

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN**

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Application of Madison Gas and Electric Company for  
Authority to Offer a Renewable Energy Rider

Docket No. 3270-TE-102

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**COMMENTS OF THE CITIZENS UTILITY BOARD  
ON COMMISSION STAFF MEMORANDUM**  
June 21, 2017

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**I. INTRODUCTION**

On May 18, 2017, Madison Gas and Electric Company (MGE) filed its proposed Renewable Energy Rider (RER). The purpose of the RER is to provide a tariff framework allowing MGE to enter into an individualized contract with new and existing commercial and industrial customers to provide dedicated renewable generation to such customers. On June 12, 2017, Commission staff issued a memorandum providing information on MGE's RER filing, raising a number of issues for the Commission to consider with respect to the proposed RER, and seeking comment from interested parties. (Staff Memorandum) The Citizens Utility Board (CUB) files these comments, addressing the terms of the RER and the issues raised in the Staff Memorandum.

As a general matter, CUB supports innovative proposals by utilities that are responsive to ratepayer requests for new products and services, so long as: 1) the participating customer primarily, and the class of customers eligible for the product or service secondarily and if need be, pays all the actual costs, direct and indirect, associated with that product or service; and 2) the arrangement is not otherwise unduly discriminatory or preferential. It is not clear based on the language in the proposed RER that participating customers would pay all the costs

incurred by MGE to serve all or a part of their load with a specially procured and dedicated renewable resource. The Staff Memorandum notes cross-subsidization by non-participating ratepayers is an especially likely consequence in cases of existing load moving from base rates to service under the RER. In part to mitigate this cost-shifting, the Staff Memorandum suggests limiting availability and total program size of the RER. But this, in turn, raises the possibility of unduly discriminatory and preferential treatment for certain commercial and industrial customers. To the extent the tariff language can be modified to clarify that participating customers are responsible for all costs, and the Commission is satisfied that no cross-subsidization will occur, then CUB would support making the tariff as broadly available to commercial and industrial customers as possible, including small businesses that otherwise are served by MGE under the Cg-4 tariff.

## **II. COMMENTS**

The Staff Memorandum focuses on three issues regarding the proposed RER. First, that the proposed availability criteria for the RER are broad and would allow “nearly all commercial and industrial customers to participate.” (Staff Memorandum at 5) Second, that the RER does not specify whether customers can aggregate their load to qualify for the demand eligibility components of the tariff. And third, that the RER does not cap the amount of existing load that would be eligible to participate in the program.

### **1. Customer Eligibility and Aggregation**

MGE has taken an ambitious “come one, come all” approach to its proposed RER. Based on the eligibility criteria (minimum 15-minute demand in excess of 20 kilowatts), more than 4,000 customers representing 68 percent of MGE’s system sales would qualify. Of course, if all eligible customers took advantage of the RER it would turn MGE’s system upside down.

But it seems highly unlikely that each eligible customer would elect to take service under the RER, and even more unlikely that if they all did, they would elect to have their entire load served under the RER. As a practical matter it does not seem possible that MGE could serve anywhere near 68 percent of its current load under the RER, and section 5 of the tariff provides that service may be limited at the sole discretion of MGE, providing a kind of safety valve. Nevertheless, staff recommended to MGE that it increase the minimum demand criteria to 200 kilowatts, which would eliminate from eligibility the approximately 3,600 customers in the Cg-4 tariff. (Staff Memorandum at 6) MGE objected because that would exclude from participation certain national brand customers with multiple Cg-4 accounts such as Starbucks, McDonalds, Walmart, and Target, presumably likely candidates for RER participation. (Id., at 6-7) As an alternative staff suggests allowing Cg-4 load with multiple accounts to aggregate their accounts to meet its 200 kW threshold. CUB does not object to aggregation as a general principle, and staff notes a number of beneficial aspects of aggregation, including simpler and more efficient contracting and contract administration, and the ability to scale up resource acquisitions and therefore realize any economies of scale. (Staff Memorandum at 8) However, while this would allow “the big boys” with multiple Cg-4 accounts to participate, it would exclude those small business customers that can’t meet staff’s recommended 200 kW threshold individually or through aggregation.

