

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

**In the Matter of the Petition for
Direct Public Fire Protection Charges and Related Docket No. 4900-PFP-100
Approvals by the City of Racine, Wisconsin,
and the Racine Water Utility**

**PETITION FOR DIRECT PUBLIC FIRE PROTECTION CHARGES AND
RELATED APPROVALS**

The City of Racine, Wisconsin (“Racine” or “City”), and the Racine Water Utility (“Racine Utility” or “RWU”), collectively referred to in this Petition as the “Applicants” or individually as an “Applicant” petition the Public Service Commission (“Commission” or “PSC”) for certain rulings and approvals related to the cost recovery of public fire protection (“PFP”) costs within the City while preserving the existing contractual 25-percent surcharge on retail sales outside the City.

I. BACKGROUND

RWU has a long history of providing service outside the City of Racine. The PSC has supported RWU’s regionalization endeavor by authorizing a 25-percent surcharge to cover the increased cost of this service since at least as far back as 1934 (see Attachment 1). The PSC has consistently recognized that providing water to the suburbs costs RWU more than providing water to Racine customers; the PSC has upheld the surcharge in every rate case, including RWU’s most recent one in 2017.

The 25-percent surcharge stands throughout the state as a way for water utilities to recover the cost for public fire protection from customers outside the municipal boundaries since outside customers do not pay property taxes to these municipalities. However, RWU’s situation differs from everyone else’s save Milwaukee’s because so much of its demand comes from retail sales outside the municipality. The other utilities have only a handful of customers who fall outside the municipal boundaries. The water demand from these customers does not require additional infrastructure to meet it. In contrast, between its urban and suburban retail customers, RWU sells over forty percent of its water to its suburban customers. To be met, this demand requires substantial infrastructure, none of which is necessary to supply City retail customers.

The suburban demand will only grow relative to urban demand. The Department of Administration’s 2040 population projections show Mount Pleasant growing by almost fifteen percent, and those estimates were developed before the Foxconn development was known. In the same forecast period, Racine’s population is projected to shrink by four percent. It is not a question of whether Mt. Pleasant will be buying more water than Racine; it is a question of how

soon that will happen. RWU's situation diverges from other ones with surcharges throughout the state, as these facts illustrate. The data on costs further support this notion.

The capital investments required to serve suburban customers adds a significant burden to RWU. In 1993, the PSC requested that RWU undertake a study to determine whether the 25-percent surcharge was appropriate. Ruekert & Mielke (R/M) conducted the study and found that the non-Racine revenue, including the surcharge, differed from the cost of service for non-Racine customers by less than a tenth of a percent (see Attachment 2, Schedule 31 – 2). This result without revising the cost of service demand factors to reflect the higher per capita demand of the rural customers. The PSC concurred with the result of the R/M study. Indeed, its 1995 rate order in Docket 4900-WR-102, the PSC itself acknowledges that the surcharge recovers costs for more than public fire protection and deemed it reasonable (see Attachment 3, last paragraph on page 5).

Due to recent economic developments that include the Foxconn campus in Mount Pleasant, RWU has begun a massive expansion of its infrastructure, all to provide service to the anticipated additional suburban customers. Tens of thousands of feet of main are being laid, and water storage tanks and pumping stations are being upgraded and new ones built, so that more customers in the suburbs can receive safe, reliable water. RWU must have this infrastructure to provide service to the two pressure zones it would not otherwise serve. This infrastructure is estimated to cost in excess of \$124 million. RWU would not be spending this vast sum without having the 25-percent surcharge to aid in cost recovery.

The state legislature acknowledged that Milwaukee Water Works incurs a greater expense burden by serving its suburban customers. Wisconsin Statutes s. 62.69(1)(h) sets the surcharge for water customers served outside Milwaukee municipal boundaries at a minimum of 25 percent. Racine has not needed to involve the legislature because the PSC has always supported its regionalization efforts by authorizing the 25-percent surcharge in all of RWU's rate cases.

RWU committed to regionalization through its master water service agreement with neighboring municipalities. This agreement codified the surcharge at 25 percent (see Attachment 4, section 7(a) on page 18; see Attachment 5, section 7(a) on page 15). Without the 25-percent surcharge, RWU would not have agreed to provide service to its neighbors, as doing so would have placed an undue burden on customers within the City of Racine. The surcharge allows RWU to equitably provide service to both city and suburban customers. The surcharge has been approved by the PSC many times over the years as a reasonable method of cost recovery for RWU to be able to fairly provide retail water utility service on a regional basis.

RWU anticipates filing for a full rate case in 2020, likely reflecting a 2021 test year. This will be the base case to include the initial infrastructure related to serving Foxconn. It will afford an opportunity for additional cost of service analysis. However, to meet the City's immediate

need to address significant budget/general fund needs, it is imperative for RWU to file with the PSC under its abbreviated procedure for placing the municipal PFP charge on direct charges, in this case to City only retail, while making no change in the rates and charges to suburban retail. Racine and RWU hope to be able to place the new direct charge rates into effect beginning January 1, 2020.

