act that is not a participant in a joint powers agency is exempted from the franchise tax.	No
Virginia (II)[132]	6.0%	Electricity generators receive a Virginia coal tax credit of $3 per ton of Virginia-mined coal they purchase (not to exceed liability).[133]	No
Wisconsin (III)	7.9%	None	No
West Virginia passed a resolution in March 2000 adopting an electric restructuring plan adopted by the West Virginia Public Service Commission.			
West Virginia (As of February 2000, III; as of March 2000, II)	9%	None	No

[132] Updated information regarding changes in Virginia's corporate income taxes related to electric utilities was obtained via independent research.

[133] In addition, co-ops are subject to the tax on all modified net income derived from nonmember sales.

Other non-income based taxes imposed on electric companies[134]	Is an investment tax credit allowed to apply to electric utility equipment and structures?	Modifications to corporate income taxes due to restructuring
Franchise tax of $1.25 per $1,000 of the amount of capital invested or used in an Oklahoma business enterprise[135]	No	None
None	No	None
1) See gross receipts tax table 2) Capital Stock–Franchise Tax: (72 P.S. §7601 et seq.) 10.99 mills on capital stock value which is based on net worth and income under a formula	No	See gross receipts tax table
1) See gross receipts tax table 2) Electric utilities collect and distribute a charge of 2.3 mills/kWh over 5 years for efficiency and renewable energy programs.	No	None
- - -	- - -	n/a
See gross receipts tax table	Yes, for qualified investments made on or after January 1, 2000, a tax credit of 7.5% applies to certain tangible personal property first placed in service in certain economically disadvantaged areas of the state. Must be property as described in Internal Revenue Code §1245(a).	None
Electric utility consumption tax (See gross receipts tax table.)	No	Electric utility consumption tax enacted, replacing gross receipts tax. (See gross receipts tax table.) Added a special revenue tax of .002% of gross receipts, and a local license tax. Virginia coal tax credit introduced. (See exemptions.)
None	- - -	n/a
1) Business Franchise Tax–net worth tax based on value of capital stock, paid in capital retrained earnings less treasury stock. Tax rate is 0.7%. 2) Business and Occupation Tax–on gross income derived from sales of electric power. The tax is based on kWh sold. This tax is a credit against the business franchise tax.	Yes, the Business Investment and Jobs Expansion Credit (WV Code 11-13c)	None to date

134 Does not include fees or assessments paid to the state's utility regulating body.

135 Information about Oklahoma's franchise tax obtained via independent research and input from the staff in the ad valorem division of the Oklahoma Tax Commission.

Part II. Restructuring the Retail Electric Industry

The table on the following pages contains the status of restructuring in each state surveyed, as of **February 1, 2000**. The states surveyed are listed as falling into one of three categories.

Category I: Retail competition has been implemented or begun to be implemented

Category II: Retail competition has been authorized but not yet implemented

Category III: No authorization for retail competition as of February 1, 2000 (included in survey because of regional proximity to Minnesota)

In summary, as of February 2000, 11 states had implemented or begun implementing retail competition for electric generation. An additional 11 states had authorized but *not* yet begun retail competition. The remaining states, including Minnesota, have not authorized retail competition.

A United States map on page 62 shows this categorization. As you can see, most of the restructuring (implementation and/or authorization) has centered in New England, the northeast, and in the central south. Very little has yet occurred in the north central states or in the southeastern part of the United States.

Restructuring Status Table

State	Status	Category
Arizona	Retail competition was to be phased in between January 1, 1999, and January 1, 2003. (Authorized by both commission order and legislation.) A new plan approved by the Corporation Commission Utilities Division resulted in implementation starting during the second half of 1999, with all consumers phased in by January 1, 2001.	I
California	Retail competition began on March 31, 1998, for all classes of customers. (Authorized by both legislation and commission order.) A referendum on the November 3, 1998, ballot that would have affected portions of the restructuring law failed.	I
Connecticut	Retail competition phasing in between January 1, 2000, and July 1, 2000.	I
Delaware	Retail competition began October 1999 among large customers, with smaller electricity consumers phased in throughout 2000. Retail competition phase-in to be completed by April 2001 for two utilities.	I
Illinois	Retail competition to be phased in through May 2002. New legislation in June 1999 moved up the implementation schedule for industrial customers to October 1999.	I
Massachusetts	Retail competition began on March 1, 1998, for all customers, authorized by both commission order and legislation. A referendum on the November 3, 1998, ballot seeking repeal of the restructuring law failed.	I
Montana	Retail competition for large customers began on July 1, 1998. (Retail competition began on November 1, 1998, for all other customers of Montana Power, as required by legislation.) Retail competition for all customers to be completely phased in by July 1, 2002 (except for one utility, which has until 2006), although the Public Service Commission says access should be complete by April 2000.	I
New Jersey	Retail competition began in August 1999, with all customers to be phased in over a three-year period.	I
New York	By commission order, the transition to retail competition to begin at different times for different utility service territories. Phase I began in May 1998. Full retail access to be completed by July 2001. Legislation addressing perceived problems with the commission's implementation may be considered.	I
Pennsylvania	The retail access phase-in process began January 1, 1999, and will continue through January 1, 2001.	I
Rhode Island	Retail competition for all customer classes began on January 1, 1998.	I

Restructuring Status Table (continued)

