SERVICE DATE
Jul 13, 2023

PSC REF#:472698

Public Service Commission of Wisconsin
RECEIVED: 7/13/2023 9:35:01 AM

PUBLIC SERVICE COMMISSION OF WISCONSIN

Joint Application of Wisconsin Electric Power Company and Wisconsin Public Service Corporation for Approval of Modifications to the Solar Now and Dedicated Renewable Energy Resource Pilot Tariffs and Approval of the Renewable Pathway Pilot Tariff and Deferral Requests — 5-TE-101

FINAL DECISION

This is the Final Decision in the proceeding by the Public Service Commission of Wisconsin (Commission) to consider the request of Wisconsin Electric Power Company (WEPCO) and Wisconsin Public Service Corporation (WPSC) (together, applicants) for approval of modifications to the Solar Now Pilot and Dedicated Renewable Energy Resource Rider tariffs and approval of the Renewable Pathway Pilot tariff and deferral requests.

The applicants' requests are APPROVED in part and DENIED in part.

Introduction

On July 19, 2022, WEPCO and WPSC[1] filed an application requesting approval to modify and extend two existing programs and add one new program. (PSC REF#: 443100.) On July 27, 2022, the applicants submitted a corrected version of the application. (PSC REF#: 444121.) Through the filed application, WEPCO sought to modify and expand the existing Solar Now Pilot program into a regular (non-pilot) program, modify the Dedicated Renewable Energy Resource Rider (DRER), and add the Renewable Pathway Pilot program.

[1] Throughout this Final Decision, when referring to both WEPCO and WPSC, the utilities will be referenced jointly as applicants. Alternatively, when referring to only one of the applicant utilities, the Final Decision will reference either WEPCO or WPSC.

Additionally, WPSC sought approval to implement the Solar Now Pilot program and Renewable Pathway Pilot program.

The Public Service Commission (Commission) issued a Notice of Proceeding on October 12, 2022. (PSC REF#: 449371.) The Commission issued a Notice of Hearing on January 5, 2023. (PSC REF#: 455916.) RENEW Wisconsin, Citizens Utility Board of Wisconsin (CUB), Vote Solar, Wisconsin Industrial Energy Group (WIEG), and the City of Milwaukee requested and were granted intervention in this docket. (PSC REF#: 445213, PSC REF#: 446752, PSC REF#: 450387, PSC REF#: 450431, PSC REF#: 451679, PSC REF#: 454459, PSC REF#: 455047.) Commission staff issued a Commission Memorandum for Comment on February 1, 2023. (PSC REF#: 458457.) Comments were filed on the memorandum by Vote Solar, RENEW, the City of Milwaukee, the applicants, and CUB. (PSC REF#: 461603, PSC REF#: 460842, PSC REF#: 460868, PSC REF#: 460915, PSC REF#: 460917.) One public comment was received. A public hearing was held via Zoom on February 15, 2023.

These items were discussed at two open meetings. The first meeting was held on March 16, 2023. At that meeting, the Commission discussed the Solar Now and DRER program proposals. The Commission discussed the Renewable Pathway program, instructed Commission staff to obtain reply comments from the applicants, and laid the matter over. Commission staff issued its Request for Applicant Comments on March 28, 2023. (PSC REF#: 462640.) The applicants' reply comments were received on April 10, 2023. (PSC REF#: 463915.) The Commission discussed the reply comments and further discussed the Renewable Pathway program at the second open meeting on May 4, 2023.

Findings of Fact

1. The applicants filed a request for approval of modifications to the Solar Now Pilot and DRER Pilot tariffs and approval of the Renewable Pathway Pilot tariff and deferral requests.

2. It is reasonable to approve WEPCO's Solar Now tariff language regarding the valuation of capacity accreditation methodology as filed for the existing program.

3. It is reasonable to deny WEPCO's proposed Solar Now Expansion.

4. It is reasonable to deny WPSC's request to implement the proposed Solar Now program.

5. It is reasonable to approve WEPCO's DRER tariff language regarding the valuation of capacity accreditation.

6. It is reasonable to approve WEPCO's proposed DRER program reduction as filed.

7. It is reasonable to modify the applicants' proposed early termination fee of the 5-year subscription to the Renewable Pathway Pilot program from 12 months to 6 months.

8. It is reasonable to approve the applicants' proposed renewal and transfer tariff language in the Renewable Pathway Pilot program as filed.

9. It is reasonable to require the applicants to work with Commission staff on developing standard notifications to customers on the Renewable Pathway Pilot program.

10. It is reasonable to approve the proposed waiver of provision Wis. Admin. Code § PSC 113.0406(4) for the Renewable Pathway Pilot program as filed.

11. It is reasonable to approve the deferral request for the implementation of the Renewable Pathway Pilot program with carrying costs at the applicants' respective short-term debt rates on the express condition that authorization is for accounting purposes only and does

not bind the Commission to any specific treatment for this item in any future proceeding involving rates or other matters before the Commission.

12. It is reasonable to approve the proposed Renewable Pathway Pilot program as modified by this Final Decision.

Conclusions of Law

1. The applicants are investor-owned electric public utilities as defined in Wis. Stat § 196.01(5)(a).

2. The Commission has the authority under Wis. Stat. §§ 196.02, 196.03, 196.19. 196.20, 196.22, 196.37, and 196.395 to authorize the applicants to revise its tariff provisions.

