

Date Mailed December 19, 2001
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BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Wisconsin Electric Power Company for Approval of  
Plan to Improve Reliability Through Infrastructure and Incentives  
and Request for Rate Increase for Test Year 2000

6630-UR-111

**AMENDED FINAL DECISION**

This is an amended decision concerning the application of Wisconsin Electric Power Company (WEPCO or the Company) for authority to increase electric and natural gas rates in 2000 and electric rates in 2001. This decision is issued to comply with a court remand of this case to the Commission.<sup>1</sup> The amended final decision affects natural gas rates only.

The final overall revenue increase for natural gas operations is amended from \$8,000,000 as authorized in the Commission's August 30, 2000, final decision<sup>2</sup> in this proceeding to \$11.6 million.

In all other respects, the August 30, final decision is incorporated herein and made a part of this decision, without changes.

**Introduction**

On July 6, 1999, WEPCO submitted to the Commission financial data indicating a revenue deficiency for the 2000 test year, but the Company requested no change in rates at that time. On September 17, 1999, WEPCO submitted a revised filing that included a request for a

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two-step rate increase for electric operations and a one-step increase for natural gas operations.

The revised filing requested an \$8,000,000 increase in natural gas rates.

On December 15, 1999, a prehearing conference was held to determine the issues to be addressed and to set the schedule for the hearing. On December 27, 1999, WEPCO filed a request for interim rate relief in this proceeding. During the course of the proceeding, WEPCO revised its natural gas rate request to \$17.3 million. On February 9, 2000, pursuant to due notice, a hearing was held to address issues related to the request for interim rate relief.

On April 11, 2000, the Commission issued an order that, among other things, granted WEPCO an \$11.6 million increase in the revenues to be collected via natural gas rates. On April 25-26, 2000, pursuant to due notice, a hearing was held to address issues related to the final rates.

On August 30, 2000, the Commission issued a final decision in this proceeding. In the final decision, the Commission revised the \$11.6 million natural gas rate increase granted in the interim decision to \$8 million, necessitating a refund to customers of a portion of the revenue collected under the interim natural gas rates.

On November 16, 2000, WEPCO petitioned the Circuit Court of Milwaukee County for review of the Commission's final decision in this proceeding. The petitioner claimed that the record in the proceeding did not support a natural gas rate increase of only \$8 million, but supported an increase of at least \$11.6 million. The court agreed with WEPCO that the \$8 million increase was not based on substantial evidence in the record.

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<sup>1</sup> *Wisconsin Electric Power Company, Inc. v. Public Service Commission of Wisconsin*, Case No. 00CV009595, Decision and Order Reversing and Remanding the Decision of the Public Service Commission, November 1, 2001.

<sup>2</sup> Final Decision, Docket 6630-UR-111, August 30, 2000.

On November 1, 2001, the court issued a decision and order reversing and remanding the decision of the Commission in this investigation.<sup>3</sup> The court's remand required the Commission to either: (1) identify from the existing record a natural gas rate increase that would allow WEPCO to earn a fair and reasonable return on its investment; or (2) conduct a hearing to supplement the record as to the reasonable level of the rate increase for WEPCO's natural gas operations. No additional hearings were held.

The parties, for purposes of review under Wis. Stat. §§ 227.47 and 227.53, are listed in Appendix A. Other persons who appeared are listed in the Commission's files.

### **Findings of Fact**

1. It is reasonable to revise the natural gas rate increase amount from \$8 million as approved in the August 30, 2000, Final Decision in this proceeding to \$11.6 million. The natural gas rates based on the \$8 million increase are unreasonable because they produce inadequate natural gas revenues.

### **Conclusion of Law**

1. The Commission concludes that it has jurisdiction under Wis. Stat. §§ 1.12, 196.02, 196.025, 196.03, 196.19, 196.20, 196.21, 196.37, 196.374, 196.39, 196.395, and 196.40 and Wis. Admin. Code ch. PSC 116 to enter an order authorizing WEPCO to place in effect the rates and rules set forth in Appendix B subject to the conditions specified in this order.

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<sup>3</sup> Final Decision, Docket 6630-UR-111, August 30, 2000.

### **Opinion**

In the August 30, 2000 decision in this proceeding, the Commission denied WEPCO's request to increase its rates by more than the amount originally requested because WEPCO did not formally amend its application to the Commission to reflect this fact and because it was not clear whether proper notice of the revision was provided to customers. The court on appeal determined that it was not necessary for WEPCO to formally amend its application to the Commission when it revised its revenue requirement increase request from \$8 million to \$17.3 million. The court also determined that customers were provided with proper notice of this request when WEPCO initially notified its customers that it had filed for an increase in natural gas rates. As a result, the Commission has the choice of either approving the revised request of \$17.3 million, or approving the \$11.6 million adjusted increase included in the Commission staff's testimony. The court determined that both of these increase figures are supported by substantial record evidence.

The staff auditor's adjustments to the applicant's request are reasonable. The natural gas rates increase in this proceeding is, therefore, revised from \$8 million to \$11.6 million.

The revised natural gas rates are found in Appendix B. The rates are just and reasonable.

### **Order**

1. The authorized rates in Appendix B shall be in effect until the issuance of an order by the Commission establishing new rates.
2. This order shall be effective one day after the date of mailing. The authorized rates and rules shall also be effective on the same date, provided that the rates are filed with the

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Commission and placed in all offices and pay stations of the utility by that date. If the authorized rates and rules are not placed in all offices and pay stations by the effective date of the order, the rates shall become effective on the date that the rates are placed in all offices and pay stations. WEPCO shall notify its customers that the rate changes identified herein are authorized as a result of the court's decision on an appeal of the Commission's August 30, 2000, final decision in this proceeding. WEPCO shall inform the Commission staff as to the manner in which it notified its customers of this rate change.

Dated at Madison, Wisconsin, \_\_\_\_\_

By the Commission:

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Lynda L. Dorr  
Secretary to the Commission

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See attached Notice of Appeal Rights

Notice of Appeal Rights

Notice is hereby given that a person aggrieved by the foregoing decision has the right to file a petition for judicial review as provided in Wis. Stat. § 227.53. The petition must be filed within 30 days after the date of mailing of this decision. That date is shown on the first page. If there is no date on the first page, the date of mailing is shown immediately above the signature line. The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

Notice is further given that, if the foregoing decision is an order following a proceeding which is a contested case as defined in Wis. Stat. § 227.01(3), a person aggrieved by the order has the further right to file one petition for rehearing as provided in Wis. Stat. § 227.49. The petition must be filed within 20 days of the date of mailing of this decision.

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

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.

Revised 9/28/98

APPENDIX A  
(CONTESTED)

In order to comply with Wis. Stat. § 227.47, the following parties who appeared before the agency are considered parties for purposes of review under Wis. Stat. § 227.53.

Public Service Commission of Wisconsin  
*(Not a party but must be served)*  
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by

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