

**SERVICE DATE**  
**Aug 25, 2023**

## PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Wisconsin Electric Power Company for Reconciliation of Actual Fuel Costs to the Authorized 2022 Fuel Cost Plan 6630-FR-2022

### FINAL DECISION

This is the Final Decision in the application of Wisconsin Electric Power Company (applicant) for the reconciliation of actual monitored fuel costs of items in its approved fuel cost plan for 2022, pursuant to Wis. Admin. Code § PSC 116.07. The application is APPROVED, subject to the conditions contained in this Final Decision.

#### Background

Pursuant to Wis. Admin. Code § PSC 116.03, each of the five major, investor-owned electric utilities must file an annual proposed fuel cost plan (monitored fuel costs) for the next calendar year (the plan year). Wisconsin Admin. Code § PSC 116.07 provides for an annual reconciliation of the utility's Commission-approved monitored fuel costs incurred in the plan year. Wisconsin Admin. Code §§ PSC 116.06(3) and 116.07(4)(a) further provide that a utility may collect from ratepayers any actual, prudently incurred fuel costs that exceed its Commission-approved monitored fuel costs by more than 2.0 percent as measured on a cost per megawatt-hour (MWh) basis, provided it does not have excess revenues for the plan year as described under the fuel rules. Wisconsin Admin. Code §§ PSC 116.06(3) and 116.07(4) conversely provide that a utility must credit to ratepayers any amount of the approved fuel cost plan that exceeds actual, prudently incurred fuel costs, in excess of 2.0 percent. Wisconsin Admin. Code §§ PSC 116.06(1) and (2) contain formulas that calculate deferred account

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balances for over- or under-credited fuel costs included in the approved fuel cost plan. The utility's authorized short-term debt rate is applied to the deferred account balance. Interest begins to accrue on the first day of the plan year in which collection or credit occurs until the deferred balance is collected from, or returned to, the ratepayers. Wis. Admin. Code § PSC 116.07(5)(c). On March 31, 2023, the applicant filed its application for reconciliation under Wis. Stat. § 196.20(4) and Wis. Admin. Code § PSC 116.07 for the 2022 fuel cost plan for generating electricity.<sup>1</sup> ([PSC REF#: 462920](#).) The applicant reported an under-collection of fuel and purchased power costs by \$1,093,796, excluding interest, for its 2022 fuel cost plan authorized by the Commission in its Final Decision dated December 9, 2021, in docket 6630-ER-105. ([PSC REF#: 427098](#).) The applicant proposed to implement a fuel cost surcharge effective for September 2023 to recover the remaining deferred debit balance plus interest.

The Wisconsin Industrial Energy Group (WIEG) requested intervention in the proceeding on March 3, 2023 ([PSC REF#: 461144](#)) and Citizens Utility Board (CUB) requested intervention on April 19, 2023. ([PSC REF#: 464451](#).) On April 27, 2023, the Commission issued a Notice of Proceeding in this docket. ([PSC REF#: 465411](#).)

On May 25, 2023, the Administrative Law Judge (ALJ) issued a Scheduling Order establishing the issues, schedule and other facilitating matters for the proceeding and granting WIEG's and CUB's requests to intervene in the proceeding. ([PSC REF#: 469139](#).)

On June 5, 2023, the Commission issued a Notice of Hearing in this docket. ([PSC REF#: 469790](#).) On June 27, 2023, pursuant to due notice, the Commission held a public

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<sup>1</sup> As noted by the applicant in its application, during the month of March 2023, the applicant provided the supporting information for its application in response to Commission staff data requests and Commission staff started its audit prior to March 31, 2023.

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and a party hearing in Madison, Wisconsin, before ALJ Michael E. Newmark.

([PSC REF#: 472589](#).) The Commission's public hearing process included the ability for members of the public to provide oral comments at the hearing or to submit electronic written comments through the Commission's website.

The parties, for the purposes of review under Wis. Stat. §§ 227.47 and 227.53, are listed in Appendix A.

The Commission considered this matter at its open meeting of August 10, 2023.