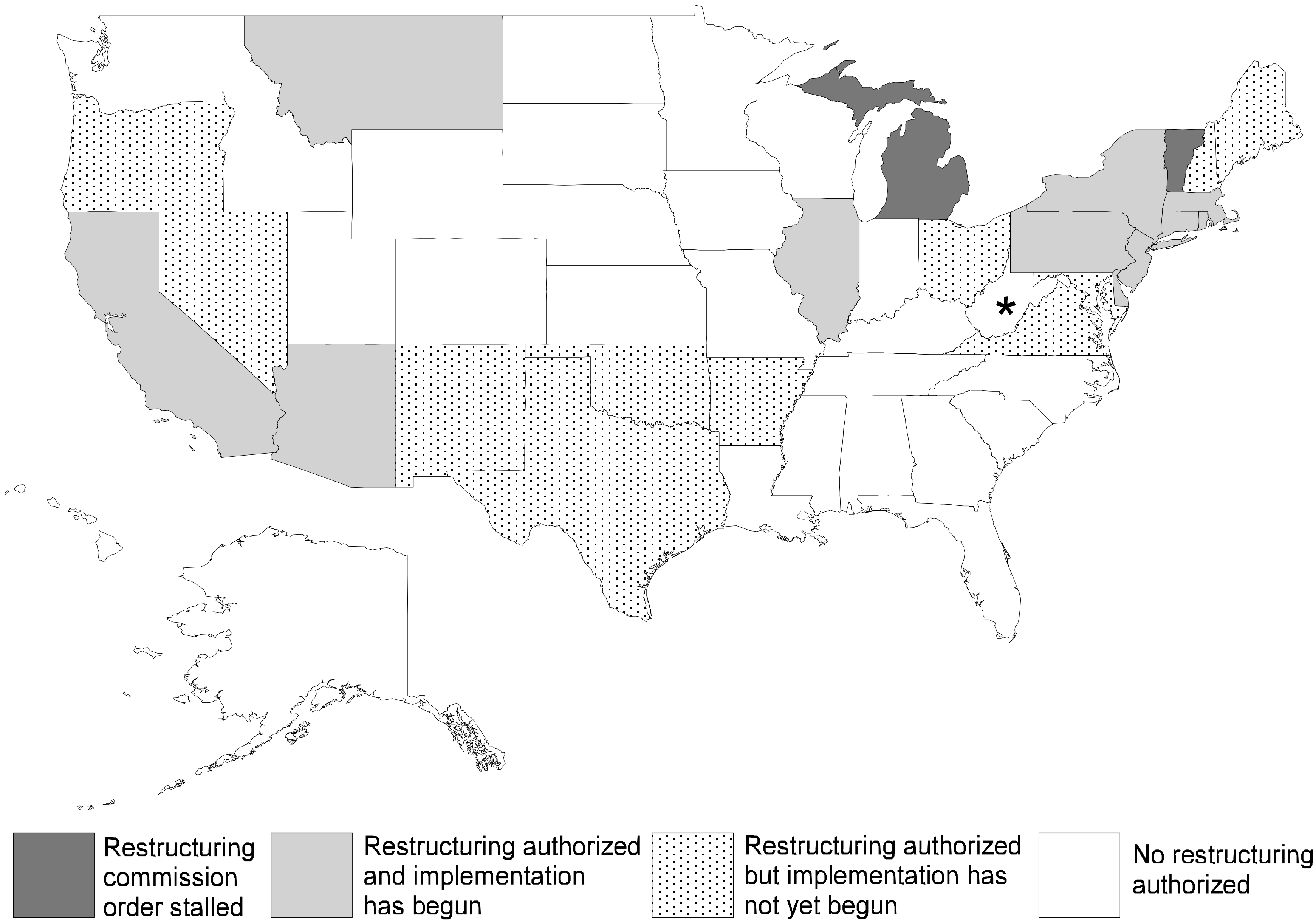
State	Status	Category
Arkansas	Retail competition to begin by January 2002. The authorizing legislation was signed in April 1999.	II
Maine	Retail competition for generation began on March 1, 2000, for all customers. Competition for electric billing and metering to begin March 1, 2002, unless an earlier date (after March 1, 2000) is established by the Public Utilities Commission.	II[136]
Maryland	A commission order to phase in retail competition between July 1, 2000, and July 1, 2002, was challenged in court. Restructuring legislation later was passed, in April 1999, and contained the same time schedule.	II
Nevada	Retail competition was to begin no later than December 31, 1999, unless the Public Utilities Commission determined that a different date was necessary to protect public interest. After a PUC delaying announcement, the legislature enacted a comprehensive restructuring bill which gives the governor, not PUC, a delaying option. Competition was to begin March 1, 2000, but that date also was postponed.	II
New Hampshire	Retail competition was to begin on January 1, 1999, but a lawsuit filed in federal court addressing stranded costs still hinders restructuring efforts. A settlement between the utility bringing the lawsuit (PSNH) and the Public Utilities Commission is being discussed. Another IOU has voluntarily started the restructuring process.	II
New Mexico	Retail competition will begin among residential and small consumers in 2001, and all consumers will have retail access by January 2002, as authorized by legislation signed in April 1999.	II
Ohio	Retail competition will begin for some customers in January 2001 and all customers will have retail access by December 2005, as authorized by legislation signed in July 1999.	II
Oklahoma	Retail competition is to begin by July 1, 2002, with a legislative task force to develop the plan. However, additional legislation is necessary before restructuring can be implemented.	II
Oregon	Retail competition will begin for industrial customers by October 1, 2001. The authorizing legislation (signed July 1999) gives residential customers some service and rate options to go into effect on the same date, but they will continue to receive electricity from their local utility.	II

136 As of March 2000, Maine is a Category I state.

Restructuring Status Table (continued)

State	Status	Category
Texas	Retail competition is required to begin by January 2002, as authorized by legislation signed into law in June 1999.	II
Virginia	Transition to retail competition to begin in January 2002, with phase-in of consumer choice between January 1, 2002, and January 1, 2004. The authorizing legislation was passed in March 1999.	II
Iowa	No plan authorizing retail competition has been adopted by either the Utility Board or legislature. However, Iowa has made and implemented changes in its tax structure in anticipation of future passage of legislation that would restructure the electric industry. A two-year pilot project in Council Bluffs, Iowa, began in May 1999.	III
Michigan	Public Service Commission adopted an order authorizing retail competition. The Michigan Supreme Court decided in June 1999 that the PSC does not have authority to mandate competition. Restructuring legislation was introduced in January 2000 (SB 0937). Some utilities have voluntarily started to restructure.	III
Minnesota	No plan for retail competition has been adopted by either the legislature or Public Utilities Commission.	III
North Dakota	No plan for retail competition has been adopted by either the legislature or Public Utilities Commission.	III
South Dakota	No plan for retail competition has been adopted by either the legislature or Public Utilities Commission.	III
Wisconsin	No plan for retail competition has been adopted by either the legislature or the Public Service Commission.	III
West Virginia	In March 2000, the West Virginia legislature passed a resolution approving an electric restructuring plan adopted by the West Virginia Public Service Commission. Under the plan, restructuring will be implemented beginning January 2001. Some conforming legislation will be necessary before the plan can be fully implemented.	As of February 2000, III; As of March 2000, II

Retail Electric Utility Industry Restructuring Status
(as of February 2000)



* West Virginia passed a resolution adopting a deregulation plan in March 2000.

