## BEFORE THE PUBLIC SERVICE COMMISSION OF WISCONSIN

Joint Application of Wisconsin Electric Power Company and Wisconsin Gas LLC, both d/b/a We Energies, for Authority to Adjust Electric, Natural Gas, and Steam Rates

Docket No. 05-UR-105

### POST-HEARING BRIEF OF THE WISCONSIN INDUSTRIAL ENERGY GROUP, INC.

The Commission should deny WE Energies' Proposal to take a one-year holiday on \$148.1 million in amortization expense. This is WIEG's third brief since June 2011. And the concerns that it expressed in the earlier briefs, first with the Citizens Utility Board and then with Wisconsin Paper Council, have only increased. Despite WE Energies' efforts to cloak the long-term effect the Proposal has on its customers, it is now evident that the Proposal likely will cost customers about \$61 million more in rates over the next six years than it would cost them if the Commission proceeds with a full base rate case this year. A zero dollar increase in 2012 would be welcomed. But at the premium cost of \$61 million? No. \$61 million is too great a price to pay.

WE Energies' Proposal requires the Commission to answer two broad questions. First, should the Commission care whether the Proposal has a premium cost to customers in the years following 2012? If the answer is "no", then this matter should be resolved immediately, with the Commission accepting the Proposal. No one doubts that the Proposal, if accepted on WE Energies' terms and conditions, results in no increase to base rates in 2012. Indeed, WE Energies could have asked the Commission to allow it to take a one-year holiday on \$200 million in amortization expenses, or even \$400 million, and by doing so freeze base rates at their current, 2011 levels.

If the Commission does care whether the Proposal has a premium cost to customers in the years following 2012, then a second question arises. Is that premium a reasonable price in relation to the zero dollar increase benefit customers receive in 2012? This is a much more difficult question to answer, and it requires the Commission to know first the benefit the Proposal brings customers in 2012 and, second, the Proposal's costs to customers in the year 2013 and beyond.

WIEG believes that some premium might be reasonable. However, it knows that a \$61 million premium is much too great. The evidence presented at the August 26, 2011, Technical Hearing most strongly supports the conclusion that the Proposal will cost WE Energies' customers about \$61 million through 2018. The Proposal would allow WE Energies to take a one-year holiday on \$148.1 million in amortization expenses. The best evidence at the hearing on WE Energies' revenue needs supports a revenue deficiency of only \$87.1 million. The difference between these two numbers--\$61.1 million—is the premium payment. In exchange for maintaining current base rates through 2012—the zero increase—an accepted Proposal will permit WE Energies' to collect \$148.1 million in the future. If instead, following a full base rate case, the Commission were to conclude that WE Energies had a revenue deficiency of \$87.1 million, as Staff's audit supports, customers would pay that \$87.1 million in 2012. The choice? Pay \$87.1 million in 2012, or \$148.1 million between 2013 and 2018?

Given that the question for the Commission is whether the short-term benefit is worth the long-term cost (a calculation that WE Energies most certainly made for itself) WIEG believes that the Commission could reasonably deny WE Energies' Proposal for no reason other than its utter failure to provide the Commission, its Staff, and interested parties with <u>any</u> information about how its Proposal is likely to affect rates in the long-term. We all have known since May

25, 2011, that the Proposal results no increase in base rates in 2012. And since May 25, 2011, WE Energies has repeated the "no increase in 2012" mantra, again, and again, and again. We understand that part of the Proposal.

As WIEG has stated many times in this proceeding, if only the 2012 rates were of concern, WE Energies would find its customers offering strong support for the Proposal. Everyone likes zero. But of course, 2012 rates are not the only concern—so too are rates in 2013, and 2014 and beyond. WE Energies' decision to simply dismiss those valid concerns—to point only to the 2012 benefit that was clear to everyone immediately in May—has been troubling.

Despite repeated requests to provide evidence of post 2012 effects, WE Energies decided not to do so. Beginning with its May 26, 2011, Application first offering the Proposal, WE Energies has worked to focus on 2012 only. In its Application, aside from acknowledging that it would return to the Commission for a full base rate case in 2013, WE Energies offered nothing showing what 2013 rates would be under the proposal, much less years further out. *See, generally*, Exhibit 12.

