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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE COMMISSION

In the Matter of
Northern States Power Company

Prairie Island Nuclear Generating Plant)

Docket No. 50-282 and 50-306

Prairie Island Independent Spent)
Fuel Storage Installation (ISFSI))

Docket No. 72-10-LT

Application for Order and Conforming)
License Amendments and Transfer of)
Operating Authority)

REQUEST FOR HEARING AND PETITION FOR LEAVE TO INTERVENE
OF THE PRAIRIE ISLAND INDIAN COMMUNITY

The Prairie Island Indian Community ("Community"), pursuant to the Nuclear Regulatory Commission's ("Commission") Notice of Consideration of Approval of Transfer of Operating Authority Under Facility Operation Licenses and Materials License and Conforming Amendments, and opportunity for a hearing, dated February 7, 2000, hereby submits this Request for Hearing and Petition for Leave to Intervene in the above-captioned proceeding.

I.

The names, addresses and telephone numbers of the individuals to whom all correspondence and communications should be directed on behalf of the Community are:

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SECY-02

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II.

The Community is a federally recognized Indian Tribe, organized pursuant to the provisions of the Indian Reorganization Act of 1934 and located on Prairie Island in Minnesota. Community members living on the reservation reside immediately adjacent to Northern States Power Company's ("NSP") Prairie Island nuclear generating plant and the Prairie Island ISFSI and are directly impacted by all activities occurring at the Prairie Island plant site and the Prairie Island ISFSI site.

III.

NSP filed the current Application for Consent and Conforming License Amendments to Transfer Operating Authority to Nuclear Management Company, LLC ("Application"), pursuant to 10 CFR § 50.80 and 10 CFR § 72.50, in order to transfer operating authority for the Prairie Island nuclear generating plant and the Prairie Island ISFSI to Nuclear Management Company, LLC ("NMC"). NMC is a Wisconsin limited liability corporation formed by NSP and three other utilities in 1999. The NRC rules cited above require an applicant such as NSP to provide, among other things, as much of the information with respect to the identity and technical and financial qualifications of the proposed transferee as would be required if the application were for an initial license. An applicant must also include a statement of the purposes for the requested transfer and describe "the nature of the transaction necessitating or

making desirable the transfer of the license.” The Commission will approve the application if the Commission determines: (1) that the proposed transferee is qualified to be the holder of the license; and (2) that transfer of the license is otherwise consistent with law. *Id.*

According to NSP’s application, NMC will assume exclusive responsibility for the operation and maintenance of Prairie Island and the Prairie Island ISFSI. *Application at p. 1.* NSP asserts that the Agreements with NMC to operate the plant and ISFSI “are expected to enhance the already high level of public safety, operational efficiency, and cost-effective operations” at the facilities. *Application at p. 1 (emphasis added).* Similarly, NSP asserts that, concurrent with the transfer of operating authority “it is expected that substantially all NSP personnel who are dedicated to . . . Prairie Island and the Prairie Island ISFSI will be transferred to NMC.” *Id. at pp. 2, 7 (emphasis added).* This expectation forms the basis for NSP’s assertion that the necessary technical qualifications and personnel qualifications requirements will be met. *Id.* As for financial qualifications, NSP asserts that it will remain an “electric utility” under 10 CFR § 50.33(f) and thus will remain the party ultimately financially responsible for the safe operation, maintenance and decommissioning of Prairie Island and the Prairie Island ISFSI. *Id.* Therefore, NSP asserts that a full financial review is unnecessary. In fact, NSP provides no discussion of the financial qualifications or viability of NMC.

IV.

Pursuant to 10 CFR § 2.1306, interested persons may petition to intervene and request a hearing on license transfer applications. Such petitions must set forth the issues sought to be raised, demonstrate that such issues are within the scope of the proceeding and relevant to the findings the Commission must make, provide a concise statement of the facts which support the petitioner’s position and provide sufficient information to show that a genuine dispute exists.

Petitions must also reference the factors set forth in 10 CFR § 2.1308(a), including the nature of the petitioner's interest, whether the interest will be affected by an approval or denial of the application, and the possible effect of an order granting the request for license transfer.

V.

The Community is impacted on a daily basis by the operations of the Prairie Island nuclear plant and Prairie Island ISFSI. The Community seeks to intervene and requests a hearing in this proceeding to challenge NSP's showing with respect to both of the essential showings required for license amendments. First, the Community asserts that NSP fails to demonstrate the qualifications of NMC to be the holder of the operations licenses for the Prairie Island nuclear plant and ISFSI. Second, by failing to provide as much information on the qualifications of the proposed transferee as would be required of an initial applicant, NSP fails to show that its request is otherwise consistent with law.

