

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Joint Application of Wisconsin Electric Power
Company and Wisconsin Gas LLC, both d/b/a
We Energies, to Conduct a Biennial review of
Costs and Rates – Test Year 2015 Rates

Docket No. 05-UR-107

SURREBUTTAL TESTIMONY

of

J. RICHARD HORNBY

On behalf of

THE ALLIANCE FOR SOLAR CHOICE

September 22, 2014

1 **Q. PLEASE STATE YOUR NAME, EMPLOYER, AND PRESENT POSITION.**

2 A. My name is James Richard Hornby. I am an independent regulatory consultant. My
3 address is 123 Walnut Hill Road, Newton, Massachusetts 02461.

4 **Q. ARE YOU THE SAME JAMES RICHARD HORNBY WHO PREVIOUSLY**
5 **SUBMITTED DIRECT TESTIMONY IN THIS DOCKET ON BEHALF OF THE**
6 **ALLIANCE FOR SOLAR CHOICE?**

7 A. Yes.

8 **Q. WHAT IS THE PURPOSE OF YOUR SUR-REBUTTAL TESTIMONY?**

9 A. The purpose of my surrebuttal testimony is to address certain statements made by Eric
10 Rogers, Michael O'Sheasy and Ashley Brown in the rebuttal testimonies they filed on
11 behalf of We Energies (We Energies or Company). The fact that I do not respond to every
12 statement in the rebuttal testimonies of these witnesses should not be interpreted to mean I
13 agree with those statements.

14 **Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS**
15 **REGARDING THE CHANGES IN RATES FOR CUSTOMER GENERATION**
16 **SERVICE (CGS) WE ENERGIES IS PROPOSING.**

17 A. In my Direct Testimony, I concluded there is no need for the Commission to address the
18 Company's proposed changes at this time. I further concluded that the charges the
19 Company is proposing for its customer-owned generation tariffs are not in the public
20 interest and that they are not reasonable from a ratemaking perspective. Based on those
21 three conclusions, I recommended that the Commission not approve the changes the
22 Company has proposed in its existing CGS tariffs.

1 **Q. DID THE REBUTTAL TESTIMONY OF WITNESSES ROGERS, O’SHEASY AND**
2 **BROWN CAUSE YOU TO CHANGE YOUR POSITION REGARDING WE**
3 **ENERGIES PROPOSED CHANGES IN RATE DESIGN FOR CGS?**

4 A. No.

5 **Q. PLEASE SUMMARIZE THE BASIS FOR YOUR CONCLUSION THAT THE**
6 **COMMISSION SHOULD NOT ADOPT THE COMPANY’S PROPOSED**
7 **CHANGES.**

8 A. As outlined in my Direct Testimony, the Commission should not adopt the Company’s
9 proposed changes for three reasons. First, customer-owned generation under the existing
10 CGS tariffs is not having a material adverse impact on the rates of We Energies customers
11 who do not own generation or on the ability of We Energies to recover its costs. Second,
12 the proposed changes are not in the public interest. Third, the proposed changes are not
13 reasonable from a ratemaking perspective.

14 **Q. PLEASE ADDRESS MR. ROGERS’ POSITION THAT THE COMMISSION**
15 **SHOULD ADDRESS THE COMPANY’S PROPOSED CHANGES AT THIS TIME.**

16 A. At Rebuttal-WEPCO/WG-Rogers-22, lines 1-2, Mr. Rogers agrees that customer-owned
17 generation under the existing CGS tariffs is not having a material adverse impact on the
18 rates of We Energies customers who do not own generation or on the ability of We
19 Energies to recover its costs. Mr. Rogers ignores the other two reasons underlying my
20 conclusion that the Commission should not adopt the proposed changes at this time: (1)
21 that they are not in the public interest and (2) that they are not reasonable from a
22 ratemaking perspective. Instead, Mr. Rogers still maintains that the Commission should

1 address We Energies' proposed changes in rates for customer-owned generation based on
2 the Company's allegation of cross subsidization associated with distributed generation.

3 **Q. PLEASE RESPOND TO MR. ROGERS' QUESTION REGARDING WHEN THE**
4 **COMMISSION SHOULD ADDRESS THE COMPANY'S PROPOSED CHANGES.**

5 A. At Rebuttal-WEPCO/WG-Rogers-22, line 4, Mr. Rogers states that my reasoning regarding
6 when the Commission should address the Company's proposed changes raises the question
7 of "if not now, when?". My response is that the Commission should review the
8 Company's rates for customer generation service only after the following three events take
9 place:

10 (1) The Commission has conducted a transparent stakeholder process in which an
11 independent third party performs a study to consider the comprehensive costs
12 and benefits that customer generation provides. Such a study should determine
13 whether customer generation provides a net benefit or a net cost from the
14 perspective of the utility, participating ratepayers, non-participating ratepayers
15 and society (*i.e.*, the citizens of Wisconsin);

