BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Strategic Energy Assessment 2022
For the Years January 1, 2016 through December 31, 2022
Docket No. 5-ES-108

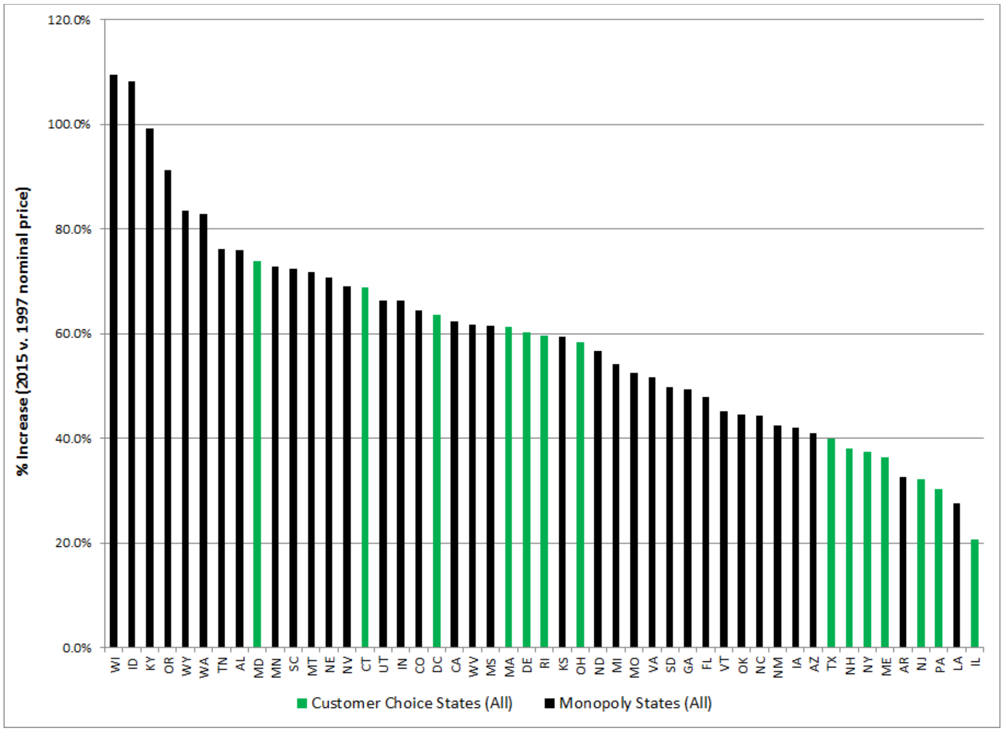
The following are the comments of Charter Steel, a division of Charter Manufacturing. Charter Steel has manufacturing facilities in Wisconsin and Ohio. In Wisconsin, its headquarters state, Charter Steel's Saukville plant is the largest single-site customer of We Energies, a subsidiary of WEC. In Charter Steel's Saukville steel melting operations electricity constitutes the highest un-hedged cost of manufacturing, exceeding labor costs. Because a commodity business like steel is extremely competitive, it is vital that Charter Steel's key input costs be competitive. This is no longer the case for electricity. This electricity cost disadvantage negatively affects Charter Steel's ability to compete, which ultimately impacts future investment and jobs.

**The Damaging Electricity Cost Problem in Southeast Wisconsin**

Since the early 1900's, Wisconsin has been a regional and national leader for the quality and cost of electric service. Unfortunately, the operative words in that sentence were "has been". In the past, sound utility operation and state regulation gave Wisconsin's utilities the very highest financial ratings in the country, while at the same time producing reliable power at regionally and nationally competitive prices.

**Things Have Changed in Southeast Wisconsin**

But since 2001 this positive electric industry landscape has changed dramatically in the regulated electric service territory served by We Energies. In 2001, We Energies electric rates (for job creating industrial customers) were about average in Wisconsin and among the very lowest in the Midwest region, well below the national average. By 2014 We Energies' rates for the same customers had risen by 100% and are now 23% above the rest of the state, and the Midwest and national averages. From 1997-2015 Wisconsin had the largest percentage increase in electric rates of any state in the nation, mostly due to the above market increases in We Energies' rates.




**We Energies Owners Have Prospered While Customers Pay Uncompetitive Rates**

While We Energies' customers were experiencing this unprecedented increase in prices they were required to pay to their monopoly provider, WEC shareholders were realizing unprecedented financial returns. WEC suffered financial downgrades and huge cuts in their dividends due to self-inflicted financial stress caused by their cash acquisition of WICOR (the holding company including Wisconsin Gas Company). But since those days in the early 2000's, We Energies flexed its political muscle to pass the Power the Future (PTF) regulatory revisions and has otherwise received regulatory treatment at the Wisconsin Public Service Commission allowing it now to earn at the very highest equity return levels in the country.

