PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Madison Gas and Electric Company for Authority to Change Electric and Natural Gas Rates — 3270-UR-120

CONCURRENCE AND DISSENT OF COMMISSIONER ERIC CALLISTO

While I concur with the agreed upon revenue requirement, I dissent from the Final Decision on several issues: return on common equity; overall rate design; fixed charge increases; and the timeline for phasing out Madison Gas and Electric Company's (MGE) lifeline rate. I write separately here to explain my dissenting positions.

Return on Common Equity

I dissent from the 10.20 percent return on equity (ROE) set by the Commission. My first preference was to support that ROE, contingent upon no change in the fixed customer charges and the opening up of a generic investigation on distributed generation and related rate design issues. Recognizing that there was a desire to increase the fixed customer charge, my second choice was to support a reduced ROE of 10.00 percent provided that the fixed charges increased by no more than the Commission staff suggested 20 percent and the generic investigation was opened. Neither of those two options garnered a second vote. I note that in recent years I have voted in favor of modest increases in fixed customer charges, while not making a concomitant suggestion of a reduction in ROE. I have rethought that position, particularly in light of MGE's request to increase its fixed charges by such a large amount.

We know that ROEs are set in part based on the financial risk profile of a utility. We also know that increasing fixed customer charges reduces a utility's financial risk.[1] That there is a direct relationship between increasing fixed charges and financial risk reduction is not in question, and I would have preferred that the Commission's ROE decision take that into account.[2]

Fixed Charges & Generic Investigation on Rate Design

I disagree with the Commission's decision to increase fixed facilities charges on MGE's residential and small commercial electric customers. I disagree for many of the same reasons that I opposed the fixed charge increases for Wisconsin Public Service Corporation (WPSC), in docket 6690-UR-123, and for Wisconsin Electric Power Company (WEPCO), in docket 5-UR-107.[3] It is poor regulatory policy. It is unfair. And it is being accomplished piecemeal, in separate rate case proceedings, over the sound and well-reasoned objections of Commission technical staff, and in the face of overwhelming public and stakeholder opposition. Issues this important, this divisive, and this impactful for customers, deserve more comprehensive investigation and should be dealt with as part of a statewide effort.

Before I address the Commission's Final Decision on electric fixed charges, I want to note some history specific to MGE and its pursuit, in recent years, of restructuring its rate design. Two years ago, in docket 3270-UR-118, the Commission took up MGE's proposal to increase its

[1] *See* Direct-PSC-Singletary-20 ("Increasing the fixed charges then is a means by which to decrease the utility's exposure to risk from decreased sales.")
[2] This is consistent with my position in both the WPSC and WEPCO rate cases this year. *See* Final Decision in docket 6690-UR-123, Commissioner Callisto Concurrence and Dissent; Final Decision in docket 5-UR-107, Commissioner Callisto Dissent.
[3] *See* Final Decision in docket 6690-UR-123, at 2-11 of Commissioner Callisto's Concurrence and Dissent; Final Decision in docket 5-UR-107, at 5-14 of Commissioner Callisto's Dissent.

electric fixed customer charge by 40 percent, a request that was trimmed back to 20 percent by my colleagues.[4] I did not support the increase then, and I was especially critical of MGE's request, as I thought it regressive, unfair to low income and low usage customers, and undermining of the customer benefits of energy efficiency and conservation.

Earlier this year, before MGE filed its application in 3270-UR-120, it became clear that MGE wanted to realign how its costs were recovered, and that it was evaluating the possibility of implementing variable demand components for residential and small commercial customers – something that would require the availability and deployment of demand meters for the small customer classes. MGE's preference, as I understood it, was to address its concerns about fixed cost recovery, but to not at the same time frustrate the customer benefits of energy efficiency and conservation. It was described as customer empowerment, a laudable and worthy goal, and one that should be something every utility seeks to pursue. This all was to be done in a way that would ensure that the customer impacts of the realignment were not regressive or unduly burdensome for low-income customers. There was also the impression that whatever was proposed by MGE would be coupled with a specific commitment and plan to develop a utility-side alternative for customers interested in supporting distributed renewable generation.

As it happened, MGE abandoned most of those ideas in favor of a more simplistic, yet dramatic, electric fixed charge increase over two years.[5] MGE did not follow through with a rate design that included variable demand components. It did not propose a real plan for widespread demand meter rollout. And it was essentially silent on what it would commit to on distributed, renewable generation. I cover that background because I want to reiterate my support for MGE,

[4] *See* Final Decision in docket 3270-UR-118, at 31.
[5] *See* Final Decision in this docket, at 2.

and others, to continue thinking creatively and looking for alternatives to what has become the industry default these days–a big, fixed customer charge increase.

