

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN**

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Application of Dominion Nuclear Projects, Inc.  
and Dominion Energy Kewaunee, Inc.  
for Approval of the Sale of Dominion Energy  
Kewaunee, Inc.'s Stock to EnergySolutions, LLC

Docket No. 9812-EI-100

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**DOMINION NUCLEAR PROJECTS, INC.'S, DOMINION ENERGY  
KEWAUNEE, INC.'S AND ENERGYSOLUTIONS, LLC'S OBJECTIONS  
TO DIRECT TESTIMONY AND EXHIBITS OF SCOTT STATE  
ON BEHALF OF NORTHSTAR GROUP SERVICES, INC.**

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Dominion Nuclear Projects, Inc., Dominion Energy Kewaunee, Inc. (collectively, Dominion) and EnergySolutions LLC (EnergySolutions) hereby submit this objection to certain portions of the Direct Testimony of Scott State on behalf of NorthStar Group Services, Inc.<sup>1</sup> As explained further below, Dominion Energy and EnergySolutions hereby register their objections to portions of the pre-filed direct testimony filed by NorthStar Group Services, Inc. in this proceeding because they are not relevant and do not meet evidentiary standards applicable to a contested case hearing. As such, those portions should not be admitted into the record.

**LEGAL STANDARD**

Commission precedent indicates that the protections of due process allow parties to test “the reasonable probative value and relevance of offered evidence by scrutinizing it for, among other things: 1) relevance, 2) proper foundation, 3) speculation, 4) reliance on the statements of a person not present, and 5) the level of expertise of the sponsoring witness.” *Order on Motions to Strike Offered Evidence of Ellen an Robert Hudovernik*, Docket No. 9805-CE-100 (Feb. 25,

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<sup>1</sup> These objections are being submitted pursuant to Judge Newmark’s Prehearing Conference Memorandum, Facilitating Matters Ordered in a Contested Case Proceeding, §E.2.e (PSC Ref # 423812).

2021)(PSC REF#: 405763). The standard of relevance incorporated into the Commission’s rules for contested case hearings derives from Wis. Stat. § 804.01(2)(a), in accordance with which, “parties may obtain discovery regarding any nonprivileged matter that is *relevant* to any party’s claim or defense *and proportional* to the needs of the case . . . ” (emphasis added). “Relevant evidence” is evidence “having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Wis. Stat. § 904.01(2)(a). Evidence not meeting this standard is not relevant and therefore inadmissible. Wis. Stat. § 904.02. Such evidence shall be excluded by the hearing examiner. Wis. Stat. § 227.45(1).

### ARGUMENT

The testimony to which Dominion and EnergySolutions object, and which is specifically identified below, is immaterial, irrelevant, and lacks foundation and it should be excluded pursuant to Wis. Stat. § 227.45(1). Specifically, the testimony has no probative value because it raises issues that are clearly outside the scope of this proceeding. Whether NorthStar is a qualified decommissioning agent; whether the Commission should have required competitive bidding; whether fixed price decommissioning contracts like those NorthStar proposes and that NorthStar asserts have been approved in other jurisdictions should be adopted in Wisconsin; and whether the utilities’ right of first refusal is transferrable to NorthStar are not issues in this proceeding, which is focused solely on whether the proposed transaction conforms with the proffered conditions and whether the two former utility owners prudently waived their rights of first refusal.

The following chart details the specific portions of Mr. State’s testimony and exhibits to which Dominion and EnergySolutions object, along with the reasons for each objection:

### Objections to Direct Testimony of Scott State

<p>Direct-NS-State-3, line 21 through page 4, line 10.</p>	<p>Mr. State’s proposal to offer a fixed price contract with various financial assurances is not relevant and lacks foundation in that it is premised on a contract that does not exist. The only transaction at issue in this proceeding is the Proposed Transaction.</p>
<p>Direct-NS-State-4, lines 11-14</p>	<p>Mr. State’s assertion that the proposed transaction entirely frustrates the Commission’s 2005 Final Order is not relevant and lacks foundation because it is premised on Mr. State’s belief on what <i>EnergySolutions</i> intends to do with NDT funds. Mr. State cannot produce evidence on something that has not yet occurred. To allow this testimony into the record without such evidence would be impermissibly prejudicial to <i>Dominion</i> and <i>EnergySolutions</i>.</p>
<p>Direct-NS-State-8, lines 6 -20</p>	<p>Mr. State’s assertions that <i>EnergySolutions</i> is possibly in violation of NRC regulations is not relevant and lacks foundation. Mr. State has provided no evidence of any NRC violation. To allow his assertions into the record without such evidence would be impermissibly prejudicial to <i>Dominion</i> and <i>EnergySolutions</i>.</p>
<p>Direct-NS-State-13, line 1 through page 14, line 6</p>	<p>Mr. State’s assertion regarding NorthStar’s willingness to “guarantee” a fixed decommissioning price of \$550 million is irrelevant because it references a transaction that does not exist. The only transaction at issue in this proceeding is the proposed stock transfer between <i>Dominion</i> and <i>EnergySolutions</i>.</p>

Direct-NS-State-17, lines 9-20	Mr. State’s assertions that ratepayers should be guaranteed a specific amount of money because there is too much money in the NDT is not relevant and lacks foundation because it rests on Mr. State’s opinion that it is “very likely” that EnergySolutions will abuse the trust fund and cost ratepayers money. Mr. State has failed to produce any evidence to support that conclusory assertion. To allow his assertion into the record without such evidence would be impermissibly prejudicial to Dominion and EnergySolutions.
Direct-NS-State-20, lines 1-11	Mr. State’s assertion that decommissioning cost estimates are “excessive” is not relevant and lacks foundation. Mr. State has provided no factual evidence to support this claim. To allow his assertion into the record without such evidence would be impermissibly prejudicial to Dominion and EnergySolutions.
Direct-NS-State-24, line 9 through page 25, line 22	Mr. State’s assertions with respect to what NorthStar intends to do if it is assigned the ROFR is irrelevant. The utilities have waived the ROFR and there is no basis for asserting that the utilities can be compelled to assign the ROFR to NorthStar.

**CONCLUSION**

Dominion and EnergySolutions object to the above-referenced testimony because it is not relevant and because it does not meet evidentiary requirements. The above-referenced testimony therefore should not be admitted into the record in this proceeding. Dominion and EnergySolutions submit the above objections so that they may be preserved in the record.

Dated this 21<sup>st</sup> day of February, 2022.

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By:

*/s/ Richard A. Heinemann*

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