

From: [SP Bushman](#)
To: [PUC - Clerk](#)
Subject: Public Comment on Case 22-4100-TF Action Requested
Date: Sunday, June 25, 2023 11:33:54 PM
Attachments: [22-4100-TF NetMeterTariffIncreaseWithoutProperFiling.pdf](#)

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Holly,

Attached is a comment on Case 22-4100-TF pertaining to actions taken by PSD staff pertaining to WECs current Net Metering Tariff after the issuance of the final order. Due to the serious nature of this comment, and the request for action (hopefully by July 1, 2023), I request that the Chair of the PUC board and the Commissioner of PSD also receive a copy.

Thank you.

Stephen Bushman

CASE NO. 22-4100-TF

COMMENT ON DPS ALLOWING WEC TO INCREASE FIXED COSTS IN THEIR NET METERING TARIFF BY VERBAL COMMUNICATIONS FROM PSD TO WEC APPROXIMATELY ONE MONTH AFTER THE ISSUANCE OF THE FINAL ORDER WITHOUT PROPER NOTICE, REVIEW, ANALYSIS, INVESTIGATION, OR PUBLIC COMMENT.

THE INCREASES TO THE NET METERING TARIFF ALLOWED BY DPS AFTER THE ISSUANCE OF THE FINAL ORDER SHOULD BE RESCINDED. IF WEC WANTS TO FILE FOR INCREASES IN THE FIXED CHARGES IN THEIR CURRENT NET METERING TARIFF, THEY SHOULD BE REQUIRED TO SUBMIT A LEGAL STANDALONE NET METERING TARIFF REVISION FILING SUBJECT TO COMPLETE REVIEW, ANALYSIS, INVESTIGATION, AND OPPORTUNITY FOR PUBLIC COMMENT BEFORE THE APPROVAL OF ANY CHANGES.

Facts and chronology:

On 9/16/2022, WEC filed for a 14.19% rate increase with the PUC (Case NO. 22-4100-TF), summarized in ePUC as “Tariff filing of Washington Electric Cooperative, Inc. for a 14.19% rate increase effective with service-rendered November 1, 2022”. As part of their original submittals WEC submitted their existing tariffs as exhibit WEC-5 Clean Tariffs: NO. 38L Street and Lighting Rate; NO. 38 C & CS Commercial, Class #3; NO. 38LP Large Power Rate, Class #8; NO. 38R Residential Rate Classes #2 & #1; and NO.38 TOD Time-Of-Use Rate, Class 5. On the same date WEC submitted red lined versions of the same tariffs as exhibit WEC-4 and on WEC Exhibit-3A Notice of Proposed Tariff Changes.

WEC’s Net Metering Tariff NO. 38NM was not submitted with the original submittals, nor was it ever submitted or requested by PUC or DPS prior to the issuance of the final order in the case.

On 5/19/2023, PUC issued final order to WEC for Case No. 22-4100-TF.

The final order issued 5/19/2023 required WEC to file compliance tariffs in the compliance subcase in ePUC within 10 business days of the issuance of this Order. (Order item 3). WEC tariff NO. 38NM (net metering) was not part of the compliance tariffs as of the issuance of the final order.

On June 1, 2023, WEC filed compliance tariffs. **See 6/1/2023 compliance filings in Case NO. 22-4100-TF, All Other Documents, Required Compliance Filings. WEC Net Metering Tariff NO. 38NM was not part of this filing.**

On 6/5/23 PUC issued a Procedural order to DPS: The Department is requested to file comments on these compliance filings by no later than June 16, 2023. WEC Net Metering Tariff NO. 38NM was not part of the compliance filing.

On 6/21/2023, WEC sent a letter to the PUC. **See 6/21/2023 cover letter in Case NO. 22-4100-TF, All Other Documents, Required Compliance Filings.** Note that the letter references WECs tariff NO. 38NM (net metering) as part of WEC's June 1, 2023 compliance filings. As stated before, up to this point WEC's Net Metering tariff was never submitted during the case history. The letter was based on verbal communication with DPS. June 21, 2023 is the first time WEC.s net metering tariff shows up in the case history. **This is more than one month after the issuance of the final order.**

On June 23, 2023, DPS documented the verbal conversation with WEC and stated "Regarding WEC's compliance tariffs, the Department reviewed and identified certain tariffs that did not accurately reflect the approved 12.83% rate increase. The Department discussed these inaccuracies with WEC and, in response, WEC filed updated tariffs with the Commission on June 21, 2023. After its review of WEC's June 21, 2023 compliance tariffs, the Department identified no further issues." Note that one of these updated tariffs was WEC's Net Metering tariff, which was never a part of the case file until June 21, 2023, and was never presented as a compliance filing. **See 6/23/2023 comments in Case NO. 22-4100-TF, All Other Documents, Investigation.**

This procedure to allow WEC to increase fixed costs in a tariff not submitted nor subject to review in this case and one month after the issuance of a final order appears to be a violation (at the minimum a gross non-conformance) to 30 V.S.A §225, 30 V.S.A §218d, 30 V.S.A §8010(c)(5), PUC Rule 5.126, PUC Rule 5.127, PUC Rule 5.128(H), and PUC Rule 5.134.

A review of WEC's tariff filings since January 1, 2018 (after the effective date of NM 2.0 but before the first required biennial update shows there has been three rate increase request filing and one rate redesign request filing before the current case (22-4100-TF). None of these previous cases included the then current NM

tariff as a compliance filing nor were any rates in the then current NM tariff increased before or after the issuance of the final order for rate increases or rate redesign.

There have also been four WEC net-metering tariff revision filings since January 1, 2018. One of these is clearly in response to biennial updates (18-1530-TF) and does not include any changes to any of the fixed costs in the then current net metering tariff and appears to have been filed in compliance with PUC 5.128(H). One of the net metering tariff revision filing (19-0776-TF) appears to be a standalone tariff revision request. Only the cost of meters was increased. Two of the net metering tariff revision requests (20-3840-TF and 22-0987-TF) appears to be hybrids. They appear to be filed in accordance with PUC rule 5.128(H) for the 2020 and 2022 biennial updates, but also include increases to fixed costs (20-3840-TF), and to changes to interconnection requirements (22-0987-TF, effective September 1, 2022). Why WEC was not required to submit standalone tariff filings for fixed cost changes and interconnection changes is not documented, but appears to be required by PUC Rule 5.128(H).

Based on precedent, statute and PUC Rule, it is obvious that a utilities' Net Metering Tariff is to be revised through a case filing during the biennial update process. According to PUC Rule 5.128(H), "This tariff compliance filing may not include any other proposed changes to the utility's net-metering tariff, except for a proposed change to the utility's blended residential rate calculated pursuant to Section 5.127(A) of this Rule." Other proposed changes to a utilities net metering tariff must be done by a standalone tariff filing. Why this was not done in this case is unknown.