The Final Decision's ordered fixed customer charge increases for MGE are steep. For electric residential customers, fixed charges will immediately go up 82 percent.[6] The increase will be as much as a 130 percent for the small commercial class.[7] The fixed charge increases are similar on the gas side.[8] These increases will hit low and below average use customers the hardest. They will discourage the adoption of customer-sited, distributed generation. They will undermine the economics of energy efficiency and conservation. And they will restrict how much control customers have over how much they pay, making it harder for customers to pay less by using less.

The Commission characterizes its decision to increase fixed customer charges by between 82 and 130 percent as a simple move to "better align" the charges and costs of utility service.[9] The Commission's rationale is that allowing the recovery of a certain amount of fixed or demand-related costs in a variable energy charge is inefficient and unfair to certain customers, particularly those who use more energy and who do not generate their own electricity. And I have acknowledged the theoretical appeal underlying the fixed facilities charge proposal.[10] But setting and designing utility rates is about more than theory. It is about more than cost-of-service

[6] The dollar increase is from $10.44 to $19.00. *See* Final Decision in this docket, at 2.
[7] The dollar increase is from $10.44 to $23.98. *See* Final Decision in this docket, at 2.
[8] My position on the electric fixed charge increases also applies to MGE's gas fixed charge increase.
[9] *See* Final Decision in this docket, at 43.
[10] *See* Final Decision in docket 6690-UR-123, at 3 of Commissioner Callisto's Concurrence and Dissent; Final Decision in docket 5-UR-107, at 6 of Commissioner Callisto's Dissent.

engineering. And it should involve much more than simply endorsing what a utility puts in its application.[11]

There is a curious hypocrisy to the Commission's Final Decision on fixed charge increases. It begins by trumpeting the specialized knowledge and technical competence of the Commission:

> In this proceeding, MGE is asking the Commission to more strongly align fixed charges with fixed costs and, to fundamentally, engage in an exercise to enact reforms in rate design and re-structuring. Such an exercise goes to the core reason why Wisconsin created this Commission: to bring to bear this agency's expertise and knowledge about rates, how they are designed, and the kind of price signals to be sent to customers, and the sort of behavior this Commission wants to incent as a matter of sound public policy . . . To the extent that setting rates requires the weighing of evidence, the Commission must use its special experience, technical competence and specialized knowledge to identify a reasonable result, bearing in mind the various public policies that may be impacted by various rate making decisions.[12]

Our agency's "technical competence and specialized knowledge" is an odd thing for the Commission to rely on in a decision that plainly ignores the recommendations of Commission technical staff regarding rate design, efficient price signals, and what sound public policy is in the context of this rate proceeding.

The reality is that the "technical competence and specialized knowledge" of this Commission advised *against* endorsing MGE's proposed fixed charge increases. Two Commission staff witnesses, an Assistant Administrator in the Gas and Energy Division and an Energy Policy Analyst, offered testimony on the fixed charge proposal. Commission staff's

---

[11] The Commission's wholesale approval of MGE's fixed charge increase is especially out of balance when viewed against the breadth and scope of opposition to the proposal. The governments of Dane County, the City of Madison, the City of Middleton, and the City of Monona all opposed the fixed charge increases, as did the Natural Resources Defense Council, Wind on the Wires, Environmental Law and Policy Center, Clean Wisconsin, and RENEW Wisconsin.

[12] *See* Final Decision in this docket, at 37.

recommendations were not adopted by the Commission, and their input was largely ignored. Commission staff witness Mr. Singletary recommended that the fixed charge increase be limited to 20 percent for residential and small commercial customers, explaining:

> For these customer classes, fixed charges such as the customer charge make up a larger percent of the class revenue than is the case for larger customer classes. As such, increases in fixed charges for the residential, small commercial, and Cg-4 customer classes would have a disproportionately larger effect on lower energy use customers within each class. In MGE's last full rate case, docket 3270-UR-118, the Commission limited increases in fixed charges to 20 percent. Using that as guidance, I similarly limited the increase in this proceeding to 20 percent for the residential, small commercial, and Cg-4 customer classes.[13]

Mr. Singletary further testified:

> A common rate design principle is that of gradualism and a desire to avoid rate shock when adjusting utility rates. I believe that the percentage increases I have proposed for residential and small commercial fixed charges allows for a more gradual approach, while still allowing for more deliberate movement towards a desired fixed charge level.[14]

Mr. Singletary's "gradual" increase of 20 percent was not adopted. The Commission instead is ordering an increase of between 82 percent and 130 percent.

