

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 19-1270-TF

Washington Electric Cooperative tariff filing for rate design changes and a change in rate schedules to be effective on services rendered beginning June 17, 2019	
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**WASHINGTON ELECTRIC COOPERATIVE'S FIRST SET OF DISCOVERY
REQUESTS TO THE DEPARTMENT OF PUBLIC SERVICE**

I. DEFINITIONS AND INSTRUCTIONS.

The full text of the definitions and rules of construction set forth below are incorporated by reference into all interrogatories and requests to produce, but shall not preclude (i) the definition of other terms specific to this particular litigation, or (ii) the use of abbreviations. The following definitions apply to the following discovery requests.

A. DEFINITIONS.

1. **COMMUNICATION.** "Communication" means the transmittal of information (in the form of facts, ideas, inquiries or otherwise). The term includes, but is not limited to, oral statements and discussions, written, printed and electronic correspondence, memoranda, voice-mail, notes, and documents.

2. **PRODUCE.** "Produce" means to make available the documents requested herein for inspection and copying and to separate such documents into the categories set forth in this request.

3. **DOCUMENT.** "Document" is defined to include the full meaning and scope of V.R.Civ.P. 34. Please note that a draft or non-identical copy is a separate document within the meaning of this term. The term "document" includes, but is not limited to, writings, memoranda, letters, notes, hand-written notes, electronic notes, minutes, drawings, drafts, logs, records, notes of communications, email, voice-mail, text messages, instant messages, conference materials, newsletters, communications, communication logs, calendars, calendar notes, reminders, estimates, invoices, bills, charts, photographs, movies, audio recordings, video recordings, computer files or other record or recording, "electronically stored information" (definition below) and every other type of data compilation from which information can be obtained, translated or transcribed, whether originals or copies.

4. **IDENTIFY.** (With Respect To Persons). When referring to a person, "to identify" means to give, to the extent known, the person's full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of

employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

5. **IDENTIFY.** (With respect to other than a natural person), When referring to an entity, such a business, corporation, limited liability company, partnership, governmental entity, or other business entity means to give, to the extent known, the entity's full name, present or last known address, telephone number, and principal place of business.

6. **IDENTIFY.** (With Respect To Documents). When referring to documents, "to identify" means to give, to the extent known, (i) the type of document; (ii) its general subject matter; (iii) the date of the document; (iv) the date the document was received by Defendants, (v) its author(s), addressee(s) and recipient(s); (vi) its present location and/or custodian; and (vii) if the document is claimed to be protected from discovery by privilege, the grounds on which the privilege is claimed. **Please note that as an alternative to identifying a document, you may instead produce a complete and legible copy of a document that contains the information in (i)-(vii).**

7. **IDENTIFY.** (With Respect To Oral Communications). When referring to "oral communications" means to give, to the extent known, (i) the substance of the communication; (ii) the identity of all persons privy to the communication; (iii) the date of the communication; and (iv) the identity of all documents memorializing, discussing, or relating to said communication.

8. **AND/OR.** The phrase "and/or" means either or both. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

9. **PERSON.** "Person" includes any natural person, association, organization, corporation, partnership, legal entity, other entity, or governmental entity.

10. **"RELATES TO," "RELATING TO" and "REGARDING"** mean supports, evidences, describes, mentions, refers to, pertains to, concerns, contradicts, leading to, precursor to, stemming from, in response to, referencing, comprises, or otherwise having to do with in any manner.

11. **CONCERNING.** The term "concerning" means relating to, relates to, referring to, regarding, describing, evidencing or constituting.

12. **INCLUDING.** The term "including" as used herein, means "including but not limited to" and "including without limitation."

13. **ALL/EACH.** The terms "all" and "each" shall be construed as all and each.

14. **ELECTRONICALLY STORED INFORMATION.** The term "electronically stored information" means any information including documents, communications, data, pictures, and video stored in any electronic format however produced or reproduced, including all mechanical or electronic recordings or transcriptions thereof, all digital data stored on hard-drives, thumb drives, media such as dvd-roms, cd-roms, magnetic tape, digital tape, other digital storage, cloud, and flash media within the company domain or any third party domain.

