

Date Mailed June 30, 2000

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Wisconsin Public Service Corporation For Approval
to Increase Electric and Natural Gas Rates

6690-UR-111

**SUPPLEMENTAL FINDINGS OF FACT
CONCLUSION OF LAW, AND ORDER**

This is supplemental to the Findings of Fact, Conclusions of Law, and Order in the above referenced docket, 6690-UR-111, for purposes of reflecting the new contract that Wisconsin Public Service Corporation (WPSC) proposed to enter into with the Wisconsin Department of Administration (DOA) for funding of energy efficiency, environmental research and development and renewable resource activities.

Introduction

In June 1998, the Commission reviewed and approved a contract between WPSC and DOA for the transfer of DSM-related funds from WPSC to DOA.¹ On a pilot basis, DOA assumed responsibility for administering WPSC's DSM market preparation activities. The pilot was to test an approach that begins the transition from public utility-delivered energy efficiency programs to programs delivered by non-utility entities. That contract expires June 30, 2000. On June 7, 2000, WPSC submitted a new contract for Commission review and approval, extending the pilot program and transfer of funding to DOA.

¹ Supplemental Findings of Fact, Conclusions of Law, and Order, docket 6690-UR-110, date mailed June 22, 1998.

Findings of Fact

1. WPSC and DOA entered into an Energy Efficiency Funding Agreement in 1998 under which WPSC agreed to fund and the DOA agreed to assume the development and administration of energy efficiency and conservation programs aimed at reducing the amount of capacity and energy used by WPSC's customers.

2. The purpose of the 1998 Agreement was to test whether, in anticipation of a restructured industry, such programs could be provided by non-utility providers.

3. The Commission approved the 1998 agreement and contract by order dated June 22, 1998.

4. The Wisconsin Legislature, in 1999 Wisconsin Act 9, enacted public benefits legislation directing the DOA, after a transition period ending December 31, 2002, to assume full responsibility for the delivery of public benefits programs in Wisconsin.

5. WPSC and DOA have proposed to enter into a new contract covering the next three years, January 1, 2000 through December 31, 2002.

6. The proposed contract contains language reflecting the changes and providing the flexibility necessary to meet the shifting needs and responsibilities of WPSC, DOA and the Commission during the contract period.

7. The contract transfers funds from WPSC to DOA of \$8,957,274 on an annual basis for the contract period.

8. The contract proposes that DOA assume WPSC's obligations to develop and administer programs for energy conservation and efficiency, environmental research and development and renewable resources in proportion to the amount of funds that are transferred.

9. Excluded from the transfer of monies are those dollars associated with WPSC's low-income activities, *i.e.*, low-income weatherization, the Early Identification Program and other assistance, and low-income uncollectibles/arrearages.

10. Monies associated with the Energy Center of Wisconsin dues are excluded from the transfer.

Conclusion of Law

1. The Commission has authority to review and approve the contract between WPSC and DOA under Wis. Stats. §§ 196.02(1), 196.374, 196.39 and 196.395.

Opinion

In June 1998, the Commission reviewed and approved a contract between WPSC and DOA for the transfer of DSM-related funds from WPSC to DOA. On a pilot basis, DOA assumed responsibility for administering WPSC's DSM market preparation activities. The pilot was to test an approach that begins the transition from public utility-delivered energy efficiency programs to programs delivered by non-utility entities. This contract expires June 30, 2000. On June 7, 2000, WPSC submitted a new contract for Commission review and approval, extending the pilot program and transfer of funding to DOA. It is reasonable to approve the contract as presented.

Since the initial contract was entered into, the Wisconsin Legislature created public benefits legislation directing the DOA, after a three year transition period, to assume full responsibility for the delivery of public benefits programs in Wisconsin. These programs include

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programs on energy efficiency and conservation, low-income assistance, environmental research and development, and renewable resources. Most of these are the same programs that are covered by the contract between DOA and WPSC. The public benefits legislation requires the complete transfer of funds for these public benefits programs by the end of the three year transition period.

The Commission has yet to make its decisions regarding the process for the transition period. The proposed contract's language adequately addresses the need for the flexibility of the parties, DOA and WPSC, to modify the contract to reflect future actions the Commission may take regarding the transition period, the transfer of funding and funding amounts and any other related issue. The proposed contract ensures that DSM services will continue to be provided to WPSC rate-payers during the interim. For example, the contract provides that DOA shall use the funds to develop, administer and evaluate programs primarily in counties served by WPSC. Once the Commission establishes a framework for transferring monies to the public benefits funds, these funds will then be transferred to the Public Benefits Fund as directed by the Legislature. It is reasonable for WPS to transfer \$8,957,274 to DOA for the provision of energy conservation and efficiency, environmental research and development and renewable resources activities. Any future filings by WPSC regarding the transition period should reflect the contract and its requirements.

WPSC currently has DSM-related goals that it is expected to achieve. These were established as part of the most recent rate case, docket 6690-GR-111. These requirements would be modified to reflect that WPSC's energy saving goals are waived for those program-area monies that have been transferred to DOA. For those monies that WPSC retains, it would still be

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responsible for achieving the goals associated with designing, delivering and administering the programs, *e.g.*, low-income weatherization. It is also reasonable to authorize WPSC to use escrow or deferred accounting for funds transferred by WPSC to DOA under this agreement.

Order

1. The Commission authorizes WPSC to enter into the contract, attached as Exhibit 1, with DOA to continue funding and participating in the energy efficiency pilot programs as the contract provides, to transfer such funds to DOA and to comply with its contract obligations with DOA.

2. The Commission authorizes the transfer from WPSC to DOA of \$8,957,274 annually, according to the terms of the contract.

3. The Commission authorizes WPS to maintain an escrow accounting of such funds transferred to DOA under such contract to insure the contract's proper implementation.

4. The Commission reaffirms its orders, dockets 6690-UR-111 and 05-EP-7, requiring WPSC to pursue achievement of DSM goals that are not replaced by funding this program.

5. The Commission expresses no objection to DOA's use of the funds received from WPSC for such purposes as the contract provides.

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6. The Commission retains jurisdiction over this energy efficiency pilot program until rate payer funds are transferred to the Public Benefits Funds created by the legislature.

Dated at Madison, Wisconsin, _____

By the Commission:

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