Less than one month later, Citizens Utility Board ("CUB") and WIEG filed Joint
Comments regarding WE Energies' Proposal. The two customer groups recognized that WE
Energies' Proposal would maintain current rates, but asked two fundamental questions: "will
delaying WEPCO's full base rate case for one year result, on the whole, in lower overall and
long term costs for its ratepayers?" and "is WEPCO's assertion that it has a revenue shortfall in
2012 of \$171 million, much less the \$214 million before disallowed items, accurate? *See* Joint
Comments Of The Citizens Utility Board And The Wisconsin Industrial Energy Group
REGARDING WEPCO's Proposed Alternative Approach To A Traditional Rate

PROCEEDING ("JUNE JOINT COMMENTS"), PSC Ref # 149864, at 3. The two questions simply noting the two components necessary to decide if the Proposal should be supported.

A month later WIEG and the Wisconsin Paper Council filed Join Comments on the Staff's Memorandum providing its audit of WE Energies' revenue deficiency. *See* WISCONSIN INDUSTRIAL ENERGY GROUP'S AND WISCONSIN PAPER COUNCIL'S COMMENTS ON WE ENERGIES' PROPOSAL TO MAINTAIN CURRENT BASE RATES THROUGH 2012 ("JULY JOINT COMMENTS") PSC Ref#151344. Given the limited nature of the Proposal and the procedure which WE Energies' was seeking, WIEG and WPC supported the conclusions of Staff's limited audit. Still not having any idea of what the long-term costs were, WIEG and WPC made clear that this information was critical to any decision on offering support:

The difficulty in enthusiastically supporting WE Energies' proposal, though, is that WE Energies tells us way, way too little about how its Proposal affects rates in 2013, 2014, 2015 and beyond.

. . .

WIEG wishes to make clear that it does not categorically reject WE Energies' Proposal. It <u>may</u> be a very good deal for its members. It certainly does show that WE Energies' has an interest in the well-being of its ratepayers. Having no increase in base rates in 2012 would be a much welcome relief. But without knowing better how this Proposal will affect rates in 2013, concluding on the limited information in the filing now that we should accept the Proposal would be foolhardy, and WIEG simply is not currently prepared to lend its support to the Proposal. <u>Had</u> WE Energies addressed the later years in greater detail, WIEG may have been in a position to lend its outright support. With the limited information now before it, it cannot.

#### *Id.*, at 1-2 (emphasis supplied).

WE Energies commented on Staff's Memorandum the same day. And while objecting in general terms to certain of the adjustments that the Staff made to WE Energies' claimed revenue deficiency, WE Energies did not use the opportunity to address 2013 rates—aside from noting,

again, that it would return to the Commission for a base rate case. It again was silent as to longterm costs.

# THE COMMISSION SHOULD CONCLUDE THAT THE BEST EVIDENCE OF RECORD DISCLOSES THAT WE ENERGIES' REVENUE DEFICIENCY IN 2012 IS \$87 MILLION.

All of the parties appear to agree that there has been insufficient time and consideration of WE Energies' actual 2012 revenue deficiency. Mr. Lauber of WE Energies, in arguing for simply accepting WE Energies' Proposal and assertion that \$148.1 million was the appropriate number to use in providing an escrow holiday, acknowledged that the revenue deficiency "issues have not been fully fleshed out." Lauber, Transcript, Volume 2, at 28-29.

The Commission Staff prepared its best estimate of that 2012 revenue deficiency in its Memorandum, which is reflected in Exhibit 20. That deficiency is approximately \$87 million, not the \$148.1 million for which WE Energies seeks a holiday on recovering escrow amortizations. Page 1 of 2 shows that the Adjusted Revenue Deficiency in 2012 is \$180.1 million. Page 2 of 2 shows that Staff's preliminary adjustments result in a further reduction to WE Energies' revenue deficiency of \$122.2 million. Because both line items 17 and 18 are amounts that the Commission could decide not to adjust in connection with WE Energies' Proposal (*i.e.*, these are levelized costs from 2013 collected in 2012 rates under the Proposal), the total 2012 Revenue Deficiency is \$180.1 million, less \$122.2 million, plus \$16.7 million and \$12.5 million = \$87.1 million.

