

OCT 06 1986

Docket Nos. 50-266
and 50-301

Mr. C. W. Fay, Vice President
Nuclear Power Department
Wisconsin Electric Power Company
231 W. Michigan Street, Room 308
Milwaukee, Wisconsin 53201

Dear Mr. Fay:

SUBJECT: TRANSFER OF CONTROL OF LICENSE

Re: Point Beach Nuclear Plant Units 1 and 2

By letter dated August 5, 1986 you informed us that the Wisconsin Electric Power Company (WEPCO) is in the process of implementing a corporate restructuring which will result in the creation of a holding company, Wisconsin Energy Corporation (WEC). Under the proposal WEPCO would become a wholly-owned utility subsidiary of WEC, with each WEPCO common stockholder exchanging shares in WEPCO for a like number of the holding company (WEC) common shares. WEPCO's present subsidiaries, including Wisconsin Natural Gas Company, would also become subsidiaries of WEC. Following the restructuring, WEPCO will remain a public utility providing the same utility service as it did prior to the restructuring. Non-utility operations would be carried out by other subsidiaries. You requested the Commission's consent to the proposed corporate restructuring.

In accordance with your request, we have reviewed Wisconsin Electric Power Company's (WEPCO) plan to form a holding company, "Wisconsin Energy Corporation" (WEC). Our review included the July 9, 1986 S-4 Registration Statement on WEC holding company filed with the SEC; and the May 27, 1986 Order of the Public Service Commission of Wisconsin (PSCW). These documents were included in your August 5, 1986 application to the NRC. The focus of our review was primarily to ensure that the proposed action:

- (1) will not reduce funds available to WEPCO to carry out activities under its Operating Licenses;
- (2) will not adversely affect the management of WEPCO utility operations; and
- (3) will not result in WEPCO becoming owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government.

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Under the Wisconsin Holding Company Act, PSCW approval is required prior to formation of a public utility holding company. The May 27, 1986 PSCW Order approves the holding company formation. On September 23, 1986 we discussed the proposed restructuring with Barbara James, Assistant Chief Staff Counsel of the PSCW. Ms. James indicated that after the restructuring, WEPCO would continue to be regulated as to retail rates by the PSCW, as at present. (A small portion of WEPCO's retail sales are regulated by the Michigan Public Service Commission (MPSC)). Sales of electric power for resale would continue to be regulated by the Federal Energy Regulatory Commission (FERC). Thus, she confirmed that there will be no change in WEPCO's sources of funds for operating its utility facilities including operating costs and eventual decommissioning costs of Point Beach Nuclear Plant Unit Nos. 1 and 2. That source is the utility revenues derived from the regulated rates charged to utility customers. In a related action, the PSCW is requiring that WEPCO's Point Beach decommissioning fund be converted from an unfunded internal reserve to a funded external trust. Approximately \$85 million (including the retroactive funding of previously unfunded amounts) is currently accumulated in the fund.

In order to preserve both the public utility-nature of a utility holding company's business and the integrity of public utility service, the Wisconsin Holding Company Act (referred to above) limits diversification on the part of the parent company. Under that Act WEC's consolidated non-utility assets may not exceed approximately 20 percent of its consolidated total assets. In addition, the PSCW Order approving the restructuring indicates that WEPCO's financial health must be maintained and that this will be strictly enforced through PSCW regulation.

Utility capital costs (including any capital improvements or additions to the Point Beach Units) would continue to be financed through a combination of internally generated funds (derived from customer revenues) and security issues. Long-term debt securities and any preferred stock would be issued by WEPCO as at present. Additional issues of common stock to raise outside capital, however, would be issued by the holding company. This is the usual financial relationship between a utility holding company and the utility subsidiary.

The NRC's explanation of its financial qualifications rule (49 Federal Register 35747, September 12, 1984), is relevant to this case. NRC stated that the rate regulatory process conducted by State Public utility commissions (such as the PSCW and the MPSC in this case) and FERC provides reasonable assurance that utilities can obtain the funds to operate nuclear plants safely. As described above, the rate regulatory process as it relates to WEPCO and the funding of its operating costs will not be disturbed by the proposed holding company arrangement. Accordingly, there will be no adverse change (as a result of the proposed restructuring) in WEPCO's sources of funds for Point Beach operating, decommissioning and capital costs.

The proposed restructuring will have no effect upon the management of the WEPCO utility operations. Our determination is based upon the fact that no WEPCO officer or nuclear management positions will be changed by the restructuring. The Vice President-Nuclear Power will retain responsibility for nuclear operations and will have no assigned holding company responsibilities. Officer responsibilities at the holding company level will be administrative and financial in nature and will have no direct effect on the management of nuclear operations.

The reporting channels for the senior management of Point Beach will not be affected by the corporate restructuring and will remain as described in Section 15.6.2 of the Point Beach Technical Specifications. The Vice President of Nuclear Power will continue to report to Wisconsin Electric's President and Chief Operating Officer, who in turn, will continue to report to the Chairman of the Board and Chief Executive Officer. Therefore, the proposed action will not adversely affect the management of WEPCO utility operation.

The proposed restructuring will not result in WEPCO becoming owned, controlled or dominated by an alien, a foreign corporation, or a foreign government. Our determination is based on the fact that on the effective date of the restructuring, Wisconsin Energy, a Wisconsin Corporation, will become the sole holder of Wisconsin Electric's common stock and the current holders of Wisconsin Electric's common stock will become holders of the common stock of Wisconsin Energy on a share-for-share basis. Thus, immediately following the restructuring, the common stock of Wisconsin Energy will be owned by the previous holders of Wisconsin Electric's common stock in the same proportions in which they held Wisconsin Electric's common stock. Based upon available information, foreign held shares of Wisconsin Electric represent less than one tenth of one percent of the total outstanding shares of Wisconsin Electric. In addition, the Wisconsin Holding Company Act contains a provision requiring PSCW approval before any person can acquire more than 10 percent of the outstanding voting securities of a holding company. Therefore, the proposed restructuring will not result in Wisconsin Electric's becoming owned, controlled or dominated by foreign interests.

Based upon the above determinations, we conclude:

- (1) that the proposed action will not affect the qualification of WEPCO as holder of the Point Beach Nuclear Plant Units 1 and 2 licenses; and
- (2) that the proposed action is otherwise consistent with applicable provisions of law, regulations and orders issued by the Commission pursuant thereto.

Accordingly, the Commission hereby consents to the proposed ownership of Wisconsin Electric Power Company by Wisconsin Energy Corporation.

Sincerely,

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Thomas M. Novak, Acting Director
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10/6/86

10/2

Mr. C. W. Fay
Wisconsin Electric Power Company

Point Beach Nuclear Plant
Units 1 and 2

cc:

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