



surcharge through its FAC. Rather, WPL asserts, it collected under-billed amounts from customers to correct for a miss-billing due to accounting errors.

### **Discussion**

4. WPL's arguments are not convincing. As the March 15 Order stated, the Commission's FAC regulation does not allow for such a collection.<sup>4</sup> Even assuming that WPL merely collected for prior miss-billings as a result of accounting errors, the fact remains that WPL failed to timely request – indeed, failed to request at all - waiver of the FAC regulation to assess such a charge through its FAC. We have repeatedly made clear that the FAC regulation, due to its very nature, is to be strictly construed. Cost recovery is allowed under the FAC regulation only for costs expressly allowed and in the manner and timing allowed, absent a timely waiver having been granted.<sup>5</sup> Accordingly, we deny WPL's request for rehearing in this matter, and reaffirm the March 15 Order requiring the refund of any amounts collected through the retrospective FAC surcharge.

5. We will accept WPL's refund report, complying with the March 15 Order. WPL also had previously requested deferral of the refund obligation pending the outcome of its rehearing request. This request is dismissed as moot because we are denying WPL's request for rehearing here, and WPL has already issued refunds to the affected customers.

### The Commission orders:

(A) The Commission hereby denies WPL's request for rehearing, as discussed in the body of this order.

(B) WPL's refund report is hereby accepted.

By the Commission.

( S E A L )

Magalie R. Salas  
Secretary

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<sup>4</sup> 98 FERC ¶ 61,293 at 62,280.

<sup>5</sup> See, e.g., Wisconsin Electric Power Co., 98 FERC ¶ 61,233 at 61,943-44 (2002)

