PUBLIC SERVICE COMMISSION OF WISCONSIN

Quadrennial Planning Process 5-GF-191

Reconsideration of Goals, Energy Avoided Costs, and Environmental and Economic Research Development Program Funding Levels

ORDER

This is the Order in the Commission's reconsideration of several previous decisions made in this docket. Revisiting several of these decisions was necessitated by a return to required energy efficiency and renewable resource energy utility funding levels of 1.2 percent of utility operating revenues.

Introduction

State law requires the Commission to review energy efficiency and renewable resource programs periodically. Wisconsin Stat. § 196.374(3)(b)1. provides:

> 196.374(3)(b)1. At least every 4 years, after notice and opportunity to be heard, the commission shall, by order, evaluate the energy efficiency and renewable resource programs under sub. (2)(a)1., (b)1. and 2., and (c) and ordered programs and set or revise goals, priorities, and measurable targets for the programs. The commission shall give priority to programs that moderate the growth in electric and natural gas demand and usage, facilitate markets and assist market providers to achieve higher levels of energy efficiency, promote energy reliability and adequacy, avoid adverse environmental impacts from the use of energy, and promote rural economic development.

This statute, created by 2005 Wisconsin Act 141 (Act 141), took effect on July 1, 2007.

The Commission began its first Quadrennial Planning Process by opening an investigation in docket 5-UI-115 on April 3, 2008. The planning process was conducted in two phases. Phase One, conducted in docket 5-UI-115, addressed broad policy issues. Phase Two was conducted under docket 5-GF-191, and the Commission's decisions in docket 5-UI-115 were incorporated into docket 5-GF-191. On November 9, 2010, the Commission issued its Order in docket 5-GF-191 and sent a request to the Joint Committee on Finance to approve an increase in the funding of energy efficiency and renewable resource programs. On December 14, 2010, the Commission's request was approved and contributions were set at $120 million in 2011, $160 million in 2012, $204 million in 2013, and $256 million in 2014 and thereafter. However, in June 2011, the legislature passed 2011 Wisconsin Act 32 which repealed the higher funding levels and returned them to 1.2 percent of operating revenues beginning in 2012.

Because several of the Commission's decisions were tied to funding levels, several decisions from docket 5-GF-191 required Commission reconsideration. The issues are: (1) goals for electric and natural gas savings and annual targets for the Focus on Energy (Focus) program; (2) funding for the Environmental and Economic Development and Research (EERD) program; and (3) how avoided costs should be determined. The Commission considered these matters at its open meeting of December 22, 2011.

Discussion

Goals and Annual Targets

Energy efficiency and renewable resource goals for the Focus program historically have been expressed as actual energy and demand savings—kilowatt-hours (kWh), kilowatts (kW), and therms. However, in Phase One of the Quadrennial Planning Process, the Commission determined that the goals should be expressed as a percentage reduction in projected energy use, both kWh and therms. Actual targets and goals were then established in Phase Two along with appropriate budget amounts to achieve the targets and goals. The Commission determines that the goals shall be expressed as actual energy and demand savings. This is a more straightforward approach given the Focus budgets will remain fairly constant from year to year. Actual savings should also be translated into percentages to allow for direct comparison of achievement in other jurisdictions.

Funding for energy efficiency and renewable resource programs for 2012 and 2013 will be approximately $100 million, which is similar to the funding available in 2009 and 2010. Although funding for 2014 is not known at this time, it is not likely to vary substantially from the $100 million funding level. The Commission determines that the four-year goals should reflect annual achievement that is 10 percent higher than Focus 2009 achievement. Although the highest annual savings achievement to date occurred in 2009, the new Mass Market and Targeted Market program offerings beginning in 2012, and administrative efficiencies are expected to increase net savings. The Commission adopts four-year net annual electric energy savings goals of 1,816,320,000 kWh and net annual natural gas savings goals of 73,040,000 therms.