### **Findings of Fact**

1. The applicant reported an under-collection of fuel and purchased power costs by \$1,093,796, excluding interest, for its 2022 fuel cost plan.
2. It is reasonable to authorize the applicant to recover it's under-collected monitored fuel costs, plus accrued interest at its authorized short-term debt rate, via a class-level surcharge to Wisconsin retail electric customer bills for September 2023.
3. It is reasonable that the applicant will be required to charge the appropriate deferred account if the actual surcharge is greater than authorized in this Final Decision.
4. It is reasonable that the applicant will not be allowed to recover any under-collected amounts resulting from the surcharge authorized in this Final Decision.
5. It is reasonable to require the applicant to provide notice to the Commission of any compensation received from third parties with respect to damages associated with the operation of Elm Road Units 1 and 2 during 2022 within 30 days of the receipt of such compensation. It is reasonable to defer any such compensation for return to the applicant's ratepayers in a future rate proceeding.

6. It is reasonable for the applicant to file final form tariff sheets consistent with the Final Decision and the rates in Appendix B.

### **Conclusions of Law**

1. The Commission has jurisdiction and authority to issue this Order under Wis. Stat. §§ 196.02(1), 196.20(4), and Wis. Admin. Code ch. PSC 116.

### **Opinion**

#### **Reconciliation Review**

Subsequent to the applicant filing its 2022 fuel reconciliation application, Commission staff performed an audit of the applicant's reported 2022 monitored fuel costs and its associated reported under-collection. Commission staff traced the applicant's reported fuel costs and energy production back to the appropriate source documents; verified calculated amounts; inquired as to procedures followed during risk management activities; and reviewed Midcontinent Independent System Operator, Inc. (MISO) bidding of load, offering of generation, buying, and billing administration procedures, wherever possible, while giving due consideration to the limited audit time Commission staff is able to devote to these reconciliations and still comply with the 240-day deadline imposed by Wis. Admin. Code § 116.07(3) for all five fuel rule utilities.

On July 6, the applicant and CUB filed briefs for Commission consideration. ([PSC REF#: 472176](#), [PSC REF#: 472179](#).) On July 13, 2023, the applicant filed a reply brief for Commission consideration. ([PSC REF#: 472748](#).) On July 12, 2023, Commission staff filed a draft decision matrix for the Commission agenda in this docket that summarized its audit of the applicant's 2022 monitored electric fuel costs, and requested comments. ([PSC REF#: 472640](#).)

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CUB filed comments on July 19, 2023 for Commission consideration. ([PSC REF#: 473289](#).) In its comments, CUB suggested a deferral of any customer surcharge. CUB supported the reconciliation of any final deferred account balance on a class-level basis in the month of September 2023. The applicant filed comments on July 19, 2023 for Commission consideration. ([PSC REF#: 473299](#).) The applicant accepted the results of Commission staff's audit and supported a flat, across-the-board surcharge to Wisconsin retail electric customer bills for the month of September 2023. The applicant also indicated that it did not oppose using a class-level basis for the surcharge to Wisconsin retail electric customers. WIEG did not file any comments to the draft decision matrix.

## **2022 Fuel Reconciliation**

The Commission finds it reasonable to accept the applicant's reported 2022 monitored fuel costs. As noted in Commission staff testimony, Commission staff did not identify any incorrectly reported or imprudently incurred monitored fuel costs under Wis. Admin. Code § PSC 116.07(4)(c). Accordingly, the Commission finds it is reasonable to authorize the applicant to recover the under-collection of fuel costs that exceeds the 2.0 percent fuel cost tolerance band.

As part of its 2022 fuel reconciliation application, the applicant identified an under-collection of \$1,093,796. The Commission finds it reasonable to authorize the applicant to recover the \$1,093,796 plus interest accrued at the applicant's authorized short-term debt rate. The applicant proposed calculating the surcharge amount using a flat-level charge per kilowatt hour but did not object to a class-level charge. No party to the proceeding objected to the applicant's proposed methodology. As the recovery of under-collected funds will be taking

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place over the course of one month in this proceeding, and in the interest of more closely aligning cost-causers with cost-payers, the Commission finds it reasonable to set the surcharge to be calculated on a class-level basis.

