

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

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

JOINT POST-HEARING REPLY BRIEF OF ENERGYSOLUTIONS AND DOMINION

INTRODUCTION

This proceeding presents the Commission with a straightforward decision. If the Commission approves the proposed Stock Transfer,¹ Wisconsin will reap substantial benefits. The accelerated decommissioning of KPS will be undertaken by EnergySolutions, the nation's leading nuclear decommissioning specialist, according to a detailed decommissioning plan that will be approved by the NRC and conducted under NRC oversight. The site will be restored to greenfield status in seven and one half years, decades ahead of the 2073 expiration of the current NRC license. And all excess qualified decommissioning trust funds – estimated to be as much as ██████████,² will be returned to ratepayers when the project is safely completed. If the Commission denies the proposed Stock Transfer or imposes conditions on it that are not permitted by the Proffered Conditions, Wisconsin will very likely not reap these benefits.

The record contains ample support for the Commission to approve the proposed transaction. It includes unrebutted supporting testimony from independent nuclear decommissioning experts, as well as from the Commission's own staff concluding that the

¹ This brief is submitted jointly by EnergySolutions, L.L.C. ("EnergySolutions") and Dominion Nuclear Projects, Inc./Dominion Energy Kewaunee, Inc. ("Dominion"). Abbreviations and capitalized terms used in this brief have the same meanings provided in Dominion's initial post-hearing brief.

² Rebuttal-ES-Robuck-9; Tr. 159 : 17-19.

Commission may find the Stock Transfer to be in compliance with the Proffered Conditions.³ The record also contains public testimonials from representatives of the local community where KPS is located and from two companies that have recently worked with *EnergySolutions* on successful nuclear decommissioning projects, further demonstrating wide support for *EnergySolutions* and its accelerated decommissioning plan.⁴

By contrast, instead of scrutinizing the proposed Stock Transfer for compliance with a reasonable reading of the Proffered Conditions, NorthStar and CUB ask the Commission to impose new conditions on the proposed transfer that would serve nothing more than NorthStar's commercial interests and potentially shift risks back onto ratepayers from which they were insulated by the 2005 Final Decision. Moreover, they do so despite the fact that NorthStar proposes no actual decommissioning plan, no detailed decommissioning estimate, no decommissioning contract for Commission review, nor any legitimate legal path for consummating its proposals. Rather, NorthStar and CUB offer only a path to uncertainty that ranges impermissibly beyond the Proffered Conditions and therefore the purpose of this docket. In the end, NorthStar's claim that it can save ratepayers \$200 million is misleading and without sound evidentiary basis or legal foundation.

The result is that for all of NorthStar's distractions, the record is devoid of any evidence that the proposed Stock Transfer does not comply with the Proffered Conditions. Rather, the record shows that the NDT is sufficient for decommissioning KPS; that *EnergySolutions* has reliably estimated the costs of decommissioning KPS; that *EnergySolutions* is willing and able to act as a responsible steward of ratepayer funds; and that the Utilities wisely declined to reassume

³ ES Br. at 10; Dominion Brief at 13; Direct-PSC-Adans-4; Direct-PSC-Probst-4-6.

⁴ ES Br. at 23. No public opposition to the proposed transaction was registered.

ownership of KPS. For these reasons, and as further demonstrated below, the proposed Stock Transfer should be approved.

ARGUMENT

When measured against the Proffered Conditions, NorthStar's posture in this case is inherently contradictory. By NorthStar's own admission, the KPS NDT has more than enough qualified funds to allow *EnergySolutions* to achieve its accelerated decommissioning plan.⁵ Hence, the financial sufficiency requirement of Proffered Condition 4, the centerpiece of the Commission's review, is satisfied.⁶ Moreover, *EnergySolutions* has agreed on the record, as required, to adhere to all the other proffered conditions, including Proffered Condition, which requires the return of unused NDT funds to ratepayers when decommissioning is complete.⁷ Finally, there is no dispute about the truth of the Utilities' stated reasons for waiving their rights under the ROFR—the inability to effectively manage the decommissioning of KPS and a reluctance to take on the downside risk to ratepayers of resuming KPS ownership.⁸ Unable to controvert these facts, NorthStar has sought to achieve its aim of securing the project for itself by casting illegitimate doubt on the integrity of federal controls over expenditures of the NDT and asserting without any evidence that *EnergySolutions* intends to overspend the NDT to enrich itself, and offering an illusory and ill-advised fixed price to decommission KPS. The Commission should reject NorthStar's position.