Staff raises legitimate concerns regarding the scope of the RER as proposed, but CUB would like to see all small business customers under the Cg-4 tariff have the opportunity to participate in the program if that is what they want to do, assuming they are willing to pay all the costs MGE incurs to serve some or all of their load under the RER, including all the costs of acquiring the renewable resources dedicated to that purpose. Therefore, to the extent the

Commission is inclined to dial back the scope of the RER offering, CUB would prefer to see that done by establishing a cap on total program participation, rather than by eliminating the Cg-4 class of ratepayers from eligibility or by accommodating only those Cg-4 customers – the national chain customers noted in the Staff Memorandum – that can aggregate multiple accounts and meet the higher minimum participation threshold. While a program cap might shut out some customers in the event there is strong program demand, a program cap set initially at the 25.9 megawatts suggested by staff might be a good place to start. This seems like a fairer solution to the staff's concerns, while also satisfying the legal requirement that rates not be unjustly discriminatory or preferential. (Wis. Stat. § 196.37)

## **2. Cap on Existing Load**

The Staff Memorandum concludes that cost-shifting under the RER is a concern only in connection with existing load that moves to the RER, and not for any new customer RER load.<sup>1</sup> Staff concludes that building or procuring new dedicated renewable resources for new customers “should not shift costs to other customers or result in excess capacity or stranded costs.” (Staff Memorandum at 8) Of course, whether these conclusions are correct is dependent to a large degree on the rate and cost allocation language in the proposed RER tariff, and the terms and conditions of the service agreements by and between MGE and the participating customers.<sup>2</sup> If a share of any excess capacity costs created by existing load shifting to RER service are identified and allocated to participating customers, then the cost-shifting concern would seem to be addressed. On the other hand, with respect to new customer load it seems that even new customers with new load served exclusively under the RER will, to some extent, still lean on and impose costs on MGE's existing system. It is not clear such costs will be captured

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<sup>1</sup>Staff concludes that new load of existing customers using the RER poses a cost-shifting issue inasmuch as MGE procured resources to meet exiting and forecast (new) load of existing customers.

<sup>2</sup> Issues regarding the tariff language are addressed in section 3, below.

by any payments by these customers for service under base rates in lieu of the RER.<sup>3</sup> Also unclear is how these “dedicated” RER resources are going to be deemed to serve RER load – no intermittent renewable resource can serve 100 percent of load, and so RER customers, new and existing, will be using the existing MGE system to some extent. How new customers will pay for this at the same time they are presumably paying all the costs associated with the RER resources, running or not, is not clear.

In any case, staff focuses its cost-shifting concerns on existing customers shifting existing load or placing new load on the RER. Staff reasons that MGE’s existing generating resources “were procured, in part, to meet current needs as well as future load growth” and that allowing existing customers to participate in the RER “could increase the potential for stranding costs associated with existing generating facilities” with non-participating ratepayers, including residential ratepayers. (Staff Memorandum at 8) Staff notes that other similar renewable tariffs in other states have imposed either a cap on total energy sales or on nominated capacity for participating customers “to limit the potential for shifting costs to non-participating customers.” (Id.) Staff suggests a cap of 25.9 MWs based on MGE’s total system peak load. As noted above, CUB agrees with staff that a cap of some amount is probably needed given the amount of load that is theoretically eligible to use the RER, and the novel nature of the tariff, and that the 25.9 MW level seems like a reasonable compromise.