3. The Commission may impose any term, condition, or requirement necessary to protect the public interest pursuant to Wis. Stat. §§ 196.02 and 196.395.

4. The Commission has jurisdiction under Wis. Stat. §§ 196.02, 196.06, and 196.395 to issue a Final Decision authorizing deferred accounting treatment.

Opinion

Solar Now – WEPCO – Request to Expand Program

The Commission authorized WEPCO's Solar Now program in its Final Decision in docket 6630-TE-102. (PSC REF#: 356192.) The program was designed for commercial and industrial customers who wish to host solar photovoltaic (PV) arrays on their property. The arrays are owned and operated by WEPCO, with all energy delivered to WEPCO's distribution system. In exchange for hosting the PV facilities, participating customers receive lease payments that are set at the cost of new entry (CONE).

At present, the Solar Now Pilot is nearly fully subscribed, with approximately 20 customers (representing roughly 27 megawatts (MW) of capacity) on a waiting list. Due to current program participation, as well as the level of new customer interest in the pilot, WEPCO sought Commission approval to make Solar Now available to more customers by increasing the participation cap from 35 MW to 60 MW, which roughly equates to the current participation level plus the waiting list hosting capacity and anticipated interest in the program.[2]

When this program was initially proposed, the anticipated all-in unit cost associated with the program was $1,700/kilowatt (kW), which was updated to $1,729/kW in the proceeding. Analysis suggested that, on a net present value (NPV) basis, utility scale solar has approximately a 1 percent (WPSC) or 3 percent (WEPCO) lower revenue requirement than an equivalent Solar Now project.[3] The applicants maintained that the Solar Now project has additional benefits apart from revenue requirement, which include the revitalization of brownfield sites such as retired and capped landfills.

Under the program, although the energy produced by the Solar Now facilities is not designed to offset customer use, customers have the option to retain renewable energy attributes generated by the solar PV system hosted by the customer. In such instances, the lease payments are reduced by $2.00/megawatt-hour (MWh) generated by the PV system. This value is based on the approximate market value of Renewable Energy Certificates (REC) and is used to reduce the lease payments only in instances where the host customer elects to retain the RECs generated by the system(s) hosted by the Solar Now customer. This mechanism was included in the Solar

[2] Through the proceeding, it was established that the Solar Now program factors into the applicants' capacity needs planning. (PSC REF#: 451705.) The applicants also confirmed Solar Now generating capacity is included in the generation resource portfolio. (PSC REF#: 456263.)
[3] The full analysis, including assumptions used in it, are found in PSC REF#: 460699 confidential, PSC REF#: 460700 public.

Now Pilot to prevent a cost shift from non-participating customers to participating customers. Because all customers are paying, through base rates, for the costs to build, own and operate the hosted Solar Now PV system(s), the lease payment reduction allows the company to replace those RECs at no net cost to non-participating customers.

In its reply to the Commission staff memorandum, the applicants commented that increasing the participation cap for WEPCO's Solar Now program from 35 MW to 60 MW will allow those customers on the waiting list to participate in the Solar Now program while at the same time, help fulfill its capacity need with additional clean, affordable, and reliable renewable energy in Wisconsin. The City of Milwaukee joined the applicants in supporting the Solar Now program and commented that it wished to see the program expanded.

Alternatively, CUB, Vote Solar, and RENEW requested the Commission deny the Solar Now expansion request. CUB commented that the applicants had not met their burden of proof and that the record of evidence did not support a finding that expansion (for WEPCO) would be in the public interest. Because Solar Now is a utility-owned generation resource program, CUB maintained that the applicants' proposal in this proceeding represented a request for authorization to acquire new generation resources.

Vote Solar commented that Solar Now represented an improper monopoly utility encroachment into competitive private markets for distributed generation. Additionally, RENEW stated its opposition to the expansion of WEPCO's Solar Now program and commented that Solar Now was a more expensive platform than utility-scale solar and is designed to exclude participation from a large portion of the applicant's customer base.

In consideration of the entirety of the record as it relates to the expansion of the WEPCO Solar Now program, the Commission agrees that the record of evidence does not support a finding that program expansion would be in the public interest. The Commission finds that questions regarding the cost effectiveness of the program, as well as the role of monopolies in the competitive marketplace, remain unanswered. Therefore, the Commission finds it reasonable to reject the expansion of the WEPCO Solar Now program.

Commissioner Strand dissents.

Solar Now – WEPCO – Capacity Accreditation Methodology

The lease payments paid to participating customers are set at CONE, as determined by Midcontinent Independent System Operator, Inc. (MISO). This CONE value would be set upon signing the contract and would remain the same throughout the term of the contract. The actual amount paid to customers would be the CONE price, times the size of the hosted array, times the MISO-accredited capacity value for solar PV resources. As part of the above-referenced calculation, the solar PV system would receive a capacity accreditation for 50 percent of its nameplate capacity in the first year. After that, the capacity is set based on the performance of the array on a rolling 3-year average.

