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Public Service Commission of Wisconsin
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BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Wisconsin Electric Power Company, as an Electric Public Utility, for Approval to Implement a Solar Now Pilot Tariff and a Dedicated Renewable Energy Resource Pilot Tariff	Docket No. 6630-TE-102

COMMENTS OF THE CITIZENS UTILITY BOARD ON COMMISSION STAFF MEMORANDUM

I. INTRODUCTION

Wisconsin Electric Power Company (WEPCO) has proposed to implement two new programs as pilots: A solar photovoltaic (PV) hosting program for commercial and industrial customers branded as Solar Now, and a renewable energy rider program for general secondary, general primary or lighting rate customers referred to as the Dedicated Renewable Energy Resource Pilot (DRER). Commission staff issued a memorandum (Staff Memo) on December 10, 2018, providing information on WEPCO's filing, raising issues for the Commission to consider regarding the proposed programs, and seeking comment from interested parties. The Citizens Utility Board therefore files these comments, addressing the terms of the Solar Now and DRER programs and the issues raised in the Staff Memorandum.

As explained further below, with respect to the Commission Alternatives presented in the Staff Memo, CUB respectfully requests that the Commission adopt the following:

Solar Now

- **Alternative Three**: Do not approve the Solar Now program.

Solar Now Deferral Accounting Treatment

- **Alternative Three**: Do not grant WEPCO's request for deferral accounting treatment for Solar Now expense.

DRER

- **Alternative Two**: Approve the proposed DRER program with modifications or conditions.

II. COMMENTS

As a general matter, CUB supports innovative proposals by utilities that are responsive to ratepayer requests for new products and services. At the same time, CUB reserves its support for proposals that: 1) are priced such that participating customers pay all the direct and indirect actual costs associated with the product, and 2) are not otherwise unduly discriminatory or preferential. Based on the evidence in the record, WEPCO's DRER proposal appears to fit these criteria whereas the Solar Now program does not.

Solar Now Pilot

<u>Appropriate Review Standard</u>

Describing Solar Now as a mere pilot masks what it truly is: the installation and operation of new utility plant. A question remains about the type of approval WEPCO should seek for the program, and it is arguable that WEPCO must obtain a certificate of authority pursuant to Wis. Stat. § 196.49[1] (hereinafter, "CA Statute") prior to program implementation. Overall, the entire 35 MW Solar Now program could cost WEPCO customers $128 million, with a book value of $62 million and revenue requirement of $7.5 million in its first year. (Discovery Response 1-CUB-RFP-1, PSC REF#: 354804, pp. 1, 6) This estimated total cost exceeds the

[1] Wis. Stat. § 196.49(2): "No public utility may begin the construction, installation, or operation of any new plant, equipment, property or facility […] unless the public utility has complied with any applicable rule or order of the commission"; Wis. Stat. § 196.49(3)(b): "The commission may require by rule or special order under par. (a) that no project may proceed until the commission has certified that public convenience and necessity require the project."

approximately $11 million cost threshold established in Wis. Stat. § 196.49(5g)(ar)1m.c. (and last updated in PSC REF#: 339150), which sets the level at which large utilities must obtain authorization for construction projects.

Commission staff has stated that a Certificate of Authority is not required because "each individual project is capped at 2.25 MW," and falls below the cost threshold. (Staff Memo, p. 5) This interpretation, however, does not align with PSC regulations or previous staff positions regarding the statute. A 2017 Agenda Memorandum,[2] for example, considered a challenge from a utility about the applicability of the statute to its meter installation project, because it viewed some initial installations as a pilot, separate from the overall project. Staff rejected this argument, stating that the entire project required CA authorization on the grounds that projects are viewed holistically, not piecemeal, when determining cost threshold.[3] The PSC administrative code provides further support that projects are to be viewed in their entirety, not in separate components.