⁵ NS Br. at 7 and 14; Direct-NS-State-13.

⁶ NS witnesses initially testified that the Commission should be concerned about *EnergySolutions*' financial resources, but those concerns were rebutted and there is no mention of them in NorthStar's Initial Brief.

⁷ ES Br. at 17; Direct-ES-Robuck-c-14-15.

⁸ Utilities Br. at 7; Direct-WPL-Ripp-9; Direct-WPSC-Krueger-4.

I. NORTHSTAR IS WRONG TO SUGGEST THAT THE COMMISSION CAN OR SHOULD REQUIRE THE RETURN OF A FIXED AMOUNT OF RATEPAYER FUNDS FROM THE NDT.

NorthStar asks the Commission to ignore the reach of numerous federal regulations cited in the record that function to limit the abuse of NDT funds. NorthStar also asks the Commission to assume that *EnergySolutions* will view the NDT as a “blank check” in direct violation of those regulations. Having failed to provide evidence to support these assertions, NorthStar further asks the Commission to impose a \$550 million cap on the cost of decommissioning of KPS, thereby locking up a portion of the NDT and making those funds unavailable for addressing decommissioning contingencies. NorthStar’s proposal is contrary to the Commission’s 2005 Final Order and is unnecessary, unwise and without legal foundation.

A. NorthStar Misinterprets the 2005 Final Decision on the Question of Federal Controls over the NDT.

NorthStar says the Commission did not really mean it when it decided in 2005 to “relinquish its approval authority over the use of KNPP decommissioning funds” (2005 Final Decision at 22). Rather, NorthStar weaves a contorted argument that the Commission was merely letting go of expenditure-by-expenditure approval but reserving its authority over the use of the NDT generally.⁹ The problem is, as with NorthStar’s reading of Proffered Condition 9, the 2005 Final Order does not say what NorthStar wants it to say. So instead, NorthStar reaches to language from the 2004 transfer denial decision, a decision which the Commission vacated in its entirety and is without precedential or even persuasive effect.¹⁰

To discern the scope of the Commission’s decision to relinquish authority over NDT expenditures, the Commission need look no further than its 2005 Final Decision. In its discussion

⁹ NS Br. at 11.

¹⁰ *Id.* at 4, 11.

of Proffered Condition 9, the Commission begins with a reminder that ratepayers will be getting nearly \$200 million of the nonqualified NDT funds as a condition of the original transfer (something that the intervenors in this proceeding seem to have forgotten).¹¹ The order then explains why Proffered Condition No. 9 protects ratepayer interests:

Proffered Condition 9 states that DEK will return to the applicants all excess ratepayer funds contained in its qualified trust fund after decommissioning is completed. These funds will then be distributed to ratepayers. The Commission finds that Proffered Condition 9 properly responds to its prior decision, resolving its concern about Wisconsin ratepayers' right to unused decommissioning funds. The intervenors contend that tracking DEK's decommissioning trust fund for 30 years to determine what portion of it constitutes 'ratepayer funds' and how much should be returned after decommissioning will be very difficult. Even if this proves to be the case, **Proffered Condition 9 still removes any perverse incentive to cut corners when decommissioning, just so the owner can keep funds.** This alone is a value to the state.¹²

In other words, the Commission did not intend Proffered Condition 9 to be a tool for imposing additional requirements, whether to maximize the amount of decommissioning funds to be returned to ratepayers or any other additional requirement. Rather, the Commission intended Proffered Condition 9 to operate as a self-executing means of removing any incentive for any owner of KPS to "cut corners" in the decommissioning process, thereby ensuring safe return of the KPS site to productive use. NorthStar (and CUB, for its part) both fail to acknowledge this clearly articulated safety-oriented purpose of Proffered Condition 9, a purpose which is the antithesis of NorthStar's proposed interpretation. Their failure to do so reveals that NorthStar is not after a "meaningful interpretation" of Proffered Condition 9, nor of the Commission's 2005 Final Decision, but one that best serves NorthStar's commercial goals.

¹¹ Dominion Br. at 12.

¹² 2005 Final Decision at 24 (emphasis added).

