

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Joint Application of Wisconsin Electric
Power Company and Wisconsin Gas LLC for
Authority to Adjust Electric, Natural Gas,
and Steam Rates

Docket No. 5-UR-110

WISCONSIN INDUSTRIAL ENERGY GROUP'S REPLY BRIEF

INTRODUCTION

The Wisconsin Industrial Energy Group (“WIEG”) submits this reply brief in response to Citizens Utility Board’s (“CUB”) initial brief regarding the closely related issues of electric cost of service and allocation of Wisconsin Electric Power Company’s (“WEPCO” or the “Company”) revenue requirement. WEPCO’s electric rates will increase substantially in 2023—by as much as 10.33% system-wide¹, even before Commission staff’s market price update to the Company’s 2023 fuel cost plan. The increase will be challenging for all of WEPCO’s customers, regardless of class. However, the increase is particularly worrisome for industrial customers who, as noted in WIEG’s initial brief, have energy costs that often comprise 25% or more of their expenses and who face competitors outside Wisconsin with energy costs that are already today, even before this increase, much lower than WEPCO’s.² Further deterioration of industrial rate competitiveness could snowball and hurt residential and small business customers as industrial production leaves Wisconsin for any one of the many states with more competitive industrial electric rates.³

¹ See Ex.-WEPCO WG-Eidukas-SA2, Schedule 1, Page 2 of 18 (*revenue increase with ROE of 9.8%*).

² WIEG’s Initial Brief, at 2.

³ Surrebuttal-WIEG-Maini-4.

Under the Commission’s traditional approach to allocating the Company’s electric revenue requirement, residential customers could expect a greater-than-average increase while industrial customers a lower-than-average increase.⁴ In its initial brief (and the testimony upon which it rests), CUB reveals that it understands that if the Commission takes an historical approach and continues its years-long practice of considering the results of the several COSS of record—the foundation for allocating revenue—together with less objective elements of rate making, such as bill impacts and gradualism, it will conclude that the most reasonable, fair, and balanced revenue allocation is the one proposed by WIEG witness Ms. Kavita Maini. CUB’s approach to revenue allocation in this case is such a departure from past practice that it is readily apparent that CUB knows that if the Commission employs its traditional approach to rate making,⁵ it will conclude that Ms. Maini fairly allocates WEPCO’s revenue, tempering what should be a much greater than system-average increase for residential customers by burdening the industrial class with a much greater share of the increase than WIEG’s preferred COSS model supports. WEPCO, agreeing with Ms. Maini, expressly supports her proposed allocation as balanced and equitable.⁶ And staff, while taking no position on WIEG’s proposal, itself proposes an allocation that is directionally similar to Ms. Maini’s,⁷ further reinforcing the reasonability of her proposal. Indeed, staff and Ms. Maini propose residential class allocations

⁴ The witnesses for Commission staff, WEPCO, and WIEG, using the traditional approach to revenue allocation that the Commission has long used, seeking to moderate the overall increase to all customer classes while considering the results of all six COSS models, all support greater-than-average increases for residential customers and lower than average increases for industrial customers. *See* Direct-PSC-Meulemans-6-7; Surrebuttal-WEPCO/WG-Nelson-2; Direct-WIEG-Maini-r-16, Figure 4.

⁵ CUB readily acknowledges that the Commission has a long-standing practice of relying on the results of a range of COSS, including the methodologies that “capture the historic preferences of parties such as CUB and [WIEG]”. CUB Initial Brief, at 19-20.

⁶ Joint Applicants’ Initial Brief, at 27 (citing Surrebuttal WEPCO/WG-Nelson-7).

⁷ Direct-PSC-Meulemans-7.

that are practically indistinguishable from own another.⁸

Facing the inauspicious results of the six COSS models, CUB's strategy is to upend the Commission's "long standing practice" to consider the full range of COSS results in evidence,⁹ arguing that the Commission should ignore completely the results of three of the six COSS the Commission staff asked WEPCO to introduce into this case;¹⁰ three COSS that have for years been included in the range of COSS the Commission has considered in Wisconsin's investor-owned utility rate cases;¹¹ three COSS that classify and allocate production plant consistent with methods long recognized as broadly supported, and defined, in NARUC's Electric Utility Cost Allocation Manual;¹² and, not incidentally, the three COSS that classify and/or allocate production plant as WIEG has long argued are most reasonable.¹³

Thus, not liking how the range of the six COSS results are looking for residential customers, CUB is left to argue that the Commission should reject half of that evidence—the half, of course, that provides, from its vantage point, the "worst" results for its constituency. CUB's position, as presented by its witness Mr. Corey Singletary, is nakedly outcome-oriented;¹⁴

⁸ At staff's audited, system-wide revenue increase of 8.75%, staff proposed a total residential flat (Rg-1, Fg-1) increase of 10.86% (Direct-PSC-Meulemans-7); Ms. Maini's proposed allocation to these customers is an increase of 10.95% (Direct-WIEG-Maini-r-16, Figure 4).