**What Has Caused This Huge Run-Up In Electric Prices For We Energies customers?**

Almost all of the disproportionate increase in rates can be attributed to the massive level of excess electric generating capacity built by We Energies under the PTF program which came on line in the period 2005-2011. This very same capacity is being awarded shareholder equity returns at least 25% above the equity returns being awarded today. By its own admission, this construction program and other events have created massive excess electric generating capacity. So much that We Energies can, until the mid-2020's, offer to serve all of the new requirements for power in both the WP&L and WPS service territories, obviating entirely the need for a new base loaded power plant.

**Did The Recession of 2008 Cause This Problem?**

We Energies asserts the current amount of excess capacity has been caused by the unexpectedly deep recession of 2008, but the facts are to the contrary. The deep recession contributed to, but did not cause the problem. For instance, in the PSCW hearings held to consider the proposal to build 1200 MWs of new capacity at the Elm Road Oak Creek site, We Energies testified that the need for the new generating capacity would in part be based upon an expected additional 250 MWs of wholesale load, and as well the planned retirement of 535 MWs of capacity at Oak Creek units 5 and 6. Neither has happened. If these actions had occurred, the current amount of excess capacity would be diminished by almost 900 MWs.

**WEC Shareholders Should Share The Risk of Excess Capacity**

We Energies has persuaded the PSCW to include all of the costs associated with the excess capacity in the rates borne by its retail customers - even though the capacity is not now or in the foreseeable future used or useful in serving the electric load of those customers. The Wisconsin PSC has not required WEC shareholders to bear any of the excessive costs. It continues to award those shareholders premium returns on the capital invested to carry out that overbuild of capacity.

We Energies customers have suffered some of the fastest rate of electric price increase in the nation, and pay some of the highest rates in the region, while WEC shareholders earn equity returns at the highest levels nationally. We Energies has about $2.5 billion of assets built under the PTF program assured of earning 12.7% after tax on the equity for the asset lives. This is an entirely unique and overly generous equity return. In exchange for earning these excessively high returns, it is only reasonable that WEC shareholders bear the risk of the excess capacity being deemed not used and useful. There is no other justification or rationale for these extraordinarily high returns to have been awarded to WEC shareholders.

**Power the Future Law Does Not Restrict Regulators From Disallowing Recovery of Excess Capacity Costs**

Wisconsin Statutes Sec. 196.371 is the law creating the Power the Future program. It basically says that the long term arrangement approved by the PSCW for the recovery of costs (including rate of return on the equity component) of a proposed power plant in its certification process cannot be revisited by future commissions, and cannot be the basis for disallowing any other unrelated costs of the utility. This puts the return level embedded in the We Energies leases beyond the reach of the Commission today. It also means the return decision regarding non PTF assets cannot be impacted by the terms of the PTF leases as originally approved. However, there is no prohibition against the PSCW doing its job by investigating which of a utility's assets are actually used and useful in serving the electric load of native load retail customers, and then deciding how to relieve native load customers of excessive costs which might be related to facilities not used and useful in serving their load.

The statutory PTF program as implemented by the PSCW provides that retail customers shall bear the costs of the PTF lease payments (including the return on equity built into those payments) through their rates, **but only** "....**that portion** of any payments under the leased generation contract **that the commission allocates to the public utility's retail customers."** To date retail customers are being required to bear **all** of the net costs associated with the massive excess capacity even though that capacity is not used to serve retail customers.

**Without Regulatory Intervention, The We Energies Electric Rate Disparity Will Not Improve**

In addition to blaming the recession for the extreme rate disparity suffered by their customers, We Energies has suggested that other utilities will experience more cost increases causing the

We Energies price disparity to disappear. They have also suggested that demand growth in their service territory will absorb the excess capacity and reduce the burden on existing customers. These assertions have been made by We Energies executives over several years and neither assertion is supported by the facts.

- "If you looked at those 27 states and states where rate freezes are about to roll off, there will be a huge shift in the overall price of electricity that will make WI more competitive." Gale Klappa 2006
- "From a competitiveness standpoint and electric price standpoint, we're actually beyond the worst period, the peak of our competitive disadvantage was really 2005. We've gotten more competitive since then." Gale Klappa 2010

Since 2011 when the We Energies price disparity became so pronounced, the rate gap between We Energies and the rest of the Midwest has not narrowed. In fact, for many comparisons it has widened. And We Energies itself, based on its own load demand forecasts, projects that the excess capacity will continue well into the next decade. Additionally, increased investment and focus on resource conservation will continue to reduce electric demand. We believe We Energies has under-estimated the impact of these conservation efforts in their demand modeling.