B. The Record Confirms that Federal Controls are Adequate and do not Leave the Commission Without a Meaningful Role.

The purpose of this proceeding is not to rehash the scope of the Commission's authority over future transfers of control of KPS. That question was answered in the Commission's non-appealable 2005 Final Decision, in the form of unambiguously written Proffered Conditions that preserved specific levels of Commission oversight of KPS and its owners, present and future. That oversight authority, which also has governed Dominion's decommissioning activity since 2014, will continue after the proposed Stock Transfer, because *EnergySolutions* has committed on the record that it will comply with the Proffered Conditions. Nonetheless, NorthStar downplays the role of federal controls in order to persuade, with fear rather than evidence, that *EnergySolutions* will overspend if no one is watching. But the record shows that someone will be watching, and that *EnergySolutions* will not overspend.

First, it is worth pointing out that NorthStar's argument hinges on the notion that *EnergySolutions* does not intend to follow the law. In NorthStar's view, the Commission is to assume that a nuclear decommissioning licensee will engage in self-dealing unless and until it is audited by the IRS or caught by the NRC.¹³ Every aspect of *EnergySolutions*' business is heavily regulated, including its decommissioning, processing, transportation, and disposal operations, and there is no evidence it has failed to do these things in compliance with the law. Compliance with regulations is *EnergySolutions*' lifeblood, its very future and its reputation in the industry.¹⁴

Second, NorthStar has failed to rebut the evidence in the record that the NRC exerts meaningful oversight authority over trust fund spending, establishes an on-site presence during the decommissioning process, and is equipped to exercise oversight over financial as well as safety

¹³ NS Br. at 9; Direct-NS-State-4-5; 12; Surrebttal-NorthStar-State-2r; 8r-9r.

¹⁴ Tr. 173:22 – 174:8.

matters.¹⁵ To make it appear otherwise, NorthStar cherry picks Mr. Robuck’s testimony to suggest that the NRC is not concerned with “prudence”, omitting the portion of his testimony that directly contravenes NorthStar’s effort to minimize the federal oversight role.¹⁶ After acknowledging that he did not know whether the NRC would specifically scrutinize the decommissioning service contracts or waste disposal expenditures for KPS, Mr. Robuck explained that the NRC had the authority to closely examine expenditures -- and *confirmed from his own experience at Zion* that the NRC would indeed exercise that authority: “So the NRC, typically, like in Zion, they were in our monthly meeting, they looked at our costs, they tracked the project, they audited the project”.¹⁷ While NorthStar may not have advanced far enough along on its existing decommissioning work at major nuclear facilities to have experienced the NRC’s scrutiny on these matters, EnergySolutions has.¹⁸

Moreover, the Commission will not be frozen out of the information loop, contrary to the picture NorthStar attempts to paint. The NRC annual filings are public documents and state regulators are not precluded from reviewing those and following up on concerns should they have them.¹⁹ The Commission is fully aware of this fact: the 2005 Final Decision itself states that “the applications, annual reports and other information that DEK or any subsequent owner files with the FERC, NRC, and SEC are publicly available to monitor the financial status and regulatory activities of the owner. The Commission finds this authority sufficient to ensure performance”.²⁰

¹⁵ ES Br. at 13-15.

¹⁶ NS Brief at 13.

¹⁷ Tr. 175 : 26 - 176 : 1-3.

¹⁸ Tr. 155: 8-157: 9; *see also* Rebuttal-ES-Robuck-8-9.

¹⁹ Rebuttal-ES-Robuck-15.

²⁰ 2005 Final Decision at 19.

C. The Absence of a Fixed Price Does not Mean There are no Spending Controls.

Having misleadingly minimized the scope and effectiveness of federal controls on the NDT, NorthStar proposes that the Commission should fill the imaginary gap by placing limits on decommissioning expenditures in the form of fixed-cost contracts. Underlying this argument is NorthStar's assumption, without any evidentiary basis, that *EnergySolutions* intends to exhaust the NDT so that no excess funds will ever be returned to ratepayers. In fact, the contrary is true. Mr. Robuck testified at length that *EnergySolutions* conforms with NRC rules by building reasonable contingencies into its estimates, and that he fully expects to return approximately [REDACTED] to ratepayers when the project is finished, subject to unexpected contingencies.²¹ Mr. Robuck's unwillingness to designate a specific amount is not an attempt to hide the ball or to give himself a blank check. Rather, *EnergySolutions'* approach simply reflects common sense:

Q. Is it your position in this case that *EnergySolutions* alone should get to decide what funds are excess?

A. So- the project will decide what funds are excess, right? The unknowns [will] decide the market conditions over the next eight years on how the market returns are, amount of inflation, the amount of escalation will decide what is excess at the end of the job. We will – because we have more experience than anybody doing this, we will incorporate good plans, good procedures and good programs to maximize the returns to ratepayers.