Commission staff witness Mr. Singletary also submitted testimony specifically addressing the supposed necessity of increasing fixed charges in furtherance of financial risk mitigation:

> When one considers the fact that Wisconsin utilities receive the benefit of a number of risk mitigation measures, including forward looking test years, opportunities for biennial (if not annual) base rate cases, cost of fuel adjustments, and a variety of escrow treatments, this trend in sales hardly seems to present a great deal of risk to the utility's ability to recover its costs while still having a reasonable opportunity to return on its investments. In fact, assuming test-year

---

[13] *See* Direct-PSC-Singletary-19.
[14] *See id*.

> sales forecasts are, on average, reasonably accurate, MGE is really only exposed to sales risk in the second year the utility is out between cases. This of course assumes that the utility does not come in each year.[15]

Mr. Singletary stated that "there does not appear to be an urgent need to dramatically change MGE's rate design over only one or two rate cases," concluding "I do not believe the company has presented adequate evidence to suggest that haste is in order."[16]

Commission staff also testified regarding the impact increasing fixed charges will have on customer energy efficiency and conservation. Commission staff witness Ms. Stemrich stated:

> MGE's proposal to increase fixed customer charges will reduce the benefit customers receive from installing energy efficiency measures. This decrease in customer benefits does not impact the amount of cost-effective energy efficiency available, as that is determined by the Total Resource Cost Test. However, because customer benefits are reduced, the cost-effectiveness of energy efficiency to the customer is reduced, thereby potentially suppressing or reducing achievable energy efficiency in MGE's footprint.[17]

I note in contrast the Commission's conclusory observation that "raising the fixed charge could have an incidental effect upon the payback period of certain energy efficiency measures," and that increasing the fixed portion of customer bills somehow "encourages efficiency utility scale planning."[18]

---

[15] *See* Direct-PSC-Singletary-21.
[16] *See id.*
[17] *See* Direct-PSC-Stemrich-4-5.
[18] *See* Final Decision in this docket, at 40. I also note for illustrative purposes that the Program Administrator responsible for running Wisconsin's Focus on Energy program, our statewide energy efficiency and renewable resource program, has cautioned Commission staff that the implications of substantially increasing fixed customer charges "are profound," that doing so "would require Focus on Energy incentives to increase in order to sustain participation," and that such rate design changes would increase "the cost per delivered unit of energy savings" and ultimately decrease the achievable energy savings. *See* Memorandum from Focus on Energy staff Chad Bulman and Tamara Sondgeroth, to Commission staff Carol Stemrich, Jolene Sheil, Preston Schutt, and Joe Fontaine, dated October 9, 2014, at 4-5. I understand that this memorandum is not part of the record in this proceeding, but it is relevant, and the Commission is free to take administrative notice of it under Wis. Stat. § 227.45(3) or reopen the administrative record and allow it into evidence.

I agree that we should rely on the specialized expertise of this agency. But let's be honest about what that expertise advises. The recommendations and analytical conclusions which reflect Commission staff's "technical competence and specialized knowledge" about "rates and the price signals that are sent to customers, and the sort of behavior this Commission wants to foster as a matter of sound public policy,"[19] include the following:

- A fixed customer charge increase of no more than 20 percent for residential and small commercial customers;
- A recognition that steep fixed customer charge increases unfairly impact low usage customers;
- An understanding of utility financial risk that is cognizant of the numerous risk mitigation features already present in Wisconsin's regulatory framework; and
- A recognition that steep fixed customer charge increases will negatively impact customer energy efficiency and conservation.

The Commission either ignored or disagreed with all of this. I agree with the idea that we exist as a regulatory body in part to "bring to bear" our agency's "expertise and knowledge." But there is no support in this Final Decision for the suggestion that is what the Commission is doing here.

The Commission's Final Decision on fixed charges has other problems. It finds "that it is not necessary at this time" to specify what specific costs are appropriate to consider when

[19] *See* Final Decision in this docket, at 37.

setting fixed electric charge rates,[20] yet concludes "that the fixed customer charges should be increased to more closely reflect the utility's fixed costs to provide basic service to a customer."[21] It ignores record evidence showing that it is more likely that low income residents in MGE's service territory are low usage customers, and thus those customers will be disproportionately harmed by the fixed charge increase.[22] It relies heavily on the existence of supposed "subsidies" in current rate design, yet never identifies the extent of these subsidies, nor attempts to quantify them in dollars or as a percentage of utility revenue. It also fails to coherently apply our Energy Priorities Law, Wis. Stat. §§ 196.025(1)(ar) and 1.12(4), to a rate-setting decision that will make energy efficiency, conservation, and renewable energy less cost-effective for MGE's residential and small commercial customers. The Final Decision throws a lot at the wall, but very little of it holds up.

