

Public power in Milwaukee: A proposal to replace We Energies with a publicly-owned utility

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Executive summary

Electricity and natural gas are currently provided to the Milwaukee area by We Energies, a for-profit, private corporation. Due to We Energies being motivated by profit and their effective monopoly status, residents of Milwaukee pay high premiums for below-average electrical service. Residents served by municipal (publicly-owned) utilities typically pay lower rates and can expect less service downtime than those served by privately-owned utility companies. Further, the financial interests of We Energies often directly conflict with the priorities of Wisconsinites, as seen in their opposition to the transition to fully renewable energy sources. We propose the full replacement of We Energies with a publicly-owned municipal utility company in the city of Milwaukee. We provide data that illustrates the need for the removal of We Energies, the many benefits such a removal would bring to the people of Milwaukee, and a discussion of the legal mechanism that can be used to replace We Energies with a publicly-owned utility.

Introduction

Currently in Wisconsin, 11% of the electricity distributed in the state is generated by 81 publicly-owned utilities.¹ Communities with publicly-owned utilities in the state include Manitowoc, Jefferson, Wisconsin Rapids, Sun Prairie, Stoughton, Sheboygan, and Cedarburg. 83% of the electricity distributed in Wisconsin comes from private, investor-owned utilities. The remaining 6% is distributed by cooperatively-owned utilities, or co-ops.²

Private corporations like We Energies are owned by and beholden to investors rather than to the communities in which they operate. They are governed by the profit motive—that is, in order to survive, they must be concerned with financial growth above all else—which can lead to inefficiencies, corner-cutting, and a lack of regard for safety and sustainability. Utility companies tend to form natural monopolies, due to high infrastructure costs and other barriers to entry for potential competitors. Utility companies may also solidify as monopolies through legal or other regulatory requirements. In Wisconsin, the Public Service Commission (PSC) may only grant one franchise (the ability to operate a utility) in a geographic location, preventing direct competition between utilities.³ A monopoly utility company (as exists in Milwaukee) can routinely demand significant rate hikes, and customers have no ability to switch to a competitor with cheaper rates or more sustainable energy service, no matter how unmanageable the bill or environmental concerns become.

Municipal utilities, in contrast, are owned by the community in which they operate and are governed by one of several democratic models, maintaining efficiency without exploiting ratepaying families per market whims. Their primary motivation is to serve the community by providing affordable rates for energy and considering the safety of their operations and their environmental impact, rather than prioritizing profit above these other concerns. Excess funds generated by the rates being charged can be routed back into community funds, such as the general fund of a city.⁴ Similarly, cooperatively-owned utility companies (co-ops) are not-for-profit utility companies that are owned and governed by the customers they service. Co-ops are also able to prioritize the needs and desires of the community without the need to continuously pursue increasing profits

We Energies is one of many subsidiaries of WEC Energy Group, which operates electricity and natural gas utilities in Wisconsin, Illinois, Michigan, and Minnesota. We Energies and its precursor companies have operated in southeastern Wisconsin since

¹ Municipal Electric Utilities of Wisconsin. Interactive Map.

² U.S. Energy Information Administration. Electric Power Annual 2021

³ Wisconsin Legislature: 196.50(1)(a).

⁴ Omaha Public Power District. News & Resources.

the late 19th century.^{5,6} They currently are a utility for 2.2 million Wisconsinites, or more than one in three of the state's residents.⁷ We Energies was granted in late 2022 an 11.4% rate increase on electrical services to residential customers.⁸ This comes just as Milwaukee was found to be the most expensive major US city for utilities, with average monthly utility bills of more than \$500 a month and over \$4,000_a year per household.^{9,10} For the past several years, We Energies' rates per kWh have been 30-40% higher than public power rates from Wisconsin public power utilities (**Fig. 1**), and customers of We Energies have seen their bills increase substantially faster than the rate of inflation.¹¹ We Energies is guaranteed a profit margin from the energy rates that it charges customers; this rate was recently lowered from 10.2% to 9.8% by Wisconsin's Public Service Commission.^{12,13} However, We Energies' profit margin remains well above the national average and is far higher than the margin needed to attract investor capital.¹⁴

