BEFORE THE PUBLIC SERVICE COMMISSION OF WISCONSIN

Joint Application of Wisconsin Electric Power Company, Madison Gas and Electric Company, and WPPI Energy for a Certificate of Authority to Construct a New Wastewater Treatment System at the Elm Road Generating Station, Milwaukee County, Wisconsin

Docket No. 5-CE-152

CLEAN WISCONSIN’S COMMENT ON DRAFT FINAL DECISION AND CERTIFICATE OF AUTHORITY AND ORDER

Intervenor Clean Wisconsin submits this comment on the Commission’s draft Final Decision and Certificate of Authority and Order (PSC REF# 426708) in the above captioned docket. The draft Certificate of Authority and Order would grant, subject to certain conditions, Wisconsin Electric Power Company (“WEPCO”), Madison Gas and Electric Company, and WPPI Energy (collectively “Joint Applicants”) a Certificate of Authority to construct and operate a new, $89.5 million wastewater treatment system at the Elm Road Generating Station (“ERGS”).

Clean Wisconsin is a nonprofit Section 501(c)(3) organization that advocates for clean energy and works to protect Wisconsin’s air and water. Clean Wisconsin has over 20,000 members and supporters statewide, many of whom live and work near the ERGS and in the service territories of Joint Applicants.

ERGS is currently a coal-fired electrical generation facility. As such, it would require an upgrade to its wastewater treatment system to comply with forthcoming deadlines in U.S. Environmental Protection Agency regulations promulgated to protect water quality at such facilities (the “ELG Rule”). While Clean Wisconsin fully supports all industrial facilities meeting applicable water quality protection...
regulations, the Commission’s approval of the upgrades at issue here are not in the interest of the environment or ratepayers of Wisconsin.

WEC Energy Group, the parent company of Applicant WEPCO, announced to investors on November 2, 2021 that, as part of its commitment to producing carbon-neutral electrical generation by 2050, it will cease burning coal across all of its generating facilities by 2035. To meet this commitment, the company will convert the ERGS from a coal-fired operation to a gas-fired one by that date, and as an interim step, convert it to 30% gas-fired capacity within the next eight years.¹

Joint Applicants are asking the Commission to approve a nearly $90 million retrofit with a useful life of, at most, 12 years. Coal-fired power plants stopped being a good investment long ago, and it makes no sense to pour yet more ratepayer dollars into coal generation when the market and applicable climate policies, including Joint Applicants’ own carbon neutrality commitments, dictate a shift away from coal as soon as possible.² What is more, the ELG Rule first went into effect nearly five years ago. Though it was subsequently put on hold, the compliance deadline has always been in December 2023. Instead of waiting to make the improvements, Joint Applicants could have made the necessary changes several years ago, which would have provided more environmental protection for the high price of the upgrades. Joint Applicants will now turn to ratepayers to recoup their bad investment.

The Commission’s draft Final Decision does not demonstrate an adequate analysis of the applicable standards that must be met to grant Joint Applicants a Certificate of Authority. The Commission has not explained how energy conservation and efficiency, or renewable resources are not cost-effective or technically feasible alternatives to the proposed action. Additionally, while the

Commission has authority to deny applications when the costs of utility actions are not proportionate to their benefits for ratepayers, the draft Final Decision does not explain why the Commission chose not to use that authority here.

Wisconsin’s Energy Priorities Law requires the prioritization of first energy conservation and efficiency, and second noncombustible renewable resources when meeting energy demands. The Energy Priorities Law ranks coal among the lowest priority fuel sources. Issuing Joint Applicants a Certificate of Authority for the wastewater system upgrades would enable continued coal-fired electrical generation at the ERGS, yet the Commission’s analysis in the draft Final Decision provides no explanation of why the higher priority alternatives to meet energy demands were not available. The draft Final Decision only states, without further explanation, that “[e]nergy efficiency, conservation, and alternative sources of supply, or their combination, are unlikely to resolve this issue” to support the Commission’s finding that higher priority alternatives are infeasible. This conclusory statement is not enough to justify the Commission’s finding that the requirements of the Energy Priorities Law have been satisfied.

The Commission’s application of Wis. Stat. § 196.49(3)(b) in the draft Final Order is likewise insufficient. The statute provides that the Commission “may refuse to certify a project if it appears that the completion of the project will… [p]rovide facilities unreasonably in excess of the probable future requirements” or “add to the cost of service without proportionately increasing the value or available quantity of service….” The installation of the wastewater treatment equipment is only necessary for a coal-fired generating facility. The ERGS will cease burning coal at most 12 years after the equipment is installed, rendering a new wastewater treatment system “in excess of probable future requirements.”

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3 Wis. Stat § 1.12(4).
4 Draft Final Decision (PSC REF# 426708) at 11 (emphasis added).
5 Wis. Stat. § 196.49(3)(b).
Similarly, installing a $89.5 million treatment system for a maximum lifespan of 12 years will unreasonably add to the costs of services provided by the ERGS without proportionately increasing the value or quantity of those services. The Commission’s analysis in the draft Final Decision is once again conclusory and inadequate, merely stating without any further discussion that “Commission staff’s investigation of the project indicated that the proposed project would not likely result in any of the outcomes listed in Wis. Stat. § 196.49(3)(b).”\(^6\) This severely limited analysis does not support granting Joint Applicants a Certificate of Authority.

In conclusion, Joint Applicants present their need for the new wastewater treatment system as an inevitable investment due to forthcoming federal regulatory requirements, but the Commission has the responsibility to consider Joint Applicants’ request in light of the Commission’s own applicable standards. The Commission’s analysis of the Energy Priorities Law and consideration of its authority under Wis. Stat. § 196.49(3)(b) do not support granting Joint Applicants’ request. Issuing a Certificate of Authority in this docket would unfairly burden ratepayers and allow Joint Applicants to continue generating power with one of the lowest priority fuels. This docket presents the Commission with the opportunity to steer investment towards more appropriate improvements to Joint Applicants portfolio that would benefit ratepayers and the environment of Wisconsin. Clean Wisconsin urges the Commission to seize that opportunity.

Dated this 13th day of December 2021.

Respectfully Submitted,

\(/s/ Brett Korte\)  
Brett Korte  
Climate & Energy Manager  
Clean Wisconsin

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\(^6\) Draft Final Decision (PSC REF# 426708) at 8.