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NMCPAC, FEC# C00365171
George Aandahl, Treasurer
Nuclear Management Company
700 First St.
Hudson, WI 54016
715-377-3414

April 24, 2001

Brad Litchfield, Associate General Counsel
Federal Election Commission
Office of General Counsel
999 E Street, N.W.
Washington, D.C. 20463

AOR 2001-01

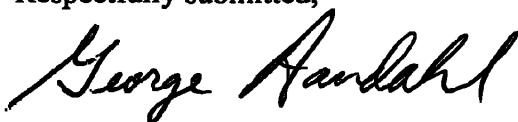
RECEIVED
FEDERAL ELECTION
COMMISSION

Dear Mr. Litchfield:

In response to our discussion of taxation and governance on April 20, 2001, I am providing the following information to supplement the NMCPAC Request for Advisory Opinion:

1. **Income Taxes** – NMC files income tax as a partnership, using Form 1065. Information on NMC operating expenses is provided to owners for inclusion on their corporate income taxes.
2. **Articles of Organization of Nuclear Management Company, LLC** (attached)
3. **Operating Agreement of Nuclear Management Company, LLC** (attached) - Note that Article 5.2b defines four situations requiring a unanimous vote of members, contrary to my previous understanding of the agreement.
4. **Order 05-AE-101** by the Wisconsin Public Service Commission, dated March 31, 2000, relating to the approval of the services agreement between NMC and each of Wisconsin Electric Power Company and Wisconsin Public Service Company.

Respectfully submitted,



George Aandahl

**FOR INFORMATION
ONLY**

**ARTICLES OF ORGANIZATION
OF
NUCLEAR MANAGEMENT COMPANY, LLC**

These Articles of Organization are hereby executed by the undersigned for the purpose of forming a Wisconsin limited liability company pursuant to Chapter 183 of the Wisconsin Statutes.

1. **Name.** The name of the limited liability company is Nuclear Management Company, LLC.
2. **Name and Address of Registered Agent.** The street address of the initial registered office of the limited liability company is 231 West Michigan Street, Milwaukee, WI 53203, and the name of its initial registered agent at such registered office is Walter T. Woelfle.
3. **Management.** The management of the limited liability company is vested in one or more managers.
4. **Organizers.** The name and address of the sole organizer of the limited liability company are as follows:

<u>Name</u>	<u>Address</u>
David D. Wilmoth	Quarles & Brady, LLP 411 East Wisconsin Avenue Milwaukee, WI 53202

IN WITNESS WHEREOF, these Articles of Organization are hereby executed by the undersigned, the sole organizer of the above-named limited liability company, on this ___ day of January, 1999.

Organizer

**FOR INFORMATION
ONLY**

**This document was drafted by
and should be returned to:**

**David D. Wilmoth
Quarles & Brady LLP
411 E. Wisconsin Avenue
Milwaukee, WI 53202
(414) 277-5000**

OPERATING AGREEMENT

Of

NUCLEAR MANAGEMENT COMPANY, LLC

(a Wisconsin Limited Liability Company)

February 25, 1999

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EXHIBITS

A. Services Agreement

OPERATING AGREEMENT OF NUCLEAR MANAGEMENT COMPANY, LLC

THIS OPERATING AGREEMENT is made as of the ____ day of February, 1999, by and among NORTHERN STATES POWER COMPANY, a Minnesota corporation, WEC NUCLEAR CORPORATION, a Wisconsin corporation, and WPS NUCLEAR CORPORATION, a Wisconsin corporation.

R E C I T A L S:

A. The parties to this Agreement desire to form and organize a limited liability company pursuant to Chapter 183 of the Wisconsin Statutes; and

B. The parties are entering into this Agreement to set forth their respective rights and obligations with respect to each other and such limited liability company.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE I

DEFINITIONS

Definitions. In addition to the other definitions contained in this Agreement, the following terms used in this Agreement shall have the following meanings assigned to them:

1.1 Act. Chapter 183 of the Wisconsin Statutes, as amended from time to time.

1.2 Adjusted Capital Account Deficit. With respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant fiscal period after giving effect to the following adjustments: (i) the credit to such Capital Account of any amounts which such Member is obligated to restore under this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations Section 1.704-2(g)(1) and Treasury Regulations Section 1.704-2(i)(5); and (ii) the debit to such Capital Account of the amounts described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6). The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

1.3 **Affiliate.** Any Person coming within the definition of "affiliated interests" with respect to any Owner, and/or any Person who is an affiliate of, or affiliated with, any Owner under the meaning of any provision of the laws, rules or regulations of any state concerning the regulation of public utilities, to which the Company or any Member is subject or by which the Company or any Member is bound.

1.4 **Agreement.** This Operating Agreement, as amended from time to time in accordance with its terms.

1.5 **Board of Directors.** The board of directors elected and/or appointed pursuant to Section 5.1.

1.6 **Capital Account.** The capital account of a Member, as described and maintained in accordance with Section 3.5.