16 (2) The Company provides a cost-of-service study in a rate case that demonstrates
17 the manner in which customer-generators in its service territory are causing
18 costs in excess of the costs We Energies is recovering from such customer-
19 generators through its existing rates, as well as quantifies the magnitude of that
20 excess; and,

21 (3) Then, finally, if the cost-of-service study shows that the level of any such
22 under-recovery is not reasonable (in keeping with the generally accepted
23 principles of ratemaking and the results of the cost-benefit analyses from step

1 one), the Company must propose a solution such as a minimum bill that does
2 not unduly discriminate against customer-generators.

3 Only after these three events take place would it be necessary for the Commission to
4 review the Company's rates for customer generation service. In contrast to this approach,
5 We Energies has submitted a filing which fails to provide the evidence needed to meet its
6 burden of proving that the proposed changes are reasonable from a ratemaking perspective
7 and are in the public interest.

8 **Q. DID YOUR DIRECT TESTIMONY PRESENT EVIDENCE THAT THE**
9 **CHARGES WE ENERGIES IS PROPOSING FOR CUSTOMER-OWNED**
10 **GENERATION ARE NOT REASONABLE FROM A RATEMAKING**
11 **PERSPECTIVE?**

12 A. Yes. My Direct Testimony concludes that the charges We Energies is proposing for
13 customer-owned generation are not reasonable from a ratemaking perspective. I
14 supported my conclusion by presenting evidence that the Company has not demonstrated
15 that the proposed charges:

- 16 • are set at levels equal to the embedded and marginal costs We Energies incurs to
17 serve customers on COGS tariffs (Direct-TASC-Hornby-14 through 18),
- 18 • will result in a material improvement to the accuracy of its price signals (Direct-
19 TASC-Hornby-19 through 22), and
- 20 • do not discriminate unfairly against CGS customers (Direct-TASC-Hornby-22
21 through 25).

22 **Q. DID ANY OF THE REBUTTAL WITNESSES PRESENT EVIDENCE THAT THE**
23 **PROPOSED CHARGES ARE SET AT LEVELS EQUAL TO THE EMBEDDED**

1 **AND MARGINAL COSTS WE ENERGIES INCURS TO SERVE CUSTOMERS**
2 **ON CGS TARIFFS?**

3 A. No. We Energies has acknowledged that it has not performed a study to estimate the
4 embedded costs and marginal costs it actually incurs to serve CGS customers (Rebuttal-
5 WEPCO/WG-Rogers-10, lines 14-21 and Rebuttal-WEPCO/WG-Rogers-20, lines 4-11).

6 **Q. DID ANY OF THE REBUTTAL WITNESSES PRESENT EVIDENCE THAT THE**
7 **PROPOSED CHARGES WILL RESULT IN A MATERIAL IMPROVEMENT TO**
8 **THE ACCURACY OF ITS PRICE SIGNALS?**

9 A. No. One of We Energies’ stated reasons for its proposed changes in rates for customer-
10 owned generation is to promote economic efficiency (Direct-WEPCO/WG-Rogers-3,
11 lines 7-14; Direct-WEPCO/WG-Rogers-53, line 18 to Direct-WEPCO/WG-Rogers-54,
12 line 15; Direct- WEPCO/WG-O’Sheasy-5, lines 8-10; Ex.-TASC-Hornby-8). My Direct
13 Testimony states that the best way for We Energies to achieve that goal would be to set
14 its rates based upon its long-run marginal costs (Direct-TASC-Hornby-20, line 8 to
15 Hornby-21, line 21). My Direct Testimony also notes that We Energies has not provided
16 any analyses demonstrating that its existing rates do not accurately reflect its long-run
17 marginal costs (Direct-TASC-Hornby-19, lines 11-12; Direct-TASC-Hornby-21, lines
18 14-15). Neither Mr. Rogers nor Mr. O’Sheasy address those two points in their
19 respective rebuttal testimonies. Therefore, the We Energies’ witnesses have not provided
20 any quantitative analyses to support their claim that the proposed changes will improve
21 the accuracy of the price signals We Energies is providing to customers who own
22 generation or who are considering installing their own generation.

