

## Staff Briefing Papers

Meeting Date September 2, 2021 Agenda Item \* 6

Company Northwestern Wisconsin Electric Company

Docket No. **E-016/GR-21-557**

**In the Matter of Northwestern Wisconsin Electric Company's Application for Authority to Change its Minnesota Electric Rates and Rules to Conform to its Wisconsin Rates and Rules**

Issues

1. Should Northwestern Wisconsin Electric Company's request to change its rates be approved?
2. Should Northwestern Wisconsin Electric Company's variance requests be granted?

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### Relevant Documents

### Date

Northwestern Wisconsin Electric Application – Application	July 15, 2021
Minnesota Public Utilities Commission – Notice of Comment Period	July 21, 2021
Minnesota Department of Commerce – Comments	July 22, 2021

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

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## I. Statement of the Issues

1. Should Northwestern Wisconsin Electric Company's request to change its rates be approved?
2. Should Northwestern Wisconsin Electric Company's variance requests be granted?

## II. Introduction

Northwestern Wisconsin Electric Company (NWECE, Northwestern or the Company) is an investor-owned electric utility serving customers in Northwestern Wisconsin and a small portion of Minnesota. The Company has a total of 14,690 customers of which 14,580 are Wisconsin customers and 110 are Minnesota customers.

Since some of NWECE customers reside in the state of Minnesota, the Company is required to seek approval from the Minnesota Public Utility Commission (MPUC) to change Minnesota electric rates and rules so that they conform with Wisconsin rules and rates authorized by Public Service Commission of Wisconsin (WSPC) in its Order No. 4820-ER-107, of June 28, 2021.<sup>1</sup> Below in Figure 1, the Company shows the effect of proposed rate changes on monthly bills assuming an average monthly usage for residential, rural, and commercial customers.

**Figure 1: Proposed Rate Changes on Monthly Bills for Customers Average Monthly Usage of Residential, Rural and Commercial Customers\***

Customer Class	Existing Rate	Proposed Rate	Amount of Increase or (Decrease)	Approximate % Increase or (Decrease)
Residential	\$69.39	\$69.55	\$0.16	0.23%
Rural	\$74.57	\$74.44	(\$0.13)	(0.18%)
Commercial	\$65.97	\$66.59	\$0.62	0.94%

\*adapted from NWECE cover letter under Notice of Proposed Rate Change

## III. Background

On July 15, 2021, Northwestern Wisconsin Electric Company filed a petition (Petition) with the Commission requesting approval to increase its rates by \$439.64 or 0.51% per year, effective October 1, 2021. The Company also stated that it would not implement new rates until it receives an order authorizing it to do so from the Minnesota Public Utilities Commission.

Northwestern also requested that the Commission grant variances to certain Minnesota rules concerning the filing of rate-increase applications, late payments charges and automatic adjustments.

On July 21, 2021, the Commission issued a notice requesting comments on the Company's

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<sup>1</sup> NWECE Petition, p. 1 of 2., see also A copy of the WSPC's June 28, 2021 Order included in the Company's application.

Application for Authority to Change its Minnesota Electric Rates and Rules to Conform to its existing Wisconsin Rates and Rules.

On July 22, 2021, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed comments recommending that the Commission approve the proposed rate increase and grant the variance to the late-payment-charge rule.<sup>2</sup>

#### IV. Relevant Statutes and Commission Rules

Minn. Stat. §216B.16 sets forth the Commission's authority and the procedures for changing rates. Minn. Stat. §216B.16, subd. 12a, exempts small electric utilities from the rate change procedures provided that:

- a) An electric utility, operating as such in a bordering state and having fewer than 200 customers in Minnesota, is exempt from this section if the utility:
  - 1) charges Minnesota customers the same rates as those charged to customers in the bordering state;
  - 2) provides 60-day notice to the Commission of rate increases for its Minnesota customers;
  - 3) provides individual, written notice of rate increases to its Minnesota customers;
  - 4) provides the Commission with schedules of rates and tariffs charged in the bordering state and revenues by class under the former and proposed rates; and
  - 5) maintains an up-to-date tariff book with the department.