The Statewide Energy Efficiency and Renewable Administration (SEERA) and the Program Administrator still need to negotiate the goals to be included in the contract. At its open meeting of July 8, 2010, the Commission found in Phase Two of the Quadrennial Planning Process that net savings are the best method of quantifying savings because they reflect the true impact of energy efficiency and renewable resource programs. The Commission determined that net savings should be used to determine the cost-effectiveness of programs, inform program design, and assist in developing public policy. However, the Commission also determined that gross savings are the best metric for evaluating whether a Program Administrator is achieving contract goals. The Commission also determined contract goals should be life cycle goals in order to reflect the true value of the savings. Therefore, it is appropriate for SEERA and the

Program Administrator to negotiate gross life cycle four-year contract goals based on the net annual four-year goals adopted by the Commission. Also consistent with the Commission's November 9, 2010, decision, the SEERA/Program Administrator contract negotiations should emphasize energy savings by setting more aggressive energy savings goals rather than demand savings goals. Finally, the Commission finds that the negotiated SEERA/Program Administrator contract shall be a performance contract. The performance contract shall set the Commission adopted goals, adjusted to gross life cycle goals, as the minimum level of achievement with an incentive for the Program Administrator to receive higher levels of savings.

Funding Level of the Environmental and Economic Development Program

The EERD program was created by the legislature to fund research projects that study the environmental and economic impact of energy use in Wisconsin. The primary goal of EERD is to contribute practical and useful knowledge to planning the state's energy future by funding research projects that fill gaps in our existing knowledge. EERD addresses interconnections between energy use, environmental quality, and economic development. The EERD program budget was about $1.2 million in 2009 and $1.6 million in 2010. In its November 2010 decisions, the Commission established an EERD funding level of $2 million annually. The Commission determines that a lower level EERD funding level is appropriate. This reduced EERD funding should focus on research that provides benefits to program design and delivery.

EERD funding should not exceed $100,000 per year. Currently a forum of nine to ten members assists in setting the EERD agenda and choosing projects to be funded. With the reduction in funding, it may be too costly to maintain the Forum structure for the small number of projects that would be funded. The Program Administrator shall review the administration of

EERD and make recommendations for streamlining the selection and oversight of EERD projects.

Commissioner Callisto dissents.

Avoided Energy Costs

In its July 2010 decisions in Phase Two of the Quadrennial Planning Process, the Commission determined that avoided energy costs used to value the benefits of energy efficiency should be based on the most recent three-year historical average of Locational Marginal Prices (LMP). Since the Commission's July 2010 decision, Commission staff has found that basing energy costs on the most recent three-year historical average of LMPs presents several challenges in the actual implementation of programs. LMPs can vary widely over short periods of time. Because of this, the use of historic LMPs as the basis of avoided energy costs reduces the ability of the Focus Program Administrator to offer consistent programming to customers and trade allies from year to year. Additionally, LMPs are unlikely to represent long-run avoided costs since they are primarily affected by current market conditions and variable operating costs. While other Commission decisions, such as life cycle savings goals and use of a 2.0 percent discount rate, take into account the value of energy savings, the use of historical LMPs does not. Therefore, basing avoided energy costs on historic LMPs is inconsistent with other decisions the Commission made during the Quadrennial Planning Process. The Commission determines it appropriate to revise the basis for valuing avoided energy costs so that it is based on long-term price forecasts. The Commission also finds it reasonable for the Evaluation Work Group to develop and recommend to the Commission an appropriate method for valuing avoided energy costs. Avoided capacity shall continue to be based on the cost of a new peaking plant.

Conclusions of Law

The Commission has authority to issue this Order pursuant to Wis. Stat. §§ 196.374 and 196.40.

Order

1. The contract amendment negotiated by SEERA and the Program Administrator addressing contract gross life cycle goals shall be based on the Commission-adopted net annual goals.

2. The contract amendment negotiated by SEERA and the Program Administrator regarding contract goals shall be a performance contract. At a minimum, the amendment shall provide for an incentive for the Program Administrator to achieve savings above the Commission-adopted net first year goals

3. EERD funding shall not exceed $100,000 per year. The Program Administrator shall review the need for a forum structure and provide recommendations for streamlining the selection and oversight of EERD projects.

4. EERD projects shall focus on research that provides benefits to program design and delivery.

5. Avoided energy costs shall be based on long-term electricity price forecasts. The Evaluation Work Group shall develop and recommend to the Commission for its approval an appropriate method to forecast long-term electricity price forecasts.

