

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of	)	
WISCONSIN ELECTRIC POWER COMPANY,	)	
d/b/a WE ENERGIES, for approval of a power	)	Case No. U-15007
supply cost recovery plan and authorization of	)	
monthly power supply cost recovery factors for the	)	
calendar year 2007.	)	
_____	)	

At the June 26, 2007 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Monica Martinez, Commissioner

ORDER APPROVING SETTLEMENT AGREEMENT

On September 29, 2006, Wisconsin Electric Power Company, d/b/a We Energies (WEPCO), filed an application, with supporting testimony and exhibits, to implement a power supply cost recovery (PSCR) plan and to reflect PSCR factors in its 2007 billings to its retail electric customers.

Pursuant to due notice, a prehearing conference was held on November 15, 2006 before Administrative Law Judge Mark E. Cummins. WEPCO, the Commission Staff (Staff), and Empire Iron Mining Partnership and Tilden Mining Company L.C. (collectively the Mines), participated in the proceedings.

Subsequently, WEPCO, the Staff, and the Mines submitted a settlement agreement resolving all the issues in the case.

In the settlement agreement, attached as Exhibit A, the parties request the Commission to approve WEPCO's 2007¹ PSCR plan and authorize WEPCO to implement a positive 2007 PSCR factor of 19.58 mills per kilowatt-hour (kWh) for its customers, effective as of the date of the Commission order approving this settlement agreement. The parties also propose that this PSCR factor should remain in effect until revised by an order of the Commission setting a revised PSCR factor in Case No. U-15071.² The parties agree that WEPCO's five-year forecast of power supply requirements meets the statutory mandates of 1982 PA 304 and should be accepted for filing.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 *et seq.*; 1919 PA 419, as amended, MCL 460.51 *et seq.*; 1939 PA 3, as amended, MCL 460.1 *et seq.*; 1982 PA 304, as amended, MCL 460.6j *et seq.*; 1969 PA 306, as amended, MCL 24.201 *et seq.*; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 *et seq.*
- b. The settlement agreement is reasonable and in the public interest, and should be approved.
- c. WEPCO's 2007 PSCR plan should be approved, subject to the terms of the settlement agreement.

THEREFORE IT IS ORDERED that:

- A. The settlement agreement, attached as Exhibit A, is approved.
- B. Wisconsin Electric Power Company, d/b/a We Energies, is authorized to implement its 2007 power supply cost recovery plan, subject to the terms of the settlement agreement.

¹ Prior to the date of the settlement agreement, pursuant to 1982 PA 304, MCL 460.6(j)(9) as amended, WEPCO self-implemented its filed factor.

² The Commission issued its final order in Case No. U-15071 on May 22, 2007, which approved a PSCR factor of 2.45 mills per kWh.

C. Wisconsin Electric Power Company, d/b/a We Energies, shall file with the Commission, within 30 days, tariff sheets substantially similar to Attachment 1 to the settlement agreement.

D. Should Wisconsin Electric Power Company, d/b/a We Energies, desire to apply a lesser power supply cost recovery factor than that approved by this order, it shall notify the Commission ten days prior to the use of the lesser factor and shall file during the billing month a tariff sheet showing the lesser factors it is applying.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

(S E A L)

/s/ J. Peter Lark
Chairman

/s/ Monica Martinez
Commissioner

By its action of June 26, 2007.

/s/ Mary Jo Kunkle
Its Executive Secretary

C. Wisconsin Electric Power Company, d/b/a We Energies, shall file with the Commission, within 30 days, tariff sheets substantially similar to Attachment 1 to the settlement agreement.

D. Should Wisconsin Electric Power Company, d/b/a We Energies, desire to apply a lesser power supply cost recovery factor than that approved by this order, it shall notify the Commission ten days prior to the use of the lesser factor and shall file during the billing month a tariff sheet showing the lesser factors it is applying.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

By its action of June 26, 2007.

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STATE OF MICHIGAN

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WISCONSIN ELECTRIC POWER COMPANY	)	
d/b/a We Energies for approval of a power	)	
supply cost recovery plan and authorization	)	Case No. U-15007
of monthly power supply cost recovery factors	)	
for the calendar year 2007	)	

SETTLEMENT AGREEMENT

As provided in § 78 of the Administrative Procedures Act of 1969 ("APA"), as amended, MCL 24.278, and Rule 333 of the Rules of the Practice and Procedure Before the Commission, 2000 AC, R 460.17333, Wisconsin Electric Power Company ("WEPCO" or the "Company"), the Michigan Public Service Commission Staff ("Staff"), and Empire Iron Mining Partnership and Tilden Mining Company L.C. (collectively "Mines"), hereby agree as follows:

1. On September 29, 2006, WEPCO filed with the Michigan Public Service Commission ("Commission") its Application, along with the testimony and exhibits of its witnesses, Thomas P. Lorden and Paul D. Schumacher, to implement a Power Supply Cost Recovery ("PSCR") plan and PSCR factor for the 2007 calendar year.