The guaranteed profit rate that utilities like We Energies benefits from does not, in practice, mean that We Energies is limited to the target 9.8% rate of return. The utility company provides a yearly estimate of costs and revenue to the PSC, which reviews and approves this estimate. The utility company then sets rates accordingly. However, in the event that costs are higher or revenue is lower than anticipated, the actual rate of return will be lower than the target rate. Conversely, if costs are lower or revenue is higher, the company's rate of return will be higher than the target. Thus, decision-makers at companies such as We Energies are incentivized to engage in profit-maximizing behaviors, similar to typical private corporations.

⁵ Multiple Authors. WEC Energy Group.

⁶ Gurda, J. *Path of a Pioneer: A Centennial History of the Wisconsin Electric Power Company*.

⁷ We Energies.

⁸ Kaeding, D. Electric bills are rising for We Energies, Wisconsin Public Service customers. The same is true for other major utilities.

⁹ Danbeck, J. Milwaukee most expensive large city for utilities based on households: Report

¹⁰ Doxo. DoxoINSIGHTS Utilities Market Size Report 2022.

¹¹ Hess, C. We Energies, WPS want to increase rates by \$60 to \$72 a year for the average residential customer starting in 2023

¹² Barrilleaux, A. PSC takes step to reduce We Energies' profit margin in rate case.

¹³ Gutlerner, L. Citizens Utility Board of Wisconsin: Double-digit rate hike for We Energies customers, utility profits kept well above national average.