Minn. Rules, Part 7820.5500. Regarding Amount of Late Payment Charge.

- Subpart 1. Calculation. A late payment charge imposed by a utility must be calculated as follows in subparts 2 to 4.
- Subpart 2. Minimum delinquent amount. The utility shall not assess a late payment charge until the delinquent amount exceeds \$10.
- Subpart 3. Finance fee. The utility may impose a finance fee no greater than 1-1/2 percent per monthly billing period on the delinquent amount.
- Subpart 4. Minimum finance fee. The utility may impose a minimum finance fee no greater than \$1.

#### Minn. Rules, Part 7829.3200. Other Variances.

In Subpart 1. The Rule states that the Commission shall grant a variance to its rules when it determines that the applicant has met the following requirements:

- a. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;

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<sup>2</sup> The Department's Comments, p. 3.

- b. granting the variance would not adversely affect the public interest; and
- c. granting the variance would not conflict with standards imposed by law

In Subpart 2. The Rule states a variance may be granted contingent upon compliance with conditions imposed by the Commission.

In Subpart 3. The Rule states, unless the Commission orders otherwise, variances automatically expire in one year. They may be revoked sooner due to changes in circumstances or due to failure to comply with requirements imposed as a condition of receiving a variance.

## V. Parties' Comments and Analysis

### **Should Northwestern Wisconsin Electric Company's request to change its rates be approved?**

Due to increased operations and maintenance expenses, NWECC in its Petition requested a general rate increase of \$439.64 or 0.51% per year so as to conform to the Company's Wisconsin rates and rules. NWECC stated that the proposed change is necessary because its operating costs has become very high since the last rate increase in July 2017.

The Company also noted, in the Notice of Proposed Rate Change accompanying its Petition, that increase in costs is offset by the lower federal income tax expense resulting from the Tax Cut and Jobs Act of 2017. Thus, individual rate changes may be different depending on the amount of electricity a customer uses and the customer's class. In Figure 1 above, NWECC showed the effect of the proposed rate changes on monthly bills based on average monthly usage for its residential, rural, and commercial customers.

The Department in its Comments noted that Northwestern Electric Company indicated that its customer count for Minnesota is only 110, and this represents 4.19% of MERC's rate base and 0.39 % of its operating revenues.<sup>3</sup> According to the Department, the 110 Minnesota customers meets the criterion for an exemption under Minn. Stat. § 216B.16, subd. 12a(a), of having fewer than 200 customers in Minnesota, which is a bordering state to Wisconsin. Additionally, NWECC has provided copies of its Wisconsin rates and tariffs and a 60-day notice of the proposed increase. NWECC stated that, upon Commission approval, the Company will submit new tariff pages to update its tariff book. In view of this, the Department holds that there is no need for the Company to obtain a waiver of the MPUC' rules for rate changes.<sup>4</sup>

The Department recommended the Commission approve NWECC request to change its rates in order to conform with rates approved by the Wisconsin Public Service Commission in its Order of June 28, 2021 in Docket No 4280-ER-107.

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<sup>3</sup> The Department's Comments, p. 1.

<sup>4</sup> Id., at p. 2.

## Should Northwestern Wisconsin Electric Company's variance requests be granted?

### a. Variance of rate change applications

NWEC requested variances to several Minnesota Rules concerning the filing of rate increase applications, specifically to chapter 7825 of Minnesota Rules 3500(C), .3900, .4000, .4100, .4200, .4300(C), .4400(A), .4400(B). In the Petition, NWEC stated it is asking for the variance because of the small size of the rate increase and to comply to mentioned rules would involve preparing schedules only for Minnesota. This effort would be expensive<sup>5</sup> to accomplish and, when compared to the size of the rate increase, does not appear to be in the best interest of the rate payers.