Source: Minnesota House Research Electric Utility Survey; Energy Information Administration, U.S. Department of Energy

House Research Graphics

Restructuring commission order stalled:

Michigan
Vermont

Restructuring authorized and implementation has begun:

Arizona
California
Connecticut
Delaware
Illinois
Massachussetts
Montana
New Jersey
New York
Pennsylvania
Rhode Island

Restructuring authorized but implementation has not yet begun:

Arkansas
Maine
Maryland
Nevada
New Hampshire
New Mexico
Ohio
Oklahoma
Oregon
Texas
Virginia

No restructuring authorized:

Alabama
Alaska
Colorado
Florida
Georgia
Hawaii
Idaho
Indiana
Iowa
Kansas
Kentucky
Louisiana
Minnesota
Mississippi
Missouri
Nebraska
North Carolina
North Dakota
South Carolina
South Dakota
Tennessee
Utah
Washington
(West Virginia)*
Wisconsin
Wyoming

*See page 60 on West Virginia status.

House Research Graphics

1998 Bundled Retail Electric Service Rates[137]

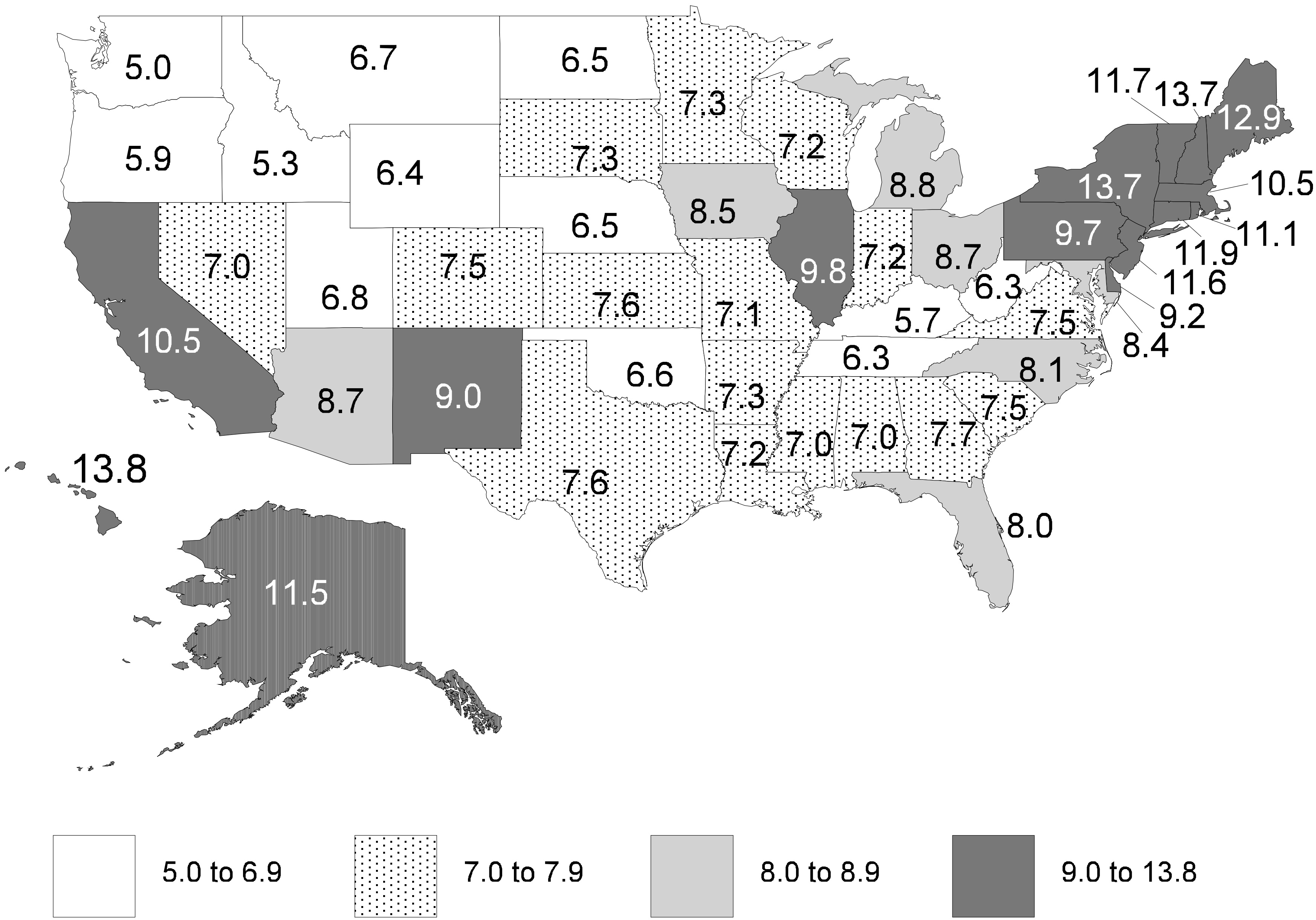
Average Retail Rate Charged per kWh, By Sector (reported in cents per kWh)

State	Residential	Commercial	Industrial	All Sectors
Alabama	7.0	6.6	4.0	5.5
Alaska	11.5	9.3	7.3	9.9
Arizona	8.7	7.8	5.1	7.4
Arkansas	7.3	5.7	3.9	5.6
California	10.5	9.7	6.3	9.0
Colorado	7.5	5.7	4.4	6.0
Connecticut	11.9	10.0	7.6	10.3
Delaware	9.2	7.1	4.7	6.9
Florida	8.0	6.4	5.0	7.1
Georgia	7.7	7.0	4.3	6.4
Hawaii	13.8	12.3	9.4	11.5
Idaho	5.3	4.3	2.8	4.0
Illinois	9.8	7.8	5.1	7.5
Indiana	7.2	6.2	4.1	5.5
Iowa	8.5	6.8	4.1	6.2
Kansas	7.6	6.3	4.5	6.3
Kentucky	5.7	5.2	3.0	4.2
Louisiana	7.2	6.5	4.2	5.8
Maine	12.9	10.5	6.4	9.7
Maryland	8.4	6.9	4.2	7.0
Massachusetts	10.5	9.4	8.1	9.5
Michigan	8.8	7.9	5.1	7.2
Minnesota	7.3	6.2	4.4	5.7
Mississippi	7.0	6.5	4.2	5.9
Missouri	7.1	6.0	4.4	6.1
Montana	6.7	6.0	3.5	5.1
Nebraska	6.5	5.4	3.6	5.2
Nevada	7.0	6.5	4.6	5.8
New Hampshire	13.7	11.6	9.3	11.8
New Jersey	11.6	10.0	7.8	10.2
New Mexico	9.0	7.9	4.6	6.9
New York	13.7	11.7	5.0	10.7
North Carolina	8.1	6.4	4.7	6.5
North Dakota	6.5	6.0	4.5	5.8
Ohio	8.7	7.6	4.3	6.4
Oklahoma	6.6	5.7	3.7	5.5
Oregon	5.9	5.0	3.1	4.7
Pennsylvania	9.7	8.1	5.6	7.7
Rhode Island	11.1	9.4	7.8	9.7
South Carolina	7.5	6.3	3.7	5.6
South Dakota	7.3	6.6	4.5	6.3
Tennessee	6.3	6.4	4.6	5.6
Texas	7.6	6.6	4.0	6.1
Utah	6.8	5.7	3.4	5.2
Vermont	11.7	10.1	7.1	9.9
Virginia	7.5	5.6	3.8	5.9
Washington	5.0	4.8	2.6	4.0
West Virginia	6.3	5.5	3.8	5.1
Wisconsin	7.2	5.9	3.8	5.4
Wyoming	6.4	5.3	3.4	4.3

