

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of Wisconsin	)	
Electric Power Company d/b/a We Energies	)	Case No. U-14707
for approval of a power supply cost recover plan	)	PAPERLESS FILING
and authorization of monthly power supply cost	)	
recovery factors for calendar year 2006.	)	

Reply Brief of
Louisiana-Pacific Corporation and
Tilden Mining Company, L.C.

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NOW COME Louisiana-Pacific Corporation and Tilden Mining Company, L.C., by and through their attorneys, Fraser Trebilcock Davis & Dunlap, P.C., and submit their Reply Brief.

REPLY TO MPSC STAFF

1. INITIAL RESPONSE.

The Michigan Public Service Commission is statutorily empowered to authorize public utilities to pass through to their customers only those rates and charges which are reasonable and prudent. MCL 460.6(j)(6). Because the Staff's three sentence initial statement offers no analysis as to why WEPCo's proposed PSCR factor is reasonable and prudent, which it is not, the Staff's initial statement lacks any substantive merit and should be disregarded in its entirety.

Although the Staff did not file an Initial Brief, the Staff did file a Reply Brief. In its Reply Brief, the Staff essentially agrees with the Intervenor's position that the Third Party Revenue issue deserves careful review and should be addressed in another case. With respect to the Revenue Sufficiency Guarantee Make Whole Payment issue, the Staff also agrees with the Intervenor's basic position that the issue should be reviewed, but the Staff recommends that the review be deferred until the Reconciliation case. Intervenor's believe that the ALJ should address the Revenue Sufficiency Guarantee Make Whole Payment issue in this case. In the alternative, however, Intervenor's would agree with the Staff that this issue is so important that, at a minimum, the ALJ should recommend that the Commission direct WEPCo to address this issue in the Reconciliation case.

2. WEPCo HAS IMPROPERLY INCLUDED DUPLICATIVE LINE LOSS COSTS IN ITS PROPOSED PSCR CALCULATIONS.

The final issue which the Intervenors have raised is whether WEPCo is improperly including duplicative line loss costs in its calculation of its proposed PSCR factor. The Staff did not file an Initial Brief but did address the line loss issue in its Reply Brief. Accordingly, the Intervenors will respond to the arguments in the Staff's Reply Brief regarding line losses.

In its Reply Brief, the Staff states:

It is Staff's position that the intervenors failed to see the distinction between a loss multiplier designed to adjust generation cost down to cost per megawatt hours on customer use basis; and losses due to the regional loss component of the MISO Locational Marginal Price (LMP).¹

The Intervenors respectfully disagree.

The error in the Staff's position can be most easily seen in the following example.

In its Reply Brief, the Staff suggests that WEPCo's total system sales in 2006 will be 30,785,558 MWhs. WEPCo's Exhibit A-11 lists Net System Requirements of 32,785,257 MWhs. Thus, the Staff estimates that WEPCo will lose 1,999,699 MWhs of generation in line losses. Staff's Reply Brief also states that the Company's average cost is \$30.90 per MWh. Multiplying the 1,999,699 MWhs of line losses by an average cost of \$30.90 per MWh indicates that WEPCo will incur \$61,790,699 of expenses for lost energy. \$61,790,699 is approximately 6% of WEPCo's Total Power Supply Costs of \$951,219,864.

The MPSC could have (but did not) allow WEPCo to recover its costs for line losses by simply adding \$61,790,699 to its Total Power Supply Costs.² If the Commission had done so, would the Staff still take the position that it would be appropriate for WEPCo to also apply the MPSC's line loss factor of 1.06? One would hope not. Doing so would obviously permit

¹ Staff Reply Brief, p 6.

² See, line 1 of Exhibit A-11.

the Company to recover its costs attributable to line losses twice, which is simply not reasonable or prudent.

Instead of allowing WEPCo to add 6% to its Total Power Supply Costs, the MPSC instead allowed WEPCo to increase its per kWh charge by a factor 1.06. The Commission never authorized WEPCo to both add line loss costs to its Total Power Supply Costs and apply a line loss factor of 1.06.

