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Wisconsin Electric Power Company
Wisconsin Michigan Power Company
ATTN: Mr. Sol Burstein
Executive Vice President
231 West Michigan Street
Milwaukee, Wisconsin 53201

Gentlemen:

Enclosed for your information is a copy of a petition dated May 17, 1976 from the Public Interest Research Group and the Wisconsin Coalition for Energy Alternatives requesting among other things that an Order to Show Cause be issued to you for the purpose of suspending Facility Operating Licenses Nos. DPR-24 and DPR-27.

A copy of the Notice we are filing with the Office of the Federal Register relating to this request is enclosed for your information.

Sincerely,

Original Signed by
Ben C. Rusche

Ben C. Rusche, Director
Office of Nuclear Reactor Regulation

Enclosures:

1. Petition for Order to Show Cause dated May 17, 1976
2. Federal Register Notice

*** you follow-up.*

cc: w/enclosures

Mr. Bruce Churchill, Esquire
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Barr Building
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Washington, D. C. 20006

Mr. Arthur M. Fish
Document Department
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Mr. Norman Clap, Chairman
Public Service Commission
of Wisconsin

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SURNAME	JWetmore:mb	VStello	BCRusche
DATE	5/25/76	5/28/76	5/27/76

NUCLEAR REGULATORY COMMISSION

Washington, D. C.

50-266
50-301

In the matter of violations of Commission regulations concerning emergency planning for nuclear reactors at Point Beach Nuclear Plant, Units 1 and 2.

PETITION FOR ORDER TO SHOW CAUSE

Pursuant to 10 C.F.R. sec. 2.206, 2.202, and 50.100, the Public Interest Research Group (PIRG) and the Wisconsin Coalition for Energy Alternatives (WCEA) petition the Commission to issue a show cause order against the Wisconsin Electric Power Company and the Wisconsin Michigan Power Company, licensees for the Point Beach Nuclear Plant, Units 1 and 2.

As we demonstrate below, WEPCC and Wisconsin Michigan are knowingly gambling with the safety of Wisconsin citizens living and working near the reactors. Any nuclear incident that requires public safety measures would be a disaster. It is inexcusable to compound the tragedy by refusing to take sound steps to protect the public health and safety. Here the Point Beach licensees subject citizens to wholly unnecessary risks. The utilities have knowingly filed with the Commission emergency plans that contradict the Wisconsin state plans for coping with a nuclear accident. The contradiction prevents WEPCC and Western Michigan from meeting the Commission's minimum regulatory requirements for emergency planning.

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The Commission knew or should have known of the violation, but it has failed to take remedial action. PIRG and WCEA now formally request the Commission to require the licensees to show cause why their license should not be suspended until emergency planning satisfies existing regulatory requirements. We further seek the imposition of a fine on the licensee for violating Commission regulations and for misrepresenting to the Commission the adequacy of existing emergency plans.

THE PETITIONERS

PIRG is a public interest group seeking to advance the public interest in various policy areas, including nuclear power and the use of safe energy sources. WCEA is a coalition of twelve Wisconsin citizen groups strongly concerned with the safety and economic dangers of nuclear power. Many members of its groups live and travel in proximity to the Point Beach facilities. Both groups have actively participated in governmental proceedings concerned with questions of nuclear power.

VIOLATIONS OF COMMISSION RULES AND REGULATIONS

Regulatory Requirements

Appendix E of Part 50 of the Commission's regulations sets out the minimum requirements for the emergency plans a licensee must describe in its Preliminary Safety Analysis Report and submit as part of its Final Safety Analysis Report. Appendix E, section IV, specifies the content of these emergency plans. According to Appendix E, section III:

the plans submitted must include a description

of the elements set out in section IV to an extent sufficient to demonstrate that the plans provide reasonable assurance that appropriate measures can and will be taken in the event of an emergency to protect the public health and safety and prevent damage to property.

Here, the licensee's submission pursuant to section IV fails to provide the "reasonable assurance" the Commission's regulations mandate. The licensee's attempt to comply with two subsections of Appendix E falls far short of meeting the "reasonable assurance" requirement.

Section IV(D) requires emergency plans to contain:

Procedures for notifying, and agreements reached, with local, state, and federal officials and agencies for the early warning of the public and for public evacuation or other protective measures should warning, evacuation, or other protective measures become necessary or desirable, including identification of the principal officials, by title and agency.

Likewise, Section IV(A) requires emergency plans to describe:

The organization for coping with radiation emergencies, in which specific authorities, responsibilities, and duties are defined and assigned, and the means of notification, in the event of an emergency, of... (2) appropriate State, and Federal agencies with responsibilities for coping with emergencies.

Thus mere reference to state plans and appropriate state officials is inadequate unless the state plans and the agreements reached with officials, together with the licensee plan, provide reasonable assurance for the protection of public health and safety, and the prevention of property damage. Where, as here, state and licensee plans are explicitly contradictory and uncoordinated, the requisite reasonable assurance is lacking.

We are not here asserting that the Commission has the authority to order state officials to alter their emergency plans. Rather, we maintain that the Commission cannot permit a nuclear plant to operate in a state where licensee-state agreements are inadequate to provide the reasonable assurance of appropriate emergency measures -- no more than the Commission could permit the siting of a plant atop an active geological fault. We further argue that in view of Appendix E, section III, a licensee submitting its Final Safety Analysis Report represents to the Commission that any referenced or incorporated state plans together with licensee plans provide the reasonable assurance of appropriate emergency measures the Commission requires and that where such plans are inadequate, the licensee has engaged in a misrepresentation to the Commission.