Absent decisive affirmative regulatory action to "right size" generating capacity, We Energies retail customers will continue to pay hundreds of millions of dollars a year in excess charges. For example, were these same customers to receive service in Wisconsin from WP&L, they would have paid $436 million less in rates in 2014 than they paid to We Energies; $612 million less to WPS; $452 million less to NSP Wisconsin; $534 million less to the average Illinois utility; $815 million less to the average Iowa utility; and $467 million less to the average American utility. The We Energies rate disparity is costing those who live in southeast Wisconsin hundreds of millions of dollars and many jobs every year.

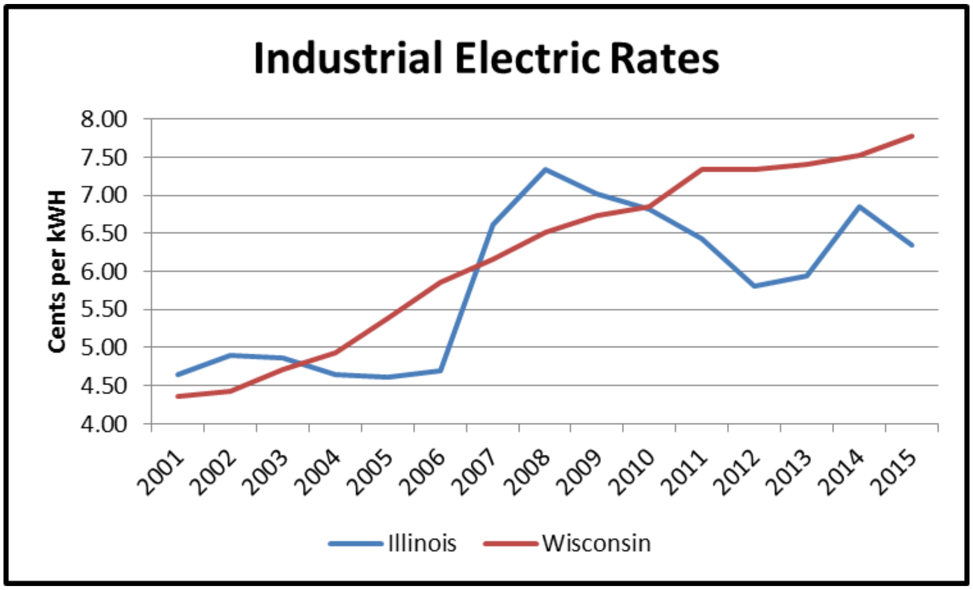
**What Have Other States Done To Improve The Competitiveness of Their Electric Rates?**

In the mid 1990's numerous states were experiencing very large rate disparities compared to the rest of the country. It was the result of the construction of many megawatts of nuclear powered generating capacity which became much more expensive to construct than expected. Also some of the projected electric demand which was the basis of the perceived need for the new capacity failed to materialize due to adverse business cycles. The result was substantial, expensive excess generating capacity beyond electric demand. This expensive excess capacity created a huge cost burden on the retail customers, driving their electric rates up dramatically, and well above those rates paid in other jurisdictions. Sound familiar? This is essentially what has occurred in the We Energies service territory today.

When this happened in states like California, Massachusetts, New York, Pennsylvania and Illinois, those state regulatory commissions began to talk about not allowing the utilities to recover all of the costs associated with the excessive cost of the capacity. There was talk of regulatory commissions creating "stranded assets", disallowing the recovery in rates of capacity cost excesses.

In the wake of this pressure, the utilities along with the regulatory bodies and consumer groups worked out legislative solutions which caused the utilities to sell electric generating capacity and at the same time give the largest electric customers "direct access" to wholesale electric markets. The power plant sales, when coupled with the opening of a direct retail market for independent power producers, created a robust market for the generating capacity capital assets the utilities put up for sale. It caused the utilities to "right size" their capacity assets for their native load. In most cases the asset sales were at prices way above the book value which was the basis on which those utilities were recovering costs from retail customers.

The new regulatory regimes adopted in these states have ultimately been win (for retail customers), win (for industrial customers), win (for the utilities selling the assets), and win (for the independent power producing industry). A comparison of the electric rate performance in neighboring Illinois as compared to We Energies since those reforms were adopted in Illinois provides a sharp contrast and an example of how the problem can be effectively solved.




Wisconsin regulators and legislators, as well as We Energies and the affected We Energies customers, need to take heed. Every lapsed year with the status quo is an unnecessary tax on southeast Wisconsin electric users measured in hundreds of millions of dollars.

If We Energies does not itself propose a solution to the costly excess capacity situation, it will be up to their customers and regulators to solve the problem. And the solution, however achieved, must involve "right sizing" the generation assets included in the retail customer rate base and for which those retail customers are expected to bear the cost.