⁹ Final Decision, Docket 5-UR-109, at 73 ("The Commission's long standing practice is to consider the results of several COSS for the purposes of allocating test-year revenue responsibility.") (PSC REF#: 381305).

¹⁰ CUB's Initial Brief, at 18-22.

¹¹ Direct-PSC-Meulemans-5.

¹² For instance, the NARUC manual's Peak Demand method, used in both COSS methods 1 and 2, classifies production plant as 100% demand-related. (National Association of Regulatory Utility Commissioners, *Electric Utility Cost Allocation Manual*, 1992).

¹³ While the three COSS CUB would have the Commission reject include WIEG-supported classification and/or allocation of production plant, WIEG maintains, as it long has, that COSS method 1 (100% demand, 4 CP) most closely follows cost causative principles and should guide revenue allocation. See Direct-WIEG-Maini-r-8-9.

¹⁴ Surrebuttal-WEPCO WG-Stasik-2.

an extreme position¹⁵ that no other witness embraces. In contrast, the three other COSS witnesses—Mr. Meulemans, Mr. Stasik, and Ms. Maini—expressly reject Mr. Singletary’s rejection of fully one-half of the foundational evidence.¹⁶ The Commission, too, should reject this CUB approach that focuses on “only the hand-picked COSS results that support [its] desired result.”¹⁷ It should reject CUB’s transparently self-serving approach and, instead, continue its practice of considering “the results of several COSS for the purposes of allocating test-year revenue responsibility”¹⁸ The Commission should not divert from this practice because WEPCO’s revenue increase is so great this year. And it should not confuse the quantity of Mr. Singletary’s testimony (Mr. Singletary’s pre-filed testimony on revenue allocation runs to 52 pages, 41 of which are devoted to COSS) with the quality of that testimony. For the reasons that follow, apart from proposing an approach that is inconsistent with the Commission’s past practice, Mr. Singletary’s testimony on the merits is, substantively, in error.

DISCUSSION

A. THE COMMISSION SHOULD NOT REJECT COSS METHODS 1, 2, AND 3. INDEED, IF CUB’S REASONING APPLIED TO ALL COSS, THEN ITS PREFERRED METHODS 5 AND 6 MUST BE REJECTED AS WELL.

WIEG agrees with CUB that in designing fair and equitable rates, the Commission should consider COSS and be guided by the “Bonbright” ratemaking principles.¹⁹ And it does not disagree that “public policy judgment” is important in the Commission’s determination of just

¹⁵ *Id.*

¹⁶ See Surrebuttal-PSC-Meulemans-r-5; Surrebuttal-WEPCO/WG-Nelson-4-5; Rebuttal-WIEG-Maini-1-4.

¹⁷ Surrebuttal-WEPCO/WG-Nelson-4.

¹⁸ See Final Decision, 5-UR-109, at 73 (PSC REF#: 381305).

¹⁹ CUB Initial Brief, at 18-20.

and reasonable rates.²⁰ WIEG recognizes these elements in the Commission’s traditional rate-making approach, as detailed above. CUB, though, implies that the Commission has, in recent cases, fallen short.

CUB presents the Commission with two reasons to reject COSS methods 1, 2, and 3. First, as to methods 1 and 2, that production plant simply *cannot* be classified as 100 percent demand; and second, as to methods 1 and 3, that the demand portion of production plant simply *cannot* be allocated using the utility’s four highest monthly peak demands. The principal reason the classification and allocation are wrong? CUB’s apparent belief that there is a “Truth” and that WEPCO, or at least its witness Mr. Richard Stasik, knows that “Truth.”²¹ Because, he testifies, the utility “explicitly reject[s] these two allocation methods as inconsistent with the way in which WEPCO actually makes its resource planning decisions.”²² CUB’s argument is, at a minimum, a misreading of WEPCO’s testimony. It is not correct, as CUB argues, that WEPCO explicitly rejects classifying production plant as 100 percent demand and allocating that demand on 4 CP.²³ What we do see in Mr. Stasik’s testimony is the reasons why he *supports* WEPCO’s preferred COSS, in much the same way that Mr. Singletary explains his support for CUB’s preferred COSS and Ms. Maini explains her support of WIEG’s preferred COSS. Strikingly, WEPCO itself does not argue—as CUB does on its behalf—that its witness knows the single “Truth” as to correct classification and allocation. Mr. Stasik provides strong support for his position, but it is hardly dispositive. And, critically, if WEPCO had the “Truth” as Mr.

