we energies

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February 15, 2011

FILED ELECTRONCIALLY

Mr. Robert Norcross
Administrator, Gas and Energy Division
Public Service Commission of Wisconsin Electric Power Company
610 North Whitney Way
Madison, WI 53707

RE: Docket No. 6630-FR-101

Dear Bob:

The Commission has for several months been considering the issue of whether, in 2008 and 2009, Wisconsin Electric had "excess revenues" pursuant to the fuel cost rules then in effect. As you know, nowhere in those fuel rules and nowhere in any rate case or fuel case order did the Commission ever define how "excess revenues" are to be calculated.

The issue was placed on the Commission's agenda for its February 10, 2011, open meeting, but was laid over. I note that the decision memorandum and suggested minutes which set forth the options available to the Commission was identical to the Memorandum issued on October 7, 2010. Since that time, several significant events have taken place which, for the sake of accuracy and completeness, should be reflected in the decision memorandum:

- Wisconsin Electric filed an extensive legal analysis (PSC Ref #140112) which explained why, under both state law (Wis. Stat. § 196.485(6m)) and federal law (the Supremacy Clause) the Commission *may not* include in any calculations of "excess revenues" a utility's earnings on its investment in American Transmission Company (ATC).
- When the Commission promulgated the new fuel rules, it expressly excluded ATC earnings from the calculation of "excess revenues," precisely as Wisconsin Electric had explained was required by state and federal law.

I understand the burden on staff to continuously update these documents, but in order to fairly represent the range of alternatives; I respectfully request that the attached exhibit be included for the Commission's consideration. In the exhibit, the company has calculated both Alternative #1 and Alternative #2 to remove ATC earnings from the calculation of "excess revenues."

Unless this exhibit is presented, the record will only contain flawed versions of the alternatives. In fact, Alternative #1 and Alternative #2, as presented, would be unlawful if the company's legal analysis is correct. In any event, the information as currently presented is inconsistent with the way the Commission viewed the ATC matter in the final version of the "new" fuel rules.

I believe the inclusion of the Exhibit can be accomplished with minimal, if any, additional work by staff and will more accurately reflect the decision alternatives available to the Commission.

Please contact me if you have questions.

Sincerely,

Roman A. Draba, Vice President

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Regulatory Affairs & Policy Department

cc: Docket 6630-FR-101

WEPCO

Summary of ROE Calculations

And Possible Excess Revenue Amounts

For Years 2008 and 2009

Thousands of Dollars

	Remove ATC Only In Alternative #3	TC Only ative #3	ATC Removed In All Alternatives	noved natives
Alternative # 1	2008	2009	2008	2009
AF6 As Reported AF6 Earned Regulatory ROE	10.49%	10.78%	10.13%	10.38%
Authorized Regulatory ROE	10.75%	10.75%	10.75%	10.75%
Over / (Under) %	-0.26%	0.03%	-0.62%	-0.37%
Total Company Revenue Excess / (Deficiency)	(11,381)	1,444	(25,647)	(14,990)
Wisconsin Jurisdictional Revenue Excess / (Deficiency) at 89.6% all-in factor	(10,197)	1,294	(22,980)	(13,431)
Alternative # 2				
AF6 Report Adjusted for Nonutility Items				
AF6 Earned Regulatory ROE	10.71%	10.90%	10.36%	10.52%
Authorized Regulatory ROE	10.75%	10.75%	10.75%	10.75%
Over / (Under) %	-0.04%	0.15%	-0.39%	-0.23%
Total Company Revenue Excess / (Deficiency)	(1,853)	6,865	(16,119)	(6)263)
Wisconsin Jurisdictional Revenue Excess / (Deficiency) at 89.6% all-in factor	(1,660)	6,151	(14,443)	(8,574)
Alternative # 3				
AF6 Report Adjusted for Nonutility Items, Incentive,				
Stock Options & Performance Shares, WEC BUD, & to Remove ATC	Š	Ì		Ì
Arb Earned Regulatory ROE	11.2/%	11.4/%	11.2/%	11.4/%
Authorized Regulatory ROE	10.75%	10.75%	10.75%	10.75%
Over / (Under) %	0.52%	0.72%	0.52%	0.72%
Total Company Revenue Excess / (Deficiency)	23,260	31,986	23,260	31,986
Wisconsin Jurisdictional Revenue Excess / (Deficiency) at 89.6% all-in factor	20,841	28,660	20,841	28,660