6. This Order takes effect on the day after mailing.

7. Jurisdiction is retained.

Commissioner Callisto concurs in part and dissents in part (attached).

Commissioner Nowak concurs (attached).

Dated at Madison, Wisconsin, January 13, 2012

By the Commission:

Sandra J. Paske

Sandra J. Paske
Secretary to the Commission

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See attached Notice of Rights

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

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

PUBLIC SERVICE COMMISSION OF WISCONSIN

Quadrennial Planning Process 5-GF-191

CONCURRENCE AND PARTIAL DISSENT
OF COMMISSIONER ERIC CALLISTO

I join in those portions of the *Final Decision* regarding Goals and Annual Targets and Avoided Energy Costs, but write separately to highlight why we are now forced to lower Wisconsin's annual energy savings targets and that doing so is an unfortunate step backwards for our state's energy policy. I also dissent from the portion of the *Final Decision* regarding the Funding Level of the Environmental and Economic Research and Development (EERD) Program and specifically Order Point 3.

In late 2010, the Commission established an energy efficiency resource standard for Wisconsin that was designed to achieve at least a 1.5 percent annual reduction in electricity demand and sales, and a 1 percent annual reduction in natural gas sales, by 2014. The Commission also established annual funding amounts for the Focus on Energy (Focus) program that would make achieving those savings targets a realistic goal.

In the *Final Decision*, we are undoing those program enhancements. We are lowering the annual savings goals and effectively eliminating the energy efficiency resource standard Wisconsin has had for only a year. We are doing this not because it is a good idea, but because the Legislature, in the most recent biennial budget, defunded the Commission's recommended enhancements for Focus, improvements that were arrived at after a nearly three-year public investigation and over a decade of experience with the program.[1] The Legislature's move to defund ties our hands in making these program design decisions. Its action is at odds with state energy policy developments across the country and is ignorant of the plainly demonstrated – and now recently reconfirmed – substantial cost-saving benefits of Focus programs.

The irony of the timing of the *Final Decision* should not be lost on those who monitor state energy policy.

The Commission's action comes less than a month after the Legislative Audit Bureau (LAB) released its analysis of the Focus program. The product of a thorough audit, the report confirms that Focus is a cost-effective program and a very popular one with consumers, unsurprising conclusions given what state and national evaluators have been reporting for years. The accolades from LAB come from an audit team that was specifically directed to probe deeply into whether the Focus program actually produces the benefits that it routinely promotes.

Focus programs save energy, help offset the need for new power generation, lower utility bills, create jobs, reduce fossil fuel emissions, and support broad-based economic development in Wisconsin. And in study after study, it is shown that these benefits are produced at a ratio that far exceeds program costs. As the LAB report points out, the benefit-cost ratio for Focus programs is as high as 7.2 to 1, when taking into account economic metrics like job creation and

[1] Defenders of the legislative defunding claim procedural fouls: that the Commission's program enhancements were not sufficiently debated, that not enough time or opportunity for input was allowed, that ratepayer impacts were not evaluated. Those claims ignore some key facts. Development of the 2010 program enhancements dates back to bipartisan, stakeholder discussions that began in 2007. The Commission conducted a nearly three-year investigation. It hired an independent consultant, as required by statute, to analyze the cost and energy savings benefits from expansion of the program. It sought and received public input on six separate occasions. And before forwarding its proposal to the Legislature, the Commission debated the policy changes in three separate, publicly-noticed, open meetings. As part of its outreach efforts, the Commission subjected the proposal to a "Rate Calculator" designed to inform a lay audience of how the funding changes would affect rates (and utility bills) in the near, medium, and long term. Legislative fiscal bureau staff then provided its own analysis of the proposal and offered the Joint Finance Committee several options for action. An ample, diverse, and exhaustively developed record was before the Legislature in 2010.

increased business sales. That is more than seven dollars in benefit to Wisconsin for every dollar invested.

But what are we doing with this once nationally-leading program, as a result of the Legislature's budget bill? We are telling it that it should lower its expectations, to do not quite as much.

