

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN**

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In the Matter of the 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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**REQUEST TO INTERVENE AND NOTICE OF APPEARANCE OF NORTHSTAR  
GROUP SERVICES, INC.**

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By and through its attorneys, Wheeler, Van Sickle & Anderson, S.C., NorthStar Group Services, Inc. ("NorthStar") hereby requests to intervene in the above-captioned proceeding pursuant to Wis. Admin. Code § PSC 2.21 and Wis. Stat. § 227.44.

**STATEMENT OF INTEREST**

NorthStar is an industry leader in nuclear decommissioning, demolition, and hazardous material abatement. It is currently the licensed owner and/or operator of two commercial nuclear power plants undergoing decommissioning, Vermont Yankee, and Crystal River 3 ("CR3"). NorthStar acquired both plants in transactions similar to those proposed by Dominion for the Kewaunee Power Station ("KPS"). Unlike the transaction proposed for KPS, NorthStar was part of a lengthy competitive process to acquire the plants and/or NRC licenses. NorthStar was awarded the transactions by the subject utilities only after having proven to be the most technically and financially capable, as well as having the lowest negotiated price, thereby enabling the maximum amount of nuclear decommissioning funds to be returned to ratepayers upon project completion.

NorthStar has a significant business interest in the proposed transaction that is the subject of this proceeding. The proposed transaction includes the transfer of ultimate ownership of over

\$723,800,000 of decommissioning trust funds. The decommissioning trust funds were established under the supervision of the Commission and funded by Wisconsin ratepayers. When the Commission approved the sale of KPS to Dominion in 2005, it expressed significant concern that trust funds would no longer be subject to Commission supervision if the transaction were approved without certain Proffered Conditions. Those conditions include retaining affirmative Commission jurisdiction over the plant owner and subsequent purchasers, a requirement that unspent decommissioning funds be returned to the ratepayers, and a requirement that Wisconsin Public Service Corporation and Wisconsin Power & Light Co. seek a declaratory ruling from the Commission to determine if the exercise or waiver of their right of first refusal is reasonable and prudent.

Unfortunately, the requirement to return all unused decommissioning funds to the ratepayers appears to have removed any incentive Dominion had to ensure the trust funds are spent prudently. The KPS process was sole sourced behind closed doors, with no competitive process to vet the organization best suited to perform the work and preserve ratepayer funds. This was not a typical or prudent process for selecting an approach to decommission a nuclear plant. In all other nuclear plant decommissioning projects, the utility owner has engaged in a competitive selection process that leads to selection of the best qualified counter party, including financial and technical capability, with an objective to protect the ratepayer decommissioning funds.

KPS is a pressurized water reactor very similar to the CR3 plant, but KPS is substantially smaller in generating capacity and complexity. NorthStar is performing the CR3 decommissioning project for \$540M on a fixed price basis, while the smaller and less complex KPS decommissioning is priced by EnergySolutions at the exorbitant price of \$723.8M

according to the License Transfer Application submitted to the NRC. In NorthStar's experience, the smaller KNP facility should cost ten percent *less* than the CR3, or around \$500,000,000. It is readily apparent that the pricing proposed for the current KPS transaction is likely \$200,000,000 higher than the amount NorthStar would require to perform the project. That amount is likely to grow as the trust fund accrues additional interest pending the decommissioning of roughly \$15,000,000 a year. The contrast is striking, especially when considering that excess funds would otherwise be returned to ratepayers. In recognition of the substantial savings it can achieve over the proposed transaction, NorthStar has offered to purchase an assignment of either WPSC's or WPL's right of first refusal (the "ROFR") for \$25,000,000, the first \$1,000,000 of which would be payable immediately upon assignment.

NorthStar satisfies the criteria for intervention as a full party by right in this proceeding under Wis. Admin. Code § PSC 2.21 (1). The disposition of this proceeding will directly impact NorthStar's substantial interest in having an opportunity to decommission KPS. NorthStar should have the opportunity to make its case to the Commission that the proposed transfer is not in the public interest; that Commission review of the proposed transaction should not be unreasonably constrained; and that projects involving nearly a billion dollars of ratepayer money should be subject to transparent and competitive bidding. The disposition of those questions will have a substantial impact on not only the ratepayers, but also upon the company that will become responsible for decommissioning. NorthStar's expertise, experience, and willingness to offer substantial protections to the ratepayers should be considered by the Commission in this docket.

The Application urges the Commission to selectively consider only certain Proffered Conditions while ignoring the broader context and call of the Commission's order. But the Commission's concern for the disposition of the trust funds cannot be ignored in this docket. All

of the Proffered Conditions must be read together and in a manner consistent with the Commission's express desire to maintain substantial control over subsequent proposed transactions. Conditions the Applicants seek to ignore includes Commission review of whether the exercise or waiver of the ROFR is reasonable and prudent. If the Applicants are allowed to avoid any scrutiny of the proposed transaction, and this docket is complete prior to the proceeding considering the ROFR, the ROFR docket will be meaningless. The Applicants evidently hope the Commission will bless this approach and suggest that the Commission could approve the sale *before* addressing the ROFR or that the Commission could disregard the ROFR completely. As a result, this proceeding will potentially prejudice the legal effectiveness of the ROFR assignment NorthStar has offered to purchase. On this basis alone, NorthStar is entitled to intervene as a matter of right.