The qualifications of NMC are the central determination the Commission must make regarding this application. NSP's application addresses this issue dismissively, suggesting that the application and proposed changes to the licenses for the Prairie Island plant and ISFSI are "administrative only." *Application at pp. 4-5*. As the neighbors to the plant and ISFSI and the population most directly impacted by the operations of these facilities, the Community cannot be so sanguine about NSP's proposal.

With respect to the technical and personnel qualifications of NMC, NSP relies on the "expectation" that current NSP personnel will transfer essentially intact to NMC, a Wisconsin limited liability corporation headquartered in Milwaukee, Wisconsin. Neither the Community, as neighbors, nor the Commission, as regulators, can rely on mere presumptions and expectations when the matter is as serious as the operations of a nuclear generating plant and ISFSI. NSP has

not demonstrated that NMC will have the necessary technical and personnel qualifications. All NSP has demonstrated is that it wishes to “outsource” all of its nuclear operations to a newly formed company with no history, virtually no current employees and no record of performance on which it can be judged. All that is known with certainty about NMC is that its headquarters and administrative staff will be located hundreds of miles away from Prairie Island, a fact of little comfort to the Community.

NSP is equally dismissive of any potential concerns with the financial viability and qualifications of NMC. NSP relies on its assertion that NSP will remain the “electric utility” under 10 CFR § 50.33(f) to suggest that this filing raises no financial qualifications concerns. Indeed NSP provides no information on the financial viability of NMC, a corporation with no apparent assets. Even assuming that the Commission concurs that NSP remains the “electric utility” and retains all financial obligations and liabilities for safe operations of the plant and ISFSI, the Community continues to have concerns. With this application, NSP seeks to segregate the day-to-day operational responsibility for safe operations (proposed to reside with NMC) from the overall financial responsibility (for now, proposed to be retained by NSP though NMC’s President Michael Sellman has discussed publicly NMC’s desire to eventually own the plants and assume that responsibility). Yet NSP provides no analysis of the potential ramifications of this significant change in the overall structure of responsibility for the plant, again relying on assumptions that all will remain as it is. Once again, assumptions cannot provide comfort to the Community nor do they provide an adequate showing of qualifications for the Commission to approve this application.

Finally, by retaining ownership of the Prairie Island plant and Prairie Island ISFSI, while outsourcing the responsibility for day-to-day operations, NSP seeks to avoid the requirements of

10 CFR § 50.80 and 10 CFR § 72.50 that call for applicants to provide “as much of the information . . . with respect to the identity and technical and financial qualifications of the proposed transferee as would be required . . . if the application were for an initial license.” The Commission cannot allow form to obliterate substance in this manner.

The fact that NSP has structured the agreement with NMC as it has cannot relieve it of the Commission’s rule requirements. Here again, the Commission must require more than presumptions and expectations. NMC, the proposed transferee, did not exist a year ago. NMC can provide no assurance to the Community or the Commission that it will provide the level of technical expertise to the operation of the plant and ISFSI as currently provided by NSP. Instead, the Community and Commission are asked to take comfort in the “expectation” that such expertise will transfer to NMC. As for financial qualifications, the Community and Commission are told that they are not relevant, with no discussion of the impact of divorcing financial responsibility from operational responsibility. The rules rightly require more than this surface level treatment of the serious issues involved in operations and financial responsibilities for nuclear generating plants and ISFSIs.

Granting NSP’s request for a transfer on the basis of such summary and presumptive information as provided in this application exposes the Community, more than any other party, to the dangers of failures to perform by NMC. Thus, the Community, as an Indian Tribe and neighbor of NSP on Prairie Island, has a direct interest in this proceeding which cannot be adequately represented by any other party.

VI.

NSP’s application fails to provide a basis upon which the Commission can make the necessary finding that NMC is qualified to be the holder of the operating licenses for the Prairie

Island plant and ISFSI. The Community, as the persons most directly impacted by the operations of these facilities, request a hearing to challenge NMC's qualifications on the grounds set forth above and to identify any appropriate conditions that may be attached to any transfer of authority to NMC.

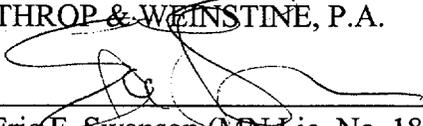
WHEREFORE, the Prairie Island Indian Community requests that the Nuclear Regulatory Commission accept and grant this Request for Hearing and Petition for Leave to Intervene and allow the Community to participate as a party to this proceeding.

Dated this 6th day of March, 2000.

RESPECTFULLY SUBMITTED,

THE PRAIRIE ISLAND INDIAN
COMMUNITY

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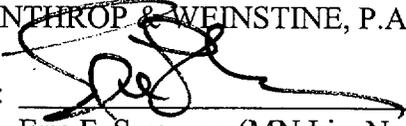
NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorneys enter an appearance in the above-captioned matter. In accordance with Section 2.713(b), 10 CFR, Part 2, the following information is provided:

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