Through the course of the proceeding, the applicants acknowledged that MISO is implementing its seasonal capacity construct starting with the 2023/2024 Planning Year. Under the seasonal capacity accreditation methodology, it is expected that the capacity accreditation for a full year will be reduced lower than it is under the current capacity accreditation methodology. Because of this change, the lease payments will be reduced as well. The Commission staff memorandum noted, however, that MISO is still in the process of implementing and clarifying its approved seasonal capacity accreditation methodology for 2023 and additional changes are likely in the future. As a result, the impacts of these capacity accreditation methodology changes on the lease payments are unknown.

As was noted in the Commission's Final Decision in docket 6630-TE-102, the accredited capacity value for a solar PV system within the MISO market may change. Due to this potential change, the Final Decision noted that participating customers will need to take changes in accreditation into consideration when determining if the lease payment will be sufficient compensation in future years.

The Commission staff memorandum identified two options for Commission consideration. First, the Commission could find it reasonable to maintain the valuation of capacity accreditation as currently authorized in the Solar Now tariff. Second, the Commission could consider authorizing the current capacity accreditation method to continue for existing customers. Under the second option, customers enrolled in the program prior to a change in MISO accreditation would continue to follow the same accreditation methodology in place at the time of enrollment.

In its comments to the Commission staff memorandum, the parties did not coalesce around a specific alternative. WEPCO commented that it could support either option—maintain the capacity accreditation methodology as filed or fix the capacity accreditation methodology for customers through the term of the Solar Now lease and service agreement. RENEW commented that it supported fixing the methodology, as doing so would provide more certainty for customers. Alternatively, CUB commented that, as Solar Now represents a system generation resource, CUB did not believe it would be appropriate to exempt, for ratemaking purposes, Solar

Now from the effects of any capacity accreditation changes made by MISO that would affect the rest of the applicant's generation portfolio and, therefore, supported maintaining the accreditation methodology as filed.

In consideration of the record and comments filed by the parties, the Commission did not identify evidence that clearly demonstrated a modification to the existing methodology was warranted. As noted previously, the Commission considered, as part of its initial authorization of the program, that the accredited capacity value for a solar PV system within the MISO market may change. While it may change, there is still uncertainty as to what that change may be or its potential impact on lease payments. Therefore, the Commission finds it reasonable to maintain, the existing program, the valuation of capacity accreditation as currently authorized in the Solar Now tariff.

Commissioner Huebner dissents.

Solar Now – WPSC – Request to Implement Program

Leveraging the experience of its affiliate, WPSC proposed to implement an identical version of the Solar Now Pilot tariff for customers in its service territory with a participation cap of 20 MW, with 7.75 MW being reserved for non-profit and government customers. The only difference between the two tariffs is the available program capacity. WPSC has approximately 40 percent the retail sales[4] of WEPCO, and is requesting 40 percent of WEPCO's new cap proposal. Identical to WEPCO, the capacity in this program is expected to contribute to meeting WPSC's capacity needs. The applicants responded jointly to Commission staff's data requests on lease survival, cost effectiveness compared to energy conservation and utility scale solar, the

[4] In the 2021 annual report WEPCO reported Total Sales to Ultimate Customers of 23,573,061 MWh, and WPSC reported 11,046,096 MWh.

life span used in comparisons, generation reshaping plans, and MISO's capacity accreditation. The analysis of responses provided by WPSC on these issues is the same as that provided by WEPCO.

Due to the similarities between WEPCO's request to expand its Solar Now program and WPSC's request to implement a Solar Now program, the Commission discussed these two programs jointly during the open meeting and reached the same conclusions from the information in the record. Ultimately, for the reasons identified for not supporting an expansion of the Solar Now program for WEPCO, the Commission finds it reasonable to deny the request to implement the Solar Now program for WPSC as the record of evidence does not support a finding that the program would be in the public interest.

Commissioner Strand dissents.

Dedicated Renewable Energy Resource – WEPCO – Request to Reduce Program

The Commission authorized WEPCO's DRER program in its Final Decision in docket 6630-TE-102. (PSC REF#: 356192.) As was described in the 6630-TE-102 docket, the DRER program allows WEPCO to contract with large commercial and industrial customers and build specific renewable resources to serve its individual customer loads. While the DRER program is different from other WEPCO renewable program offerings, it is similar to other utility programs[5] and in line with the industry trend of designing renewable programs to meet a growing demand for dedicated renewable resources that meet specific corporate sustainability goals.[6]

[5] For example, Madison Gas and Electric Company offers a Renewable Energy Rider (RER) program.
[6] *See* Final Decision in dockets 5-UR-110 and 6690-UR-127. The applicants each received Commission approval to offer an RER program for its commercial and industrial customers.

However, unlike other renewable energy riders, under which a utility and customer negotiate a fixed monthly adder, the DRER contract structure is designed to require the customer to pay for the entire capital, financial, and operations and maintenance costs of the resource as a separate bill item. Participating customers also receive credits on their bills that represent the market value of the designated resource. WEPCO makes energy payments to the customer, based on energy production and MISO energy market prices. WEPCO also makes capacity payments to the customer, based on the $/MW monetary value described in the contract.

Before the contract is signed, WEPCO determines if a resource will be defined as either a "long-term planning resource" or a "short-term planning resource." If WEPCO has a capacity need during the upcoming MISO planning period, the resource will be designated as a "long-term planning resource" and receive capacity payments based on the MISO-determined CONE. If WEPCO does not have a capacity need, the resource will be initially designated as a "short-term planning resource" and receive capacity payments based on the most recent results from MISO's annual capacity market, known as the Planning Resource Auction. Additionally, any resource initially designated as "short term" would be put on a "long-term capacity resource wait list" and its status could change if WEPCO has a capacity need in the future.