II. THE CONCERN

The City of Racine has passed a resolution to have the Racine Water Utility begin direct recovery of the City's allocated portion of public fire protection (PFP) cost to City retail customers. The present PFP charge is \$1,806,424 and is charged to the City which in turn collects it through property taxes. Beginning in 2020, the City is directing the RWU to bill City retail residents for these costs. This is a municipal option pursuant to Wis. Stats. 196.03(3)(b), which was adopted in 1988, and one that many Wisconsin municipalities have elected. As referenced earlier, the PSC has had a long-standing practice of setting a 25-percent surcharge rate on retail sales outside of the municipal limits for those utilities that do not recover the cost of PFP from their municipality. Prior to 1988 this included all of the nearly 600 water systems in the State. Subsequent to 1988, municipalities began directing their water utilities to file with the PSC for direct charge PFP rates to be applied to all urban and suburban general service retail customers. In most situations, this results in there being no need to retain the 25-percent surcharge as the utility can now directly bill the suburban customer a PSC-tariffed direct charge for PFP. Thus appropriately the PSC routinely removes the surcharge in each docket in which it approves direct charges.

RWU is unlike any of the above-noted utilities seeking to switch to direct PFP charges. Racine and RWU have for decades provided for regionalization interests without demanding annexation or boundary agreements prior to extending utility retail (or wholesale) water or sewer service. Perhaps the only parallel system would be the Milwaukee Water Works, but as previously referenced it has Wis. Stats. 62.69(1)(h) that mandates rates 1.25 times higher on like (retail) service outside the City limits. For most water utilities requesting direct charges, it would be allowing double recovery of PFP costs if the PSC did not remove the surcharge when it authorized direct PFP rates. That is not the case with RWU as the surcharge is contractual (as well as set forth in its authorized PSC tariff) and has been and continues to be a means of insuring that Racine ratepayers are not subsidizing the higher cost to serve new development well beyond the City limits. The concept of PFP is included in the surcharge recovery, but that is not the focus or basis for the careful negotiations and contract construction to ensure fair and equitable long-term regional retail and wholesale water supply. Racine and RWU are now seeking to switch to direct charges only for Racine customers while retaining the suburban surcharge. Dropping the surcharge would spurn precedence, be in conflict with the existing master water service agreement, leave RWU financially challenged, undercut regionalization, and most crucially, place an unfair burden on Racine taxpayers and water customers.

III. CONCLUSION AND REQUESTED RELIEF

1. The Racine Water Utility (*i*) is a “public utility” as defined in Wis. Stat. §196.01(5) (a) and a “municipal public utility” as defined in Wis. Stat. §66.0801(1) (a), (*ii*) engaged in the distribution and sale of water to retail customers in its respective service territory, and (*iii*) owns, operates, and maintains waterworks systems to serve the water customers in its respective service territory.

2. The Public Service Commission has authority and jurisdiction over this request pursuant to Wis. Stats. 196.03(3)(b) to establish direct PFP charges and to issue the rulings and approvals requested in this proceeding, namely:

- a. Direct charge PFP rates to be calculated using the Equivalent Meters Method. Such calculation to be based only on City retail customers and the current City allocated PFP charge.
- b. Rates on retail sales to customers outside the City would not change under this request but would continue to reflect the negotiated contracts and the long-accepted PSC tariff under Rate Schedule Mg-2.
- c. New direct City retail PFP charges approved for placing into effect by January 1, 2020.

3. Retaining the 25-percent surcharge provides a mechanism that supports the fundamental concept that “Growth pays for Growth” in all retail service areas. Because RWU suburban retail sales is highly unique among all WI water utilities, retaining the surcharge does not violate past PSC practice. Municipalities electing to have the RWU provide retail service have been funding the backbone infrastructure needed for the regional water supply and transmission facilities through direct fees: contract connection charges for outside retail and special assessments or developer contracts for inside retail. Retaining the surcharge provides the means by which all outside retail customers may continue to receive retail service but pay for their fair and equivalent share of the regional infrastructure capital and operational costs.

4. The City and RWU have carefully negotiated the regional retail agreements to reflect the exact terms and conditions upon which they are willing to participate in a regional water system to continue retail water service and, in particular, to recover current and future regional water supply and transmission-related capital and operation and maintenance costs. However, given the risks and uncertainties associated with such a long-term endeavor, and because no party is obligated to remain indefinitely in this contractual relationship, Racine and RWU believe it critical for the PSC to authorize the direct charges on urban retail customers while preserving the surcharge on water sales to suburban retail customers. Such action would enable all the stakeholders, to conclude that they may comfortably expect the PSC to enforce this well into the future.

5. Finally, taking the requested action affords the PSC an opportunity to support local success in achieving regionalization, specifically of a Lake Michigan water supply beyond the immediate boundaries of the home municipality. This type of water supply may

be in the interest of utility customers in many places in the State, but even if it only benefits the greater Racine Metro area, it is a storied success.

Dated the ____ day of _____, 2019.

CITY OF RACINE

By: _____
Cory Mason, Mayor

Attest: _____
Tara Coolidge, City Clerk

Date Signed: _____