A better solution to the cost-shifting problem staff identifies is to make sure that the tariff and the individual service agreements together provide that MGE will charge the customer, and the customer will pay MGE, for all direct and indirect costs associated with partial or full service under the RER. Cost-shifting associated with market based rates harms non-participating

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<sup>3</sup> One example would be possible additional generation or fuel costs incurred by MGE to manage the increased generation variability associated with more renewable resources under the RER.

customers and is inconsistent with existing law. (Wis. Stat. § 196.192 (3)) The proposed RER appropriately requires Commission approval of each service agreement, but if the Commission is inclined to approve the RER, it should include an order point clarifying that it retains the right to order changes to any executed service agreement to ensure that all costs of service imposed by the participating customer are being paid by the participating customer. Along these same lines, the Commission should consider a follow-up evaluation of the RER tariff to assess the functionality and demand for the tariff and its consequences for customers that select it as well as those that do not.

### **3. Tariff Provisions**

CUB offers the following comments on specific sections of the proposed RER. CUB appreciates that the tariff must provide some level of flexibility to MGE to negotiate service agreement terms and conditions appropriate to the circumstances of each transaction. However, there appear to be a few ambiguities in the tariff and a few instances where some additional specificity or clarification by the Commission about its expectations regarding the RER may be warranted.

- The RER appears to specify that MGE may own the renewable resource used to serve the RER load, or procure renewable energy through a power purchase agreement. It is not clear how a resource built and owned by MGE to serve one or more RER customers will be treated on MGE's books. Presumably, if the RER customer is to pay all costs of the RER service, it will be responsible for all capital costs and for the return on and of MGE's investment in the facility.
- The RER specifies that the RER customer will be responsible for all the costs associated with the service agreement up to a specified energy amount, but "not to exceed the customer's total energy consumption." It is not clear how this qualification squares with the obligation to pay all costs of the RER service. If the RER customers load decreases over the term of the service agreement, this appears to relieve them of the obligation to pay all RER costs.
- The RER specifies that the service agreement must demonstrate benefits to non-participating customers. This is vague and probably contemplates qualitative benefits; it

might be better to specify that these should be quantitative benefits, and to reiterate that it requires a demonstration that no cost-shifting will occur under the service agreement.

- The RER specifies that the service agreement will address early termination, but does not state how. To protect non-participating ratepayers from RER costs associated with early termination, it might be best to specify in the RER itself that such early termination by the customer will constitute a default, and that the service agreements must specify how MGE will be made whole.
- The RER specifies that the service agreement filed for Commission approval must include details regarding the dedicated renewable resource. Presumably the service agreement filing and review is not intended to replace any required filings pursuant to Wis. Stat. §§ 196.49, 196.491, to the extent such filings would be necessary in connection with an RER resource.
- The RER specifies that the service agreement must address RER customer credit worthiness. This is appropriate, but it may be useful for the Commission and for potential RER customers if MGE developed and then applied in each case a uniform set of credit worthiness criteria. This might also help ensure that small business customers are not unfairly discriminated against.

### **III. CONCLUSION**

CUB generally supports MGE's efforts to provide customers with services and product options they want. However, it is essential that non-participating customers not be burdened with any costs associated with those offerings, both as a matter of fairness and because the laws requires it. It is also important that these offerings, if made, be available to as wide a spectrum of commercial and industrial customers as possible, so as not to unnecessarily discriminate in favor of certain ratepayers. Therefore, for the reasons stated herein, with respect to Issue A (Rate Classes Eligible to Participation in RER) CUB supports making the RER available to small business ratepayers in the Cg-4 class, consistent with Alternative One. With respect to Issue B (Aggregation of Load by Customers with Multiple Accounts to Determine RER Eligibility), because CUB supports the lower 20 kW participation threshold, it would support Alternative Two. In the event the Commission adopts a 200 kW participation threshold,

CUB would support Alternative Three. With respect to Issue C (Participation Cap) CUB supports staff's recommended 25.9 MW cap, consistent with Alternative Two. Finally, CUB would support a Commission order point requiring periodic reviews assessing the RER, its adoption and its impact on participating and non-participating customers.

CUB thanks the Commission for the opportunity to comment on this proposal.

Dated this 21st day of June, 2017.

Respectfully submitted,

*/s/ Kurt Runzler*

By:

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