Although the Commission approved the DRER Pilot program with a resource limit of 150 MW, customer participation in the current DRER Pilot has not materialized, with no customer enrollment to date. The DRER program has been marketed through WEPCO's dedicated account management team, as well as its service managers that work with its larger customers, which include for-profit as well as non-profit and governmental entities. These marketing efforts include providing customers with information on available rate offerings, pilots (including DRER), and other programs for which those customers are eligible. These discussions continue until the customer has been able to fully evaluate and determine whether participating in a particular program is right for that customer.

The Commission staff memorandum noted that customer response has been particularly muted from local governments and non-profit entities. WEPCO reported that as it worked with its local government and non-profit customers to evaluate how the DRER Pilot could meet their needs, several customers provided the feedback that, while the DRER program was good in concept, there were two primary reasons for non-participation. One, its requirement of a 20-year commitment was longer than the terms of their procurement policies. Two, MISO market-based energy and capacity constructs were not easily understood.[7] Additionally, WEPCO reported that it engaged in discussions (both in-person and virtual) with the appropriate customer personnel and WEPCO's subject matter experts to explain the MISO energy and capacity credits, the modeling performed to estimate them, and to answer the customer's questions.

While the DRER Pilot may not meet the needs of some local governments and non-profit entities, WEPCO stated that a number of for-profit customers remain interested in the program and are currently working with WEPCO to finalize service agreements to participate in the pilot. Therefore, WEPCO does not want to remove this option from those interested customers after the customers have invested time and resources into evaluating the DRER program. However, WEPCO does not anticipate participation to meet the currently authorized 150 MW cap for this program. WEPCO is therefore proposing to reduce the participation limit of its DRER program from 150 MW of existing customer load to 35 MW. The revised limit of 35 MW for the DRER

[7] WEPCO reported that it has provided modeling of the forecasted MISO energy and capacity credits, as well as other background information to its interested customers. (PSC REF#: 450004.)

program was determined based on the maximum size of subscriptions expected for the customers that were actively assessing the DRER program, at the time of the application being filed. Because those customers and WEPCO had invested time and resources evaluating those customers' participation in DRER, WEPCO wanted to maintain the DRER program as an option for those customers.

No intervenors opposed the reduction of this program. Vote Solar discussed how it believed the program should be significantly modified, but given the scope of this docket, it supported a reduction to the program. RENEW discussed how this program has had no participants since it was implemented over four years ago, and commented that reducing the capacity will not attract future customers. Therefore, RENEW supported sunsetting the program by 2025 if there are no customers participating in it.

Based on the evidence in the record, and there being no objections raised by intervening parties, the Commission finds it reasonable to reduce the DRER program as filed.

DRER – WEPCO – Capacity Accreditation Methodology

As was outlined in the Solar Now discussion above, MISO's changing seasonal capacity construct will also impact the DRER program. Specifically, the DRER capacity credit will be impacted as it is based on the MISO capacity accreditation methodology and will be impacted by MISO's implementation of the seasonal capacity construct in the same way that the Solar Now lease payment may be. (PSC REF#: 451704.)

Although WEPCO's DRER does not have any current customers, it is possible that customers could be enrolled prior to a change in MISO accreditation. The Commission maintained the capacity accreditation methodology for WEPCO's Solar Now tariff and for similar reasoning finds it reasonable to keep the methodology consistent for this program. Therefore, the Commission finds it reasonable to approve the capacity accreditation tariff language as filed.

Renewable Pathway Pilot – Applicants' Request to Implement Program

Based on the feedback from customers on the DRER Pilot, the applicants developed the Renewable Pathway Pilot program, which would allow WEPCO and WPSC customers[8] to subscribe to a portion of a utility-scale, Wisconsin-based renewable energy generating facility. Similar in concept and design to the Voluntary Renewable Energy Rider (Renewable Connect) offered by Northern States Power Company-Wisconsin (NSPW), the Renewable Pathway Pilot would allow interested customers to subscribe to the Renewable Pathway program by electing their preferred level of energy, up to 100 percent of their annual firm energy usage.[9] Customers would be given the option to subscribe to either a one-year or five-year subscription period.

Customers participating in the Renewable Pathway Pilot will pay a net price per kWh rate, which is comprised of two primary components. The first component, the cost per kWh, represents the embedded costs associated with a representative renewable energy resource. These costs will include the resource cost, administrative and marketing costs[10], distribution line loss adjustments, and other miscellaneous adjustments. The second component, the credit per

---

[8] Eligible customer classes for WPSC include Cg-1, Cg-6, Cg-2, Cg-3, Cg-3S, Cg-3C, Cp-1, Cp-3, Cp-3S, Cp-FN, Ms-1, Ms-2, Ms-3, Ms-4, Gl-1, Al1, St-1, St-2, and / or LED. For WEPCO, eligible customer classes include Cg-1, Cg-6, Cg-2, Cg-3, Cg-3S, Cg-3C, Cp-1, Cp-3, Cp-3S, CpFN, Ms-1, Ms-2, Ms-3, Ms-4, Gl-1, Al-1, St-1, St-2, and/or LED.