¹⁴ *ibid.*

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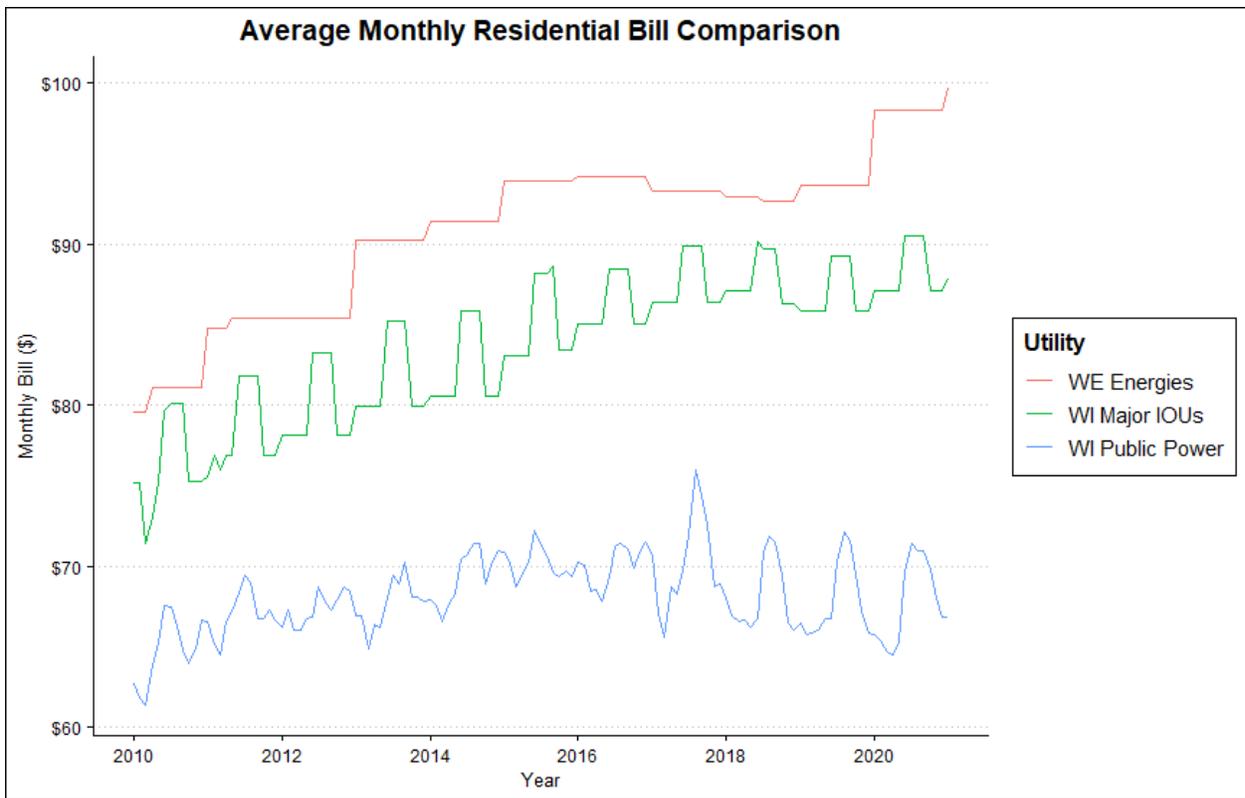
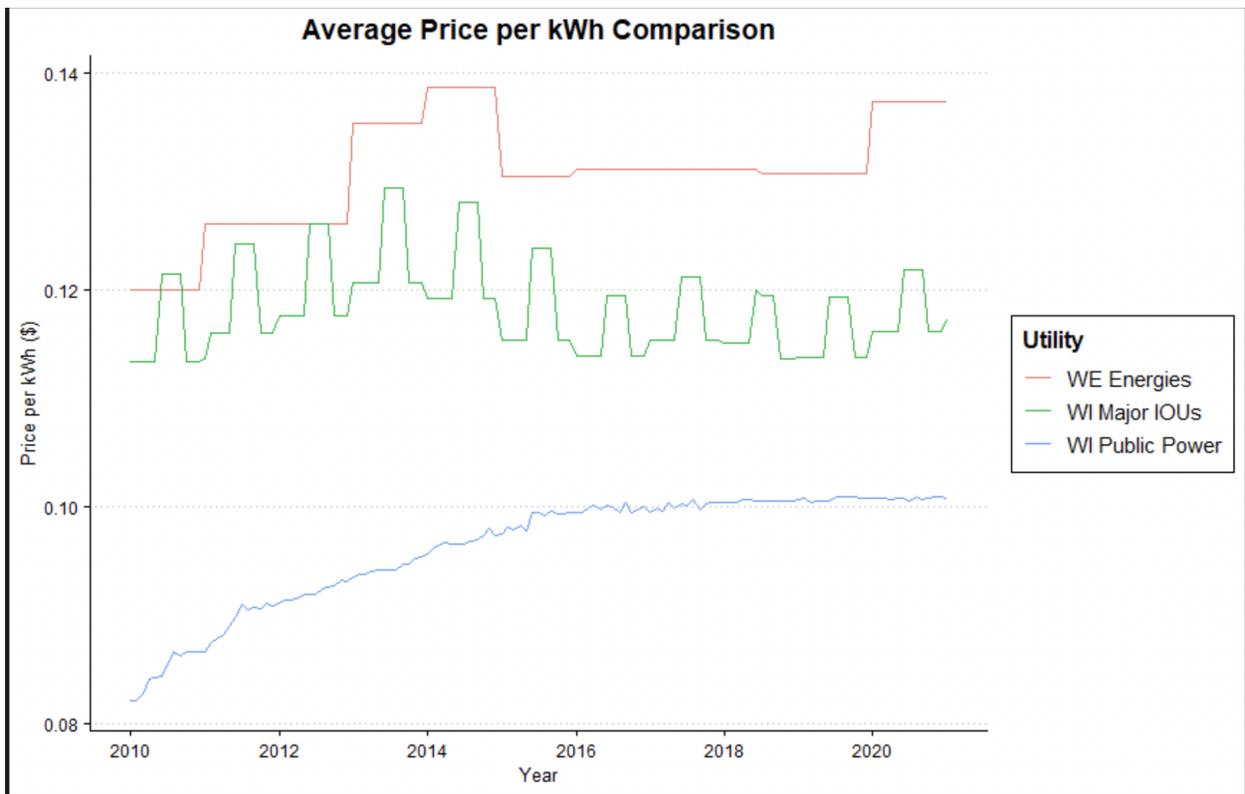


Figure 1: Comparisons of average prices per kWh (A) and average monthly bills for residential customers (B) in the state of Wisconsin.