1.7 **Capital Contributions.** All contributions to the capital of the Company without reduction for any Distributions to the Members.

1.8 **Carrying Value.** With respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(a) the initial Carrying Value of any asset contributed (or deemed contributed) to the Company shall be such asset's fair market value (without reduction for associated liabilities) at the time of such contribution;

(b) if the Company elects to adjust the Capital Account balances of the Members to reflect the fair market value of the Company's assets at a given time in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(f), the Carrying Values of all Company assets shall be adjusted to equal their respective fair market values (without taking into account associated liabilities) at such time; and

(c) the Carrying Value of an asset that has been determined pursuant to paragraph (a) or (b) shall thereafter be adjusted as would the asset's adjusted basis for federal income tax purposes except that Depreciation and similar deductions shall be computed as provided in Section 1.15.

1.9 **Cash from Operations.** As to any fiscal year of the Company or portion thereof, the total cash receipts of the Company from all sources other than Capital Contributions, minus (a) all expenditures, Debt payments, charges and expenses (other than depreciation and amortization of the Company), and (b) the amount of Reserves.

1.10 **Code.** The Internal Revenue Code of 1986, as amended, or any corresponding or succeeding law.

1.11 Company. The Wisconsin limited liability company known as "Nuclear Management Company, LLC" organized pursuant to this Agreement and the Act.

1.12 Company Minimum Gain. The amount of gain (of whatever character), if any, determined by and computed in accordance with the principles set forth in Treasury Regulations Section 1.704-2(d), with respect to each nonrecourse liability of the Company, that would be realized by the Company if it disposed of (in a taxable transaction) the property subject to such liability in full satisfaction thereof (and for no other consideration) and then by aggregating the amounts so computed.

1.13 Company Property. All property of the Company.

1.14 Debt. Shall mean (a) any indebtedness for borrowed money or deferred purchase price of property evidenced by a note, bonds, or other instruments, (b) obligations as lessee under capital leases, (c) obligations secured by any mortgage, pledge, security interest, encumbrance, lien, or charge of any kind existing on any asset owned or held by the Company whether or not the Company has assumed or become liable for the obligations secured thereby, and (d) obligations under direct or indirect guarantees of (including obligations (contingent or otherwise) to assure a creditor against loss in respect of) indebtedness or obligations of the kinds referred to in clauses (a), (b) and (c) above.

1.15 Depreciation. For each fiscal year or other period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such year or other period, except that if the Carrying Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount which bears the same ratio to such beginning Carrying Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; provided, however that if the federal income tax depreciation, amortization, or other cost recovery deduction for such year is zero, Depreciation shall be determined with reference to such beginning Carrying Value using any reasonable method selected by the Tax Matters Member.

1.16 Director. A member of the Board of Directors of the Company.

1.17 Distribution. A direct or indirect transfer by the Company of money or other property, other than an Interest, to or for the benefit of the Members in respect of their Interests.

1.18 Generating Company Business. Generating electric power for the account of the Company by reason of the ownership or leasing of nuclear power plant facilities by the Company, or otherwise operating generating facilities pursuant to agreements under which the Company shall own the electrical output of the facility.

1.19 Interest. A Member's rights in the Company, including such Member's share of the Profits and Losses of the Company, the Member's right to receive Distributions and the Member's right to vote or participate in the management of the Company. Unless the context clearly requires otherwise, references to an Interest includes any or all of the foregoing rights.

1.20 Majority Vote of the Directors. The affirmative vote, approval or consent, as the case may be, of a majority, by number, of the Directors entitled to vote on, approve or consent to the particular matter, decision or action.

1.21 Majority Vote of the Members. The affirmative vote, approval or consent, as the case may be, of Members having more than fifty percent (50%) of the total Percentage Interests of the Members entitled to vote on, approve or consent to the particular matter, decision or action.

1.22 Member. Each Person who is a signatory to this Agreement and any other Person who is subsequently admitted as a Member of the Company in accordance with the provisions of this Agreement.

1.23 Member Loan. An advance or loan made by a Member to the Company.

1.24 Member Minimum Gain. Member nonrecourse debt minimum gain, as determined in accordance with Treasury Regulations, Section 1.704-2(i).

1.25 Member Nonrecourse Debt. Member nonrecourse debt, as determined in accordance with Treasury Regulations Section 1.704-2(b)(4).

1.26 Member Nonrecourse Deductions. Member nonrecourse deductions, as determined in accordance with Treasury Regulations Section 1.704-2(i)(2).

1.27 NRC. The United States Nuclear Regulatory Commission.

1.28 Nuclear Power Plant Operating Agreement. A Nuclear Power Plant Operating Agreement by and between the Company and an Owner providing for the operation by the Company of the Owner's nuclear power plant facility, the operating license for which has been transferred to the Company.

1.29 Officer or Officers. One or more individuals appointed as Officers of the Company pursuant to Section 5.5.

1.30 Owner. A Person which owns an interest in a nuclear power plant facility located in the United States and which is a Member or an Affiliate of a Member (other than solely by reason of the relationship of such Person and a Member with the Company).