[9] The applicants each currently offer residential and non-residential customers opportunities to buy renewable energy through WEPCO's Energy for Tomorrow program and WPSC's NatureWise program. Under each respective program, participating customers pay an adder on top of their energy charge for the renewable energy, which varies by customer class and amount they wish to purchase.

[10] The applicants state that they will promote Pathway to new and existing customers, consistent with the applicants' other regulated voluntary renewable energy programs, such as Energy for Tomorrow, NatureWise, and Solar Now.

kWh, represents the average embedded production cost per kWh currently reflected in retail rates. Although the proposed tariffs for WEPCO and WPSC are identical, the rates for the one-year and five-year subscription levels will differ by utility, in part as a result of the respective embedded costs.[11]

From a cost-of-service perspective, the applicants will create a new Renewable Pathway customer class where the costs attributable to the program will be assigned. To the degree the above-identified embedded costs associated with this program are greater than the system-wide embedded costs, non-participating customers would presumably benefit from more-expensive costs being paid for by participants of the Renewable Pathways Pilot. It is expected that these costs will be re-evaluated in future rate case proceedings. Therefore, the Commission would have further opportunities to review how the costs are calculated and how the costs impact participating and non-participating customers.

Each billing month, the Renewable Pathway price associated with the subscription period length chosen by the customer will be applied to the subscription size chosen by the customer. The cost to the customer for participating in Renewable Pathway will appear on the customer's retail electric bill as a separate line item consisting of the "Net Price per kWh." As an example, a WEPCO customer electing a subscription size of 10,000 kWh and subscription period length of five years would see an additional charge of $53.10[12] on their monthly bill.

---

[11] The calculations used to develop the proposed rates for WEPCO and WPSC can be found in data request responses 2-VS-8 and 2-V-9. (PSC REF#: 456158, PSC REF#: 456160.)

[12] In the initial application this was $96.60; however, in the joint applicant's reply comments these prices were updated to reflect tax law changes implemented in the IRA.

The current facilities the applicants plan to offer in this program are Paris Solar, Darien Solar, and Red Barn Wind (WPSC only). The table below identifies each available project, along with its associated capacity.

Available Project	WEPCO	WPSC
Paris Solar	150 MW	30 MW
Darien Solar	187.5 MW	37.5 MW
Red Barn Wind	Not Applicable	92 MW

The intent of the tariff language for the proposed participation cap for Renewable Pathway Pilot programs proposed for WEPCO (125 MW) and WPSC (40 MW) is to limit the amount of existing customer load that can participate in the pilot. An individual customer (as defined by a tax ID number or a single unit of government) may enter into a service agreement up to the customer's aggregated firm load; however, the program would not allow multiple customers to aggregate eligible accounts under a single service agreement. Should a customer expand an existing facility or open a new facility and wish to participate in the Renewable Pathway Pilot, that participating load would not count toward reaching the respective, proposed participation cap. (PSC REF#: 450005.) Currently, the program does not have any impacts on the applicants' capacity plans. However, to the extent that new customer load is requested by one or more customers to be served under the Renewable Pathway Pilot, that could change in the future, depending on the amount of that new load.

Rights to renewable energy attributes will be assigned to participating customers in accordance with the tariff provision. As stated in the proposed tariffs, all RECs associated with the subscription shall be assigned to the applicants on behalf of the subscriber, and the applicants shall either retire any RECs associated with a subscription that are tracked in the Midwest

Renewable Energy Tracking System (MRETS) program or assign them to the customer if the customer has an account in MRETS, or any similar program on behalf of the subscriber.

In response to the Commission staff memorandum, CUB stated this program is more similar to various "green-pricing" programs, and so long as there is no cross-subsidy between participating and non-participating customers, it had no objections to the proposed program. The City of Milwaukee stated support for the program conditioned upon at least 50 percent of the facilities dedicated to the program being new facilities that would not have been built but for the pilot program. Both RENEW and Vote Solar opposed the program, citing the lack of additionality as one of their primary concerns.

The Commission took into consideration the concerns and benefits of the program discussed by the applicants and intervening parties. Based on the evidence in the record, existing customers' support of the program, and this being another option for customers to meet green energy goals, the Commission finds it reasonable approve the proposed Renewable Pathway Pilot programs, with the modifications discussed further below.

Chairperson Valcq dissents and writes separately (see attached).

Renewable Pathway Pilot – Customer Notifications

Under the proposed Renewable Pathways Pilot, one-year subscriptions will automatically renew for one year, unless notice of termination is received at least 30 days prior to the subscription's anniversary date with the same number of per-kWh per-month blocks of expiring subscription. Alternatively, five-year subscriptions will not automatically renew. Rather, the applicants must have receipt of a subscriber's notice to renew its subscription to Renewable

Pathway for an additional five-year subscription or to begin a one-year subscription at its current subscription level or fewer blocks of kWh per month subject to the 1,000 kWh minimum.

A subscribing customer may elect to transfer its subscription to a new premise of the subscriber which is in the utility service territory. Such transfer would not be subject to cancellation provided that the subscribing customer notifies its respective utility within 90 days of ceasing to be the customer of record for the premise as described in the Renewable Pathway Service Agreement. In the event of a reduction to the subscription size as a result of the transfer, no early termination fee would apply.

