

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Memo

Application of Wisconsin Public Service Corporation
For a Certificate of Public Convenience and Necessity
For Construction of a Large Electric Generating Plant
With Associated Facilities, Known as Weston Unit 4,
At its Existing Weston Generating Station
Located in Marathon County

PSCW Docket No.
6690-CE-187

**PUBLIC HEARING TESTIMONY OF THE
WISCONSIN MANUFACTURERS AND COMMERCE**

Good Morning,

My name is R.J. Pirlot. I am the Director of Legislative Relations for the Wisconsin Manufacturers and Commerce ("WMC"). The WMC is a trade association of businesses, numbering over 4,000 members in the State of Wisconsin. WMC wishes to represent the interests of its members in this proceeding, including many commercial and industrial electric ratepayers, large and small. Our membership is a broad cross-section of the state's economic activity and our members employ approximately one-quarter of the state's private sector workforce.

WMC strongly supports the construction of new, baseload coal generation facilities in the state to address Wisconsin's growing need for electricity, and the aging generation fleet currently used to provide for those needs. WMC urges the Commission's favorable consideration of the application to build the Weston 4 generation facility.

WMC wishes to focus its comments in this case on the matters relevant to the Commission's jurisdiction in generation siting review. Accordingly, we will address and take issue with the extensive record in this matter sought to be introduced concerning environmental concerns related to air emissions permitting. We also will address matters concerning alleged undue hardships which were raised by local intervenors during the technical hearing in this matter held this past week. Lastly, WMC would like to comment upon issues concerning fuel diversity and generation project costs which we think are relevant for the Commission's consideration as it reviews the record and briefs in this case.

WMC is aware of the substantial efforts of certain intervenors in this case to place criticisms and contentions concerning air emissions permitting issues before the Commission for consideration in this Certificate of Public Convenience and Necessity ("CPCN") proceeding. For this purpose, a

substantial record was sought to be made concerning matters which pertain to air emissions permits which are within the jurisdiction of the Wisconsin Department of Natural Resources (“DNR”), and concerning the federal Environmental Protection Agency’s (“EPA”) Clean Air Act rules applicable to New Source Review.

As the Commission is well aware, air emissions permits and the factors pertaining to them are matters properly addressed by the DNR and the EPA. The Commission’s jurisdiction in CPCN cases is limited to other environmental factors to the exclusion of air permitting concerns addressed elsewhere in state law, by other state agencies.¹ The Commission should resist the temptation of the intervenors to address such matters in this proceeding, focusing its efforts instead on the matters relevant to its own jurisdiction.

Certain representatives of local governments and citizens in localities which may be affected by the Weston 4 generation unit have also sought to introduce a substantial record in this proceeding concerning alleged “undue hardships” which may be faced by local governments during any construction cycle necessary to build Weston 4, and thereafter. WMC believes this record is intended to bolster later arguments to be advanced for substantial “mitigation payments” to be paid to these local governments by the Weston 4 developers. Indeed, such payments have been ordered in substantial amounts in recent generation CPCN proceedings through the Commission’s orders on split votes of the Commission’s members.

There are a number of reasons why the Commission should resist the continuing temptation to conjure authority to order local mitigation payments in its orders in generation construction cases. The simplest of these reasons is that the Commission simply has no authority to order such payments under its certification statute. It seems anomalous that the legislature could have expressed its clear intent, for example, to order the payment of fees for the construction of high-voltage transmission lines, as it has in the CPCN statute, and leave unspoken intended authority to exist for the Commission to order mitigation fees in generation construction cases, which it did not.² Second, the legislature has modified the mechanism for sharing revenue from the gross receipts tax with local units of government during this past legislative session in order to enhance the incentives, or eliminate disincentives on the part of local communities otherwise disposed against hosting generation plants.³

Any mitigation payments ordered by the Commission would be superfluous to gross receipts tax sharing incentives which have been clearly set forth in the statutes, and would, in any case, add unnecessarily to project development costs.