Therefore, the Commission authorizes the applicant to collect the authorized amount in September 2023 using the class-level basis as shown in Appendix B.

The surcharge is based on forecasted Wisconsin retail sales for September 2023. If in the actual surcharge months Wisconsin retail sales exceed the forecasted amount, the difference will be charged to the appropriate deferred account per Wis. Admin. Code § PSC 116.07(6). If in the actual surcharge months Wisconsin retail sales are less than the forecasted amount, no additional recovery will be allowed.

In its consideration of the possibility of any compensation received by the applicant with respect to the operations of Elm Road Generating Station (ERGS) Units 1 and 2 during 2022, the Commission finds it reasonable to require the applicant to provide notice to the Commission within 30 days of receipt of any such compensation. The Commission also finds it reasonable to defer any such compensation for return to applicant's ratepayers in a future rate proceeding.

### **Order**

1. The applicant is authorized to collect \$1,093,796 for its under-collection of 2022 monitored fuel cost, plus accrued interest at its authorized short-term debt in September 2023.
2. The applicant shall collect the \$1,093,796 for its under-collection of 2022 monitored fuel cost, plus accrued interest, via a class-level surcharge to Wisconsin retail electric customers' bills for September 2023.

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3. If the actual surcharge is greater than that authorized in this Final Decision, the applicant shall charge the remainder to the appropriate deferred account pursuant to Wis. Admin Code § PSC 116.07(6).

4. If the actual surcharge is less than authorized in this Final Decision, the applicant shall not be allowed to recover this difference per Wis. Admin. Code § PSC 116.07(6).

5. The applicant shall file final form tariff sheets consistent with the Final Decision and the rates in Appendix B.

6. The applicant shall notify the Commission within 30 days of any compensation received from third parties with respect to damages associated with the operation of ERGS Units 1 and 2 during 2022. Additionally, the applicant shall defer any such compensation for return to the applicant's ratepayers in a future rate proceeding.

7. This Final Decision takes effect one day after the date of service.

8. Jurisdiction is retained.

Dated at Madison, Wisconsin, the 25<sup>th</sup> day of August, 2023.

By the Commission:



Cru Stuble  
Secretary to the Commission

CS:MAR:jlt:arw:DL:01961707

Attachments

See attached Notice of Rights

PUBLIC SERVICE COMMISSION OF WISCONSIN  
4822 Madison Yards Way  
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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.<sup>2</sup> 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

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<sup>2</sup> 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)  
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**Wisconsin Electric Power Company**  
**Electric Fuel Reconciliation Summary**

<b>Class Categories</b>	<b>2022 Actual Sales kWh*</b>	<b>Fuel Plan Allocation</b>	<b>2022 Collection Amount</b>	<b>September 2023 Forecast kWh</b>	<b>Authorized Surcharge per kWh</b>
Residential & Farm Service	8,099,798,124	36.07%	\$406,297	609,815,410	\$ 0.00067
Secondary Commercial & Industrial	8,655,644,169	38.55%	\$434,179	716,784,240	\$ 0.00061
Primary Commercial & Industrial	5,587,663,022	24.89%	\$280,285	468,092,000	\$ 0.00060
Street Lighting	110,261,724	0.49%	\$5,531	7,853,344	\$ 0.00070
<b>Totals</b>	<b>22,453,367,039</b>	<b>100.00%</b>	<b>\$1,126,291</b>	<b>1,802,544,994</b>	<b>\$ 0.00062</b>

**Class Categories**

Residential & Farm Service  
 Secondary Commercial & Industrial  
 Primary Commercial & Industrial  
 Street Lighting

**Associated Tariffs**

Rg1, Rg2, Fg1  
 Cg1, Cg2, Cg3, Cg3C, Cg3S, Cg6, TssM, TssU  
 Cp1, Cp3, Cp3S, Cp4, CpFN  
 Ms1, Ms2, Ms3, Ms4, Al1, G11, St1, St2, LED