Under Wis. Stat. § 196.49(5g)(ar)1m., the cost threshold is compared to a project's "gross cost." While Public Utilities Chapter 196 does not define "gross cost," a definition is found in Wis. Admin. Code § PSC 112, which contains implementing regulations for Wis. Stat. § 196.49 and directly references the cost threshold subsection. (Wis. Admin. Code § PSC 112.05(3)) The section provides that "gross cost" means "the total expenditures required to accomplish the purpose of the project," plus ancillary facilities.[4] Under this definition, the estimated gross cost

[2] "Investigation of the Superior Water, Light and Power Company, as an Electric, Gas and Water Public Utility, and its Construction of Automatic Metering Infrastructure Facilities," Docket No. 5820-UI-100, PSC REF#: 298419 (Feb. 13, 2017). (hereinafter, "Agenda Memo")

[3] "Further, Commission staff notes that project costs cannot be segregated into separate work units or annual expenditures to avoid the cost thresholds in Wis. Stat. 196.49(5g)(ar). The application of the financial threshold is based on total project costs, even if those costs are spread out over several years." (Agenda Memo, p. 8)

[4] Wis. Admin. Code § PSC 112.02(4): "Gross cost" means the total expenditures required to accomplish the purpose of the project. "Gross cost" does not include any credit for the value of salvaged facilities, but does include:

of Solar Now encompasses all elements of the project: the capital cost of the arrays, the annual operations and maintenance costs, and lease payments. When viewing the Solar Now pilot in practical terms, it is a single large program, not forty-one separate programs. (*See* 1-CUB-RFP-1, p. 6) The value that WEPCO seeks to obtain comes from installing multiple arrays and analyzing their combined effects: WEPCO's identified program benefits include studying the "distribution generation assets" and meeting the utility's capacity need, goals that would require more than a single solar installation to achieve. (*See* WEPCO Application, PSC REF#: 351616, p. 2)

Further, staff's interpretation could preclude the Commission from future oversight of projects that are similarly segmented but even larger overall. If staff's current interpretation were followed to its logical conclusion, a utility would not need to seek Commission approval for a project of any total size — even 135 MW, for example — as long as it were divided into small arrays. The rate impact of a 135 MW pilot would be several times that of Solar Now, which has estimated revenue requirement impacts ranging from $7.5 million in its first year and of $830,000 in year 30. Retaining oversight over projects with a significant overall rate impact would be the most effective way to protect the public interest and ensure that rates are just and reasonable.

For the foregoing reasons CUB believes it would be reasonable for the Commission to reject the Company's application and require that the Solar now proposal be refiled pursuant to the CA statue.

(a) The cost of any removals or demolition of existing structures which may be required.
(b) Peripheral construction such as relaying or switching facilities made necessary at other system substations or terminations remote from the project area itself.
(c) Related operating and maintenance charges for building remodeling projects and replacements and modifications at generating plants.

The Commission Should Reject the Solar Now Pilot as Proposed

The proposed solar now program would allow customers to host a company-owned solar PV array, in exchange for lease payments equal to the cost of new entry (CONE) for the Midcontinent Independent System Operator (MISO) load zone two for the planning year during which the lease takes effect. The Solar Now hosting customer would retain none of the energy or renewable attributes generated by the installed arrays. Instead all energy would be delivered to WEPCO's distribution system and the company would retain all renewable attributes.

As part of its review of the proposed Solar Now program, CUB requested that WEPCO provide an estimate of annual program costs of the Solar Now program, assuming the program is fully subscribed at the 35 MW level, net of fuel cost impacts and/or energy sales. As part of this request CUB asked the utility to "use reasonable best case scenarios for installed system configurations/cost/performance, fuel cost impacts, and energy sales revenue." The results of WEPCO's analysis can be found in Data Request Response 1-CUB-RFP-1 CONFIDENTIAL (PSC REF#: 354803) and 1-CUB-RFP-1 CONFIDENTIAL (REDACED COPY) (PSC REF#: 354804).

The results of this best-case scenario analysis are eye opening. WEPCO estimates the installed capital cost of the Solar Now pilot to be $62.7 million if the program reaches full subscription at the proposed 35 MW cap. Coupled with estimated operation and maintenance expense, the lease payments to array hosts, the Solar Now program would increase WEPCO's revenue requirement by $9.6 million in year one of the program, totaling $206 million over the estimated 30 year life of the pilot installations. Considering fuel cost savings, WEPCO customers could still expect to an increase in rates of more than $7.5 million in year one of the program, and $128.7 million over the life of the arrays installed under the pilot.