15. To **"STATE THE BASIS OF"** a claim, allegation, contention, or position means to fully and completely state in detail the factual and legal bases of the claim, including the identity of any persons having information or knowledge concerning the claim and any documents pertaining to the incident or event upon which the claim is made.

16. **"STATE," "DESCRIBE," "IDENTIFY," "EXPLAIN," "EXPLAIN IN DETAIL," "DETAILED EXPLANATION" or "DESCRIBE IN DETAIL"** means to set forth fully and in detail all factual information and data that are in any way related to the subject matter of the particular request seeking such statement or description..

17. **"POSITION"** means the Department's decision to advocate against WEC's proposed inclining block rate.

18. **"WEC"** means Washington Electric Cooperative, Inc.

19. **"DEPARTMENT"** means the Vermont Department of Public Service, including its appointees, staff, employees, and agents.

20. **"PUC" or "PSB"** means the Vermont Public Utility Commission

B. INSTRUCTIONS FOR INTERROGATORIES.

1. If any information is withheld under a claim of privilege, in order that the Commission and the parties may determine the validity of the claim of privilege, you are to provide sufficient information to determine the identity of the document or oral communication so claimed to be privileged, the author, the recipient(s) and its (or their) location and, as well, state the basis for any asserted claim or privilege.

2. If you object to part of any interrogatory and refuse to answer that part, state your objection, identify the part to which you are objecting, and answer the remaining portion of the interrogatory. If you object to the scope or time period of any interrogatory, state your objection, identify the scope or time period to which you are objecting, and answer the interrogatory for the scope or time period you believe is appropriate. If you make an objection and provide an answer or response, the answer or response will be understood to waive the objection and it will be understood to be a full answer with no withholding based on the objection (unless the scope of withholding is fully specified).

3. If any of the following interrogatories cannot be answered in full after exercising due diligence to secure the information, please so state and answer to the extent possible, specifying your inability to answer the remainder, and state whatever information you have concerning the unanswered portions. If your answer is qualified in any particular manner, please set forth the details of such qualifications. These interrogatories shall be deemed to be continuing in the manner provided by law.

C. INSTRUCTIONS FOR DOCUMENT PRODUCTION.

1. With respect to document production, and in accordance with Rule 34 of the Vermont Rules of Civil Procedure, Petitioner requests that the Department produce the following documents, records and things for inspection and copying at the office of Tarrant, Gillies & Richardson, 44 East State Street, P.O. Box 1440, Montpelier, Vermont, 05601, on or before 30 days from the date of service of this request. (Please take notice of the provisions of Rule 34(b) requiring a party to whom a request is directed, to serve a written response thereto within thirty (30) days after service of the request, or within 45 days of the service of the summons and complaint.)

2. In accordance with the provisions of Rule 34(b), the Department is to organize and label these documents, records and data to correspond with the numbered paragraphs, subparagraphs, and categories in this request.

3. If a document could be produced with respect to a narrow request or a more general request, it shall be organized and submitted with respect to the more narrow request.

4. In all instances the terms of these requests are to be interpreted broadly and expansively. These requests are to be read to apply to the broadest quantity of materials to which they could pertain.

5. Petitioner requests a written response to the requests for production setting forth, with respect to each request, whether such documents exist, whether inspection will be permitted as requested, and if not, stating specifically the Department's objections to inspection.

6. Any objections on the basis of a privilege must be accompanied by a privilege log.

7. If you decline to produce any documents requested hereinafter on the basis of any asserted privilege, you shall, in your final response hereto, provide Petitioner with the following written information pertaining to such document:

- a. Its date or, if not dated, the date it was prepared or received;
- b. The type of document (e.g. letter, memorandum, email, notes, report, opinion, etc.);
- c. Its author and addressee;
- d. The present location(s);
- e. The identity of the individual or person presently custodian or custodians thereof;
- f. A general description of its contents and substance;
- g. The number of pages thereof;
- h. The identity of each person who received a copy of the document and the relationship of such person to defendant;
- i. Whether such document contains or relates to facts, advice, and/or opinions;
- j. The nature of the privilege (e.g. work product, attorney-client) that you claim with respect to such document.