I agree that public utility regulation "is intended to simulate a free market process for monopoly utilities."[23] We are meant to stand in as a proxy for the free market–for competition–because where none exists, the consuming public is otherwise captive and without recourse in the face of a monopoly provider of essential utility service. Today's decision does not protect the consuming public or advance the public interest.

Here is what it does do. If you use less energy than an average user, you are going to pay more on your utility bill. The lower your use, the more you will pay, relative to the current bill structure. You will also have less control over how much you pay. Folks who live in the

---

[20] *See id*., at 32-33.
[21] *See id.*, at 48.
[22] *See* Direct-City of Madison-Marcus-17-18 (citing Bureau of Labor Statistics, "lower income people use less electricity," further noting that MGE's claims about income "contradict both national and regional income data as well as MGE's own data on other usage drivers related to the housing stock.")
[23] *See* Final Decision in this docket, at 39.

smallest dwellings–those in apartments, multi-unit housing, often individuals on fixed incomes, will be hit the hardest. About 75 percent of MGE residential customers will have a bill increase as a result of the Final Decision because of the fixed charge increase.[24] For 20,000 of MGE's residential customers, the increase will be greater than 10 percent.[25] For customers who use on average of about 300 kilowatt-hours per month, their annual increase will be roughly $66.00, as a result of the fixed charge increase.[26] For those who use 200 kilowatt-hours per month, the annual increase will be about $79.00.[27] We also know that low usage customers are more likely to be low income customers.[28] So the effect of increasing fixed customer charges will disproportionately impact low income populations.[29] Today's decision will undermine the cost-effectiveness of energy efficiency and conservation measures and discourage the adoption of distributed generation technologies going forward.

It is time to take a measured look at the issues raised by the utility industry's nationwide push to "realign" rate structures. I think we should slow down, approve no fixed charge increase in this case, and open up a generic investigation. I would support a timeline that would ensure completion before the rate case season for test year 2017, and would involve a broad range of interested stakeholders and Commission staff. In addition to rate re-design and the specific issue

---

[24] *See* Surrebuttal-NRDC-Morgan-4.
[25] *See id.*
[26] *See* Surrebuttal-NRDC-Morgan-5-Table 1.
[27] *See* Surrebuttal-NRDC-Morgan-5-Table 1. I reference these numbers in response to the Commission's continuing effort to downplay the impact these changes will have on utility customers. *Cf.* Final Decision in this docket, at 43 ("the total dollar bill impact of these changes to those customers who will see bill increases is relatively small."). An extra $80.00 each year for utility service is real money, and it will hit those who use the least amount of energy, those least able to respond to it, the hardest.
[28] *See* Direct-City of Madison-Marcus-17-18.
[29] There is good news for the very few MGE residential customers who use more than 2000 kilowatt-hours every month: they will have a 4 percent bill *decrease* in 2015, as a result of the Commission's fixed charge changes. *See* Surrebuttal-NRDC-Morgan-5.

of fixed charges, a more comprehensive investigation would evaluate placing a fair and transparent value on distributed generation, and at least start down the discussion path of the role of regulated utilities in a future with flat load growth, increased distributed generation and more robust consumer involvement in energy choices. Other states are way ahead of Wisconsin in this regard. The solution provided by MGE here, and other regulated companies in this state, is not holistic, not forward thinking, and largely self-serving. It is our job–as regulators–to push and guide where that works, and to lead when others will not.

I would have kept the fixed customer charges where they are now, or limited the increases to 20 percent provided that such an increase would be accompanied by a 20 basis point reduction in ROE and the opening of a generic investigation as I have described.

Low Income and Lifeline Rates

While I do not support the fixed charge increase, I do think that, at a minimum, the Commission should have approved MGE's proposed Rg-6 tariff for low-income customers, in recognition of the impact that increasing fixed charges will have on low-income, low energy customers in MGE's service territory. The Final Decision's rationale here is at odds with itself. On the one hand, it concludes "that the proposed fixed charge increase for residential customers will not disproportionately disadvantage lower-income groups to a significant extent."[30] Yet on the other, it "finds some merit in the concerns raised in this proceeding regarding rate impacts on

[30] *See* Final Decision in this docket, at 51. One is left to wonder what the Commission would consider "significant" disproportionate impact in the context of low-income populations.

low-income customers generally."[31] The Commission should have erred on the side of customers here and approved MGE's low-income rate proposal.[32]

Regarding MGE's proposed elimination of its Rg-3 residential lifeline rate, I agree that it should be phased out. But rather than end the lifeline tariff a year from now, I would have allowed it to phase out over a longer, more gradual period.

DL: 00952322

[31] *See id.*

[32] The Commission should be examining this question in other service territories, as well, insofar as it "finds some merit" in the notion that raising fixed charges disproportionately impacts low-income customers.