Source: Energy Information Administration, U.S. Department of Energy, *Electric Power Annual 1998 Volume I*

[137] Bundled retail electric service includes generation, transmission, distribution, and other related services.

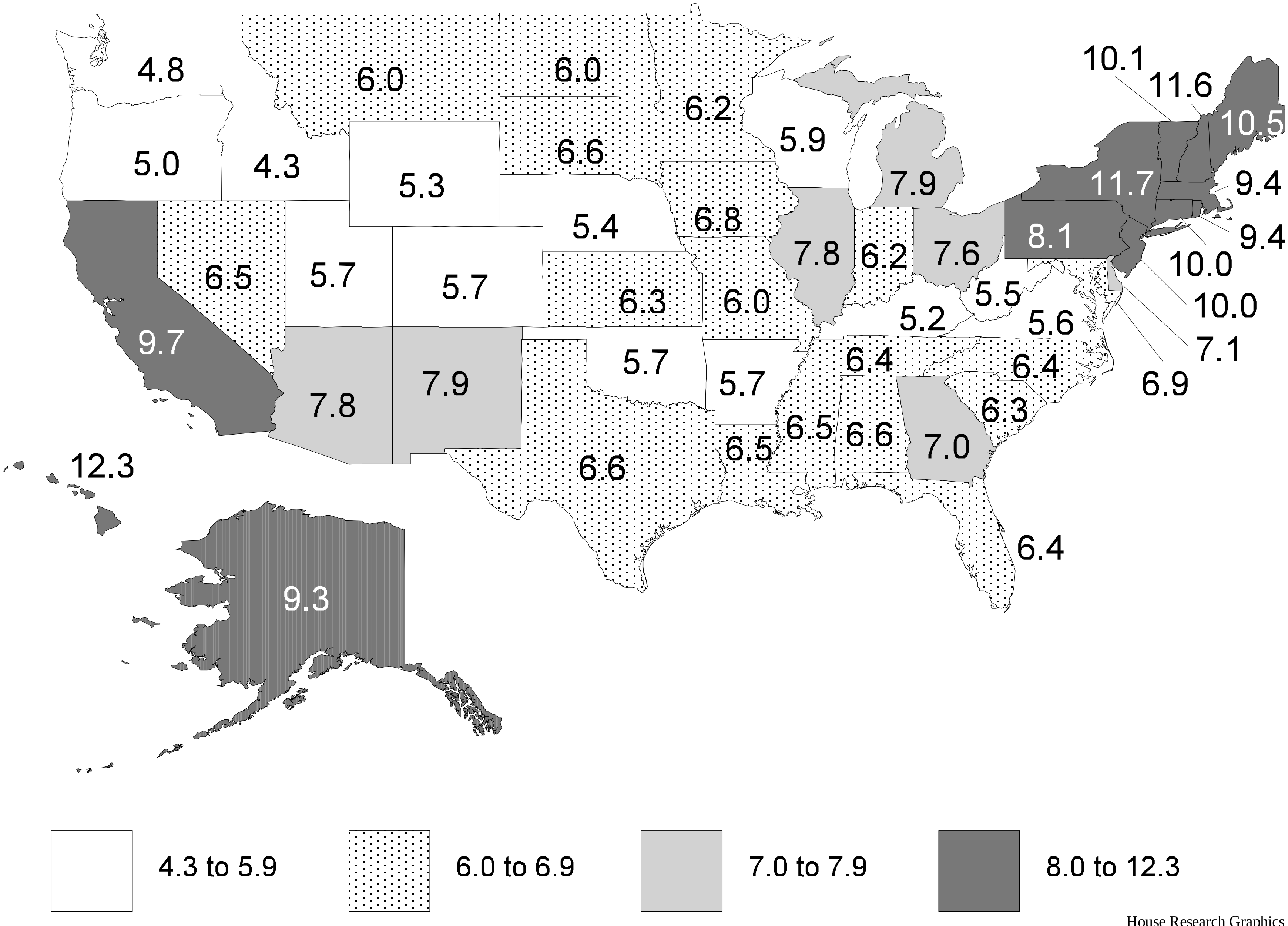
1998 Average Residential Rate Charged per kWh
(reported in cents per kWh)



Source: Energy Information Administration, U.S. Department of Energy, Electric Power Annual 1998 Volume I