8. If you object to part of any request for production and refuse to answer that part, state your objection, identify the part to which you are objecting, and answer the remaining portion thereof. If you object to the scope or time period of any request, state your objection, identify the scope or time period to which you are objecting, and answer the request for the scope or time period you believe is appropriate. If you make an objection and provide an answer or response, the answer or response will be understood to waive the objection and it will be understood to be a full answer with no withholding based on the objection (unless the scope of withholding is fully specified).

9. If any of the following requests for production cannot be answered in full after exercising due diligence to secure the information, please so state and answer to the extent possible, specifying your inability to answer the remainder, and state whatever information you have concerning the unanswered portions. If your answer is qualified in any particular manner, please set forth the details of such qualifications. These requests shall be deemed to be continuing in the manner provided by law.

10. You are under a duty to produce any documents in your possession, custody or control, or in the possession, custody or control of any agent, attorney, accountant, partner, officer or employee of the Department and all others from whom you may freely secure these documents and things.

11. Electronically stored information (ESI) should be produced in its native format if it is readable in, or convertible to, a current or recent off-the-shelf software format (or accessible

through older software that is still available through Amazon or Ebay, etc.), the information should be provided in that format. If the ESI is in a proprietary or other obscure format, please contact us before providing the discovery so that we may determine whether we wish the ESI in hard paper or other format.

12. In the event that any document called for by this request has been lost or destroyed, that document is to be identified in writing as follows: addressor, addressee, indicated or blind copies, date, subject matter, number of pages, attachments, exhibits or appendices, all persons to whom distributed, shown or explained, date of loss or destruction, manner or loss or destruction, reason for destruction, person who authorized destruction and person who lost or destroyed the document.

13. The use of the singular form of any word includes the plural and vice versa.

14. When responsive documents pertain to different individuals, the response shall segregate such documents by the individuals to which they pertain.

15. All documents produced shall be stamped with a Bates number.

16. All documents produced shall be a true, complete, and accurate copy of the original.

II. INTERROGATORIES AND REQUESTS TO PRODUCE

1. (a) Please quantify in detail the extent to which a single block rate of \$0.17796/kWh, as opposed to WEC's proposed two-block rate of \$0.08 and \$0.019961/kWh, will increase electrification of transportation.

(b) Please produce: all data, studies, communications, information, and documents:
(i) that you considered in preparing this testimony, and
(ii) related to your answer to this interrogatory.

2. (a) Please quantify in detail the extent to which a single block rate of \$0.17796/kWh, as opposed to WEC's proposed two-block rate of \$0.08 and \$0.019961/kWh, will increase electrification of heat.

(b) Please produce all data, studies, communications, information, and documents:
(i) that you considered in preparing this testimony, and
(ii) related to your answer to this interrogatory.

3. (a) Please quantify in detail the extent to which eliminating WEC's proposed initial block will further the State's goal of reaching 90% renewable energy in all sectors by 2050.

(b) Please produce all data, studies, communications, information, and documents:
(i) that you considered in preparing this testimony, and
(ii) related to your answer to this interrogatory.

4. Please produce all communications, policies, studies, data, memoranda, notes, information, and documents, including draft documents, on which the Department bases its position to recommend elimination of inclining block rates. Please explain in detail the legal rationale for this position and how it conforms to 30 V.S.A. § 218(b).

5. Please produce all communications, policies, studies, data, memoranda, notes, information, and documents, including draft documents, related to the Department's decision to advocate for elimination of WEC's proposed inclining block rate.

6. (a) Has the PUC and/or the Department held workshops relating to rate design in the last three years? If so, please identify the dates, case names, docket numbers, agendas and topics of each workshop. For each workshop, please explain in detail whether and why the Department addressed elimination of inclining blocks at these workshops.

(b) Please produce all data, studies, communications, arguments, agendas, policies, and other information regarding elimination of inclining blocks that was presented or discussed at any such workshop.

7. Please identify each instance in the last five years where the Department has advocated that an electric distribution utility eliminate an inclining block rate design. For each instance, please include the case name, docket number, PUC decision(s), and all filings relating to elimination and/or preservation of an inclining block rate.

8. Please identify each instance in the last five years where the Department has:

(i) not taken a position on, and

(ii) has advocated in favor of, an electric distribution utility's proposed inclining block rate design.

For each instance, please include the case name, docket number, PUC decision(s), and all filings relating the inclining block rate.