Rates and uptime of public and private utilities

Residents who receive power from not-for-profit public power utilities pay an average of 15% less than those who receive power from for-profit (investor-owned) utilities,¹⁵ and in Wisconsin, public power customers may save as much as 45% versus private power.¹⁶ Businesses also typically pay lower rates with public utilities versus private utilities.¹⁷ In the state of Wisconsin, electricity is provided to different areas by a mix of private and public power utilities. Private utilities typically maintain higher prices per kilowatt-hour, resulting in higher monthly customer bills (**Fig. 1**). We Energies, in particular, charges substantially more per user than most public utilities statewide, and charges more than other investor-owned utilities (**Fig. 1**).

In addition to differences in prices, there are also substantial differences in service uptime. In Wisconsin, residents with private utilities experience 133 minutes of downtime in a typical year, versus 59 minutes a year for those with public utilities.^{18,19} Effectively, customers of We Energies pay higher prices and receive less electricity uptime than customers of publicly-owned utility companies in Wisconsin. A recent analysis compared We Energies and a similarly sized publicly-owned utility, using We Energies' 2020 rate case to model a hypothetical publicly-owned version of We Energies. In the 2020 rate case, We Energies was authorized to increase monthly average bills by 5%. In contrast, a hypothetical publicly-owned We Energies would need to collect 7% less in monthly bills, translating to a 12% total reduction in rates from actual monthly bills experienced by customers of We Energies.²⁰

¹⁵ Municipal Electric Utilities of Wisconsin. What Is Public Power?

¹⁶ American Public Power Association. Paying Less With Public Power.

¹⁷ Municipal Electric Utilities of Wisconsin. What Is Public Power?

¹⁸ *ibid.*

¹⁹ American Public Power Association. Benefits of Public Power.

²⁰ Koebel, W. Capital Structure White Paper.

Mismatched priorities of private utility companies

Transitioning from fossil fuel energy production to renewable energy holds broad public support in Wisconsin, with 65% of Wisconsinites supporting the state generating more power from renewable sources.²¹ However, due to both the profit motive that governs We Energies and their status as a monopoly, there is little incentive for the company to make substantial investments in transitioning to renewable energy. Renewables currently account for under 6% of We Energies' power mix.²² We Energies has committed to eliminating coal usage by the year 2035 (replacing coal with a combination of natural gas and renewables), and to reaching carbon neutrality by the year 2050.²³ These goals are well behind climate targets to limit the extent of climate change, such as the Paris Climate Agreement. To limit global temperature increases to an average of 1.5 [degrees C], developed countries would ideally eliminate fossil fuel production entirely by the year 2034.²⁴ Indeed, We Energies' commitments fail to meet even the more modest targets set by the state of Wisconsin, which has set a goal for carbon-free electricity by 2050.²⁵ With public support for a transition to renewable energy, a publicly-owned utility could prioritize transitioning to a robust network of renewable energy sources, potentially even absorbing short-term increases in operating costs in order to accelerate the long-term benefits of this transition.

This mismatch between the priorities of residents and private power companies is further reflected in We Energies' reluctance to implement environmentally conscious changes, such as their resistance to allowing solar panels to connect to Milwaukee's utility system. Eagle Point Solar, an Iowa-based developer, wanted to install solar panels on buildings in Milwaukee. We Energies refused to allow these solar panels to connect to their grid, leading to a lawsuit.^{26,27} We Energies has also engaged in efforts to charge customers who generate community power through solar panels. Customers with solar panels are often able to generate excess energy, which can enter the electrical grid and assist in local power generation.²⁸ Commonly, these customers effectively sell their excess power to their electrical provider, resulting in lower utility bills.²⁹ We Energies attempted to instead charge these customers a fee for the energy

²¹ Kreitlow, P. Poll: Nearly 2 Out of 3 Wisconsin Voters Support Climate Action in Biden's Inflation Reduction Act.