Given the various renewal, termination, and transfer options identified above, Commission staff proposed the possibility of directing the applicants to provide specific notification to customers regarding automatic renewals, terminations, transfers and any fees or customer renewal obligations. Commission staff also raised the possibility that the Commission could find it reasonable to direct the applicants to notify existing customers in advance of the 30-day termination deadline for one-year subscriptions, and in advance of the termination of a five-year subscription.

The City of Milwaukee stated its support for the applicants providing specific notifications to customers. CUB proposed to accept the applicants' proposals on these topics, but did not go into detail on the reasoning. RENEW stated it does not support any of the alternatives proposed due to the alternatives not addressing RENEW's concerns with additionality or REC integrity in the program as a whole. Finally, the applicants stated they have no concerns with the additional tariff provision to provide customers notice of termination.

Based on the evidence in the record, and there being no direct opposition to the additional customer notifications, the Commission finds it reasonable to direct the applicants to work with Commission staff on developing a standard notification or notifications to customers.

Renewable Pathway Pilot – Applicants – Early Termination Fee

As proposed, all one-year subscriptions terminated prior to the completion of the one-year term would be subject to the early termination fee. In the event the subscribing customer provides notice of cancellation due to *force majeure*, the early termination fee would not apply. The early termination fee for a one-year subscription would be equal to the customer's actual Renewable Pathway participation level in kWh for the three-month billing period ending on the termination date multiplied by a per kWh amount of $0.01 (early termination fee rate). Any termination by the subscribing customer ahead of the one-year term would need to be established by notice from the customer to the utility at least 30 days prior to the termination date.

Subscriptions terminated prior to the completion of the five-year term are subject to the early termination fee. In the event the subscribing customer provides notice of cancellation due to *force majeure*, the early termination fee would not apply. The early termination fee for a five-year subscription was proposed to be equal to the customer's actual Renewable Pathway participation level in kWh for the 12-month billing period ending on the termination date multiplied by a per-kWh amount of $0.01. The Commission took into consideration comments by the City of Milwaukee, which proposed modifying this early termination fee to be based on a six-month billing period instead.

The Commission agrees with the City of Milwaukee's suggestion that the early termination fee be modified to be based on a six-month billing period instead of a 12-month period as the applicants' proposal was more punitive and the City of Milwaukee's proposal still accomplishes the intent of the fee. The Commission therefore finds it reasonable to approve modifications to the early termination fee for the five-year subscription, changing the proposed 12-month billing period to a six-month biling period.

Renewable Pathway Pilot – Waiver Provision

The proposed Renewable Pathways Pilot tariff for WEPCO (PSC REF#: 443104) and WPSC (PSC REF#: 443105) includes language stating that any customer choosing to be served under the pilot waives all rights to any billing adjustment arising from a claim that the bill for the customer's service would be lower on any alternative rate schedule for any period of time. The tariff condition also notes that customers waive any rights under Wis. Admin. Code § PSC 113.0406(4). Because the Renewable Pathways Pilot is a voluntary program and customers have to elect to take service under the applicable rates associated with the tariff, and because the tariffs include early termination provisions that can facilitate a customer stopping service under the Renewable Pathways Pilot, the Commission finds it reasonable to approve the applicants' proposal to include the waiver provision in each respective tariff and to waive the Wis. Admin. Code requirements as requested.

Deferral Accounting – Applicants

The applicants have requested to defer the cost of the installed solar systems and the lease payments made to participating customers as part of the requested programs until the applicants' next rate cases for the WEPCO Solar Now expansion, the WPSC Solar Now proposal, and the applicants Renewable Pathways Pilot proposal. The applicants did not request nor include in the application any discussion regarding carrying costs. As the Commission did not authorize WEPCO's Solar Now expansion or WPSC's Solar Now proposal, it need not address the deferral request as it relates to those proposals. The Commission's consideration of the deferral request is limited to the costs associated with the Renewable Pathways pilot programs.

Under Staff Accounting Policy Statement of Position 94-01, which has been accepted and applied by the Commission pursuant to Commission order,[13] there are several criteria that the Commission uses to evaluate a request for deferral accounting treatment for a utility expenditure: (1) whether the cost is outside of the utility's control; (2) whether the cost is unusual and infrequently occurring; (3) whether the amount, if recognized in the year of expenditure, would cause the utility serious financial harm or significantly distort the current year's income; and (4) whether the immediate recognition of the expenditure would have a significant impact on ratepayers. These criteria can be considered individually or together with other criteria.

The applicants offered justification, as part of their application, for their deferral request that addressed the criteria. The applicants stated the cost is unusual and infrequently occurring since this is a new pilot program. Additionally, the amounts are not known at this time because the applicants are not aware of the number of customers that will participate in the pilot.