Q. And unless there's an IRS audit will anybody else ever get to see what you spent on any particular cost at the Kewaunee project?

A. Absolutely. Our annual reports to the NRC are detailed enough where they can review what we're spending.²²

As the Commission has recognized since 2005, nuclear decommissioning is a risky enterprise.²³ *EnergySolutions'* reluctance to commit to an arbitrary upfront decommissioning cost

²¹ Rebuttal-ES-Robuck-9.

²² Tr. 176 : 17 – 177 :11.

²³ 2005 Final Decision at 9.

is thus the very definition of “prudence.”²⁴ This is what is meant by Mr. Robuck’s reference to “market conditions.” It is not, as NorthStar so misleadingly suggests, the reservation of a subjective right to determine how much “excess” trust funds there should be based solely on self-interest.

D. The Post-Closing Transition Services Contracts Under the SPA are Reasonable, and not Regulated by the Proffered Conditions.

NorthStar asserts that the post-closing transitional services agreements attached to the Stock Purchase Agreement (“SPA”) provide undeserved benefits to the transacting parties at the expense of ratepayers, and suggests those agreements were a “smoking gun”, hidden from scrutiny. Neither is true. First, nothing was hidden from anyone. The Stock Purchase Agreement that Dominion filed with the Application specifically references these agreements.²⁵ Moreover, in its Application, Dominion was clear that all attachments, including those agreements, were available for the Commission to review as necessary.²⁶ In addition, these agreements were among the tens of thousands of pages of discovery that Applicants and *EnergySolutions* turned over to NorthStar.²⁷

Second, the transitional services agreements are not regulated by the Proffered Conditions. The expenditures under the transitional services agreements are decommissioning expenditures, which are not regulated by any Proffered Condition, including—for the reasons given in this and Dominion’s initial post-hearing brief—by Proffered Condition 9, and which are and will continue to be subject to federal controls.

Third, contrary to NorthStar’s effort to paint them otherwise, the transitional service agreements legitimately function to allow Dominion to recover its costs of providing various

²⁴ Rebuttal-ES-Robuck-10; Tr. 157:10-159:6.

²⁵ Ex.-Dominion-Avram-1c (sections 5.9 and 5.10 of the Stock Purchase Agreement, attached as Exhibit A).

²⁶ Application at 2, footnote 2.

²⁷ Ex.-NorthStar-Discovery Responses-8c (PSC REF# : 432129).

transitional services to *EnergySolutions* necessary to ensure a smooth and efficient decommissioning process. Dominion witness Emil Avram explained that the price for these services is based on the actual costs and expenditures that Dominion has incurred during the past several years in managing and continuing oversight over ISFSI and continuation of the facility in SAFSTOR condition. He explained that the services included legal services related to ongoing NRC regulatory activity, spent fuel cost recovery activities, and a host of in-house technical, and other expertise associated with decommissioning the facility performed by hundreds of Dominion employees, and that the price may not even cover Dominion's actual costs.²⁸ Mr. Robuck confirmed that these service agreements provide a cost effective way of ensuring that *EnergySolutions* has access to experienced staff required for the project, without which the company would have to hire and train employees to do the job.²⁹ Moreover, both witnesses confirmed that these costs have been included in the detailed cost estimate provided by *EnergySolutions* to the NRC, so they do not represent additional, unplanned costs for purposes of the financial sufficiency analysis.

Notably, staff did not express at any time that it was necessary to review these service schedules, despite knowing they were available. Rather, staff concluded that the considerable information it requested and received from *EnergySolutions* about the PSDAR and the company's financial condition³⁰ was adequate to reach its conclusion that *EnergySolutions* will have the financial wherewithal to decommission KPS and thereby satisfy the financial sufficiency requirement of the Proffered Conditions. NorthStar's attempts to whip up concern about the transitional services agreements are unfounded, and are readily overcome by the only evidence in

²⁸ Tr. 137 : 23-140-9.

²⁹ Tr. 174:18-75-14.

