

**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

**DOMINION ENERGY'S AND ENERGYSOLUTIONS, LLC'S
JOINT OBJECTION TO CUB'S MOTION
TO SUPPLEMENT THE RECORD AND, IN THE ALTERNATIVE,
JOINT REQUEST TO SUPPLEMENT THE RECORD**

Dominion Nuclear Projects, Inc. (DNP), Dominion Energy Kewaunee, Inc. (DEK) (collectively, Dominion) and EnergySolutions LLC (EnergySolutions) hereby submit this joint objection and, in the alternative, joint request to supplement the record, in response to the Motion to Supplement the Record filed by Citizens Utility Board ("CUB") on May 6, 2022 ("Motion").¹ The material which CUB seeks to insert into the record is comprised of supplemental testimony of CUB witness Steven Kihm, and three exhibits, including an "Event Notification Report" (the "Notification") from the Nuclear Regulatory Commission ("NRC") and two documents which Mr. Kihm apparently found on the internet that purport to provide contextual information. The information contained in CUB's filing is irrelevant to any issue identified for Commission determination in this proceeding and will not aid in the Commission's determination of those issues. For this reason and the reasons provided below, Dominion and EnergySolutions respectfully request that the Administrative Law Judge deny CUB's Motion.

¹ This joint objection and request for alternative relief is filed in accordance with Wis. Admin. Code PSC § 2.28, Wis. Stat., § 227.45 and § G.8 of the Facilitating Matters Ordered in a Contested Case Proceeding as incorporated into the Prehearing Conference Memorandum.

If CUB's Motion is granted, Dominion and EnergySolutions respectfully request that the Administrative Law Judge grant the alternative relief requested in this submission, which is to grant a request to supplement the record with additional information that demonstrates the invalidity of the preliminary findings contained in the Notification. This information, provided via the attached affidavit of Mr. Kenneth Robuck, is comprised of a letter to the Utah Division of Waste Management and Radiation Control ("DWMRC"), which describes the results of subsequent analysis demonstrating that the groundwater at the site in question does not contain radioactive material at levels above natural background radiation.

OBJECTION TO CUB'S MOTION TO SUPPLEMENT THE RECORD

1. The information CUB seeks to add to the record does not relate in any way to the Kewaunee Power Station ("KPS"). Rather, it relates to a site in Utah.
2. The potential cost of remediating the site in Utah, if any, is not yet known, but regardless of what that cost might be, it is not germane to the issues in this docket, including and especially whether EnergySolutions has sufficient financial resources to decommission KPS. As evidenced by the comments to the Decision Matrix, no party disputes that there are sufficient funds in the Nuclear Decommissioning Trust ("NDT") for KPS decommissioning. There can also be no dispute, and there is no evidence to suggest, either in the record or in CUB's submittal, that the NDT can be used for purposes unrelated to KPS, such as the remediation of groundwater contamination at a waste disposal facility in Utah.
3. Mr. Kihm's proposed supplemental testimony inaccurately represents the contents of the Notification and its significance. The Notification does not report evidence of "substantial radioactive contamination."² The Notification reports on what it describes as "preliminary

² Proposed Direct-CUB-Kihm-s-1, lines 14-15.

findings” following an investigation conducted by *EnergySolutions* after its personnel detected fuel odor during a site excavation at an *EnergySolutions* facility in Utah. The notification contains no information whatsoever about investigations conducted either by the Nuclear Regulatory Commission or the Utah DWMRC.

4. Mr. Kihm’s supplemental testimony asserts that the contamination initially reported in the Notification could constitute a material risk to *EnergySolutions*’ financial health or increase the cost of decommissioning the Kewaunee Power Station and therefore impact the return of excess decommissioning trust funds to ratepayers.³ These assertions have no reasonable basis in fact and are wildly speculative. By his own admission, Mr. Kihm is not an expert in the field of hydrology or environmental science, therefore he is not qualified to opine on the significance of the preliminary findings reported in the Notification. Neither is he qualified to determine whether the information contained in Ex.-CUB-Kihm-3 and Ex.-CUB-Kihm-4 is appropriate for “contextualizing” the information contained in the notification. The exhibits contain reference guides on safe drinking water standards from other governmental agencies without any explanation from Mr. Kihm as to whether or how those standards apply to the site in question.

5. Even if it were demonstrated by subsequent investigation that the contamination reported in the Notification is significant, CUB has provided no foundation for Mr. Kihm’s assertions as to how such a finding might impact the issues in this proceeding, including the return of excess decommissioning funds to ratepayers. Mr. Kihm has cited no evidence in the record that any costs associated with remediation of the contamination described in the Notification will require expenditures from the KPS NTD, or that *EnergySolutions* does not have

³ Proposed Direct-CUB-Kihm-s-2-3.

other resources, such as insurance, to cover such costs. That is because no such evidence exists, as this proceeding concerns the decommissioning of KPS, not the remediation of contaminated groundwater in Utah. Moreover, it is well established in the record that *EnergySolutions* is already in the business of remediating contamination and has the experience, ability and resources to do so in the ordinary course of business,⁴ which makes preposterous Mr. Kihm's suggestion that these circumstances should be considered material to these proceedings or of any extraordinary consequence.

6. For these reasons, Mr. Kihm's proposed supplemental testimony and the three exhibits CUB seeks to insert into the record contains no reasonable probative value whatsoever and is wholly immaterial and irrelevant, contrary to the requirements of Wis. Stat. §227.45(1). CUB's Motion therefore should be denied.

REQUEST FOR ALTERNATIVE RELIEF IF CUB'S MOTION IS GRANTED

1. In the event the Administrative Law Judge decides to grant CUB's Motion, *EnergySolutions* and Dominion hereby respectfully request that the ALJ grant this request to supplement the record with additional information that directly relates to the Notification. That information is comprised of a letter dated April 9, 2022, from *EnergySolutions*' personnel to the Utah DWMRC, which invalidates the preliminary findings described in the Notification. The letter is authenticated by the attached affidavit from Russell G. Workman. The letter explains that the liquid sample referenced in the Notification did not include background subtract and that the analysis of a subsequent sample that included such background subtract showed no detectable levels of uranium.

⁴ See, e.g., Direct-ES-Robuck-c-3 and Ex-ES-Robuck-1.

2. To avoid unnecessary delay and further exhaustion of administrative resources, EnergySolutions and Dominion request that this request for additional relief be deemed to be made pursuant to the Facilitating Matters Order, Section C.7 (presuming that no other parties object), so that there will be no further need for additional testimony, briefing or discovery. The information contained in the letter speaks for itself and directly pertains to, and expressly corrects, the information contained in the Notification.

Dated this 11th day of May, 2022.

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