WEPCO states that Solar Now will allow the company to:

- Gain valuable knowledge, insight and experience operating distributed solar generation and the Company's existing distribution system with these distribution generation assets deployed;
- Identify characteristics of optimal sites that can utilize distributed generating assets to avoid or defer future investments in the Company's distribution system while maintaining world-class electric service reliability;

CUB finds the costs associated with the proposed Solar Now pilot to be unacceptably high for what is described as a learning exercise. The company also claims that the Solar Now pilot will also:

- Help meet its capacity needs while being responsive to customer requests for local distribution-connected solar generation;
- Partner with non-profit entities, which are not eligible for currently-available federal tax credits, wanting to host utility-owned solar generating assets;
- Partner with interested customers in hosting utility-owned solar generation projects; and,
- Encourage and support the growth of carbon-free electricity generation in Wisconsin.

While CUB is generally supportive of these goals, the evidence in the record suggests that the proposed Solar Now pilot is not a cost-effective way to meet these goals. For example, Commission staff estimates that first year avoided costs associated with Solar Now to be $49.96/megawatt-hour (MWh). (Staff Memo, p.5) However, these benefits come at an average cost of $50.70/MWh. (Id.) If Solar Now were to be judged as a capacity resource program, the benefit to cost ratio suggested by Commission staff's analysis would make it a cost-ineffective program.

As noted previously, CUB is supportive of voluntary utility programs that are priced such that participating customers pay all the direct and indirect actual costs associated with the product. Had, for example, WEPCO proposed a distributed solar PV program priced similarly to the Community solar programs authorized by this Commission for Northern States Power Company and MGE, CUB could likely be more supportive. Such a program would likely be more self-supporting with respect to program costs and would minimize any negative rate impacts to non-participating customers. As currently proposed, the Solar Now program would achieve the opposite results, generating significant negative impacts to non-participating customers, with any associated system benefits coming at a high cost.

For the foregoing reasons, CUB requests that the Commission adopt Alternative Three:

Alternative Three: Do not approve the Solar Now program.

<u>Commission should deny deferral accounting treatment</u>

In these comments, CUB has emphasized the high cost and significant rate impact of this project. Some may argue that these concerns are overblown, because WEPCO is seeking deferral accounting treatment for program costs until the utility's next rate case proceeding. (WEPCO Application, p. 2) As CUB is urging the Commission to select Alternative 3 regarding the Solar Now pilot, we also do not think deferral treatment is appropriate. In fact, the program's mismatch with the Commission's deferral criteria is another indication that the pilot should not be approved.

In addition to the four Evaluation Criteria listed in Statement of Position (SOP) 94-01 on Deferred Accounts, the narrative preceding that list is instructive, explaining that deferred items are related to events that are "of unusual nature and infrequent occurrence" and are therefore "abnormal and significantly different from the ordinary and typical activities of the company […]" (SOP 94-01, p. 5) As a general matter, voluntary utility pilot programs do not typically fit this description, as they occur with relative frequency and are a normal utility activity.

CUB does not wish to duplicate Commission staff's analysis of the four SOP 94-01 criteria (See Staff Memo, pp. 6-8) and will limit its comments to Criteria Three and Four (provided below[5]). Specifically, WEPCO's justification for Criteria Three is inadequate, as it speaks mainly to a lost opportunity to use the utility's earnings sharing mechanism, not to any financial harm it may experience. Further, CUB considers earnings above WEPCO's authorized return to be ratepayer dollars and the earnings sharing mechanism merely divides the additional earnings between the utility and its transmission escrow. Therefore, it is not automatically a negative if there are no excess earnings to be "shared."

