

In the Matter of)
)
UNION ELECTRIC COMPANY, et al.) Docket No.
)
(Callaway Plant, Unit 2))

TO: Harold R. Denton, Director
Office of Nuclear Reactor Regulation

William L. Dircks, Director
Office of Nuclear Material Safety and Safeguards

Victor Stello, Director
Office of Inspection and Enforcement

REQUEST FOR INSTITUTION OF PROCEEDINGS PURSUANT
TO 10 CFR §2.202 TO SUSPEND CONSTRUCTION
PERMIT AS PROVIDED FOR IN 10 CFR §2.206

1. Comes now the Public Service Commission of the State of Missouri by and through its attorney, and respectfully submits this request pursuant to 10 CFR §2.206 that the Nuclear Regulatory Commission acting by and through its relevant officials including but not limited to the Director of Nuclear Reactor Regulation, the Director of Nuclear Material Safety and Safeguards, and Director of Inspection and Enforcement institute a proceeding to issue a show cause order pursuant to 10 CFR §2.202, to suspend Construction Permit CPPR-140 granted to the permittee Union Electric Company on April 16, 1976, for Callaway, Unit 2.

2. All process, documents, motions, and other papers can be served on the Public Service Commission by addressing same to:

7910090 324
1113 201

Paul W. Phillips, General Counsel
or Treva J. Hearne, Assistant General Counsel
Public Service Commission
P. O. Box 360
Jefferson City, Missouri 65102.

3. The Missouri Public Service Commission, hereinafter referred to as the PSC, is empowered to regulate investor-owned public utilities that serve customers in the State of Missouri. See Sections 386.040, 386.250, and 393.140, RSMo. 1978.*

4. Union Electric Company, a Missouri corporation, hereinafter referred to as the Company, is an operating utility engaged principally in the business of furnishing electric service throughout central and eastern Missouri, and thus, is subject to the jurisdiction of the PSC.

5. The facts that constitute the basis of this request are sufficient ground for the action proposed by this motion and are as follows:

a. Before the Company could begin construction of the Callaway electric plant, it was required by Missouri law to make application to the PSC for a certificate of public convenience and necessity. See Section 393.170. Pursuant to this appli-

*All references are to the Revised Statutes of Missouri 1978 except as otherwise indicated.

cation, extensive hearings were conducted by the Commission in 1974 which resulted in the granting of the certificate in 1975.

b. The PSC retains jurisdiction over the construction of this generation facility by virtue of its statutory authority to grant a certificate of public convenience and necessity and its authority to set rates. See Sections 393.130 and 393.170. The Commission acting within its jurisdictional authority has upon its own motion ordered an investigation and set hearings in this matter which could result in the withdrawal of the certificate.

c. On August 13, 1979, certain facts came to the attention of the PSC which may substantially change the basis upon which, in 1975, the PSC had granted the certificate of public convenience and necessity for construction of Unit 2. The Commission acting within its jurisdictional authority could withdraw the certificate upon a finding that Unit 2 is not needed to maintain the Company's electric plant for safe and adequate service at reasonable rates. See Section 393.130.

d. A preliminary report filed with the PSC in compliance with its Report and Order in Case No. ER-77-154 reveals that the peak demand forecast of the Company may be in serious error as indicated by the PSC Staff's preliminary findings

and by the Company's consistent downward revisions of its own projected period of forecasted peak since 1973.

e. On August 14, 1979, the PSC upon its own motion ordered an investigation of the generation expansion program of the Company. The hearings in this matter were set as early as possible and are to begin April 7, 1980, and continue through April 18, 1980. The PSC will render a determination of whether or not to proceed in the matter of certificate of public convenience and necessity granted to Callaway, Unit 2, with deliberate speed in order to expedite this matter. The statutes establishing the PSC require a full and open hearing at which evidence is presented by all interested parties and have an opportunity to be heard. See Sections 386.410 and 386.420. A full and complete record of all proceedings will be made and the decision of the Commission will be made upon the whole record in accordance with the rules of administrative procedure contained in the PSC statutes. See Sections 386.410, 386.420, 386.460 and 386.470.

6. The Nuclear Regulatory Commission is statutorily obligated to consider the environmental effects of need for power under the provisions of the National Environmental Policy Act, 42 USC §4321, et. seq., and more specifically, the rules of the Nuclear Regulatory Commission. See 10 CFR §51, et.

seq.. This obligation is restated in the Construction Permit granted Callaway, Unit 2, No. CPPR-140 by the Nuclear Regulatory Commission, hereinafter referred to as NRC, stating that the NRC had found the operation of the facility to be in accordance with 10 CFR Part 51.

7. Peak demand has been growing at a reduced rate nationally since the Arab Oil Embargo of 1973. The PSC recognizes this trend and would be derelict in its statutory duty to approve a generation expansion program that did not reanalyze the need for Callaway, Unit 2, in light of these recently discovered facts. Likewise, the NRC would be derelict in its statutory obligation if it did not suspend this construction while the facts upon which the agencies granted both the certificate and permit four years ago are reassessed in light of this change.

8. The construction of Callaway, Unit 2 is only 2.7% complete and the resources of the Company are substantially consumed in the present construction of Callaway, Unit 1; therefore, the requested suspension will not act to the detriment of the Company.

9. Finally, the PSC has not filed this motion with the intent to unnecessarily hinder or delay the proceedings before the NRC in this matter, but rather to insure that construction of Callaway, Unit 2 is in the best interest of the rate-payers of Missouri whom the PSC is statutorily obliged to protect.

Wherefore, the undersigned pray that you institute a proceeding pursuant to 10 CFR §2.202 to suspend the construction permit granted to Union Electric for construction of Callaway, Unit 2.

MISSOURI PUBLIC SERVICE COMMISSION

Alberta C. Slavin
Alberta C. Slavin, Chairman

Leah Brock McCartney
Leah Brock McCartney, Commissioner

Charles J. Fraas, Jr.
Charles J. Fraas, Jr., Commissioner

Larry W. Dority
Larry W. Dority, Commissioner

Stephanie A. Bryant
Stephanie A. Bryant, Commissioner

(S E A L)