The Commission finds it reasonable to authorize the applicants' to defer for accounting purposes the Renewable Pathways Pilot costs until the applicants' next rate proceeding. In

[13] *See, e.g.*, Order, *Application of Northern States Power Company-Wisconsin, for Deferred Accounting Treatment. for Pension Settlement Accounting Expense*, docket 4220-AF-100 (Wis. PSC Dec. 13, 2017) (PSC REF#: 334830); Order, *Northwestern Wisconsin Electric Company Request for Deferral*, docket 4280-AF-100 (Wis. PSC Feb. 8, 2018) (PSC REF#: 337504); Interim Order, *In re Wisconsin Power and Light Company*, docket 6680-UR-109, 1994 WL 747576 (Wis. PSC Dec. 8, 1994); Final Decision, *Joint Application of Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company for Approval to Purchase the Forward Wind Energy Center from Forward Energy, LLC*, docket 5-BS-226 (Wis. PSC Mar. 20, 2018) (PSC REF#: 339856).

addition, the Commission finds it reasonable to include a standard order condition that the deferral authorization is for accounting purposes only and does not bind the Commission to any specific treatment for this item in any future proceeding involving the applicants' rates or other matters before the Commission.

The applicants' deferral request did not contemplate carrying costs. However, the Commission finds it reasonable that carrying costs at the applicants' respective short-term debt rates shall apply.

Chairperson Valcq dissents and writes separately (see attached).

Order

1. WEPCO's Solar Now tariff language shall include the valuation of capacity accreditation methodology as filed.

2. WEPCO shall not expand the Solar Now program.

3. WPSC shall not implement the proposed Solar Now program.

4. WEPCO's DRER tariff language shall include the valuation of capacity accreditation as filed.

5. WEPCO shall reduce the DRER program as filed.

6. The applicants shall modify the early termination fee of the five-year term Renewable Pathway Pilot program from 12 months to 6 months.

7. The applicants shall include the proposed renewal and transfer tariff language in the Renewable Pathway Pilot program as filed.

8. The applicants shall work with Commission staff on developing standard notifications to customers on the Renewable Pathway Pilot program.

9. The applicants shall include the proposed waiver of provision of Wis. Admin. Code § PSC 113.0406(4) for the Renewable Pathway Pilot program as filed.

10. The applicants shall defer the revenue requirement impacts of the Renewable Pathway Pilot program with carrying costs at the applicants' respective short-term debt rates until the applicants' next rate proceeding on the express condition that the authorization is for accounting purposes only and does not bind the Commission to any specific treatment for this item in any future proceeding involving rates or other matters before the Commission.

11. The applicants shall implement the proposed Renewable Pathway Pilot program as modified by this Final Decision.

12. The applicant shall file the final form tariff sheets with the Commission and make tariffs available to the public pursuant to Wis. Stat. § 196.19 and Wis. Admin. Code § PSC 113.0501(1).

13. This Final Decision is effective one day after the date of service.

14. Jurisdiction is retained.

Dated at Madison, Wisconsin, the 13th day of July, 2023.

By the Commission:

Cru Stubley
Secretary to the Commission

CS:JMS:arw:jlt:DL:01941651

Attachments

See attached Notice of Rights

PUBLIC SERVICE COMMISSION OF WISCONSIN
4822 Madison Yards Way
P.O. Box 7854
Madison, Wisconsin 53707-7854

NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE PARTY TO BE NAMED AS RESPONDENT

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

PETITION FOR REHEARING

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

PETITION FOR JUDICIAL REVIEW

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.[14] The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2013

[14] *See Currier v. Wisconsin Dep't of Revenue,* 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.

APPENDIX A

PUBLIC SERVICE COMMISSION OF WISCONSIN
(Not a party but must be served per Wis. Stat. § 227.53)
4822 MADISON YARDS WAY
PO BOX 7854
MADISON, WI 53707

CITIZENS UTILITY BOARD
CARA COBURN FARIS
625 NORTH SEGOE ROAD STE 101
MADISON WI 53705
USA
FARIS@CUBWI.ORG

CITIZENS UTILITY BOARD
COREY SINGLETARY
625 NORTH SEGOE ROAD STE 101
MADISON WI 53705
USA
SINGLETARY@CUBWI.ORG

CITIZENS UTILITY BOARD
THOMAS CONTENT
625 NORTH SEGOE ROAD STE 101
MADISON WI 53705
USA
CONTENT@WISCUB.ORG

CITY OF MILWAUKEE
THOMAS D MILLER
200 EAST WELLS ST ROOM 800
MILWAUKEE WI 53202
USA
TMILLER@MILWAUKEE.GOV

PUBLIC SERVICE COMMISSION OF WISCONSIN
JASON STEVENSON
4822 MADISON YARDS WAY PO BOX 7854
MADISON WI 53707
USA
JASON.STEVENSON@WISCONSIN.GOV

Docket 5-TE-101

PUBLIC SERVICE COMMISSION OF WISCONSIN
STEPHANIE BEDFORD
4822 MADISON YARDS WAY PO BOX 7854
MADISON WI 53707
USA
STEPHANIE.BEDFORD1@WISCONSIN.GOV

RENEW WISCONSIN
ANDREW KELL
214 NORTH HAMILTON STREET STE 300
MADISON WI 53703
USA
ANDREW@RENEWWISCONSIN.ORG

RENEW WISCONSIN
MICHAEL VICKERMAN
214 NORTH HAMILTON STREET STE 300
MADISON WI 53703
USA
MVICKERMAN@RENEWWISCONSIN.ORG

THEODORE EIDUKAS
WISCONSIN ELECTRIC POWER COMPANY
231 W MICHIGAN STREET P401
MILWAUKEE WI 53203
USA
PSCWNOTIFICATIONS@WECENERGYGROUP.COM