²² We Energies. Energy for Tomorrow Renewable Energy Program.

²³ WEC Energy Group. Building a bright, sustainable future that is affordable, reliable and clean.

²⁴ Anderson, K. Phaseout Pathways for Fossil Fuel Production Within Paris-compliant Carbon Budgets.

²⁵ Wisconsin Office of Sustainability and Clean Energy. Wisconsin Office of Sustainability & Clean Energy Clean Energy Plan.

²⁶ Curiam, P. Eagle Point Solar, LLC v. Public Service Commission of Wisconsin, 2022 WI App. 7.

²⁷ Boulton, G. Solar project developer takes dispute with We Energies to court, suing the utility and Public Service Commission.

²⁸ Greenhalgh, F. What Happens With Unused Solar Power? Net Metering Explained.

²⁹ *ibid.*

they generate and put back into the grid, eliminating an important incentive for residents to install solar panels.³⁰ A municipal utility, in contrast, could encourage residents to install their own solar panels, reducing their energy costs without initiating legal resistance. Further, despite their public commitment to eliminating coal usage by 2035, We Energies has delayed the closing of multiple coal-fired power plants.³¹ As of July 2022, We Energies was 25%-30% behind their own carbon reduction goals,³² and rhetoric from company executives in a 2023 earnings call did not rule out further delaying the closure of carbon-polluting, coal-fired power plants,³³ calling into question their intention to follow through on these commitments.

Private power utilities are also frequently at odds with efforts to improve racial equality. An energy burden (the percentage of household income spent on energy costs) of 6% or more is considered a high burden. In the Milwaukee metro area, 16% of residents are Black, but 65% of residents in high-energy burden neighborhoods are Black. Similarly, 11% of residents in the metro area are Hispanic, but 21% of the population in high-energy burden neighborhoods are Hispanic. Households below 1.5 times the federal poverty line experience very high energy burdens, in the range of 15-20% of household income.^{34,35} Many of these high-energy burden neighborhoods were historically subjected to “redlining,” a set of discriminatory housing practices that forced BIPOC (Black, Indigenous, and People of Color) residents into the poorest and least desirable neighborhoods in a city. Because of this historical practice, BIPOC residents are more likely to live in older, less energy-efficient homes.³⁶ Disproportionate energy burdens perpetuate the legacy of racial inequality in the United States, and they are a contributing factor to the cycle of poverty that affects many BIPOC individuals and families. Addressing these inequalities requires interventions such as investments in energy efficiency and affordability programs, targeted to communities that experience the highest energy burdens. One example of a potential intervention would be moving away from fixed utility fees in favor of structures that reduce fees for low-income residents. However, any such intervention is at odds with the profit motive of private utilities. Many actions to reduce these racial inequalities would reduce profit margins for energy utilities, and as such would be vigorously opposed by We Energies and similar

³⁰ Lydersen, K. Wisconsin utility We Energies revives controversial push for solar charge.

³¹ Kaeding, D. Utilities Delay Closing Coal Plants.

³² Kaeding, D. Wisconsin's largest utilities make carbon reduction gains, but most will fall short of 2030 goals.

³³ Schulz, J. We Energies Could Delay Shutting Down Coal Plants.

³⁴ Sierra Club, The. Energy Burden in Milwaukee: Study Reveals Major Disparities & Links to Redlined Areas.

³⁵ Bohr, J. and McCreery, A. C. Do Energy Burdens Contribute to Economic Poverty in the United States? A Panel Analysis

³⁶ Sierra Club, The. Energy Burden in Milwaukee: Study Reveals Major Disparities & Links to Redlined Areas.

companies. In contrast, a public utility without the need to generate profit on behalf of shareholders could implement equity-focused measures as part of its mission to serve the public good.