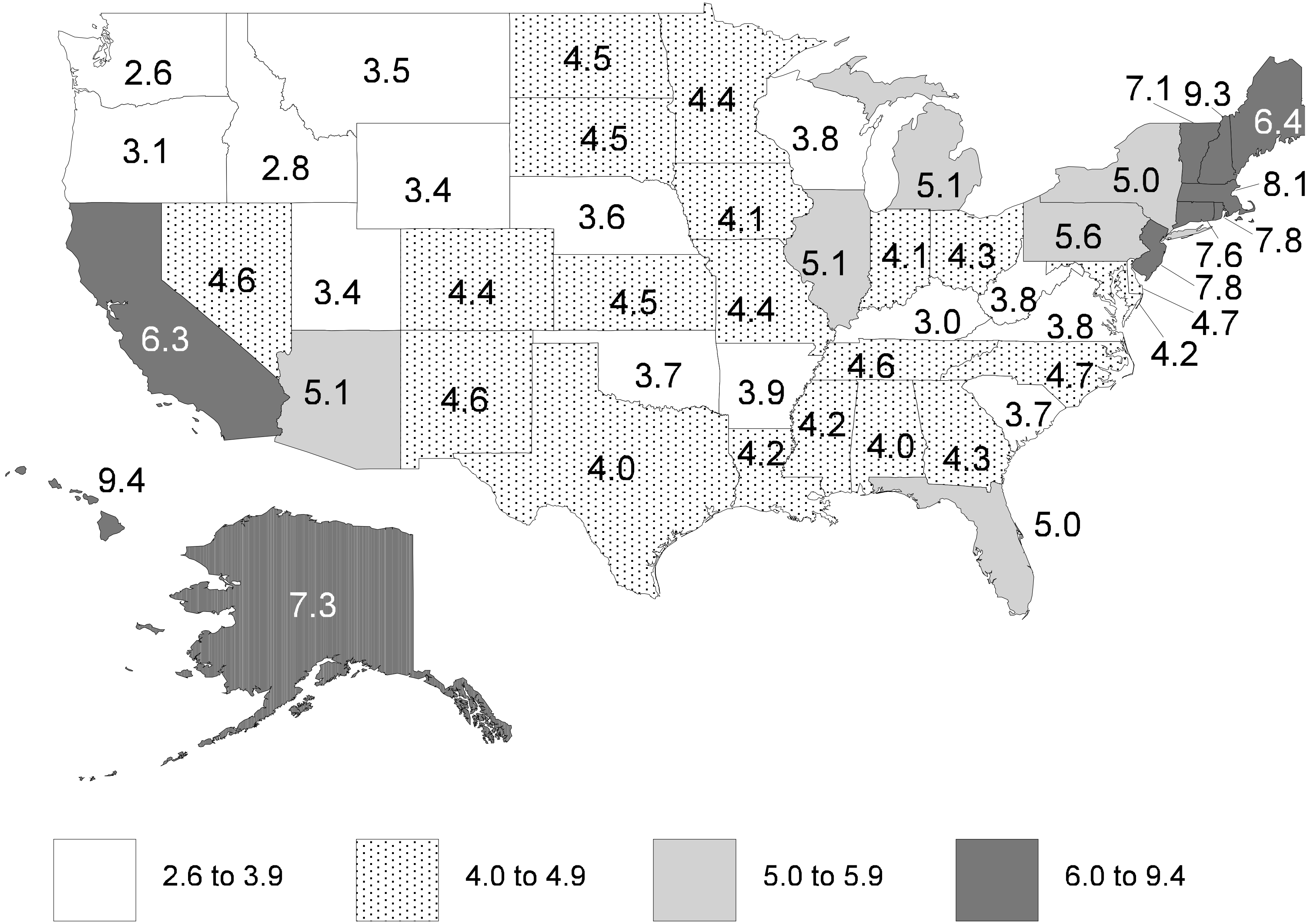
House Research Graphics

1998 Average Commercial Rate Charged per kWh
(reported in cents per kWh)



Source: Energy Information Administration, U.S. Department of Energy, Electric Power Annual 1998 Volume I

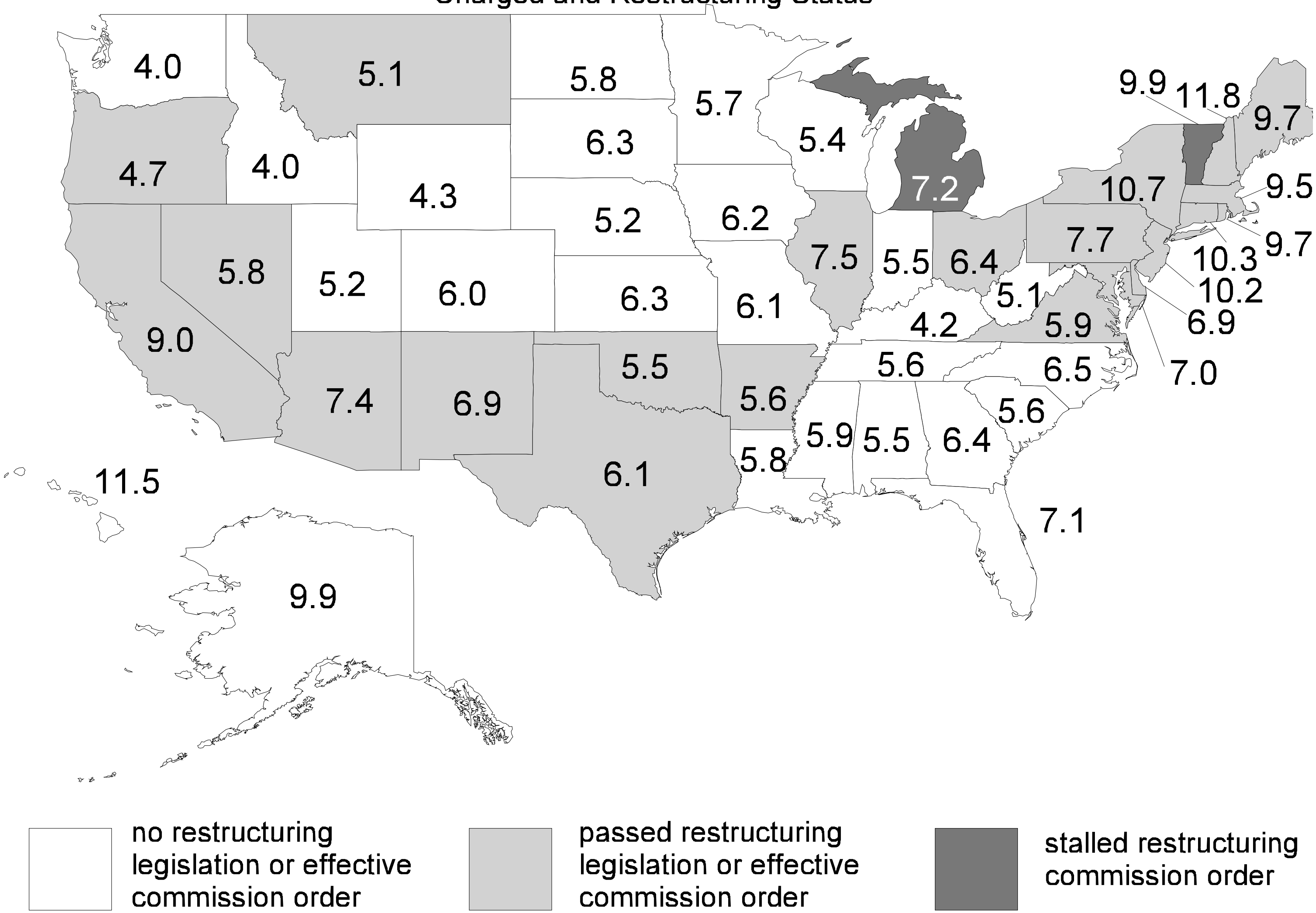
1998 Average Industrial Rate Charged per kWh
(reported in cents per kWh)



Source: Energy Information Administration, U.S. Department of Engery, Electric Power Annual 1998 Volume I

House Research Graphics

Comparison: 1998 Average All-Sector Electric Utility Rate Charged and Restructuring Status*



* Rates reported are from 1998 calendar year. Restructuring status effective February 1, 2000.