1 **Q. PLEASE COMMENT ON MR. BROWN’S ASSERTION THAT THE PROPOSED**
2 **CHARGES ARE NOT DISCRIMINATING AGAINST CGS CUSTOMERS**
3 **UNFAIRLY.**

4 A. Mr. Brown asserts that We Energies’ proposed charges for CGS customers are not
5 unfairly discriminatory. To reach this conclusion, he assumes that the load and service
6 characteristics of CGS customers are sufficiently different from those of non-CGS
7 customers as to justify those proposed charges (Rebuttal-WEPCO/WG-Brown-18).
8 However, neither Mr. Brown nor any other We Energies witness provided any specific
9 data or analyses which supports his assumption. Moreover, as I noted earlier in this
10 surrebuttal, even if the Company completed a cost-of service study which demonstrates
11 that customer-generators are causing costs in excess of the costs We Energies is already
12 recovering from them, which We Energies has not done in this case, We Energies would
13 still be required to justify the imposition of a demand charge or a facilities charge specific
14 only to CGS customers based upon the application of generally established ratemaking
15 principles. That is, the Company would have to demonstrate that (1) the load and service
16 characteristics of CGS customers impose a material amount of additional costs that are
17 not sufficiently offset by the benefits they provide to the system so as to warrant
18 additional cost recovery, and (2) a less discriminatory rate design than CGS-specific
19 demand and facilities charges does not exist as a mechanism for cost recovery. To date,
20 We Energies has not provided any of that essential evidence in this proceeding. Instead,
21 it has merely provided generic and anecdotal evidence combined with conclusory
22 statements about customer-generators. In the absence of this necessary cost-causation

1 evidence, the facilities charges and demand charges that We Energies is proposing for
2 customer-generators are unduly discriminatory.

3 **Q. DOES MR. ROGERS' REBUTTAL TESTIMONY SUPPORT YOUR POSITION**
4 **THAT THE PROPOSED CHARGES ARE DISCRIMINATING UNFAIRLY**
5 **AGAINST CGS CUSTOMERS?**

6 A. Yes. Mr. Rogers essentially acknowledges that We Energies is proposing demand
7 charges to address the alleged cross-subsidy associated with CGS customers but that the
8 Company is not proposing similar demand charges to address the cross-subsidy problems
9 prevalent among other customers in the residential and small commercial rate classes.

10 The Company is proposing to impose facilities and demand charges on a very small sub-
11 set of its residential and small commercial customers, *i.e.*, customers with their own
12 generation, in order to reduce a purported cross-subsidization problem that may be
13 common to all its residential and small commercial customers, *i.e.*, the recovery of fixed
14 costs via usage charges. In his rebuttal, Mr. Rogers acknowledges that if We Energies
15 could impose the types of demand charges it is proposing for CGS customers on all its
16 customers, it would reduce the cross-subsidies that currently exist among those customers
17 (Rebuttal-WEPCO/WG-Rogers-23, lines 12 to 15). Thus, Mr. Rogers implicitly
18 acknowledges that We Energies is not proposing to address what are likely much larger
19 cross-subsidies which exist among its residential and small commercial customers but
20 that it instead is proposing to address a cross-subsidy it alleges is associated with CGS
21 customers which, if it does exist, is one the Company admits is rather small.

1 **Q. DO YOU AGREE WITH MR. ROGERS’ REBUTTAL OF STAFF’S PROPOSAL**
2 **FOR AN UNAVOIDABLE UNBUNDLED DISTRIBUTION SERVICE USAGE**
3 **CHARGE?**

4 A. No. In his Direct Testimony, Mr. Singletary, the staff witness, proposes to unbundle the
5 per-kWh component from the energy charge billed to non-demand rate customers
6 (Direct-PSC-Singletary-28 through 32). That is, Mr. Singletary would disallow customer-
7 generators from netting the distribution energy charge under the COGS-NM tariff. In his
8 rebuttal, Mr. Rogers states that “[i]f properly designed, I believe that either the
9 Company’s proposed capacity demand charge or Mr. Singletary’s proposed unbundled
10 energy charge could work in terms of recovering revenue and sending the proper price
11 signal to customers. The Company, however, believes that the charge should recover
12 generation and transmission costs, since the customer uses these facilities when their own
13 generation is not operating.” (Rebuttal-WEPCO/WG-Rogers-42, lines 2-7).

14 The proposed changes in rate design for CGS customers discussed in Mr. Rogers’
15 rebuttal and in Mr. Singletary’s Direct Testimony each suffer from the same defect. They
16 both start from an unproven assumption that We Energies’ current rates for CGS
17 customers are not recovering the generation, transmission and distribution costs that We
18 Energies is actually incurring to serve those customers. As noted earlier, We Energies
19 has not provided evidence to support that assumption; thus, it remains unproven.