In spite of the foregoing, the Staff supports adding \$7,850,045 of line loss costs to WEPCo's Total Power Supply Costs. The Staff also supports then multiplying that loss amount by the Commission approved 1.06 line loss factor. This results in applying a line loss factor to line losses. This absurd result is neither reasonable nor prudent.

WEPCo's calculation of its proposed PSCR factor raises two separate and distinct issues. The first is whether the \$7,850,045 is already being recovered through the application of the MPSC 1.06 line loss factor. As discussed in Intervenor's Initial Brief and below, it is. WEPCo admits that the 1.06 line loss factor is a composite factor designed to cover all losses. See, *Infra*. The second, entirely separate issue, is whether it is appropriate to apply a line loss factor on top of a line loss cost. Clearly, it is not.

REPLY TO WEPCo

1. WEPCo HAS IMPROPERLY FAILED TO OFFSET REVENUES FROM THIRD PARTY SALES TO MICHIGAN MUNICIPALITIES AND WPPI AGAINST ITS COSTS .

In our Initial Brief, Intervenor's raised the issue of whether WEPCo is charging its Michigan tariff customers for any costs which are used to serve the Michigan Municipal Utility and WPPI loads and, if so, whether WEPCo should be required to offset any of its revenues from those sales against those costs. For the reasons set forth in their Initial Brief,

Intervenors believe that this is a serious issue which merits thorough and appropriate consideration.

Upon further reflection, however, Intervenors believe that this issue can be more thoroughly and appropriately explored in the context of a PSCR reconciliation case. Accordingly, Intervenors are withdrawing from consideration in this PSCR Plan case the first issue set forth on pages 2 through 7 of our Initial Brief.

2. WEPCo HAS IMPROPERLY FAILED TO OFFSET MISO REVENUE SUFFICIENCY MAKE WHOLE PAYMENT CREDITS THAT THE COMPANY WILL RECEIVE IN 2006 AGAINST ITS PROJECTED MISO REVENUE SUFFICIENCY COSTS.

The first of the two major issues which the Intervenors are continuing to raise in this proceeding is whether WEPCo has improperly failed to offset MISO Revenue Sufficiency Make Whole Payment Credits that the Company will receive in 2006 against its claimed MISO Revenue Sufficiency Make Whole Payment costs. The clear answer to this question is ‘yes.’

In its Initial Brief, WEPCo admits that MISO charges it for revenue sufficiency make whole payments and that such charges are included in Exhibit A-15 under the heading “MISO Total Uplift Costs.”³ WEPCo had to admit as much in its Initial Brief. Mr. Lorden’s cross-examination testimony left no doubt that the Company’s projected revenue sufficiency costs are included in its 2006 PSCR calculations,⁴

In its Initial Brief, WEPCo also admits that the Company has not included revenue sufficiency credits in its PSCR calculations.⁵ WEPCo, however, offers the following excuse

³ WEPCo Initial Brief, p 13.

⁴ Lorden testimony, Tr., Vol. 3, p. 113. Mr. Lorden testified that his work papers included \$1,110,483 and \$7,192,277 of revenues sufficiency costs for the time period of April 1, 2005 through August 31, 2005.

⁵ WEPCo Initial Brief, p 14.

for failing to do so: “The Company’s 2006 PSCR Plan does not include any Revenue Sufficiency Make Whole Payment credits because the [PROMOD] model used to prepare the 2006 PSCR plan was based upon the economic dispatch of the Company’s resources and, therefore, did not include RAC⁶ operations of the Company’s resources.”⁷

The Company’s excuse for not including revenue sufficiency credits in its 2006 PSCR plan calculations is specious. The Company estimated its 2006 revenue sufficiency costs based upon its 2005 costs.⁸ The Company could have similarly estimated its 2006 revenue sufficiency credits based upon its 2005 credits. It has simply chosen not to do so. The effect of WEPCo’s choice, of course, is an increase in WEPCo’s PSCR factor and an increase in the revenues which the Company collects.