Source: Minnesota House Research Electric Utility Survey and Energy Information Administration, U.S. Department of Energy

Appendix A: Glossary

Ad valorem taxes are taxes based on the value of an asset, good, or transaction. The property tax is an ad valorem tax.

Allocation to states refers to the process of assigning a portion of a unit value to a state.

Assessment ratio is the relationship between assessed taxable value and market value or some statutory value, such as actual value, true cash value, etc. Sales ratio studies measure assessment ratios of properties.

Book value is the amount at which an asset is valued in the accounts of an entity. It may or may not represent the actual market value of the asset. Normally, book value is computed as historic cost less accrued depreciation.

Bundling involves selling generation, transmission, distribution, and other related electric services for a single price.

Certificate of public convenience and necessity indicates an approval typically required from the state regulatory body prior to building certain size transmission and generation facilities; approval is generally based on a showing of need for the facility to meet demand for electricity. The same requirement has other names, such as certificate of need.

Classification is a method of property taxation where different types of property are taxed at different rates. Minnesota's property tax system imposes different tax rates on different types, or classes of property. For example, residential property, commercial/industrial property, residential rental property, and seasonal recreational property are separate classifications that are treated differently under the Minnesota property tax system.

Class rates are percentages applied to the market value of different classes of properties that are defined by state law and used to compute the assessed value/taxable value /tax capacity of the property. The resulting tax base is subject to the local government tax rate.

Cogeneration is the sequential generation of thermal energy, usually as steam, and electricity.

Competition for electric billing and metering allows multiple-service providers to offer these services at market driven rates.

Co-ops are utilities organized as cooperative associations under state law. Co-ops generally are not subject to rate regulation by the state utilities commission unless the members of the co-op elect to be so regulated. In Minnesota, the Public Utilities Commission (PUC) does regulate co-ops with regard to certificates of need for power plants, the assignment of service territories, energy conservation spending, and formal service complaints.

Depreciation is recovery through an income tax deduction, spread over several years, of some or all of the amount a taxpayer paid for property that is used to produce income.

Distribution involves the delivery of electricity over low voltage lines to the end-user, after it has been "stepped down" (voltage is reduced) from the transmission system.

Effective tax rate (ETR) is a property's net tax (after credits) divided by the property's market value.

Estimated market value (EMV) is the amount that a local assessor determines to be the value of the real estate in an open market in an arms-length transaction where neither the buyer nor the seller is forced to make the transaction. In Minnesota, this value is generally multiplied by the appropriate class rate to arrive at the tax capacity (tax base) of the property.

Fair market value is generally defined as the price a willing buyer would pay a willing seller in a transaction on the open market. Fair market value is generally the same as estimated value, reasonable market value, arm's length consideration, or normal price.

Generation refers to the actual creation of electricity which can be generated using a number of methods and fuels, i.e., nuclear, coal, hydro, or wind.

Independent power producers are wholesale electricity generators.

IOUs or investor-owned utilities are privately owned utilities, which are owned by shareholders and are generally rate regulated by the state utilities commission. IOUs are "vertically integrated" utilities, in that IOUs generate, transmit, and distribute their own electricity (in addition to purchasing power from others).

kWh (kilowatt-hour) is a measure of electrical energy used (1,000 watts for one hour) and is commonly the measure against which electrical rates are applied to determine electrical customer charges.

Levy generally is the amount of tax imposed (noun) or the act of imposing a tax (verb). More specifically, it is (1) the total dollar amount raised in property taxes by a local unit of government; (2) a tax, fee, or surcharge; or (3) the imposition of such a charge.

Local tax rate is the rate of tax determined by dividing the amount of a local government's property tax levy by the total tax capacity (tax base) of all taxable properties within that local government's taxing jurisdiction.

Megawatt (MW) is 1,000 kilowatts.

Munis or municipal electric utilities are owned and operated by municipalities and overseen by municipal governments. In Minnesota, these entities are not rate regulated by the PUC, but are subject to regulation with regard to certificates of need for power plants, the assignment of service territories, energy conservation spending, and formal service complaints.

Nexus refers to the economic connections or links to a state that result in a legal liability to pay or remit taxes to that state.

Public Utilities Commission is the government entity that regulates retail electric sales in most states. In some states, this entity is titled Public Service Commission.

Real property includes land, buildings, structures, and improvements or other fixtures on the land, and all rights and privileges belonging or appertaining to the land, and all mines, minerals, quarries, fossils, and trees on or under the land.

Resale is the reselling of electricity.

Restructuring means the process of amending the structure of the electric industry, through deregulating and re-regulating in order to introduce additional competition into the industry structure.

Retail competition, or retail access, refers to competition in the retail sector of the electric industry, generally with reference to the generation function. It is the ability to transmit one's power through the transmission and distribution facilities of another for sale to a third party at retail.

Sales ratio is the term for a type of analysis ("sales ratio study") used to measure the accuracy of local assessors' estimates of taxable property values. A sales ratio of 100 percent suggests that the aggregate estimated market values of properties selling within a geographical boundary are equal to the actual sales prices of those properties. In Minnesota, when the sales ratio for a particular class of property falls below 90 percent, the State Board of Equalization is authorized to issue a state board order increasing the taxable values of all properties in that class and assessment area by a flat percentage, in order to achieve greater equalization of taxes among like properties.

Stranded costs refer to financial obligations incurred by utilities to serve customers in a regulated market which will be unrecoverable in an unregulated market. One example of a stranded cost is an investment in a generation plant that a utility may have made in order to fulfill their obligation to serve, but which will not be needed in a more competitive environment.

Tax capacity (Minnesota term) is the basis upon which property taxes are levied. Tax capacity is the proportion of market value subject to the local government tax rate (market value x property class rate = tax capacity). It is a term used to describe the "property tax base" of a geographic unit or a single parcel of property. The tax capacity is defined as the estimated market value of a parcel of property multiplied by the appropriate class rate.

Transition indicates transition from a fully regulated retail electric market to a more competitive market.