Despite having worked with Commission Staff in its limited audit of its own revenue deficiency, and having a copy of the Commission Staff's proposed adjustments no later than July 19, 2011, WE Energies decided not to provide any evidence contradicting Staff's adjustments, or making additional adjustments of its own, until the morning of the August 26, 2011, Technical Hearing. Provided during the hearing itself, no party had any meaningful opportunity to review

whether these brand-new adjustments were reasonable. With this new information, at such a late date, it appears that WE Energies was interested less in supporting its claimed revenue deficiency than to show that it was impossible, without a full base rate case, to determine with any degree of certainty what its revenue deficiency for 2012 would actually be. In taking this action, WE Energies appears to hope that the Commission will throw its hands up and declare that because it could not know the revenue deficiency with certainty, it will simply adopt the \$148.1 million Proposal. The Commission must decline to do so.

No one knows with absolute precision what WEPCO's revenue deficiency is in 2012. But we do know that it is not \$148.1 million. And WE Energies itself states that it believes that the deficiency is somewhere between \$97.1 million and \$168.5 million. Lauber, Transcript, at 28. The best evidence is that which is found in Staff's audit—it is the only evidence that demonstrates considered evaluation, with opportunity for other parties to provide comment.

With that revenue deficiency, the Commission should not adopt the Proposal because to do so will result in a windfall to WE Energies at the expense of customers. WIEG's witness Lane Kollen's unrebutted testimony supports the conclusion that any amount included in the one-year amortization expense holiday that is in excess of WE Energies' actual revenue deficiency is a premium for the benefit that comes with WE Energies' Proposal. Mr. Kollen explained that, even assuming that WE Energies comes in for a full base rate case in 2013—and that results in the same revenue deficiency that would have been proven in 2012—customers will be paying WE Energies millions more for the benefit. As he explained, "if the Commission resets base rates effective in 2013 based on a comprehensive rate case in 2012 and the revenue deficiency is reduced by \$90 million in 2013 instead of 2012, then the premium paid by ratepayers for a zero dollar increase in 2012 is \$90 million." Transcript, Kollen, Volume 1, at

38. It appears now, from the limited audit provided by the Commission staff and noted above, the premium instead is \$61 million. The calculation for determining this premium, using the amortization periods provided by WE Energies (with a stand-in total revenue requirement) is provided as Attachment A to this brief, which was introduced in similar form at the Technical Hearing as Exhibit 10.

The Commission should either deny the Proposal outright, or accept Staff's Limited Audit as evidence of WE Energies' actual revenue deficiency in 2012, and permit WE Energies a one-year holiday on amortization expenses equal to \$61 million.

Dated: September 12, 2011.

Respectfully submitted,

GODFREY & KAHN, S.C.

s/ Steven A. Heinzen

By:

Steven A. Heinzen State Bar No. 1032278

Attorneys for the Wisconsin Industrial Energy Group, Inc.

Godfrey & Kahn, S.C. 1 East Main Street, Suite 500 P.O. Box 2719 Madison, WI 53701-2719

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### Revenue Deficiency Is \$88 Million -- Full Base Rate Case Contrasted To WE Energies' Proposal

