

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer

Chair

Ken Nickolai

Commissioner

Gregory Scott

Commissioner

Marshall Johnson

Commissioner

Phyllis Reha

Commissioner

Riichie J. Sturgeon
Senior Regulatory Attorney
Wisconsin Power and Light Company
4902 North Bitmore Lane
Madison, WI 53707-1007

SERVICE DATE: MARCH 26, 2004

DOCKET NO. E,G-001/PA-03-1999

In the Matter of Wisconsin Power and Light Company's Application for Issuance of Determination Under Section 32(c) of the Public Utilities Holding Company Act

The above entitled matter has been considered by the Commission and the following disposition made:

1. Wisconsin Power and Light Company (WPL) has requested that the Minnesota Public Utilities Commission (Commission) enter an order making certain specific determinations in accordance with the provisions of Section 32(c) of the Public Utility Holding Company Act of 1935, as amended (PUHCA). Specifically, WPL requests that the Commission specifically determine that allowing the Kewaunee Nuclear Power Plant (Kewaunee Plant), which WPL owns in part, to be an eligible facility as defined by PUHCA Section 32(a)(2) will benefit consumers, is in the public interest, and does not violate Minnesota law. WPL is submitting itself to the Commission for the sole and limited purpose of securing an order under Section 32(a)(2).

2. WPL owns an undivided 41% interest in the Kewaunee Plant. Wisconsin Public Service Corporation (WPSC) owns an undivided 59% interest in the Kewaunee Plant. On November 7, 2003,

WPL and WPSC entered into an Asset Sale Agreement (ASA) with Dominion Energy Kewaunee, Inc. (Dominion Energy Kewaunee) for the sale of the Kewaunee Plant. Under the ASA, WPL and WPSC will transfer their undivided interests in the Kewaunee Plant, together with appurtenant facilities and equipment, to Dominion Energy Kewaunee (the Transaction). Based on the Iowa Utilities Board order dated January 30, 2004, it is the Commission's understanding that after closing, Dominion will take title to Kewaunee, including spent nuclear fuel, and be responsible for operation, maintenance, and eventual decommissioning. Further, according to the Iowa order, WPL will purchase capacity, energy, and associated ancillary services from Kewaunee through December 21, 2013, under a purchase power agreement. The agreement is structured to provide a cost per kilowatt to WPL consistent with the cost WPL would be expected to bear under rate-based treatment. Also according to the Iowa order, WPL's customers will receive these benefits

from the transaction while being freed from the risks associated with operation of a nuclear plant. The Iowa order also finds that risks of plant outages, variances in plant operations, and unexpected capital costs will be transferred to Dominion, an experienced nuclear operator capable of managing those risks.

3. The ASA provides as a condition to the closing of the Transaction among WPL, WPSC, and Dominion Energy Kewaunee that the Federal Energy Regulatory Commission (FERC) has determined Dominion Energy Kewaunee to be an exempt wholesale generator (EWG) under PUHCA.

4. In order for a generating facility that was included in a utility's ratebase, over which a state regulatory commission had jurisdiction as of October 24, 1992, to constitute an eligible facility for purposes of allowing its owner to be an EWG, Section 32(c) of PUHCA requires all relevant state commissions to make a specific determination that allowing the generating facility to be an eligible facility (1) will benefit consumers, (2) will be in the public interest, and (3) does not violate state law. In the case where the utility that owned the ratebased plant on October 24, 1992, is an affiliate of a registered holding company under PUHCA, specific determinations that allowing the generating facility to be an eligible facility will benefit consumers, is in the public interest, and does not violate state law are required from every state regulatory commission having jurisdiction over the retail rates and charges of the affiliates of such registered holding company.

5. WPL does not serve customers in Minnesota, and the Kewaunee Plant is not located in Minnesota. As a subsidiary and affiliate of Alliant Energy Corporation (Alliant Energy), a registered utility holding company under PUHCA, WPL is affiliated with Interstate Power and Light Company (IPL), a public utility operating company that serves electric and gas customers in Minnesota, among other states, and whose retail rates and charges are subject to the Commission's jurisdiction. The costs of the Kewaunee Plant are not included in the retail rates and charges paid by Minnesota consumers over which the Commission has jurisdiction. It is the Commission's understanding, consistent with the Iowa order, that IPL's Minnesota rates have not been affected by WPL's ownership of the plant and will not be affected in the future after the sale has occurred.

6. Consistent with PUHCA Section 32(c), because this Commission has jurisdiction over retail rates and charges of IPL, WPL's affiliate in the Alliant Energy registered holding company system, WPL has requested specific determinations from this Commission that allowing the Kewaunee Plant to be an eligible facility (1) will benefit consumers, (2) will be in the public interest, and (3) does not violate Minnesota law. In addition to the decision of the Iowa Utilities Board, WPL has requested or will request similar determinations from the Public Service Commission of Wisconsin (PSCW) and the Illinois Commerce Commission, each of which has jurisdiction over the retail rates and charges of WPL or its affiliates. [\(See footnote 1\)](#) Likewise, WPSC has requested or will request similar determinations from the Michigan Public Service Commission. The parties to the Transaction also have applied for required regulatory approvals from FERC.

7. On the basis of WPL's application and the Iowa order, the Commission concludes that allowing the Kewaunee Plant to be an eligible facility will not affect Minnesota consumers, will not affect the public interest in Minnesota, and does not implicate Minnesota law.

8. On the basis of WPL's Minnesota application and the Iowa order, solely with respect to Minnesota, and without making any determinations with respect to consumers in other states, the public interest in other states, or the law of other states, this Commission determines for the sole and limited purpose of PUHCA Section 32(c) that allowing the Kewaunee Plant to be an eligible facility (1) will benefit consumers, (2) will be in the public interest, and (3) does not violate Minnesota law.

9. The Commission issues this Order for the sole and limited purpose of facilitating Dominion Energy Kewaunee's application to FERC for a determination under section 32(c) of PUHCA that Dominion Energy Kewaunee is an EWG by virtue of its ownership and operation of the Kewaunee Plant. The Commission makes no findings, determinations, or conclusions other than the specific determinations enumerated in Paragraph 8. This Order establishes no findings, determinations, conclusions, or precedents with respect to the treatment of costs of the Kewaunee Plant in rates subject to the jurisdiction of this Commission or any other regulatory authority, nor with respect to any other matter or issue other than that no costs related to this transaction including past decommissioning costs should be assigned to Minnesota customers.

This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 297-4596 (voice), (651) 297-1200 (TTY), or 1-800-627-3529 (TTY relay service).

Footnote: 1

The IUB approved the request in Docket SPU-03-18 on January 30, 2004.