2. In its Application, WEPCO requested approval of its 2007 PSCR plan and authority to implement a positive 2007 PSCR factor of \$.01958 per kWh for its Michigan tariff customers.

3. On October 13, 2006, the Commission's Executive Secretary issued a Notice of Hearing directing WEPCO to mail a copy of the Notice of Hearing to all cities, incorporated villages, townships, and counties in its Michigan service area and to all intervenors in Case No. U-14707. The Commission further directed WEPCO to publish

the Notice of Hearing in daily newspapers of general circulation throughout its Michigan service area. Complying with the directives, WEPCO filed with the Commission the requisite Affidavit of Mailing and Proofs of Publication on November 14, 2006.

4. On November 15, 2006, Administrative Law Judge Mark E. Cummins presided over a prehearing conference in this matter. Staff entered its Appearance and the Mines were granted intervention.

5. Subsequent to the prehearing conference, the parties have engaged in discovery and settlement discussions and, as a result, have reached agreement on all of the contested issues in this case. The parties to this Settlement Agreement agree as follows:

- a. WEPCO's 2007 PSCR Plan should be approved by the Commission.
- b. The Commission should approve and authorize WEPCO to implement a positive PSCR factor of 19.58 mills per kWh for its Michigan tariff customers, effective as of the date of the Commission order approving this Settlement Agreement. This PSCR factor should be authorized to be in effect until revised by an order of the Commission setting a revised PSCR factor in MPSC Case No. U-15071. WEPCO's tariff sheets reflecting this authorized PSCR factor are attached hereto as Attachment 1 and are acceptable to the parties hereto.
- c. WEPCO's 5-year forecast of power supply requirements meets the statutory mandates of 1982 PA 304 and should be accepted for filing.

- d. For the period the PSCR factor approved in this settlement agreement is in effect, should WEPCo desire to apply a lesser power supply cost recovery factor than that approved by this agreement, it shall notify the Commission, Staff and Mines ten days prior to the use of the lesser factor, providing the Mines documentary support justifying the lower factor.

6. All of the signatories are of the opinion that this Settlement Agreement will aid the expeditious conclusion of this case.

7. This Settlement Agreement is intended to be a final disposition of this proceeding, and the parties join in respectfully requesting that the Commission grant prompt approval. The parties agree not to appeal, challenge or contest the Commission's Order accepting and approving this Settlement Agreement without modification. If the Commission does not accept the Settlement Agreement without modification, the Agreement shall be withdrawn and shall not constitute any part of the record in this proceeding or be used for any other purpose whatsoever.

8. This Settlement Agreement has been made for the sole and express purpose of settling this case, and all discussions relating hereto are and shall be privileged and shall not be used in any manner, or be admissible for any other purpose in connection with this proceeding or any other proceeding hereof. This Settlement Agreement does not constitute precedent in any other case or proceeding. Without limiting the generality of the foregoing, this Settlement Agreement shall not constitute *res judicata* or collateral estoppel as to any issue nor shall it be construed to prevent the

Mines from litigating any issue in any other proceeding, including the appropriate line loss factor.

9. All signatories waive Section 81 of the APA of 1969, as amended, MCL 24.281.

WISCONSIN ELECTRIC POWER COMPANY

Dated: May 10, 2007

By: _____
One of its Attorneys
Harvey J. Messing (P23309)
Ronald W. Bloomberg (P30011)
Sherri A. Wellman (P38989)
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(517) 487-2070

TILDEN MINING COMPANY L.C.
AND EMPIRE IRON MINING
PARTNERSHIP

Dated: May 10, 2007

By: _____
One of their Attorneys
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Thomas J. Waters (P37829)
Fraser Trebilcock Davis & Dunlap, P.C.
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MICHIGAN PUBLIC SERVICE COMMISSION
STAFF

Dated: May 10, 2007

By: _____
Its Attorney
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Lansing, MI 48911
(517) 241-6680

PROOF OF SERVICE

STATE OF MICHIGAN)

Case No. U-15007

|

County of Ingham)

E. David Lechler being duly sworn, deposes and says that on June 26th, 2007, A.D. he served a copy of the attached Commission order by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

E. David Lechler

Subscribed and sworn to before me
this 26th day of June 2007

Sharron A. Allen
Notary Public, Ingham County, MI
My Commission Expires August 16, 2011

SERVICE LIST FOR DOCKET # U - 15007-
DATE OF PREPARATION: 06/26/2007

CASE #

MR. GALE KLAPPA
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