



Public Service Commission of Wisconsin

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Cheryl L. Parrino, Chairman
Daniel J. Eastman, Commissioner
Joseph P. Mettner, Commissioner

November 27, 1996

Jacqueline K. Reynolds, Executive Assistant
Lynda L. Dorr, Secretary to the Commission
Steven M. Schur, Chief Counsel

Secretary
Attention: Docketing and Service Branch
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

DOCKET NUMBER
PROPOSED RULE PR 50
(61 FR 49711)

Re: Draft Policy Statement on the Restructuring and Economic Deregulation of the
Electric Utility Industry
SP-96-104

Dear Secretary:

Enclosed please find the original and fourteen (14) copies of Comments of the Public Service Commission of Wisconsin in the above-referenced docket.

Sincerely,

Barbara E. James

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Chief Counsel
Electric Division

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Draft Policy Statement on the Restructuring and
Economic Deregulation of the Electric Utility Industry

SP-96-104

**COMMENTS OF THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

The Public Service Commission of Wisconsin (PSCW) is the public utility regulatory agency for the state of Wisconsin. The PSCW currently has comprehensive regulatory authority over Wisconsin Electric Power Company, the owner/operator of the Point Beach Nuclear Power Plant; and Wisconsin Public Service Corporation, Wisconsin Power and Light Company and Madison Gas and Electric Company, the joint owners of the Kewaunee Nuclear Power Plant. We have only limited regulatory authority over Dairyland Power Cooperative, the owner of the retired La Crosse Boiling Water Reactor.

The PSCW shares many of the concerns stated in the subject draft policy statement. We generally support the need and intention of the Nuclear Regulatory Commission (Commission) to implement policies and take action through rulemaking or otherwise, as described in the statement, to ensure that licensees remain responsible for safe plant operations and decommissioning.

If the generation segment of the industry is divested or spun off from the utilities and no longer under economic regulation, as is being promoted, the Commission will have to decide how the licensees' necessary financial resources and commitments can be assured. The traditional recovery of prudently incurred costs from captive ratepayers under federal and state economic regulation will no longer be available. Indicated concerns about financial

resources and commitments for safe and reliable operation during the plant's useful life will have to be addressed, although there is some near-term economic incentive for expenditures to maintain reliable operation. The diminution of this incentive as the plant ages is of greater concern. Any incentive to make major expenditures near the end-of-license will be small and early shutdown is a real possibility. This problem is further exacerbated after the plant ceases operation, at which time no incentive to spend money or commit resources to maintain and ultimately decommission the plant remains.

Many utilities, especially nuclear utilities, promoting deregulation and a market economy also want guaranteed recovery of any resulting stranded cost. It is argued that many nuclear plants with potentially large stranded cost will not be competitive when deregulated without recovery. If recovery of stranded cost is not allowed or is severely limited, there may be a large number of premature plant shutdowns, further straining the licensees' financial qualifications and diminishing their will and ability to commit resources to maintain and decommission these plants safely.

Potential ways to address the financial qualifications issues include, but are probably not limited to, contracts, bonding and trust funds. These approaches may be feasible, but the Commission's ability to oversee, regulate and enforce such arrangements to assure performance would be much more complicated than the present system. It will be necessary to develop monitoring and enforcement rules and techniques that can be relied upon in the new regime.

Another concern not mentioned in the policy statement is the issue of liability for accidents and what effect, if any, restructuring/deregulation would have on current protections, such as the licensees' public and private insurance and the Price-Anderson Act. For example, would a change from regulated utility ownership to private generating

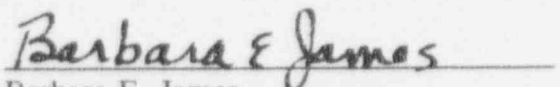
companies result in increased liability risk to the individual licensees? Would such a change increase costs for liability insurance? Would the risk to claimants be increased because of these smaller entities have fewer resources? Would the benefits of pooling, risk sharing and the ability to assess all licensees under the current insurance and Price Anderson protections be lost? These issues should also be explored and addressed.

It is clear that the Commission needs to establish a closer working relationship with state commissions, the NARUC, and the Federal Energy Regulatory Commission to ensure that it has adequate rules and clear authority during the transition period and also after the elimination of economic regulation. We encourage this increased cooperation and coordination between the involved regulatory agencies. We believe cooperation can benefit all jurisdictions. For example, many states, including Wisconsin, have considerable experience with creation and oversight of independent trust funds for funding nuclear plant decommissioning.

We appreciate this opportunity to provide comment on these important issues.

Dated: November 27, 1996

Respectfully submitted,


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