Failure to Meet Regulatory Requirements

Here the licensee's emergency plan and the State of Wisconsin's Radiological Response Plan substantially contradict one another, and thus subject the citizens of Wisconsin to unreasonable peril -- to the full knowledge of the licensees.

The current licensee emergency plan for Point Beach is Revision 4 (June 24, 1975), submitted to the Commission by letter dated July 22, 1975. The licensee plan attaches as Appendix C the state's Radiological Response Plan, prepared by the Wisconsin Department of Health and Social Service, Division of Health, Section of Radiation Protection. However, the licensees preface this submission by stating:

Since the Company has no responsibility or control over the content of this plan, it is presented as an Appendix to the Point Beach Nuclear Power Emergency Plan for information only. Point Beach Nuclear Plant personnel are not to act upon criteria contained in this appendix, and in particular should never use or rely on call lists associated with the Wisconsin plan.

Thus, Point Beach has two conflicting emergency plans. The conflict jeopardizes the welfare of potential accident victims in a number of ways.

Conflicting notification schemes -- According to the licensee plan, the licensee's Emergency Coordinator is to notify the Radiation Protection Section, Division of Health, Department of Health and Social Services (hereinafter Radiation Section) and, if unable to reach the Radiation Section, the Coordinator is to notify the Wisconsin Office of Emergency Government. The Coordinator is also "to establish and maintain communications with the Sheriff's Department, Wisconsin State Patrol, and the Coast Guard (Sec. 6.2.). In contrast, the state plan presents a different notification scheme. The licensees are to notify the local or state police (referred to as Warning Point), who then "forward the information through the established Warning System to the State Warning Center. The Warning Center will notify the responsible agencies (at para.5) The state plan also expects the licensee to notify the Radiation Section as well; however, the priorities in notification and the perceived chains of command are entirely different. The difference could easily cause confusion and delay and jeopardize the health and safety of many.

According to Appendix I of the state plan, after normal business hours, the licensee is to notify the "Chief of the Radiation Protection Section of the Wisconsin Division of Health." As noted above, however, the licensee's plan calls for notification of the Radiation Section as the priority notification and lists the Wisconsin Office of Emergency Government as the alternative contact. The state plan lists several telephone numbers, only one of which corresponds to the telephone number of the Office of State Government as given in the licensee plan. Again, confusion and non-coordination reign.

Confused allocation of responsibilities -- According to the utility plan, the Manitowish County Sheriff's Department has authority over public warning and evacuation. But according to the state plan, "The Wisconsin State Health Officer or his designated representative is responsible for notifying the public and providing a public health evaluation of the radiation incident." (at 2) The state plan describes an allocation of functions among state agencies: the Division of Health is the prime agency; the Director of the Bureau of Environmental Affairs activates the plan; the Chief, Section of Radiation Protection coordinates the plan; and the Administrator of the Division of Emergency Government coordinates the actions of the various state agencies (at paras. 2-10) The licensee plan mentions none of these functions. This disparity further emphasizes the potential confusion that would almost inevitably result from state and licensee plans that simply do not mesh.

The evident hostility between licensee and state puts the public in serious jeopardy. The requirements of Appendix E (III) and IV (A&D) remain unsatisfied. The two conflicting plans plainly do not provide reasonable assurance that appropriate emergency measures can and will be taken. In submitting their Final Safety Analysis Report, the licensees incorrectly represent to the Commission that such reasonable assurance has been provided, even though licensees' own submission gainsays this assertion.

Action Requested

Petitioners therefore request that the Commission require the licensees to show cause:

1. Why the operation of Point Beach Nuclear Plant, Units 1 and 2, should not be suspended until all state and licensee plans provide reasonable assurance that appropriate measures can and will be taken in the event of an emergency to protect public health and safety and prevent damage to property and the requirements of Part 50, Appendix E, section III and IV of the Commission's regulations are fully satisfied.

2. Why the licensees should not be fined for failing to comply with Part 50, Appendix E, sections III and IV of the Commission's regulations and for misrepresenting to the Commission that all emergency plans relating to their plant pro-

where reasonable assurances at appropriate
measures can and will be taken to protect
public health and safety and prevent damage
to property.

Respectfully submitted,

Louis J. Sitar, Jr.
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OF counsel:
Ronald Lamore,
May 17, 1976

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

POINT BEACH NUCLEAR PLANT, UNIT NO. 1 AND UNIT NO. 2

DOCKETS NOS. 50-266 AND 50-391

PETITION FOR ORDER TO SHOW CAUSE

Notice is hereby given that by Petition dated May 17, 1976, the Public Interest Research Group and the Wisconsin Coalition for Energy Alternatives filed a request for an Order to Show Cause why Licenses Nos. DPR-24 and DPR-27 should not be suspended and why civil penalties should not be imposed. The requested order would be issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company. In accordance with the procedures specified in 10 CFR Section 2.206, appropriate action will be taken on this request within a reasonable time.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C. 20555, and at the Document Department, University of Wisconsin - Stevens Point Library, Stevens Point, Wisconsin 54481.

FOR THE NUCLEAR REGULATORY COMMISSION

Original Signed by
Ben C. Rusche

Ben C. Rusche, Director
Office of Nuclear Reactor Regulation

Dated at Bethesda, Maryland
this 30 day of May, 1976.