20 **Q. ARE THERE LESS DISCRIMINATORY RATE DESIGNS WE ENERGIES**
21 **SHOULD CONSIDER IF, IN A FUTURE FILING, IT IS ABLE TO MEET ITS**
22 **BURDEN OF PROVING THAT A CROSS-SUBSIDY EXISTS?**

1 A. Yes. We Energies should consider proposing a minimum bill for all residential and small
2 commercial customers.

3 **Q. DOES YOUR DIRECT TESTIMONY SUGGEST A MINIMUM BILL AS AN**
4 **ALTERNATIVE TO THE FACILITIES AND GENERATION DEMAND**
5 **CHARGES PROPOSED BY THE COMPANY?**

6 A. Yes. (Direct-TASC-Hornby-28, lines 3-7).

7 **Q. DID MR. ROGERS ADDRESS YOUR SUGGESTION IN HIS REBUTTAL**
8 **TESTIMONY?**

9 A. No.

10 **Q. DID YOUR DIRECT TESTIMONY PRESENT EVIDENCE THAT THE**
11 **CHARGES WE ENERGIES IS PROPOSING FOR CUSTOMER-OWNED**
12 **GENERATION ARE NOT REASONABLE FROM A PUBLIC INTEREST**
13 **PERSPECTIVE?**

14 A. Yes. My Direct Testimony concludes that the charges We Energies proposes for customer-
15 owned generation are not reasonable from a public interest perspective (Direct-TASC-
16 Hornby-10, line 13 to Hornby-13, line 18). My conclusion is supported by the fact that We
17 Energies has still not provided a comprehensive assessment of the benefits and costs of
18 customer-owned generation on its system.

19 **Q. DO ANY OF THE REBUTTAL WITNESSES PRESENT A COMPREHENSIVE**
20 **ASSESSMENT OF THE BENEFITS AND COSTS OF CUSTOMER OWNED**
21 **GENERATION FROM A PUBLIC POLICY PERSPECTIVE?**

22 A. No. In fact, Mr. Rogers acknowledges that We Energies has only estimated the avoided
23 costs of customer-owned generation from the utility's perspective (Rebuttal-WEPCO/WG-

1 Rogers-22, line 12). Moreover, We Energies limited its estimate of marginal energy costs
2 to an average of MISO locational marginal prices in 2015 and 2016, which are short-run
3 avoided costs rather than long-run avoided costs (Direct-WEPCO/WG-Rogers-31, lines 21-
4 23; Ex-WEPCO/WG-Rogers-11, Schedule 2). Further, the Company did not present
5 estimates of any off-setting savings it might realize as a result of customer-owned
6 generation.

7 Mr. Brown presents extensive rebuttal testimony, but his anecdotes do not include a
8 comprehensive quantitative assessment of the benefits and costs of customer-owned
9 generation on the We Energies system. Instead, Mr. Brown presents a qualitative
10 discussion of costs and benefits, primarily from the utility’s perspective, drawn from other
11 jurisdictions. As a result, the costs and benefits he discusses are either short-term estimates
12 for We Energies or are not specific to We Energies.

13 **Q. DOES MR. BROWN PROVIDE EVIDENCE RELEVANT TO THE COMPANY’S**
14 **PROPOSED CHANGES IN CGS TARIFFS?**

15 A. No, Mr. Brown’s testimony is extensive but is largely irrelevant to the proposals in We
16 Energies’ application. Mr. Brown provides extensive discussion of problems he sees
17 with solar “NEM”, “net metering” and “retail net metering”, which he defines as a
18 program in which distributed generation customers are paid the full retail rate for the
19 energy they export to the grid (Rebuttal-WEPCO/WG-Brown-6, lines 9-19 and 21-23).
20 However, the only Company tariffs that meet this definition of “retail net metering” are
21 CGS-2 and CGS-6, which are both closed to new accounts (Direct-WEPCO/WG-Rogers-
22 51, lines 6-12; Direct-WEPCO/WG-Rogers-52, lines 10-15). Since these tariffs are
23 closed, the number of customers on these tariffs is capped at the existing number of

1 participants, *i.e.*, approximately 350 customers (Ex.-TASC-Hornby-2, p. 1). Thus, even
2 assuming that Mr. Brown’s allegations are true, it appears that most of the problems that
3 Mr. Brown alleges with regard to “retail net metering” are limited for the foreseeable
4 future to 350 customers.

5 **Q. DOES MR. BROWN PROVIDE QUANTITATIVE EVIDENCE SPECIFIC TO**
6 **WE ENERGIES SYSTEM WHICH SUPPORTS THE COMPANY’S PROPOSED**
7 **CHANGES IN CGS TARIFFS?**

8 No. Mr. Brown’s testimony is mainly generic and anecdotal providing conclusory
9 statements based on data, charts and graphics from states and regions other than
10 Wisconsin such as California, Arizona and Michigan and New England. It is very likely
11 that customer-generation programs, incentives, regulatory rules and system operations in
12 these states differ from those in Wisconsin. These differences would affect any cost-
13 benefit or cost-of-service study in the state. Overall, Mr. Brown’s testimony is sparse in
14 terms of references to Wisconsin and data specific to We Energies’ service territory.

15 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

16 A. Yes.