³⁰ Ex.-PSC Staff Data Request-Response (Index of Data Request and Response Documents).

the record on that point. Mr. Robuck and Mr. Avram both testified that the agreements provide good value to the project- particularly since those services have been provided by Dominion since 2014 as part of its current and ongoing management of KPS as indicated above, all of which activities have been governed by the Proffered Conditions as they currently stand. If the Proffered Conditions have been adequate to provide oversight over the decommissioning of KPS thus far, they remain so now and into the future.

E. Northstar’s Proposals Remain Untenable and Unnecessary and Should be Rejected by the Commission Out of Hand.

The central premise behind NorthStar’s pitch to the Commission is that a competitively bid, fixed price contract is the only way to maximize the return of NDT funds to ratepayers. But NorthStar’s premise that competitive procurement is standard state regulatory practice is simply not the case. In response to one of NorthStar’s interrogatories, *EnergySolutions* provided information on nine major nuclear decommissioning projects that it had sought to decommission. Of the six that were awarded to *EnergySolutions*, three were competitively bid and three were not; three were awarded on a fixed price or modified fixed price/change order basis, and three were not.³¹

With respect to KPS, the use of a fixed price contract and the other features of NorthStar’s “guarantee” is unwarranted for a number of reasons. First, as multiple witnesses for *EnergySolutions* and Dominion have testified, NorthStar’s \$550 million price is not a serious number. It has no basis in actual site-related due diligence and it does not reflect a detailed “scope

³¹ Ex.-NS-Discovery Responses-07c (*EnergySolutions*’ response to Interrogatory No.1-NS-23). Notably, one of the projects which *EnergySolutions* won through competitive bidding was the Fort Calhoun project, owned by Omaha Public Power District (OPPD). NorthStar through an affiliated entity was also a bidder for that project. Upon losing the bid to *EnergySolutions*, NorthStar turned around and filed a complaint with District Court of Douglas County Nebraska, where the facility is located, alleging that OPPD should be compelled to award the contract to the lowest bidder. The complaint was promptly dismissed (Order on Defendant Omaha Public Power District’s Motion to Dismiss, Case No. 19-2175, June 27, 2019) (Attachment to Dominion Response to NorthStar Intervention, PSC REF# : 414523).

to scope” comparison with the dramatically more robust cost estimate that *EnergySolutions* developed and has submitted to the NRC.³²

NorthStar’s fixed price number also disregards the technical complexity of a large nuclear decommissioning project and the critical value of the experience *EnergySolutions* brings to bear on the project. Mr. Robuck’s undisputed testimony explains that several aspects of decommissioning are extremely challenging from a technological standpoint and some aspects of it are particularly difficult to estimate from a cost perspective, such as the segmentation of reactor pressure vessel internals.³³ This experience cannot be discounted. Whereas NorthStar’s calculations are largely based upon premature claims of success for incompleting work that NorthStar is performing elsewhere, *EnergySolutions*’ estimates derive from its experience completing the physical work on large commercial scale nuclear reactors.

Second, the two instances NorthStar has cited where state regulators have been willing to impose a fixed price requirement are not analogous to the circumstances affecting KPS. In Vermont, the Public Utilities Commission agreed to the transfer because it obtained a variety of special financial assurance features that was a condition of transfer from the current owner.³⁴ In Florida, a regulated public utility retains ownership and the ultimate risk of decommissioning cost overruns.³⁵ In contrast, Dominion, an unregulated merchant generator, obtained the right to own, operate and now decommission the facility in 2005 only as a result of its willingness to enter into the Proffered Conditions.³⁶ Those conditions do not include a competitive bidding requirement,

³² ES Br. 20-21; Rebuttal-ES-Robuck-11; Tr. 159:1-12.

³³ Tr.162:9-163-21.

³⁴ ES Br. at 20.

³⁵ *Id.*, including footnote 16.

³⁶ Dominion Br. at-11-13.

establish a fixed cost to decommission the facility or compel Dominion to transfer the facility to NorthStar or anyone else.

Most importantly, the KPS NDT is amply funded, including expenditures necessary to manage spent nuclear fuel until accepted by the Department of Energy (“DOE”) for disposal, and the SPA contains a performance bond that provides additional assurance to support the management of KPS until DOE acceptance occurs, including funding that may be needed to supplement DOE recovery.³⁷ So quite apart from the fact that there is nothing in the record to support NorthStar’s proposed terms or even to hold NorthStar accountable for them, they are not necessary to assure the Commission that Dominion and EnergySolutions will deliver what they have to committed to do under the Proffered Conditions: return the KPS site to greenfield status on an accelerated timetable and return a substantial amount of excess NDT funds to ratepayers when the job is safely and efficiently completed.