WEPCo’s “MISO-total uplift costs” include MISO Revenue Sufficiency Make Whole Payment costs. In this regard, Mr. Lorden testified as follows:

Q. That [Exhibit A-3] includes MISO Total Uplift Costs, does it not?

A. Yes, it does.

Q. And those are costs, correct?

A. Yes.

* * *

Q. And am I correct that that category of Uplift Costs does include revenue sufficiency guarantee costs?

⁶ As used by WEPCo, RAC (which stand for Reliability Assessment Commitment) refers to the non-economic operation of a utility’s generating resources to maintain system integrity. Schumacher Testimony, Tr., Vol. 3, p. 165.

⁷ WEPCo Initial Brief, p 14.

⁸ Lorden Testimony, Tr., Vol. 3, p 114.

A. In looking at my work paper, yes, uplift costs do include both day ahead and real-time revenue sufficiency guarantee uplift costs.⁹

Although WEPCo's PSCR calculations include Revenue Sufficiency Make Whole Payment costs, they do not include any Revenue Sufficiency Make Whole Payment credits that WEPCo will receive in 2006.¹⁰ On cross-examination, Mr. Lorden admitted that such credits were not included in the Company's 2006 PSCR plan.

Q. And has WEPCo included in its PSCR calculations the revenue sufficiency guarantee payments that it receives from MISO?

A. No, it has not.¹¹

In its Initial Brief, WEPCo purports to rely on Exhibit LP-43 in support of its claim that the exclusion of these credits did not adversely affect the PSCR factor. WEPCo's claim in this regard is unfounded. WEPCo's purported reliance on Exhibit LP-43 in support of its claim that the exclusion of these credits did not adversely affect the PSCR factor is unfounded because the question propounded in that interrogatory/exhibit was whether WEPCo realized any "net gain" when it was paid to operate out of economic order. The fact that the Company does not experience any "net gain" in such circumstances is simply not dispositive of the question of whether the Company should be allowed to include its revenue sufficiency costs in its PSCR calculations without including its revenue sufficiency credits. Clearly, it should not. The fact that these issues are not the same is recognized in an earlier portion of Exhibit LP-43 which WEPCo did not quote. The prior portion of Exhibit LP-43 which WEPCo did not quote plainly states that "the \$37.7 million is the difference between the \$51.6 million in

⁹ Lorden testimony, Tr., Vol. 3, pp. 112-113. See also, Lorden testimony, Tr., Vol. 3, pp. 113-114.

¹⁰ Ex LP-25, p 2.

¹¹ Lorden testimony, Tr., Vol. 3, p. 114. Mr. Lorden explicitly admitted that WEPCo has included the costs without including the revenues. Lorden testimony, Tr., Vol. 3, p. 117.

revenue sufficiency make whole payments received by the Company (LP-WE-07) and the \$13.9 million the Company paid to MISO in revenue sufficiency make whole costs (LP-WE-06). **This difference is not comparable to the costs and revenues associated with RAC operations**¹² Given the totality of WEPCo's answer in Exhibit LP-43, it is specious for it to now claim that this Exhibit answers the question of whether the Company should be allowed to include its revenue sufficiency costs in its PSCR calculations without including its revenue sufficiency credits. It does not and the Company should not be allowed to do so.

¹² In its entirety, Exhibit LP-43 states as follows:

"TM-WE-146 The rebuttal testimony of Paul D. Schumacher, filed on April 3, 2006, contains the following statement: "Since costs related to RAC operations are not included in the PSCR plan costs or Factors, revenues or credits related to RAC operations should also not be included in the PSCR plan and Factors." Please admit that WEPCo received a net gain of \$37.7 million from RAC operations in 2005.

Response: Please refer to the responses to requests LP-WE-006, LP-WE-007 and TM-WE-041 in this case.

WEPCo does not admit same. The \$37.7 million is the difference between the \$51.6 million in revenue sufficiency make whole payments received by the Company (LP-WE-07) and the \$13.9 million the Company paid to the MISO in revenue sufficiency make whole costs (LP-WE-06). This difference is not comparable to the costs and revenues associated with RAC operations because the \$51.6 million is based on the RAC operation of WEPCo's units only, while the \$13.9 million is based on the Company's load weighted share of all the Day-Ahead make whole payments made by MISO to all generators in the Day-Ahead market.