Below are the following Minnesota rules concerning rate increase applications:

- 7825.3500C Description and Purpose of Change in Rates
- 7825.3900 Jurisdictional Finance Summary Schedule
- 7825.4000 Rate Base Schedules
- 7825.4100 Operating Income Schedules
- 7835.4200 Rate of Return, Cost of Capital Schedule
- 7825.4300C Procedures for Cost and Revenue Allocation
- 7825.4400A Annual Report
- 7825.4400B Schedule Showing Development of Income

The Department in its Comments noted that NWEC's filing met the requirements for an exemption from Minn. Stat. § 216B.16 and, because of that exemption, the Company is also exempt from the filing requirements for a rate change set forth in Minn. Rules pts. 7825.3100 to 7825.4500.

Thus, the Department holds that the Commission does not need to grant a variance to Minn. Rules pts. 7825.3500C, 7825.3900, 7825.4000, 7825.4100, 7825.4200, 7825.4300C, 7825.4400A, and 7825.4400B as requested by NWEC. The Department's position that a variance is unnecessary is consistent with the Commission's September 13, 2017 Order in NWEC's last rate case filing in Docket No. E-016/GR-17-506.

### b. Variance to late-payments

NWEC in its Petition requested a variance to Minn. Rules, part 7820.5500, subp. 2, which states that "the utility shall not assess a late payment charge until the delinquent amount exceeds \$10." NWEC explained that to exempt the first \$10 for Minnesota customers would be an excessive administrative burden because it would require the Company to apply different<sup>6</sup> late penalty criteria to its 110 Minnesota customers different from its 14,580 Wisconsin customers.

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<sup>5</sup> NWEC Petition, p. 2 of 2.

<sup>6</sup> Id.

The Department in its Comments regarding NWEC request for a variance to Minn. Rules, part 7820.5500, subp. 2 for late payment charges, opined that Minn. Rules, part 7830.4400 allows the Commission to grant a variance to its rules under the following conditions:

- Enforcement of the rule would impose an excessive burden on the applicant or others affected by the rule;
- Granting the variance would not adversely affect the public interest; and
- Granting the variance would not conflict with standards imposed by law.

The Department, upon its review of the Petition, agrees with NWEC's view that applying different late payment criteria to its 110 Minnesota customers and the 14,580 Wisconsin customers would impose an excessive administrative burden and would not conflict with other standards imposed by law; therefore, the DOC recommended granting a variance to Minn. Rules, part 7820.5500, subp. 2.

### **c. Variance to calculations for Power Cost Adjustment Clause**

Northwestern Electric Company also requested an extension of the variance granted in Docket E-016/AA-92-1187, regarding the methodology for calculating automatic adjustments for recovering fuel costs (Power Cost Adjustment Clause), as was also the case in the last rate case in Docket E-016/GR-17-506.

The Department thinks, the Commission does not need to address the issue of the waiver granted in Docket No. E-016/AA-92-1187 regarding the methodology for calculating automatic adjustments through the Power Cost Adjustment Clause, since the exemption from the requirements of Minn. Stat. §216B.16 also exempts NWEC from the requirements of Minn. Rules pts. 7825.2400, which specifies the methodology for calculating automatic adjustments.<sup>7</sup>

## **VI. Staff Comments**

Staff generally supports the Department's analysis and recommendations, which appears consistent with the Commission's decisions in NWEC's last four rate requests in 2007<sup>8</sup>, 2012<sup>9</sup>,

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<sup>7</sup> The Department's Comments, p. 2.

<sup>8</sup> Order Granting Rate Increase And Granting Variance, In the Matter of Northwestern Wisconsin Electric Company's Petition for Authority to Change its Minnesota Electric Rates and Rules to Conform with Existing Wisconsin Rates and Rules Docket No. E-016/GR-07-504 (June 20, 2007)

<sup>9</sup> Order Granting Rate Increase And Granting Requested Variance, In the Matter of Northwestern Wisconsin Electric Company's Application for Authority to Change its Rates and Rules in Minnesota to Conform to its Rates and Rules in Wisconsin, Docket No. E-016/GR-12-42 (March 16, 2012)

2013<sup>10</sup> and 2017<sup>11</sup>, and in the instant case agrees that the Commission should approve NWECC requested rate increase of \$439.64 or 0.51% per year effective October 1, 2021.