Transmission involves the carrying of electricity via transmission lines over long distances at high voltage from the generation plant to the distribution substation, where the electricity is "stepped down" (voltage is reduced) for distribution to residential, commercial, and industrial customers.

Ultimate consumer/ultimate customer refers to the end user of electricity.

Unbundling can refer to 1) structural unbundling, which means the disintegration of the utility structure; 2) rate unbundling, which refers to unbundling of the single rate for generation, transmission, distribution, and other related services into separate rates for each utility service; or 3) cost unbundling, which refers to the allocation of costs associated with the various utility functions such that each of those costs can be separately and accurately stated.

Unit method of valuation is the technique of valuing a group of property items as "one."

Unitary tax system, commonly referred to as worldwide unitary combination with formula apportionment, refers to a system in which the profits of the various branches or the various corporations of a group are not calculated as if the branches or affiliate corporations were distinct and separate enterprises dealing at arm's length with each other, but rather the entire group is regarded as a single unit. Both domestic and foreign parts and members of a unitary business are included. A formula is then used to apportion the net income to the various parts of the group.

Water's edge refers to legislation enacted by several states to limit the taxing authority over multi-national companies. The legislation is found in states which use a unitary tax method of taxation. In general, water's edge legislation limits (or provides an election to limit) the application of the unitary method only to those members of the group that conduct business activities within the geographical boundaries of the United States.

Appendix B: In-Depth Profiles

Iowa

Introduction: A New Electric Utility Tax Structure. Iowa's electric utility industry has faced significant change in recent years. In 1998, the Iowa state legislature enacted legislation which altered the tax structure as it relates to electric utilities. Broadly, the new law replaced property taxes for electric utilities with excise taxes on (1) generation, (2) transmission, and (3) distribution of electricity, effective beginning in January 1999.

Unlike other states which have revised their tax structure in order to better accommodate a competitive electricity market under new utility restructuring programs, Iowa has not yet restructured its electric utility industry; the tax changes precede any move toward a competitive marketplace. In fact, the text of the law which led to Iowa's new tax structure notes that the change was made in light of "the advent of restructuring of the electric and natural gas industry" and the competitive environment which will result.

The structural changes anticipate a need to avoid property taxes as a factor in competitive pricing of electricity when Iowa electric utilities face out-of-state competition in the future. Furthermore, like many of the tax changes implemented by states with newly restructured electric utility industries, the new Iowa tax structure aims to be revenue neutral, so that neither state coffers nor local taxing districts experience revenue shortfalls due to the change in taxation.

Note: SF 2420, enacted during the 2000 session, made miscellaneous administrative and enforcement changes to this replacement tax. No significant changes were made to the rates or basic structure.

Electricity Generation Excise Tax. The replacement excise tax on electric generation collects six-hundredths of one cent per kilowatt-hour of electricity generated within the state. (Iowa Code §437A.6) A limited number of exceptions apply.[138]

Electricity Transmission Excise Tax. The transmission tax applies to every entity which owns or leases transmission lines within the state, and is applied based upon line capacity:

- $550 per pole mile of transmission line greater than 34.5 kV but not exceeding 100 kV;
- $3,000 per pole mile of transmission line greater than 100 kV but not exceeding 150 kV;
- $700 per pole mile of transmission line more than 150 kV but not exceeding 300 kV; and
- $7,000 per pole mile greater than 300 kV. (Iowa Code §437A.7)

Electricity Delivery Excise Tax. Iowa's electricity delivery excise tax is the most complicated of the state's three electric utility replacement excise taxes, primarily due to its relationship with Iowa's former property tax scheme. Essentially, the delivery excise tax equals the number of kilowatt-hours of electricity

[138] They include electricity generated in a low-capacity factor power generating plant, by a facility owned or leased by a municipal utility when devoted to public use, and by wind energy and methane gas conversion properties. (Iowa Code §437A.6(1))

delivered to consumers by each electricity provider principally serving an electric competitive service area, multiplied by the electric replacement delivery tax rate for that service area. (Iowa Code §437A.4)

Calculating the replacement delivery tax rate

(1) The Department of Revenue and Finance first determines the average centrally assessed property tax liability allocated to electric service of each taxpayer for assessment years 1993 through 1997.[139]

(2) Next, based upon figures from calendar year 1998, tax components attributed to electric generation and transmission taxes are subtracted from the electric delivery tax component. The delivery tax component also is adjusted to include excess property tax liability attributed to generation and transmission cooperatives.

(3) Finally, the delivery tax rate for a service area equals the delivery tax component, divided by the number of kilowatt-hours delivered by the taxpayer principally serving the service area to consumers in calendar year 1998.

Tax rate recalculations

Recalculations will occur if the total taxable kilowatt-hours for an electric competitive service area changes, by more than a threshold percentage, from the average base-year amounts in the preceding five years. If the number of taxable kilowatt-hours increases, the tax rate will be 102 percent of the preceding year, if it decreases, the tax rate will be 98 percent of the preceding year.

Statewide Property Tax. In addition to the excise taxes, a statewide property tax of three cents per $1,000 of assessed value applies to electric utilities. (Iowa Code §437A.18) Operating property used in the production, generation, transmission, or distribution of electricity is subject to the tax, which was enacted in conjunction with the replacement excise tax system. The statewide property tax was designed so that localities could maintain bonding capacity. It has no built-in termination date.

Prior to 1998, utility personal property—including transmission and delivery poles, wires, attachments, and machinery in generating plants and substations—was subject to property tax. Under the excise tax system, *all* property subject to the replacement taxes is no longer subject to local property tax. (Iowa Code §437A.16)

Corporate Income Tax. Electric utilities also are subject to Iowa's general corporate income tax. The corporate income tax ranges from:

- 6 percent for the first $25,000 of business income;
- 8 percent for income greater than $25,000 but not exceeding $100,000;
- 10 percent for income greater than $100,000 but not exceeding $250,000; to
- 12 percent for income greater than $250,000. (Iowa Code §422.33)

[139] Delivery tax rates for municipals are based on their assessed property tax liability from 1997 assessment year.

Electric utilities may receive an investment tax credit equal to 10 percent of the cost of improvements to real estate and machinery and equipment if the improvements fall under a new jobs and income program.

Sales Tax. The statewide sales tax of 5 percent applies both to sales of electricity and sales of equipment installed in an electric system. (Iowa Code §422.43(1)) The sales tax also applies to municipals. Electric utilities do not receive any exemptions for sales of equipment installed in an electric system, and there are only limited exemptions to the tax on sales of electricity.[140] Electric utilities also may be subject to local option sales taxes, which may not exceed 1 percent.