9. (a) Please refer to page 4, lines 10-13 of Ms. Flint's testimony (characterizing the nature of areas served by WEC). Please quantify in detail the extent to which the Department's recommendation will increase electrification of transportation for WEC members.

(b) Please produce all data, studies, communications, information, and documents:

(i) that you considered in preparing this testimony, and

(ii) related to your answer to this interrogatory.

10. (a) Please refer to pp. 4-10 of Ms. Flint's testimony and pp. 5-7 Mr. Potter's testimony regarding price signals. Please describe in detail all outreach to Vermont consumers conducted by the Department relating to inclining block rates, price signals, and/or the bases for the Department's position here. "Public outreach" includes: focus groups, studies relevant to preferences, polls, surveys, studies, and the like (whether or not formal or scientific).

(b) Please produce all data, studies, communications, information, and documents:

(i) that you considered in preparing this testimony, and

(ii) related to your answer to this interrogatory.

11. (a) Please refer to pp. 4-10 of Ms. Flint's testimony and pp. 5-7 Mr. Potter's testimony regarding price signals. Please describe in detail all outreach to WEC members conducted by the Department relating to inclining block rates, price signals, and/or the bases for the Department's position here. "Public outreach" includes: focus groups, studies relevant to preferences, polls, surveys, studies, and the like (whether or not formal or scientific).

(b) Please produce all data, studies, communications, information, and documents:

- (i) that you considered in preparing this testimony, and
- (ii) related to your answer to this interrogatory.

12. (a) Please refer to Page 8-9, 10 of Ms. Flint's direct testimony where she refers to the impact on "low-income, low-use customers." Please state whether the Department is concluding that there is a correlation between low-income and low-use customers. If so, please provide quantitative analysis supporting the correlation between low-income and low-use customers showing that low-income customers are also low-use customers.

- (b) Please produce all data, studies, communications, information, and documents:
 - (i) that you considered in preparing this testimony, and
 - (ii) related to your answer to this interrogatory.

13. Please refer to pp. 5-7 of Mr. Potter's testimony. Please state whether WEC's proposed initial block conforms to 30 V.S.A. § 218(b).

- (b) Please explain your answer in detail. Please produce all data, studies, communications, information, and documents:
 - (i) that you considered in preparing this testimony, and
 - (ii) related to your answer to this interrogatory.

14. (a) Please refer to pp. 5-7 of Mr. Potter's testimony. Please explain in detail why WEC's proposed initial block sends a "signal" contrary to the State's GHG goals. As part of this explanation, please quantify the effect of this "signal" sent by WEC's proposed initial block.

- (b) Please produce all data, studies, communications, information, and documents:
 - (i) that you considered in preparing this testimony, and
 - (ii) related to your answer to this interrogatory.

15. Please refer to page 4, lines 1-3 of Mr. Potter's testimony. Please explain in detail what Mr. Potter means in that sentence.

- (b) Please produce all data, studies, communications, information, and documents:
 - (i) that you considered in preparing this testimony, and
 - (ii) related to your answer to this interrogatory.

16. Please refer to p. 7, lines 11-22 of Mr. Potter's testimony. Please explain in detail whether Mr. Potter is asserting that the decrease in WEC members' average monthly consumption is actually tied to factors other than efficiency or the inclining block, or whether he is asserting that this decrease "could" be.

- (b) Please produce all data, studies, communications, information, and documents:
 - (i) that you considered in preparing this testimony, and
 - (ii) related to your answer to this interrogatory.

17. (a) Please refer to Page 8 of Mr. Potter's direct testimony and Page 2 of Mr. Foley's direct testimony where they state that the energy charge for the residential class would be \$0.17796/kWh under the Department's proposal to eliminate the inclining block rate and gradually phase-in the customer charge over four steps over the next three years.

(b) Please produce the work papers (with formulas intact) and supporting analysis to support the stated energy charge of \$0.17796/kWh under the Department's proposal.

- (c) Please produce: all data, studies, communications, information, and documents:
- (i) that you considered in preparing this testimony, and
 - (ii) related to your answer to this interrogatory.

18. Please refer to Page 9 of Mr. Potter's direct testimony where he states that "for [time-of-use] rates to be effective, they should be designed with a peak to off-peak ratio of at least 2:1 and, ideally, 3:1 or 4:1."