Further, the Commission is authorized to vary its rules under Minn. R. 7829.3200, if it determines that:

1. Enforcing the rule would impose an excessive burden upon the applicant or others affected by the rule;
2. Granting the variance would not adversely affect the public interest; and
3. Granting the variance would not conflict with any standards imposed by law.

In view of the above requirements and in addition to Minn. Stat. § 216B.16, subd. 12a(a), exempts small electric utility franchises from rate change procedures provided that the utility meets certain requirements, the Commission granted variance requests in NWECC past filings regarding Minn. R. 7825.5500, subp. 2 on late-payment charges. Continuing in same vein, the Commission granted variances to parts of chapter 7825 of the Minnesota Rules: .3500(C), .3900, .4000, .4100, .4200, .4300(C), .4400(A), .4400(B), regarding rate increase applications and Minn. R. 7825.2400, subp. 13, on calculating monthly adjustments for NWECC Power Cost Adjustment Clause.

However, staff notes there is one exception. In the September 13, 2017 Order, as was also the case in the April 25, 2013 Order, the Commission did not adopt the Department's recommendation that no action was needed on the Company's request for an extension of the rule variance covering the Company's calculation of its monthly fuel clause adjustments. In fact, the Commission stated:

Finally, the Commission granted a variance to the "current period" rule -- Minn. R. 7825.2400, subp. 13 -- for calculating monthly adjustments to the Company's Power Cost Adjustment clause in its December 15, 1992 order in Docket No. E-016/AA-92-1187. The Commission will extend the variance for as long as the method the Company is currently using to calculate the Power Cost Adjustment clause remains in effect in its Wisconsin tariffs. This will allow the Company to continue using one month of fuel and power costs for its monthly fuel and power cost adjustments and allow the Company to keep its Minnesota rates and tariffs consistent with its rates and tariffs in Wisconsin.

Further, Staff briefing papers in 2017 rate case reflected some excerpts from the 2013 rate case briefing papers, where staff said

Northwestern was initially granted this variance in 1992. In the Commission's December 15, 1992 Order, the Commission adopted the Department's recommendation and

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<sup>10</sup> Order Granting Rate Decrease And Variance, In the Matter of Northwestern Wisconsin Electric Company's 2013 Application for Authority to Change its Rates and Rules in Minnesota to Conform to its Rates and Rules in Wisconsin, Docket No. E-016/GR-13-167 (April 25, 2013)

<sup>11</sup> Order Granting Rate Decrease And Variance, In the Matter of Northwestern Wisconsin Electric Company's 2017 Application for Authority to Change its Rates and Rules in Minnesota to Conform to its Rates and Rules in Wisconsin, Docket No. E-016/GR-17-506 (September 13, 2017)



approved the variance to Minn. Rule, part 7825.2400, subpart 13. In its recommendation, the Department explained that it was reasonable to let Northwestern calculate its automatic adjustment for changes in its power costs using one month of fuel and power costs rather than the average of two months which is required by Minnesota Rule, part 7825.2400, subpart 13 because

Enforcement of the Commission's rules would impose an excessive administrative burden on the Company by requiring it to compute a different adjustment for only 95 customers in Minnesota. Because the total fuel expenses collected over time is the same regardless of whether the Company uses one month or two months of costs, the public would not be adversely affected. Finally, the variance would not conflict with any standards imposed by law.<sup>12</sup>

Staff believes the Commission should allow Northwestern to continue using one month of fuel and power costs for its monthly fuel and power cost adjustments. This will allow Northwestern to keep its Minnesota rates and tariffs consistent with its rates and tariffs in Wisconsin.<sup>13</sup>

The Commission could authorize this variance to continue by extending the requested rule variance for the same reasons given in the December 15, 1992 Order. Alternatively, the Commission could adopt the Department's reasoning and recommendation and find that a variance is not needed because Northwestern qualifies for an exemption from section 16 of Minn. Laws, Ch. 216B. The Department's argument appears to be based on the theory that because of Northwestern's small utility exemption, Northwestern is exempt from Minn. Stat. § 216B.16, subd. 7.<sup>14</sup> Subd. 7 (of section 16) allows the Commission to approve automatic fuel clause adjustment mechanisms for individual utilities. Another theory is that because Northwestern's Power Cost Adjustment Clause rider is a tariffed rate approved by the WPSC, it should be approved because the rider is the schedule of rates charged in the bordering state.

