

56-266

790108

NRC PUBLIC DOCUMENT ROOM

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



In the Matter of
WISCONSIN ELECTRIC POWER COMPANY
(Point Beach Nuclear Plant,
Units 1 and 2)

)
)
)
)

Docket Nos. 50-266
50-301

Amendment to License Nos. DPR-24
and DPR-27 (Increase Spent Fuel
Storage Capacity)

ORDER
(January 8, 1979)

In a joint motion dated December 13, 1978, Wisconsin Electric Power Company (WEPCO), Lakeshore Citizens for Safe Energy (Intervenor), the NRC Staff, and the State of Wisconsin moved this Board for an order approving the withdrawal of Intervenor from this proceeding in accordance with a settlement agreement entered into among Intervenor, WEPCO, and the NRC Regulatory Staff dated December 13, 1978. All parties and participants, including Intervenor, having moved for the Board's acceptance of Intervenor's withdrawal, the Board accordingly accepts the withdrawal of Intervenor as a party to this proceeding.

In the same motion, all three parties and the State of Wisconsin moved the Board for an order dismissing this proceeding. The withdrawal of the sole Intervenor removes both the need and the occasion for further evidentiary hearings in this proceeding. There are no longer any matters in controversy between the parties in this proceeding and, consequently, there is no issue to be heard by the Board.

Dismissal of this proceeding is consistent with the Commission's regulations which do not contemplate a hearing on an application for an operating license, or an amendment thereto, in the absence of any matters in controversy, 10 CFR §§2.104, 2.105, 50.58(b) and 50.91, and is consistent with the general powers of the presiding officer in 10 CFR §2.718. Moreover, dismissal of a proceeding pursuant to agreement of the parties is consistent with the general policy of administrative law favoring harmonious settlement of contested issues, and with the provisions of 10 CFR §2.759 which specifically encourages the fair and reasonable settlement of outstanding issues in NRC licensing proceedings. The joint motion to dismiss the proceeding will, therefore, be granted, and the proceeding before this Board will be terminated.

Accordingly, IT IS ORDERED, that the proceeding before this Board, noticed in the Board's "Notice of Hearing on Amendments to Facility Operating Licenses, and of Special Prehearing Conference," dated July 31, 1978, 43 Federal Register 34849 (August 7, 1978), be, and it hereby is, dismissed.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

Marshall E. Miller
Marshall E. Miller, Chairman

Dated at Bethesda, Maryland
this 8th day of January 1979.