Recent legislation has further clarified how Iowa applies its sales tax to electric utilities. Iowa law now specifies that electric transmission services may be subject to sales and use tax. Transmission of electricity does not qualify as an exempt transportation service, which would exempt it from the sales tax. (Iowa Code §422.45) Furthermore, recognizing that restructuring of the state's electric utility industry would allow consumers to purchase electricity or electric service from out-of-state providers, additional legislation makes such out-of-state sales transactions subject to local option and school infrastructure excise taxes on the use of electricity within the local tax area. (Iowa Code §422B.8, §422E.1) There is no local option use tax corresponding to the generally applicable local option sales tax provision, so electric utilities are unique in being subject to local option excise taxes on use.

Consumer Choice Pilot Programs. In addition to tax code revisions, the Iowa Utilities Board and MidAmerican Energy implemented two pilot programs during 1999. The pilot programs are designed to test a system which would allow consumer choice for electricity suppliers. One program, which encompasses residential and small commercial customers, has yet to see any electricity suppliers participate as competitive providers of electricity. Staff members with the Iowa Utilities Board report that they do not foresee any suppliers stepping forward to participate in this small-customer competitive program in the near future.

The second pilot consumer choice program includes large commercial and industrial customers. So far, this program has signed on one electricity supplier, which competes with MidAmerican to serve as electricity supplier for the area's large electricity customers. Iowa Utilities Board staff reports that customers are taking advantage of the competitive services offered by this electricity supplier. More competitive electricity suppliers may soon agree to participate in the large-customer pilot program; the program's operator, MidAmerican, recently withdrew a reciprocity rule which granted MidAmerican access to the primary market area of any electricity supplier that signed on to compete in the large-customer pilot program.

Status of Restructuring Legislation. A bill that would restructure Iowa's electric utility industry was proposed during the 1999 legislative session, but did not make it out of committee early enough to be heard by the full House. It remained in committee in the 2000 session. No final action was taken.

[140] Sales of electricity exempt from the sales tax include electricity used in processing and electricity used by water companies solely for the purpose of pumping water from a river or a well.

Wisconsin

Introduction. The general tax structure which applies to Wisconsin electric utilities has remained essentially unchanged since the mid-1980s. Prior to 1985, electric utilities—referred to as light, heat, and power companies in Wisconsin laws and regulations—were subject to ad valorem taxation, a system which multiplied state assessment of property values by the average statewide property tax rate. This ad valorem tax reflected Wisconsin's long-standing preference for centralized state taxation and assessment schemes, rather than local taxation and assessment schemes, for public utilities.

Gross Revenue License Fees. Beginning in 1985, Wisconsin light, heat, and power companies became subject to a state license fee. The license fee replaced the existing state-assessed ad valorem tax scheme for electric utilities, but maintained Wisconsin's emphasis on statewide assessment and taxation of utilities. Thus, the gross revenue license fee is in lieu of local property taxation for Wisconsin light, heat, and power companies. The license fee rate is 3.19 percent of gross revenues from sales of electricity and other operating revenues.[141]

In addition to light, heat, and power companies, municipal electric utilities, electric cooperative associations, and qualified wholesale electric companies[142] also are subject to the gross revenue license fee. Municipal electric association projects, which involve joint development projects between groups of municipal electric utilities, continue to pay the state-assessed ad valorem tax rather than the gross revenue license fee. All other power producers are subject to local property taxation.

A private light, heat, and power company may deduct from its gross revenue license assessment a portion of the actual cost of power purchased for resale. If the company purchases more than 50 percent of its electric power from a nonaffiliated utility which reports to the Public Service Commission, this deduction may equal the actual cost of power. If the company purchases more than 90 percent of its power and has less than $50 million in gross revenues, this deduction may equal 50 percent of the actual cost of power.

Corporate Income and Franchise Tax. All Wisconsin electric utilities, except municipal electric utilities and electric cooperatives, are subject to the state corporate income and franchise tax. The tax imposes a flat 7.9 percent rate on taxable income. The state utility tax—the gross revenue license fee discussed above—counts among the allowable deductions used to determine taxable income.

Sales tax. The statewide sales tax rate is 5 percent. Light, heat, and power companies do not pay sales tax on fuel purchased to produce electricity. Machinery and equipment used exclusively and directly in the manufacture of electricity also is exempt.

While sales of electricity to consumers generally are subject to sales tax, several exemptions apply. Most significantly, residential and farming sales of electricity from November through April are exempt from sales tax. Electricity used in the manufacture of steam for resale, as well as electricity used to produce shoppers guides, newspapers, or periodicals, also is exempt from the sales tax.

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[141] The license rate is 0.97 percent of gross revenues from gas sales.

[142] Qualified wholesale electric companies, meet the following criteria: 1) they generate and sell electricity to other entities, which in turn sell electricity directly to the public; 2) they sell at least 95 percent of net electricity production; and 3) they own or operate generating facilities with a total power production capacity of at least 50 MW.

Appendix C: Primary Staff Contacts

Minnesota House Research Utility Taxation Survey Primary Information Contacts[143]

State	Primary Contact	Phone Number	E-mail Address
Arizona	Cheryl Murray-Leyba	(602) 542-3529	murray-leybac@revenue.state.az.us
Arkansas	Will Keadle	(501) 682-7030	will.keadle@rev.state.ar.us
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Connecticut	Mike Galliher	(860) 297-5691	mike.galliher@po.state.ct.us
Delaware	John Maciejeski	(302) 577-8450	jmaciejeski@state.de.us
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Maryland	Linda Tanton	(410) 767-1556	ltanton@comp.state.md.us
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New Jersey	Geoffrey Marsh	(609) 633-2576	gmarsh@oit.state.nj.us
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New York	Ron Ginsberg	(518) 457-1370	
North Dakota	Marcy Dickerson	(701) 328-3141	mdickers@state.nd.us
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Oregon	Gregg Thummel	(503) 945-8257	gregg.w.thummel@state.or.us
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Minnesota	Karen Baker	(651) 296-8959	karen.baker@house.leg.state.mn.us
	Jeanne Cochran	(651) 296-8961	jeanne.cochran@house.leg.state.mn.us
	Alan Whipple (Dept. of Revenue)	(651) 296-0338	al.whipple@state.mn.us

[143] Most primary contacts are Department of Revenue staff for their respective states. Many of them specialize in a specific tax type—property, corporate income, or sales.