²⁰ *Id.* at 19.

²¹ CUB Initial Brief, at 21.

²² *Id.*

²³ CUB Initial Brief, at 20-22.

Singletary is arguing, why would WEPCO not also have asked the Commission to reject methods 1, 2, and 3 as inconsistent with its resource planning decisions? It does not do this, of course, because there is not a single “Truth”. And, WEPCO continues to support the Commission’s practice of considering the range of COSS—argues against *not* considering all six. It clearly recognizes that there is value in methods 1, 2, and 3.

Mr. Singletary does not have a technical response to Ms. Maini’s rebuttal testimony in connection with her classification and allocation of production plant. First, as to classifying production plant as 100% demand—the Peak Demand method. No witness disputes Ms. Maini’s argument that this approach is consistent with least cost planning, and that utilities utilize this approach without objection at the jurisdictional level; nor does any witness dispute that the Peak Demand method is more compatible with participating in the MISO energy market.²⁴

Second, with respect to using 4CP to allocate demand: Of course, the utility needs to have generation available for the peak in all 12 months of the year. But as Ms. Maini explains, the utility must build enough generation (*i.e.* production plant) with a planning reserve margin requirement to meet its peak, maximum demand.²⁵ For WEPCO, its maximum demand is in the summer months.²⁶ This evidence is not disputed. Since the utility builds enough generation infrastructure to meet its maximum demand, there should be adequate resources to serve lower load conditions in a reliable manner throughout the year. Further, as it relates to accounting for generation outages, as Ms. Maini explains, the planning reserve margin calculation takes into

²⁵ Direct-WIEG-Maini-r-10

²⁶ *Id.*

account unplanned generation outages, load uncertainty, and numerous other factors that impact generation availability.²⁷ Therefore, it is reasonable to argue that the primary cost causative drivers for building generation are the summer peaks. Further, for the reasons set forth in WIEG’s initial brief, Mr. Singletary’s critique of 4 CP as incompatible with an indefinite and undefined “seasonal capacity construct” does not support rejecting 4CP as demand allocator, particularly when those possible rules have not had any influence over the decisions WEPCO has made to date.²⁸

Finally, Mr. Singletary’s reliance on WEPCO’s witnesses to support his case would, if adopted by the Commission, require the rejection of CUB’s favored COSS and leave the Commission with only WEPCO’s favored COSS.²⁹ This is because Mr. Stasik not only disagrees with Ms. Maini’s classification and allocation of production plan, as Mr. Singletary argues, but he also disagrees with Mr. Singletary’s allocation of distribution costs.³⁰ Mr. Singletary fails to accept WEPCO’s conclusion that “from a cost causation standpoint, it is appropriate to classify a portion of these distribution costs as demand-related, based on the number of customer to whom the distribution system provides service....”³¹ Of all the COSS methods, though, it is CUB’s preferred method 6 that would most certainly need to be rejected if Mr. Singletary’s reasoning prevailed because no one, not even Mr. Singletary himself, testifies

²⁷ Rebuttal-WIEG-Maini-7.

²⁸ WIEG Initial Brief, at 9.

²⁹ If one is to accept Mr. Singletary’s testimony that Mr. Stasik’s opinion is “correct” and must be used in all COSS, we soon would have no COSS but Stasik’s. To be clear, WIEG does not believe that anyone’s testimony, including Mr. Stasik’s, is dispositive. And WIEG maintains that its preferred COSS method 1 most reasonably aligns costs with cost causers, and that it should guide revenue allocation. Mr. Singletary’s reasoning, though, necessarily leads to the conclusion that the utility alone knows how to correctly classify and allocate costs.

³⁰ Rebuttal-WEPCO WG-Stasik-5.