Consequently, Wisconsin is backsliding, and it has not gone unnoticed. In the American Council for an Energy-Efficient Economy's most recent "energy efficiency scorecard," released late last year, Wisconsin was one of only seven states that actually had a lower total score in 2011 than the previous year, an indication of the national trend to do more, not less, on energy efficiency. That trend is apparent here in the Midwest. Minnesota, Illinois, Iowa, Indiana, and Michigan all have energy efficiency resource standards and four out of five of them have energy reduction goals of either 1.5 or 2 percent per year. Our neighboring states obviously get it: with such markedly positive benefit/cost ratios, investing more in energy efficiency makes good, economic sense.

In the last five years, the Commission has approved nearly $3 billion for new power plants and new or upgraded electric transmission infrastructure. Those were sound, well-supported decisions. But they come at a cost, and we know that more energy efficiency means less need for those types of investments in the future. That is not to say that energy efficiency and smaller-scale distributed generation are stand-alone alternatives to large infrastructure; they complement those substantial investments already made.

I hope that over time the facts will ultimately prevail on this issue, and we can restore some common sense to how we move energy efficiency policy forward in this state.

Finally, I note my dissent from the Commission's decision to lower EERD program funding to $100,000 per year. I question whether a yearly commitment at that level allows the Commission to meet its legal obligation to fund research and development initiatives that cover both the environmental and economic impacts of energy use in Wisconsin.[2] I also believe that the EERD program has supported some very impactful work for the Wisconsin energy sector. Citing just one example, the program has supported over $1 million in biomass research (for nine separate projects) that directly contributed to the Commission's analysis and ultimate approval of Wisconsin Electric Power Company's application for construction of a 50 megawatt biomass facility in Rothschild. While I agree that EERD funding levels should be lowered and that project goals and ongoing tracking are in need of some refinement, I would have preferred a more modest reduction that also allowed for some flexibility to fund worthwhile projects.

[2] *See* Wis. Stat. § 196.374(2)(a)2.d.

PUBLIC SERVICE COMMISSION OF WISCONSIN

Quadrennial Planning Process 5-GF-191

CONCURRENCE OF COMMISSIONER ELLEN NOWAK

I write in response to Commissioner Callisto's concurrence in this Commission's decision in docket 5-GF-191, the Quadrennial Planning Process and Reconsideration of Goals, Energy Avoided Costs, and Environmental and Economic Research Development Program Funding Levels.

The Commission was required to take action to lower Wisconsin's annual energy savings target for the Focus on Energy program after the Wisconsin Legislature in June 2011 passed Wisconsin Act 32, which returned funding levels to 1.2 percent of electric and natural gas operating revenues in 2012. This legislative action was in response to the Joint Committee on Finance's action at the eleventh hour on December 14, 2010, just two weeks before the new legislature and governor would be sworn in, that called for new, higher budgets for Focus that would reach $256 million by 2014, an unprecedented 156 percent increase from the current funding level of $100 million.

The eleventh-hour action also ignored what has been strong bipartisan support for the Focus on Energy program. 2005 Wisconsin Act 141 (Act 141), which created the Focus on Energy program as we know it today, passed both houses of the Legislature with only one dissenting vote. Moreover, Act 141 enjoyed the support of labor, industry and environmental groups. In addition, the action by the Joint Committee on Finance in December 2010 didn't allow for a policy debate or consideration of ratepayers' ability to contribute more to the program. Energy conservation programs in Wisconsin typically have enjoyed broad support industry and, going forward, this Commission needs to be mindful of that history and supportive of it.

I also disagree with Commissioner Callisto's comments that the return to a level of funding of $100 million means that Wisconsin is "backsliding." As Commissioner Callisto aptly noted, Focus programs save energy, help offset the need for new power generation, lower utility bills and reduce fossil fuel emissions. None of these benefits will go away with $100 million in funding. We are not backing down. We have simply asked Focus to do more with less, just as ratepayers are doing now in their own personal budgets. Indeed, in this decision, we determined that the new four-year goals should reflect annual achievement that is 10 percent *higher* than Focus 2009 achievement, though the funding remains the same.

For these reasons, I don't agree with the desire to sound alarm bells and contend that Wisconsin is moving backwards with respect to energy efficiency. Conversely, the $100 million level of funding is still a substantial amount of money that will achieve positive results for ratepayers.