(a) Please explain in detail the basis for this testimony, including how the Department was able to determine that these ratios are "ideal."

(b) Please explain in detail whether the Department's analysis contemplates instances where the price/cost structure of peak vs. off-peak generating units for WEC purchased power and WEC-owned generation is above or below the "ideal" ratios of 3:1 or 4:1?

(c) Please explain in detail if purchased power bills support only a differential of 1.5:1, and if the Department implying that WEC time-of-use rates still be designed utilizing an "ideal" 3:1 or 4:1 ratio between peak vs. off-peak?

- (d) Please produce all data, studies, communications, information, and documents:
- (i) that you considered in preparing this testimony, and
 - (ii) related to your answer to this interrogatory.

19. (a) Please refer to p. 1, lines 19-20 and p. 2, line 1 of Mr. Foley's testimony. Please explain in detail what is meant by causation.

- (b) Please produce all data, studies, communications, information and documents:
- (i) regarding causation,
 - (ii) that you considered in preparing this testimony, and
 - (iii) related to your answer to this interrogatory.

20. Please refer to Page 4-5 of Mr. Foley's testimony where he states that the methodology employed by WEC in their rate design varies considerably from past practice in Vermont but provides only one example of "allocating Production Plant costs" only to demand and not energy.

(a) Please identify each example of past practice Mr. Foley relies on.

(b) For each example identified (including the example used in Mr. Foley's testimony) please explain in detail whether the utilized methods diverge from practice in Vermont.

(c) Please identify each PSB/PUC matter in the last five years where the "Fuel Offset Method" was considered and/or applied.

(d) Please identify each PUC/PSB rate design matter in the last five years where a "very tradition method" of allocation was considered and/or applied.

- (e) Please produce:
- (i) all data, studies, communications, information, and documents that you considered in preparing this testimony, and
 - (ii) related to your answer to this interrogatory.

21. (a) Please refer to pp. 4-5 of Mr. Foley's testimony where he states that there "is no universally accepted method for classifying and allocating embedded costs" and "that these decisions are usually based on judgments and depend mostly on the objectives of the cost analyst and the characteristics of the company being analyzed." Please explain this testimony in detail.

- (b) Please produce all data, studies, communications, information, and documents:
- (i) that you considered in preparing this testimony, and
 - (ii) related to your answer to this interrogatory.

22. Please refer to Page 5 of Mr. Foley's testimony where he states:

Past practice in Vermont included cost allocation methodologies that vary significantly from this very traditional approach. As an example, in Green Mountain Power's (GMP) most recent rate design, GMP employed a methodology in which production plant costs were classified and allocated in an embedded cost-of-service study using a Fuel Offset Methodology [citation omitted]. In WEC's prior rate design filings, Production Plant was allocated based on energy.

In reference to the passage above, please respond to the following:

- (a) Please explain in detail whether the Department considers the "very traditional approach" to be unjust, unreasonable and/or discriminatory;
- (b) In reference to the cited testimony supporting the Fuel Offset methodology, please explain in detail whether the PUC accepted this methodology in referenced (GMP) rate case.
- (c) Please produce all data, studies, communications, information, and documents:
- (i) that you considered in preparing this testimony, and
 - (ii) related to your answer to this interrogatory.

23. Please refer to Page 6 of Foley's testimony where he states that "[s]ince WEC did not adjust rate case revenue based on the results of [sic] the cost-of-service study, my concerns about the underlying methodology employed by WEC are ameliorated."

(a) Please explain in detail and specifically support this statement correlating the decision by WEC not to change the level of revenue collected by rate class with the implication that this lessens the credibility of the cost-of service study methodology and results;

(b) Please identify and explain in detail the Department's specific "concerns about the underlying methodology employed by WEC."

(c) For each concern, explain in detail how that methodology would render the cost of service study results unjust, unreasonable, and/or discriminatory.

- (d) Please produce all data, studies, communications, information, and documents:
- (i) that you considered in preparing this testimony, and
 - (ii) related to your answer to this interrogatory.

24. Please produce complete and detailed resumes and/or CVs for Carol Flint, Dan Potter, and Sean Foley.

Dated at Montpelier, Vermont, this 11th day of September, 2019.

TARRANT, GILLIES & RICHARDSON



BY:

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