³¹ *Id.*

that uncollectibles should be borne by all customers. Indeed, Mr. Singletary testifies to the opposite – he acknowledges that uncollectible costs are directly assigned to the classes responsible for the uncollectibles and bad debt expenses, that most if not all Wisconsin IOUs allocate these costs to the classes in which these costs are accrued, and that he sees the “merits in this approach from a strict cost-causer cost-payor perspective.”³² If any COSS should be rejected, using Mr. Singletary’s logic, it is method 6 that has no reasonable degree of reliability—even its sole supporter admits that does not allocate uncollectible and bad debt expense to the classes responsible for those costs.

The central component of Mr. Singletary’s logic—*i.e.*, that there is a “Truth” to how production plant, the distribution system, uncollectibles and any number of other costs are to be classified and/or allocated—is belied by the evidence, including witness testimony on each of the issues. The witnesses have opinions on what cannot be empirically proven. The irony: Mr. Singletary stands alone in advocating for the outright rejection of three COSS methods—despite the witnesses’ differing good-faith opinions on classification and allocation of production plant. But he does not seek rejection of COSS method 6—CUB’s preferred COSS, which includes the allocation of residential uncollectible and bad debt expense to all customer classes—despite no witness, not even Mr. Singletary himself, expressing an opinion that the approach was consistent with cost causation principles. WIEG does not advocate in this case for the rejection of any COSS method. However, if the Commission were to exclude a COSS, for the reasons expressed above, COSS method 6 should be the first to go.

³² Direct-CUB-Singletary-r-55.

B. THE COMMISSION SHOULD ADOPT EITHER WIEG’S OR THE APPLICANTS’ NATURAL GAS ALLOCATIONS.

WIEG’s reasoning in support of either WIEG’s or the Applicants’ proposed natural gas allocations remains as set forth in its initial brief.³³ CUB presents no argument in its initial brief that WIEG had not anticipated. And, for the reasons it set forth in its initial brief and the testimony of Mr. Robert Bauer, WIEG continues to believe that both COSS A and COSS B should be modified in several ways. The Commission should adopt either WIEG’s or the Applicants’ natural gas allocation proposals.

C. THE COMMISSION SHOULD INCLUDE AN ORDER POINT DIRECTING THE DEFERRAL OF CHANGES IN REVENUE REQUIREMENTS SPECIFIC TO OCPP UNITS 5 AND 6 IN THE EVENT THEY ARE RETIRED IN 2023.

One of the reasons WIEG supported the Settlement Agreement is WEPCO’s agreement to key provisions related to its recovery of early retired coal-fired plants. As WIEG outlined in its initial brief, with the settlement, WEPCO has agreed to the securitization and levelization of unrecovered cost of the Oak Creek Power Plant,³⁴ This treatment of OCPP is a critical component of the Settlement Agreement.

A related issue not part of the Settlement Agreement though, was mistakenly absent from WIEG’s Initial Brief. The issue is not disputed, which is why WIEG believes it reasonable to include in this Reply Brief. When WEPCO filed its case, it anticipated OCPP 5 and 6 retiring in 2023 only to, later, move retirement back to 2024. WIEG witness Mr. Lane Kollen testified that in the event that WEPCO reconsider its decision and once again retire OCPP in 2023, that the

³³ See WIEG Initial Brief, at 14-15.

³⁴ See WIEG Initial Brief, at 3-4.

difference between OCPP costs in rates and what they actual are should be deferred.³⁵ In responses, staff witness Probst suggested that the Commission could require WEPCO to defer the difference in revenue requirement in this way, as it did with Edgewater Unit 5.³⁶ WEPCO, through testimony of Mr. Eidukas, agreed “to accept the proposal to defer any changes in revenue requirements specific to OCPP Units 5 and 6 in the event their retirement date is accelerated into 2023.”³⁷

CONCLUSION

For each of the above-stated reasons, and those in its initial brief, WIEG respectfully requests that the Commission approve the Settlement Agreement and approve, as just and reasonable, WIEG’s proposed electric allocation and the utility’s natural gas revenue allocations.

Dated: October 19, 2022

Respectfully submitted,

HEINZEN LAW, SC

s/ Steven Heinzen

By: _____

Steven A. Heinzen, Wis. Bar No. 1032278
Attorney for Wisconsin Industrial Energy Group

PO Box 930370
Verona, WI. 53593
608.209.7478
steve.heinzen@heinzenlaw.com

³⁵ Direct-WIEG-Kollen-7.

³⁶ Rebuttal-PSC-Probst-3

³⁷ Surrebuttal-WEPCO WG-Eidukas-2