THEODORE EIDUKAS, VICE PRESIDENT REGULATORY AFFAIR
WISCONSIN PUBLIC SERVICE CORPORATION
231 W. MICHIGAN STREET - P401
MILWAUKEE WI 53203
USA
PSCWNOTIFICATIONS@WECENERGYGROUP.COM

VOTE SOLAR
EARTHJUSTICE
3916 NAKOMA ROAD
MADISON WI 53711
USA
DBENDER@EARTHJUSTICE.ORG

WISCONSIN ELECTRIC POWER COMPANY
CATHERINE PHILLIPS
231 WEST MICHIGAN
MILWAUKEE WI 53203
USA
CATHERINE.PHILLIPS@WECENERGYGROUP.COM

WISCONSIN ELECTRIC POWER COMPANY
RICHARD STASIK
231 WEST MICHIGAN
MILWAUKEE WI 53203
USA
RICHARD.STASIK@WECENERGYGROUP.COM

WISCONSIN INDUSTRIAL ENERGY GROUP
HEINZEN LAW SC
PO BOX 930370
VERONA WI 53593
USA
STEVE.HEINZEN@HEINZENLAW.COM

WISCONSIN INDUSTRIAL ENERGY GROUP
KM ENERGY CONSULTING INC
961 NORTH LOST WOODS ROAD
OCONOMOWOC WI 53066
USA
KMAINI@WI.RR.COM

WISCONSIN INDUSTRIAL ENERGY GROUP
TODD STUART
44 EAST MIFFLIN STREET STE 404
MADISON WI 53703
USA
TSTUART@WIEG.ORG

WISCONSIN PUBLIC SERVICE CORPORATION
CATHERINE PHILLIPS
231 WEST MICHIGAN
MILWAUKEE WI 53203
USA
CATHERINE.PHILLIPS@WECENERGYGROUP.COM

Docket 5-TE-101

WISCONSIN PUBLIC SERVICE CORPORATION
RICHARD STASIK
231 WEST MICHIGAN
MILWAUKEE WI 53203
USA
RICHARD.STASIK@WECENERGYGROUP.COM

PUBLIC SERVICE COMMISSION OF WISCONSIN

Joint Application of Wisconsin Electric Power Company and Wisconsin Public Service Corporation for Approval of Modifications to the Solar Now and Dedicated Renewable Energy Resource Pilot Tariffs and Approval of the Renewable Pathway Pilot Tariff and Deferral Requests	5-TE-101

DISSENT OF CHAIRPERSON REBECCA CAMERON VALCQ

I write to dissent, in part, from the Commission's decision in docket 5-TE-101, Joint Application of Wisconsin Electric Power Company and Wisconsin Public Service Corporation for Approval of Modifications to the Solar Now and Dedicated Renewable Energy Resource Pilot Tariffs and Approval of the Renewable Pathway Pilot Tariff and Deferral Requests.

I would not have approved the Renewable Pathway Pilot program, nor would I have approved deferral accounting for that pilot program.

The pilot offers customers the "choice" of paying a subscription fee to be served by a specific utility-owned renewable facility, either through the development of a new project or utilizing existing renewable facilities. It is concerning that some of the utility-scale projects I previously voted to approve were subsequently identified in this docket as projects to be used for the Renewable Pathway pilot. Carving out a small group of customers to reap the benefits from those projects after the fact calls into question the basis upon which a public interest finding was made in the initial construction or acquisition docket.

For large customers who desire to match their load with a clean source of generation, the pilot offers them this "choice": pay a premium for the utility to develop, own, operate and earn a return on a renewable energy facility, and in return, the subscribing customer can point to a specific clean energy generation facility that is meeting their clean energy goals when they are communicating with their stakeholders. But why not simply allow these same customers to install, own and operate their **own** generation and then interconnect to the grid? Because as regulated utilities face load forecasts which are flat or declining, they must come up with ways to increase their rate base. The result is an influx of programs, portrayed as "choices" which, in an attempt to increase rate base, threaten to undermine the customer-owned generation model. The Renewable Pathway program is an example of this threat.

It is well-settled law in Wisconsin that, in a vertically integrated state such as ours, the primary purpose of utility regulation is to balance the financial health of the utilities with the best interests of the consuming public. *Wisconsin Power & Light Co. v. Pub. Serv. Comm'n,* 45 Wis. 2d 253, 172 N.W.2d 639 (1969). The continued existence and expansion of behind the meter generation is not a threat to regulation; nor does it signal a move towards deregulation. Allowing large commercial and industrial customers to own solar arrays on their land or solar panels on their buildings' rooftops will not upend a century of utility law. But it will allow customers to decide how best to control their energy costs.

I support utility-scale clean energy projects. To wit, I have voted to approve more than 3,300 MW of utility-scale clean energy projects over the past 4 years. However, I will continue to raise concerns when utilities use their monopoly position to elbow out legitimate players in private, competitive markets, as that is an unnecessary and costly obstacle both to consumers and to self-generation participants. If we are to achieve our emission reduction goals, then we must be disciplined and work to remove the barriers to distributed energy resources and customer-owned generation. Because we need an all-of-the-above approach to secure our clean energy future.