Comprehensive Full Base Rate Case Revenue Deficiency of \$88 Million Recovery of Amortized Expenses in Consecutive Years										
	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	2017	2018	<u>2019</u>	Total (2012-2019)
Base Revenue Requirement Items										
Electric Uncollectibles (Bad Debt)	\$43,568	\$43,568	\$43,568	\$43,568	\$43,568	\$0	\$0	\$0	\$0	\$174,272
Electric Utility Act 141 Payments	\$29,389	\$29,389	\$29,389	\$0	\$0	\$0	\$0	\$0	\$0	\$58,778
Act 141 Electric Large Customer Refund	\$9,074	\$9,074	\$9,074	\$0	\$0	\$0	\$0	\$0	\$0	\$18,148
Other Reg Liab-Renew Energy Prog Elec	\$5,866	\$5,866	\$5,866	\$0	\$0	\$0	\$0	\$0	\$0	\$11,732
Other Reg Liab-Conservation Electric	\$1,608	\$1,608	\$1,608	\$0	\$0	\$0	\$0	\$0	\$0	\$3,216
ConserEscrow-EnerProcurement-Elec	\$16,817	\$16,817	\$16,817	\$0	\$0	\$0	\$0	\$0	\$0	\$33,634
Transmission Escrow	\$19,723	\$19,723	\$19,723	\$19,723	\$19,723	\$19,723	\$19,723	\$0	\$0	\$118,338
Other Revenue Items	\$873,955	\$873,955	\$873,955	\$873,955	\$873,955	\$873,955	\$873,955	\$873,955	\$873,955	\$6,991,640
Changes To Revenue Requirement										
Add Cost Of Air Quality and Renewable										
Projects, and IRS tax adjustment AND										
Account for Staff Adjustments	\$0	\$88,000	\$88,000	\$88,000	\$88,000	\$88,000	\$88,000	\$88,000	\$88,000	\$704,000
Total Revenue Requirement	£4 000 000	\$1,088,000	\$1,088,000	\$1,025,246	\$1,025,246	\$981,678	\$981.678	\$961.955	\$961,955	\$8,113,758

WE Energies' Proposal For \$0 Increase in 2012 Recovery of Amortized Expenses In Non-Consecutive Years Rates Reset In 2013 With Base Rate Case											
	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	Total (2012-2019)	
Base Revenue Requirement Items											
lectric Uncollectibles (Bad Debt)	\$43,568	\$0	\$43,568	\$43,568	\$43,568	\$43,568	\$0	\$0	\$0	\$174,272	
lectric Utility Act 141 Payments	\$29,389	\$0	\$29,389	\$29,389	\$0	\$0	\$0	\$0	\$0	\$58,778	
act 141 Electric Large Customer Refund	\$9,074	\$0	\$9,074	\$9,074	\$0	\$0	\$0	\$0	\$0	\$18,148	
Other Reg Liab-Renew Energy Prog Elec	\$5,866	-\$4,629	\$5,866	\$5,866	\$4,629	\$0	\$0	\$0	\$0	\$11,732	
Other Reg Liab-Conservation Electric	\$1,608	-\$706	\$1,608	\$1,608	\$706	\$0	\$0	\$0	\$0	\$3,216	
ConserEscrow-EnerProcurement-Elec	\$16,817	-\$20,964	\$16,817	\$16,817	\$20,964	\$0	\$0	\$0	\$0	\$33,634	
ransmission Escrow	\$19,723	\$4,244	\$19,723	\$19,723	\$19,723	\$19,723	\$19,723	\$15,479	\$0	\$118,338	
Other Revenue Items	\$873,955	\$873,955	\$873,955	\$873,955	\$873,955	\$873,955	\$873,955	\$873,955	\$873,955	\$6,991,640	
Changes To Revenue Requirement											
Add Cost Of Air Quality and Renewable Projects, and IRS tax adjustment in 2012; and in 2013 and after, revenue deficiency											
reestablished	\$0	\$148,100	\$88,000	\$88,000	\$88,000	\$88,000	\$88,000	\$88,000	\$88,000	\$764,100	
Total Revenue Requirement	\$1.000.000	\$1,000,000	\$1,088,000	\$1.088.000	\$1,051,545	\$1,025,246	\$981,678	\$977,434	\$961,955	\$8,173,858	

Ratepay Premium For Zero Increase In 2012 Under WE Energies' Proposal as Compared To Case In Which Revenue Deficiency In 2012 Is \$88 million												
Annual Difference	\$0	-\$88,000	\$0	\$62,754	\$26,299	\$43,568	\$0	\$15,479	\$0	\$60,100		
Cumulative Difference	\$0	-\$88,000	-\$88,000	-\$25,246	\$1,053	\$44,621	\$44,621	\$60,100	\$60,100	\$60,100		