II. THE UTILITIES PRUDENTLY WAIVED THEIR ROFR RIGHTS

Perhaps because they know that the Proffered Conditions do not pave the way for NorthStar’s desired outcome, NorthStar and CUB look to the prudence determination as an easier route for obtaining NorthStar’s goal in this proceeding of supplanting EnergySolutions. No such path exists, however. All parties agree -- including NorthStar and CUB -- that it would be imprudent for the Utilities to reacquire and decommission KPS, which is no longer an operating nuclear plant. Since the plain language of the ROFR requires the Utilities, upon receiving notice of a Bona Fide Offer, to decide simply whether or not they wish to step into the shoes of the proposed transferee, their decision not to do so is, on its face, prudent. That is where the inquiry should end.

³⁷ Application at 12; Ex.-Dominion-Avram-1c (section 5.14 of the SPS, attached as Exhibit A).

All of the parties except NorthStar and CUB also have presented numerous arguments opposing NorthStar's idea that the Utilities were somehow dutybound to consider NorthStar's offer to buy the ROFR. There are both legal and public policy infirmities with NorthStar's and CUB's suggestions on the so-called "assignability" of the ROFR. These infirmities have already been fully briefed and will no doubt be further addressed in reply briefs submitted by the Utilities.

A more fundamental problem is that NorthStar's approach represents nothing less than a collateral and improper attack on the Proffered Conditions. Thwarted by the fact that the Proffered Conditions do not require Dominion to select a decommissioning entity through a competitive process and that Dominion opted for *EnergySolutions* for valid business reasons and has no intention of working with NorthStar,³⁸ NorthStar and CUB essentially implore the Commission to use the Utilities as proxies and issue an imprudency determination so that NorthStar can do the work that the Applicants have the right to do under the Proffered Conditions.

The Commission cannot have adopted the ROFR with its sixty-day decision period with the expectation the Utilities would use that time not only to evaluate whether they would exercise their ROFR rights to reassume KPS ownership, but also to entertain unsolicited offers from a nuclear decommissioning agent with whom they have never done business, and to make ill-informed and relatively rash decisions that would entail the risks that would ensue if they were to assign their ROFR to an unregulated third party. Rather, under the plain terms of the ROFR, the Utilities had to decide whether it made sense for *them*, and no one else, to own KPS again and take on the responsibility of decommissioning it. And that decision, the Utilities made prudently.

CUB's argument on the ROFR issue is less discernable, but still problematic, hinging on the notion that the Utilities were imprudent because they insufficiently considered ratepayer

³⁸ Dominion Br. at 23-24.

interests in rebuffing NorthStar. Yet, without any recognizable basis beyond academic theory, CUB defines “ratepayer interests” solely in terms of maximizing “upside risk”. First, CUB leaves completely unaddressed the fact that NorthStar’s “200 million dollar” guarantee is invalid on its face for the reasons discussed above. Second, CUB mistakenly calculates the “immense” upside risk as equating to \$200 million because it assumes with no evidence that ratepayers will not recover any money if *EnergySolutions* decommissions the facility. That assumption, however, evaporates in the face of record testimony that *EnergySolutions* anticipates returning up to [REDACTED] [REDACTED] to ratepayers, depending on the impact of unknown contingencies.

Third, and perhaps most importantly, nowhere in CUB’s testimony and discussion of ‘upside risk’ can one find any value placed on safety, on a solid working relationship between Dominion and *EnergySolutions*, and on the much more detailed cost estimation and decommission planning accomplished by *EnergySolutions* in advance of this proceeding. These values, and above all safety in the form of not “cutting corners,” was recognized by the Commission as an essential ratepayer interest in its 2005 Final Decision. CUB’s assertion that ratepayers “would prefer NorthStar’s tangible offer”³⁹ therefore rings hollow given that no members of the public, ratepayers or otherwise, have registered opposition to the proposed transaction and there is ample testimony in the record that NorthStar’s offer is far from tangible.

CONCLUSION

The proposed Stock Transfer meets the requirements of the Proffered Conditions, and the Utilities prudently waived their rights to reassume ownership of KPS. The Commission should approve the proposed transaction and thereby ensure that KPS will be decommissioned safely and efficiently on an accelerated timetable by a proven decommissioning specialist.

³⁹ CUB Br. at 21.

Dated this 25th day of March, 2022.

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