As the Commission gives consideration to the cost of the development of the Weston 4 unit among the several economic factors set forth in this proceeding, WMC asks that it review the existence and effect of any project labor agreements utilized by the applicants in this case. Project labor agreements have been the subject of considerable controversy in large construction projects in recent years

¹ See, s. 196.491(3)(d) 3., Stats., and Ch. 285, Stats.

² See, s. 196.491(3g), Stats.

³ See, 2003 Wisconsin Act 31.

throughout the United States, due to the unnecessary amounts which they add to construction project bids and development costs, as well as the anti-competitive effects in project bidding practices resulting from their use. These issues were the subject of testimony advanced in the Commission's recent Strategic Energy Assessment proceeding in much greater detail.⁴ WMC echoes concerns with the use of project labor agreements in generation construction projects, and believes that the Commission should guard against them in the interest of electric ratepayers and the Wisconsin businesses unfairly prejudiced by them.

WMC also wishes to reiterate comments it has previously made to the Commission relating to fuel diversity in Wisconsin's electric generation portfolio.⁵ The Weston 4 project, as a coal-fired electric generation facility, marks a welcome departure from Wisconsin's increasing reliance upon gas-fired electric generation units in recent years. By endorsing the project applications of coal-fired electric generation developers, the Commission will ensure that Wisconsin ratepayers avoid the expense associated with added reliance on the volatile fuel costs associated with natural gas. Support for more coal-fired electric generation also helps mitigate the "crowding out" effects of reliance upon natural gas for electricity which unduly impacts commercial and industrial applications of natural gas as a fuel in manufacturing and processing activities.

Wisconsin faces several challenges with respect to energy and, ultimately, the state's long-term economic health. Affordable, reliable electricity keeps our stores open, factories running, and payrolls being made. But this most basic component of our economy cannot be taken for granted. Our state's energy use is growing at a rate of between 2.5 percent and 3.5 percent per year, and we now import, over existing power lines, more than 15 percent of our electricity. For most Wisconsin manufacturers, a key issue is maintaining certainty over energy supply reliability, while meeting energy demands in the most efficient and cost-effective manner possible.

Manufacturing is heavily dependent on energy in order to remain healthy and, in turn, Wisconsin's economy is heavily dependent on manufacturing in order to remain vibrant. Manufacturing accounts for 23 percent of total state employment; for the United States as a whole, manufacturing employment accounts for 13 percent of total employment. As such, Wisconsin is one of the most manufacturing-intensive states in the United States, and Wisconsin's economy is critically dependent on the health and viability of its manufacturing sector. Moreover, traditionally, manufacturing jobs have been good-paying jobs with good benefits. Wisconsin needs to retain these good jobs and, importantly, to create more of these kinds of jobs.

⁴ Testimony of John Mielke, on behalf of the Associated Builders and Contractors of Wisconsin, *Strategic Energy Assessment January 1, 2004 Through December 31, 2010*, PSCW Docket No. 05-ES-102.

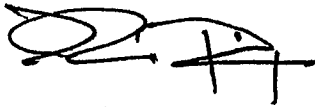
⁵ Testimony of James Buchen, on behalf of the Wisconsin Manufacturers and Commerce, *Application of Wisconsin Electric Power Company; Wisconsin Energy Corporation; and W.E. Power, LLC; for a Certificate of Public Convenience and Necessity for Construction of Three Large Electric Generation Facilities, the Elm Road Generating Station, and Associated High Voltage Transmission Interconnection Facilities to be Located in Milwaukee and Racine Counties*, PSCW Docket No. 05-CE-130.

WMC is devoted to making Wisconsin a great place in which to work, live and do business. While many, many factors contribute to a good business climate — such as low taxes, a predictable and consistent regulatory climate, reasonable health care costs — no one can argue that access to reliable, competitively-priced electricity is an absolute necessity for our jobs and our economy. As such, WMC strongly supports construction of the Weston 4 generation facility.

WMC and its members thank the Commission for the opportunity to testify in support of Weston 4.

Dated this tenth day of August, 2004.

Respectfully submitted,



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