

What can we learn from the PSC's COVID-19 dockets?



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With the decision of the Public Service Commission of Wisconsin (PSC) in March to permit utilities to add disconnection back to their toolbox and restore some semblance of normalcy to utility service rules now that Wisconsin is beginning to emerge out of the pandemic, it's helpful to review how the Commission has managed the public health crisis to see what it reveals about the regulatory process.

From the beginning of the crisis, the PSC has engaged in an ongoing information-gathering process, soliciting comments and input from utilities and other stakeholders, and invoking its authority to suspend tariff rules when appropriate to ensure the continuation of reliable utility service while preserving the financial stability of public utilities. As MEUW pointed out in its most recent public comments in Docket 5-UI-120, municipal utilities have benefited from the PSC's collaborative approach and have appreciated staff's willingness to work with utilities in addressing historically high arrears and customers struggling with financial and health con-

cerns. Having the "most up-to-date information" has helped municipal utilities effectively engage with their customers.

At the same time, the Commission's COVID-19 orders have imposed new reporting requirements that have been challenging for some utilities to meet. Sixteen of the state's 92 electric utilities, for example, did not submit their required quarterly arrears information. As pointed out by the Wisconsin Utilities Association, which represents the state's investor-owned utilities, it has been difficult for utilities to gather all of the information required by the Commission in view of continued uncertainty over the impact of federal relief, among other reasons. Still, in their public remarks, Commissioners have not been shy about calling utilities out for their deficiencies in this regard. At the March 18 Commission open meeting, for example, PSC Chair Rebecca Cameron Valcq said that when regulators require something of regulated companies, such companies "should take pains to make that happen."

In most states — as many of you know — municipal utilities are not regulated by their state commissions. According to American Public Power Association (APPA), Wisconsin is one of only six states in which municipal utilities are sub-

ject to full rate regulation; 16 other states impose some form of regulation over services or rates under certain conditions. So MEUW members are under a somewhat unique obligation to submit to regulatory rules and requirements imposed on them by someone other than their own governing bodies.

Onerous as it may be, however, there are good reasons to comply with such requirements. First and foremost, the law requires it: section 196.02(4)(a) provides that the PSC "may inquire into the management of the business of all public utilities. The commission shall keep itself informed as to the manner and method in which the same is conducted. The commission may obtain from any public utility any information necessary to enable the commission to perform its duties." This is precisely the authority invoked by the PSC when it issued its first notices in March 2020, convening the COVID-19 investigation and accounting treatment dockets.

Second, and more broadly, the provision of such information is part of the basic regulatory compact, which allows public utilities to (a) retain a monopoly over a prescribed franchise territory; (b) seek reasonable rate relief for the "cost of service"; and (c) earn a reasonable rate of return, in ex-

change for (i) maintaining an obligation to serve all customers in the service territory in a non-discriminatory manner; (ii) avoiding the duplication of facilities; and (iii) providing regulators with access to books and records.

A "compact" is, of course, a two-way street. And with the current PSC Commissioners showing a continued propensity to launch investigations on their own motion to address everything from electric vehicle deployment, to the "Roadmap to Zero Carbon," it is worth bearing this in mind. PSC requests for comment or information are often burdensome, particularly for small utilities short on resources. But such requests also present opportunities for utilities, including municipals, to educate the PSC and staff on the unique challenges they face.

For MEUW members currently managing collection issues, new requests for customer-owned generation interconnections, or commercial customers interested in new load market-based tariffs, a more informed and collaborative-minded PSC may be a "silver lining" of the pandemic. ●



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