In the absence of a profit motive, a publicly-owned utility could handle issues like nonpayment, additional fees, and disconnections differently than a private utility. A public utility could orient itself toward a consumer-friendly model, reducing or eliminating additional costs such as late fees, disconnection fees, and reconnection fees. Further, a publicly-owned utility would be less incentivized to disconnect non-paying residents as soon as possible, and could instead develop policies that prioritize ensuring that every resident of the city has power, reducing disconnections and the energy burden of low-income residents using mechanisms that may be more efficient than existing “support funds.”³⁷

³⁷ We Energies. Rebates and Programs.

The solution: public ownership of public utilities

In response to the issues described above, the Milwaukee Democratic Socialists of America and their partner organizations (North Side Rising, Greater Milwaukee Green Party, Solidarity, Milwaukee, Milwaukee Party for Socialism and Liberation, Our Wisconsin Revolution, Milwaukee Teachers' Education Association) have launched a campaign called Power to the People, which aims to replace We Energies with a municipal or cooperative utility.³⁸ A legal mechanism exists through which the city of Milwaukee can “approve, by public referendum, the acquisition of so much of the utility’s property as is actually used and useful for the convenience of the public,” replacing We Energies with a publicly-owned utility, otherwise known in the industry as “public power.”^{39,40} This replacement would only apply within city limits, barring the need for a municipal power district as described below. Wisconsin Statute Chapter 197 grants the City of Milwaukee the opportunity to acquire any private utility through the process of condemnation or via negotiated purchase.⁴¹ The condemnation would require a public referendum, followed by the city’s initiating legal action to complete the condemnation. Then, the Public Service Commission of the state would determine a fair price for the portion of the utility’s property, which the city will then acquire. A negotiated purchase, on the other hand, would have to be approved by “the common council, the utility, the PSC, and a majority of the electorate through a referendum.”⁴² The replacement of private utilities with publicly-owned utilities does have legal precedent in the state of Wisconsin. The most recent buyout of a utility company occurred in 1944 in Medford, Wisconsin. The municipalized Medford Electric Utility provides the second-lowest rates in the state.⁴³ As recently as 1980, WPPI Energy was formed as a member-owned utility (co-op) servicing 51 communities in the Madison area in order to combat rising energy costs.⁴⁴

The question of how the city will afford to pay for the infrastructure of We Energies is an important one. Regardless of the mechanism of purchase, this change would require a substantial investment, one that, per the current law, requires extensive surveying and analysis by the Public Service Commission at the time of the proposed purchase to realize the amount with any specificity.⁴⁵ Even still, an approach to public power will necessarily require considerable expenditure, even if the exact cost is unknown. With

³⁸ Milwaukee Democratic Socialists of America. Power to the People Milwaukee.

³⁹ *ibid.*

⁴⁰ American Public Power Association. American Public Power Association.

⁴¹ Wisconsin Legislature: Chapter 197.

⁴² Dumas. A. Pines Bach Memo on Utility Options for Municipalities.

⁴³ Great Lakes Utilities. GLU Newsletter Vol. 4 2019.

⁴⁴ WPPI Energy. A History of WPPI Energy.

⁴⁵ Wisconsin Legislature: Chapter 197.

this in mind, using Chapter 197, the city could offset the costs of buying the utility with revenues from the newly acquired electric utility. The city can use revenue bonds to forego the weight of existing debt limits, per the state's constitution.⁴⁶ A revenue bond is a project-specific bond, not funded by taxpayers, that is repaid over time via the income generated by the project.⁴⁷