The \$51.6 million represents additional fuel and operating cost incurred by the Company for the RAC operation of its generating units. These costs occur when the MISO dispatches a generator and the LMP paid to the generator does not fully cover its costs. As such, revenue sufficiency make whole payments fully compensate the Company for costs to operate generating units dispatched by MISO when LMP is not sufficient to fully compensate the generators. The net cost effect of RAC operations of the Company generating units is that operating costs are offset by LMP revenue from unit operations and make whole revenues. There is no "gain." Because the effect on power supply costs for the Company from RAC operations is zero, WEPCo did not include the generation or costs related to RAC operations nor the revenues the Company would receive from those operations in the PSCR Costs for purposes of setting its PSCR Factors.

The amount the Company expects to pay MISO for Day-Ahead make whole payments to all generators in the Day-Ahead market is included in the estimate of up-lift costs shown on Exhibit A-3 (TPL-3) and Exhibit A-15 (PDS-3).

WEPCo received \$51,642,841 in MISO Revenue Sufficiency Make Whole Payment credits from April 1, 2005 through November 14, 2005.¹³ Annualizing the Company's 2005 revenues over 2006 indicates that WEPCo will receive \$72,778,521 in Revenue Sufficiency Make Whole Payment credits during 2006. If WEPCo is going to include its revenue sufficiency costs in its proposed 2006 PSCR factor, then WEPCo must be required to also reflect the revenue sufficiency credits which it will receive in 2006 in its proposed PSCR factor.

3. WEPCo HAS IMPROPERLY INCLUDED DUPLICATIVE LINE LOSS COSTS IN ITS PROPOSED PSCR CALCULATIONS.

The second issue which the Intervenors have raised regarding WEPCo's proposed PSCR factor is whether WEPCo is improperly including duplicative costs in its line loss calculations. Clearly, it is.

In order to obfuscate the question of whether WEPCo is including duplicative line loss calculations in its 2006 PSCR plan calculations, WEPCo's Initial Brief simultaneously discusses numerous issues at pages 11-13. WEPCo intermixes a discussion of the various components of LMP¹⁴, and the marginal congestion component of LMP, with its discussion of the duplicative line loss issue. WEPCo mixes its discussion of these other issues with its discussion of the duplicative line loss issue in its Initial Brief even though Messrs. Lorden and Schumacher did not intermix their discussion of these issues in their testimony. Indeed, it is interesting to note that Mr. Schumacher specifically deals with the line loss issue under a separate caption.¹⁵

¹³ Ex. A-42.

¹⁴ WEPCo's Brief, p 11.

¹⁵ Schumacher testimony, Tr., Vol. 3, p. 157.

WEPCo's arguments regarding the duplicative line loss issue are wholly unpersuasive. WEPCo would like the ALJ to believe that it is only seeking to recover transmission losses over and above the losses which the MPSC has previously allowed the Company to collect. However, nothing in the one paragraph¹⁶ of WEPCo's Initial Brief which addresses this issue comes remotely close to proving by a preponderance of the evidence that WEPCo's proposed PSCR factor does not include duplicative line loss charges.

As discussed in the Intervenor's Initial Brief, WEPCo has offered no evidence that MISO somehow changed the nature or quantity of power lost at the transmission level. MISO is not a generator or supplier of electricity. It is merely a market administrator. The entities that were producing and selling electricity prior to the advent of MISO are still doing so and MISO has not changed that fact.

WEPCo offers no evidence that MISO's "average losses" were different than the transmission losses that the MPSC used in calculating WEPCo's loss factor of 1.06. Moreover, WEPCo offers no evidence to prove that the \$7,850,045 of losses that WEPCo seeks to collect in this PSCR case is not already being collected by virtue of the application of the MPSC's 1.06 line loss factor. In fact, the evidence strongly supports precisely the opposite conclusion.