The Commission could adopt any of the two alternative recommendations described above, however, Staff thinks it would not be unreasonable for the Commission to approve an

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<sup>12</sup> Order, In the Matter of a Petition by Northwestern Wisconsin Electric Company (Northwestern of the Company) for Approval of a Variance to Minnesota Rules, part 7825.2400, subpart 13, Docket No. E-016/AA-92-1187, December 15, 1992, pp. 2-3.

<sup>13</sup> This issue does not appear to have been addressed in the staff briefing papers or the Commission's March 16, 2012 Order in the last rate case. Staff believes this was an oversight.

<sup>14</sup> Minn. Stat. § 216B.16, subd. 7. Energy and emission control products cost adjustment.

Notwithstanding any other provision of this chapter, the commission may permit a public utility to file rate schedules containing provisions for the automatic adjustment of charges for public utility service in direct relation to changes in: (1) federally regulated wholesale rates for energy delivered through interstate facilities; (2) direct costs for natural gas delivered; (3) costs for fuel used in generation of electricity or the manufacture of gas; or (4) prudent costs incurred by a public utility for sorbents, reagents, or chemicals used to control emissions from an electric generation facility, provided that these costs are not recovered elsewhere in rates. The utility must track and report annually the volumes and costs of sorbents, reagents, or chemicals using separate accounts by generating plant.

extension of the variance to Minn. R. 7825.2400, subp. 13. Staff notes that the Commission has granted this variance in past rate cases and, most recently, in Docket E016/GR-17-506. Thus, in Point Order No 3:

The Commission approves an extension of the variance to Minn. R. 7825.2400, subp. 13, for calculating monthly adjustments for the Company's Power Cost Adjustment clause for as long as the rates established in this proceeding remain in effect.

## VII. Decision Alternatives

### **Should Northwestern Wisconsin Electric Company's request to change its rates be approved?**

1. Approve Northwestern request to change its rates. (NWECE, DOC)
2. Do not approve the request.

### **Should Northwestern Wisconsin Electric Company's variance requests be granted?**

3. Grant the requested variance to Minn. Rules, part 7820.5500, subp. 2 with a duration as long as the rates established in this proceeding remain in effect. (NWECE, DOC)
4. Do not grant the requested variance and require the Company to comply with Minn. Rules, part 7820.5500, subp. 2.
5. Grant the requested variances to Rate Change procedure rules and provision of financial information in rate increase application rules:
  - Minn. Rules, part 7820.3500C. (NWECE)
  - Minn. Rules, part 7825.3900. (NWECE)
  - Minn. Rules, part 7825.4000. (NWECE)
  - Minn. Rules, part 7825. 4100. (NWECE)
  - Minn. Rules, part 7825.4200. (NWECE)
  - Minn. Rules, part 7825.4300C. (NWECE)
  - Minn. Rules, part 7825.4400A. (NWECE)
  - Minn. Rules, part 7825.4400B. (NWECE)
6. Take no action. (DOC)
7. Grant Northwestern's request for an extension of the variance to the "current period" rule for calculating monthly adjustments for its Power Cost Adjustment Clause for as long as the rates established in this proceeding remain in effect, (NWECE) or

8. Find that Northwestern does not need a variance to the "current period" rule, and the Commission does not need to address the Company's request, as long as, the Company is qualified for the small electric utility exemption, pursuant to Minn. Stat. § 216B.16, subd. 12a. (DOC)
9. Require the Company to file updated tariff sheets within ten (10) days of the Commission's Order in this proceeding. (Staff)
10. Require the Company to submit a compliance filing verifying that all of its customers have been notified of this change in the rates using the Commission-approved customer notice. (Staff)