In the alternative, NorthStar satisfies the criteria for permissive intervention in this proceeding under Wis. Admin. Code § PSC 2.21 (2). NorthStar's participation will promote the proper disposition of the issues to be determined in this proceeding and will not impede the timely completion of this proceeding, as the schedule for the proceeding has not yet been set. As an industry leader on decommissioning, NorthStar is in a unique position to provide critical information to the Commission as it considers the sale of KNP and the disposition of the ROFR.

The Application contains numerous statements of questionable relevance or credibility which will be best explored with NorthStar's participation. For example, the Application strongly implies that a substantial benefit of the proposed deal is the accelerated decommissioning of KNP. However, there is nothing unique about the accelerated decommissioning of a nuclear power plant post sale. NorthStar was the first company in the country to adopt such an approach which has become the industry standard since NorthStar's

successful implementation. This so-called “early” decommissioning of KNP by no means warrants overpayment by more than \$100,000,000 of Wisconsin ratepayer funds.

The Application also wrongly implies that the Nuclear Regulatory Commission (NRC) will have more oversight of the decommissioning than the agency does. For example, it states that EnergySolutions will notify the NRC when the performance bond is reduced. The statement suggests a level of regulatory control over the transaction and the trust funds that the NRC simply does not exercise. The Commission should be fully aware of what the NRC will do and what it will not do when it considers the proposed transaction.

The NRC does not supervise the use of decommissioning trusts and did not prevent substantial cost overruns when EnergySolutions decommissioned the Zion Nuclear Power Plant. The NRC’s role is largely to confirm whether the amount set aside in trust matches or exceeds expected expenditures. EnergySolutions could propose to spend three billion dollars decommissioning KNP, and so long as the trust had that amount in it, the NRC would take no action. Simply put, if the Commission allows the transaction to proceed, the trust fund will be administered by a trustee without oversight who is also the beneficiary of expenditures. In similar situations, NorthStar has performed the work on a fixed cost basis, ensuring that remaining funds would return to the ratepayer even if there are cost overruns.

The Commission should benefit from NorthStar’s experience as it considers the fundamental questions of this case. Was nearly a billion dollars of ratepayer money obligated without a competitive bid? And if so, why?

Finally, even if the Commission’s review were as limited as the Applicant proposes, NorthStar’s participation would be in the public interest. The Application asserts that EnergySolutions has provided sufficient guarantees to ensure performance. The performance

bond proposed, however, is less than one-tenth of the expected cost of decommissioning. Further, a performance bond typically would not, as the Application suggests, provide support to manage spent fuel. NorthStar's experience at CR3 and Vermont Yankee will provide a unique and necessary perspective to assist the Commission as it determines whether the proposed transaction is in the public interest.

NorthStar should be admitted as an intervenor in accordance with Wis. Admin. Code § PSC 2.21. NorthStar's participation in this proceeding is necessary to protect NorthStar's substantial interest and will help ensure that over \$200,000,000 of ratepayer funds are not wrongly used for private interests.

### **NOTICE OF APPEARANCE**

NorthStar requests that the following persons be placed on the Commission's Official Service List for this proceeding and requests that all further documents and correspondence be served on:

Justin W. Chasco  
Wheeler, Van Sickle & Anderson, S.C.  
44 East Mifflin Street, Suite 1000  
Madison, WI 53703  
Tel. (608) 255-7277  
Fax: (608) 255-6006  
E-Mail: [JChasco@wheelerlaw.com](mailto:JChasco@wheelerlaw.com)

Jessica Shrestha  
Wheeler, Van Sickle & Anderson, S.C.  
44 East Mifflin Street, Suite 1000  
Madison, WI 53703  
Tel. (608) 255-7277  
Fax: (608) 255-6006  
E-Mail: [JShrestha@wheelerlaw.com](mailto:JShrestha@wheelerlaw.com)

## CONCLUSION

For these reasons set forth above, NorthStar requests that the Commission grant its request to intervene as a full party in this proceeding.

Dated: June 16, 2021.

Respectfully submitted,

WHEELER, VAN SICKLE & ANDERSON, S.C.

By: /s/ Justin W. Chasco

Justin W. Chasco  
Wis. State Bar No. 1062709  
44 E. Mifflin Street, Suite 1000  
Madison, WI 53703  
Tel: (608) 255-7277  
[JChasco@wheelerlaw.com](mailto:JChasco@wheelerlaw.com)

*Attorneys for NorthStar Group Services, Inc.*