The law currently allows municipalities to acquire property outside the municipal boundary for the process of energy creation and utility administration if the city requires physical space for this project.⁴⁸ Furthermore, if entities outside the municipality want to join the ongoing project for public power, Wisconsin Statute Chapter 198 could potentially be used to form a municipal power district with other municipalities in the region, allowing for multiple municipalities to fund and benefit from the purchase.⁴⁹ Notably, the formation of a municipal power district may ease the integration of We Energies' power grid, though it is not legally or functionally necessary for Milwaukee's transition to public power.⁵⁰ A municipal power district is a body of one or more municipalities invested in or using the same energy infrastructure. Some Milwaukee residents are likely supplied by power from generation facilities outside of city limits, and many of these facilities likely supply power to other municipalities. For the best possible long-term service outcomes, it may be favorable to either create a municipal power district, or for multiple municipalities to create a shared municipal electric company by contract as described in Wisconsin Statute § 66.0825.⁵¹ Municipalities that join a municipal power district or that participate in a shared electric company could enjoy the benefits of publicly-owned power generation alongside Milwaukee.

The structure of the new municipal utility is also a matter for consideration. Wisconsin state law provides some potential leadership structures. One would be the formation of a nonpartisan board of commissioners to manage the utility.⁵² Another option would be the installation (through mayoral appointment and common council approval) of a seven-person board of directors, who could, in turn, appoint managers to the utility.⁵³ The selection of a leadership structure would ideally be informed by public participation and comment.

A reasonable concern regarding any change in the entity that provides power to Milwaukee is the employment and well-being of the workers currently providing that

⁴⁶ Wisconsin Legislature: Chapter 198.

⁴⁷ Chen, J. Revenue Bond: Definition, Types, and Examples.

⁴⁸ Wisconsin Legislature: 66.0803(1)(a).

⁴⁹ Wisconsin Legislature: Chapter 198.

⁵⁰ Wisconsin Legislature: Chapter 197.

⁵¹ Wisconsin Legislature: 66.0825.

⁵² Wisconsin Legislature: 66.0805.

⁵³ *ibid.*

power as they work at We Energies. A priority for any transition should be the protection of these workers from uncertainty or loss of employment, and our proposal would be to protect the workers, their union structure, and their ability to engage in collective bargaining to the greatest extent possible. The workers of We Energies are currently unionized, and would likely desire to keep their unionized status and the benefits of collective bargaining. Due to the 2011 Wisconsin Act 10, municipal workers are able to participate in collective bargaining, conciliation, and arbitration, but are unable to legally engage in strikes, work stoppages, and lockouts.⁵⁴ These restrictions could reduce the benefits of collective bargaining that the workers currently enjoy. A potential workaround to protect the workers, their union structure, and their ability to engage in workplace democracy would be to spin the current utility workers into a “public utility employer,” which would contract the workers to the newly formed public utility.⁵⁵ This means that a private entity would manage the day-to-day operations of the utility, and the public governing body would make major decisions. In this way, the workers of We Energies, represented by the International Brotherhood of Electrical Workers, Local 2150, and other unions would be able to engage in private-sector collective bargaining with the private entity. This type of arrangement—where collective bargaining is preserved—is already practiced with the Milwaukee County Transit System and the bus drivers, represented by Amalgamated Transit Union Local 998.⁵⁶

⁵⁴ Wisconsin Legislative Council. Budget Adjustment Act Memo.

⁵⁵ Milwaukee Democratic Socialists of America. Power to the People Milwaukee.

⁵⁶ Amalgamated Transit Union Local 998. Amalgamated Transit Union Local 998 Home.

Conclusion

In summary, We Energies charges the residents of the Milwaukee area high fees for below-par service, and no meaningful competition exists (or is likely to exist) for the company. Owing to its monopoly status, We Energies has little incentive to reduce rates, improve infrastructure or service, or align themselves more closely with the needs and priorities of the community. Therefore, we propose the replacement of We Energies with a publicly-owned municipal utility, which would be likely to provide energy at lower rates and with superior uptime. A democratically controlled public utility would also be able to more effectively address community concerns about environmental impact, racial justice and equity, and fee structures for low-income residents in the absence of a profit motive. This replacement could take place through existing legal mechanisms in the state of Wisconsin, which have been successfully exercised in the past. The transition to public power can be structured such that the current workers of We Energies, and their ability to collectively bargain, is protected, in addition to the benefits to customers outlined above.

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