PSC REF#:108565

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Public Service Commission of Wisconsin
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BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Wisconsin Public Service Corporation for Authority to Adjust Electric and Natural Gas Rates — 6690-UR-119

ORDER AMENDING FINAL DECISION

On December 30, 2008, the Commission issued the *Final Decision* in the application of Wisconsin Public Service Corporation (WPSC) to adjust Wisconsin retail electric and natural gas rates in 2009 and 2010. On January 16, 2009, WPSC filed a request for rehearing and reconsideration of several aspects of the *Final Decision* concerning a right to terminate provisions in the energy efficiency stipulation, the Commission's modification of the stipulation to provide for a rate adjustment cap, and the Order Point 14 concerning a recommendation of the Global Warming Task Force for Increased Renewable Portfolio Standards.

The Commission discussed WPSC's request at its open meetings on February 3 and February 13, 2009. The Commission determined that it would amend and clarify the *Final Decision* under Wis. Stat. § 196.39, as set forth below, and grant the parties to the Stipulation, WPSC and the Citizens' Utility Board (CUB), until Tuesday, February 17, 2009, at 2:00 p.m., to inform the Commission of its decision to implement the Stipulation with the Conditions set forth in the *Final Decision*, as amended orally at the Commission's open meetings and as set forth below. WPSC and CUB filed letters with the Commission on February 16 and 17, 2009, respectively, stating they would implement the Stipulation under the conditions set forth herein.

The Commission amends and clarifies the *Final Decision* pursuant to Wis. Stat. § 196.39(1) as follows. Order Point 14 is deleted in its entirety, and consistent with this change,

the Finding of Fact 6.i., page 6 is amended to state: "i. It is reasonable for WPSC to commit, in this stipulation with CUB (Exhibit 93), to support the specified final recommendations of the Governors Global Warming Task Force (GWTF) as set forth in the stipulation" and, Condition No. 8, page 18, in the Opinion Section is deleted in its entirety.

Further, the condition set forth regarding the rate adjustment caps included in the Revenue Stability Mechanism that is contained in the Energy Efficiency Stipulation in Appendix E on the *Final Decision* is hereby amended, resulting in the following changes to the *Final Decision*:

a. Finding of Fact 6.f. on page 6 is amended to read "It is reasonable for WPSC to return to ratepayers, or recover in rates, any over- or under-collection of WPSC's aggregate sales revenue from the affected electric and natural gas rate class schedules, subject to a rate adjustment cap of $14 million for electric operations and $8 million for natural gas operations. The aggregate sales revenue shall be computed separately for electric and natural gas operations."

b. Condition No. 5 in the Opinion Section on page 17 is amended to read "WPSC shall return to ratepayers, or recover in rates, any over- or under-collection of WPSC's aggregate sales revenue from the affected electric and natural gas rate class schedules subject to a rate adjustment cap of $14 million for electric operations and $8 million for natural gas operations. The aggregate sales revenue shall be computed separately for electric and natural gas operations."

The Commission clarifies that its approval of the Energy Efficiency Stipulation is without prejudice to WPSC's and CUB's right to terminate implementation of the Stipulation under Paragraph 8 of the Stipulation.

All other terms and conditions of the *Final Decision* remain in effect.

Order

The Final Decision issued on December 30, 2008, is amended as provided above.

Commissioner Azar dissents in part (attached).

Dated at Madison, Wisconsin, February 23, 2009

By the Commission:

Sandra J. Paske

Sandra J. Paske
Secretary to the Commission

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See attached Notice of Rights

Docket 6690-UR-119

PUBLIC SERVICE COMMISSION OF WISCONSIN
610 North Whitney Way
P.O. Box 7854
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 mailing of this decision, as provided in Wis. Stat. § 227.49. The mailing 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 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 mailing 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 mailing 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 mailed its original decision.[1] 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: December 17, 2008

[1] *See State v. Currier*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.

BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Application by Wisconsin Public Service Corporation for Authority to Adjust Electric and Natural Gas Rates	6690-UR-119

COMMISSIONER AZAR'S DISSENT

I write to dissent in part. I agree with the Commission's decision to reopen this case, on its own motion, pursuant to Wis. Stat. § 196.39, to delete Order Point 14, and to revise Finding of Fact 6.i. However, I dissent with the Commission's action in this Order to modify the rate adjustment caps included in the Revenue Stabilization Mechanism that the Commission approved in this case.

The Commission's December 30, 2008 *Final Decision* marks a significant policy step for this Commission: for the first time, this Commission adopted a form of revenue decoupling. Our *Final Decision*, however, does not adopt full decoupling. Instead of adopting the Revenue Stabilization Mechanism as it was proposed by the parties, we decided to include rate adjustment bands. These rate bands are intended to help ensure that Wisconsin ratepayers are not placed in a position of excessive risk. If factors drove revenues outside those bands, the Commission would have the opportunity to address those changes on a going-forward basis.

Wisconsin Public Service Corporation (WPSC) petitioned for rehearing, challenging the rate adjustment bands contained in the *Final Decision*. Specifically, WPSC stated that the financial incentives created by the Commission's order "are precisely the opposite of the Stipulation's intended effect." (Request for Rehearing and Reconsideration of WPSC at 5.) Given the novelty of the *Final Decision,* the allegation that we were not achieving our intended

effect, and the limited information in the record on rate adjustment caps and bands, I asked for a technical hearing with the parties. Because I was unable to obtain additional information from the parties on this important issue, I dissent.

While we are not going to have a technical conference in this case, we cannot close the door to considering this option in future cases when the Commission is presented with a stipulation. If the Commission has the opportunity to consider a stipulation early in the process, and we determine that altering the stipulation is in the public interest, we can use a technical hearing to engage the parties on the issues we identify in our initial discussion. At the technical hearing, each Commissioner would have the opportunity to raise his or her issues with the parties and better understand their ideas about whether modifications should be made to the stipulation, or what modifications would be acceptable. If parties know they will be afforded this opportunity to engage in a dialogue on specific issues raised in our initial discussions, they would be more likely to bring negotiated stipulations to the Commission in the future.

Dated at Madison, Wisconsin, this 23 day of February, 2009.

Lauren Azar
Commissioner

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