The MPSC approved WEPCo's use of a line loss factor of 1.06 in MPSC Case Nos. U-10428 and U-12725.¹⁷ The 1.06 line loss factor authorized by the Commission is a

¹⁶ That is the paragraph that begins in the middle of page 12 and ends at the very top of page 13 of WEPCo's Initial Brief.

¹⁷ September 16, 2002 Order, Case No. U-12725, Fifth Revised Sheet No. 14. WEPCo admits that the Commission established a 1.06 line loss factor for the Company. Lorden testimony, Tr., Vol. 3, pp. 107-109.

‘composite’ loss factor which covers the cost of power lost at both the transmission and distribution levels.¹⁸

The \$7,850,045, which WEPCo seeks to recover in this proceeding, is already covered by the MPSC’s loss factor of 1.06. In this regard, Mr. Lorden testified as follows:

Q. So that loss number [i.e., the 1.06] would have covered the \$7,850,045 of MISO transmission losses . . . , correct?

A. That 1.06 refers to the loss, system losses, both transmission and distribution, that are needed to take the generation level costs that are shown on this exhibit and get them to the customer level basis for which the customer’s factor is based.

Q. And the commission determined that a . . . composite loss factor of 1.06 covered all of those losses, correct?

A. That’s correct.¹⁹

Despite the fact that the 1.06 line loss factor authorized by the Commission is a ‘composite’ loss factor which covers the costs to generate power lost at both the transmission and distribution levels, WEPCo’s proposed PSCR factor includes not only the MPSC approved line loss factor, but also includes \$7,850,045 of duplicative transmission loss costs.

Not only does WEPCo include the \$7,850,045 of duplicative transmission loss costs in appropriate, WEPCo then multiplies that \$7,850,045 by the MPSC’s approved line loss factor of 1.06, thus grossing up the \$7,850,045 by an additional 6%. This is wholly inappropriate.

In summary, WEPCo’s proposed line loss charge are unreasonable and imprudent. It constitutes a double recovery and the \$7,850,045 should be disallowed. If the 1.06 composite line loss factor needs to be adjusted, WEPCo should request such an adjustment in a general rate case, and not simply self-implement such a change in a PSCR case.

¹⁸ Lorden testimony, Tr., Vol. 3, pp. 107-109. See also, Ex. LP-31.

¹⁹ Lorden testimony, Tr., Vol. 3, p. 109.

RELIEF REQUESTED

Intervenors respectfully request that WEPCo's Total Power Supply Costs be reduced by \$80,628,566 and that its proposed PSCR factor be reduced from \$0.01613/KWh to \$0.01353/KWh. Corrected as described above, the appropriate calculation of WEPCo's PSCR factor, using the formula set forth on Ex. A-11, is as follows:

1.	Total Power Supply Costs	\$870,591,298
2.	Net System Requirements (MWH)	32,785,257
3.	Average Power Supply Costs (\$/MWH)	26.55
4.	Base Power Supply Costs	13.79
5.	Average Costs (Line 3-4)	12.76
6.	Power Supply Cost Recovery Factor Adjusted for Losses (Line 5 * 1.06)	13.5302
7.	Monthly Factors in Mills/kWh	13.53

WHEREFORE, Intervenors Louisiana-Pacific Corporation and Tilden Mining Company, L.C. respectfully request that WEPCo's Total Power Supply Costs be reduced from \$951,219,864 to \$870,591,298 and that its proposed PSCR factor be reduced from \$0.01613/KWh to \$0.01353/KWh.

Respectfully submitted,

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Dated: June 8, 2006

By: Thomas J.
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Electric Power Company d/b/a We Energies	)	Case No. U-14264-R
power supply cost recovery reconciliation	)	PAPERLESS FILING
proceeding for the 12-month period ended	)	
December 31, 2005	)	

PROOF OF SERVICE

Angela L. Sumsion hereby certifies that on the 8th day of June, 2006, she served the Reply Brief of Louisiana-Pacific Corporation and Tilden Mining Company, L.C. in the above matter upon the persons identified in the attached service list by e-mail.

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