The justification for Criteria Four is also inadequate. WEPCO avoids the actual language of Criteria Four and does not discuss any quantifiable ratepayer impact. Instead, the utility claims there will not be an impact because "the Company would obtain recovery of the costs" of the facilities, while "learn[ing] how distributed generation could be used as a cost effective way to maintain or enhance reliable and cost effective delivery of electricity to its customers." (Data Response 1-NAS-2, PSC REF#: 352461) While learning experiences can be valuable, the pilot's yearly revenue requirement will have a significant ratepayer impact regardless of when expenditures are recognized and necessitates, at the very least, stringent examination of the

[5] Criteria 3. The immediate recognition of the expenditure causes the utility serious financial harm or significantly distorts the current year's income.
Criteria 4. The immediate recognition of the expenditure causes significant ratepayer impact.

program's costs and benefits to ratepayers. Therefore, should the Commission elect to approve the Solar Now program, CUB requests that the Commission adopt Alternative Three:

Alternative Three: Do not grant WEPCO's request for deferral accounting treatment for Solar Now expense.

In the event the Commission chooses to authorize the Solar Now pilot and WEPCO's deferral accounting request, CUB strongly supports Commission staff's recommendation to require the utility to provide further information on program costs and benefits, to aid the Commission when it makes a final determination on recoverability. (*See* Staff Memo, p. 8)

Additional conditions/reporting requirements

WEPCO stated that a benefit of the pilot will be gaining knowledge about operating distributed solar generation. (WEPCO Application, p. 2) Therefore, should the Commission decide to Approve the Solar Now Program, CUB requests that the Commission impose the following reporting requirements. These reporting requirements are consistent with those that have accompanied approvals for community solar pilots,[6] which the utilities provide in publicly available annual reports:

1. The amount of energy produced by each PV array;
2. The hourly production curves for ach PV array by month; and
3. The number of participating customers.

Given the significant cost associated with the Solar Now program, CUB believes that it would be prudent to include compliance requirements of similar to those imposed on energy efficiency programs. WEPCO should be required to develop and inform the Commission of

[6] Final Decision, *Application of Madison Gas and Electric Company to Implement a Community Solar Pilot Project*, Docket No. 3270-TE-101, PSC REF#: 284022; Final Decision, *Application of River Falls Municipal Utility, Pierce and St. Croix Counties, Wisconsin, for Tariff Changes to Implement a Community Solar Garden Pilot Program*, Docket No. 5110-TE-102, PSC REF#: 273771.

"Quantified performance goals" for the Solar Now Program and develop an evaluation, measurement, and verification plan. (Final Decisions 6680-EE-2019, 4220-EE-2019)

DRER Pilot

As noted in the Staff Memo, WEPCO's proposed DRER pilot shares many similarities with the Renewable Energy Rider Program authorized by the Commission for Madison Gas and Electric Company. In both cases, the rider serves as a framework for contracts to be negotiated between the utility and interested customers. CUB will not duplicate Commission staff's analysis of the proposed DRER pilot, but will instead focus its comments on customer eligibility and aggregation.

Per the proposed tariff, the DRER would be available to all of WEPCO's general secondary and general primary customers. As a practical matter, this makes the DRER available to essentially all commercial and industrial customers. However, the proposed tariff language of the DRER does not appear to contemplate or allow for aggregation of customers. CUB is supportive of aggregation as an option as the beneficial aspects of aggregation include simpler and more efficient contracting and contract administration, and the ability to scale up resource acquisitions and therefore realize any economies of scale. CUB suggests that the Commission adopt Alternative Two:

- **Alternative Two**: Approve the proposed DRER program with modifications or conditions, to allow for the aggregation of accounts under the DRER.

III. CONCLUSION

CUB generally supports utility efforts to provide customers with services and product options they want. It is essential that non-participating customers are not burdened with any costs associated with those offerings, both as a matter of fairness and because the law requires it. It is also important that these offerings are available to as wide a spectrum of customers as possible, so as not to unnecessarily discriminate in favor of certain ratepayers. Therefore, for the reasons stated herein, CUB supports the following Alternatives:

Solar Now

- **Alternative Three**: Do not approve the Solar Now program.

  Solar Now Deferral Accounting Treatment

- **Alternative Three**: Do not grant WEPCO's request for deferral accounting treatment for Solar Now expense.

DRER

- **Alternative Two**: Approve the proposed DRER program with modifications or conditions, to allow for the aggregation of accounts under the DRER.

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

Dated this 18th day of December, 2018.

Respectfully submitted,

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