1.31 Percentage Interest. A Member's interest in the Company, expressed as a percentage, as initially determined in accordance with Section 3.1 and as may be subsequently adjusted in accordance with the provisions of this Agreement and the Act.

1.32 Person. An individual, a general partnership, a limited partnership, a limited liability partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation or any other legal or commercial entity.

1.33 Profits or Losses. Profits or Losses means, for each fiscal year of the Company or other period of the Company, an amount equal to the Company's taxable income or loss for the year or other period, determined in accordance with Section 703(a) of the Code (including all items of income, gain, loss or deduction required to be stated separately under Section 703(a)(1) of the Code), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this Section 1.33 shall be added to such taxable income or loss;

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Treasury Regulations, Section 1.704-1(b)(2)(iv)(i) and not otherwise taken into account in computing Profits or Losses pursuant to this Section 1.33 shall be subtracted from such taxable income or loss;

(c) In the event the Carrying Value of any Company asset is adjusted pursuant to Section 1.8(b) hereof, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset as if such asset was sold for purposes of computing Profits or Losses and shall be allocated in accordance with Section 4.1 among the Persons who were Members immediately preceding the date of such adjustment;

(d) Gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Carrying Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Carrying Value;

(e) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year or other period, computed in accordance with Section 1.15 hereof; and

(f) Notwithstanding any other provision in this Section 1.33, any items which are specially allocated pursuant to Sections 4.4, 4.5, 4.6, 4.7 and 4.8 hereof shall not be taken into account in computing Profits or Losses.

1.34 PSC. Any state public service commission or similar regulatory agency of a different name which has regulatory authority over the Company, a Member, or an Owner.

1.35 Reserves. Reserves means amounts set aside by the Company, to provide working capital and to pay for such known, contingent or unforeseen liabilities or obligations of the Company as may be necessary or appropriate as determined by the Board of Directors for the protection of the Company.

1.36 Services Agreement. A Services Agreement by and between the Company and an Owner providing for the provision of certain services by the Company to an Owner in connection with the operation, maintenance or decommissioning of a nuclear power plant facility.

1.37 Supermajority Vote of the Directors. The affirmative vote, approval or consent, as the case may be, of more than seventy-five percent (75%), by number, of the Directors who are entitled to vote on, approve or consent to the particular matter, decision or action.

1.38 Supermajority Vote of the Members. The affirmative vote, approval or consent, as the case may be, of Members having more than seventy-five percent (75%) of the total Percentage Interests of the Members who are entitled to vote on, approve or consent to the particular matter, decision or action.

1.39 Transfer. Any sale, gift, transfer, assignment or other disposition of an Interest, including without limitation a transfer by operation of law, pledge or the granting of any security interest, lien or other encumbrance in or against an Interest.

1.40 Transferor. Any Member who Transfers an Interest to another Person.

1.41 Transferee. Any Person who acquires an Interest from a Member pursuant to a Transfer.

1.42 Treasury Regulations. The federal income tax regulations promulgated under the Code, as such regulations may be amended from time to time. All references herein to specific sections of the treasury regulations shall be deemed also to refer to any corresponding provisions of succeeding treasury regulations, and any references to temporary regulations shall be deemed also to refer to any corresponding provisions of final treasury regulations.

1.43 Unanimous Vote of the Members. The affirmative vote, approval or consent, as the case may be, of all of the Members entitled to vote on, approve or consent to the particular matter, decision or action.

ARTICLE II

FORMATION; NAME; PURPOSES

2.1 Formation. The parties have caused a Wisconsin limited liability company to be formed on February ____, 1999 pursuant to the Act by the filing of Articles of Organization of the Company with the Department of Financial Institutions of the State of Wisconsin.

2.2 Intent. The Members intend that the Company shall be classified and treated as a partnership for federal and state tax purposes only and that no provisions of this Agreement shall be deemed or construed to constitute the Company a partnership (including without limitation a limited partnership) or joint venture, or any Member a partner or joint venturer of or with any other Member, for purposes of Section 303 of the federal Bankruptcy Code or any other purpose. No Member shall take any action inconsistent with the intent of the parties set forth in this Section 2.2.

2.3 Name. The name of the Company shall be "Nuclear Management Company, LLC."

2.4 Purpose.

(a) The purpose of the Company shall be to provide services in connection with the maintenance, operation or decommissioning of nuclear power plant facilities, and to engage in any lawful business or activity permitted under the Act and to do any and all other actions and things which may be necessary, incidental or convenient with respect thereto.

(b) The purpose of the Company as set forth in Section 2.4(a) shall include the Generating Company Business, provided that the terms and conditions relating thereto shall require a Unanimous Vote of the Members.

2.5 Powers. The Company shall have the same powers as an individual to do all things necessary and convenient to carry out its business, to the fullest extent provided by the Act.

2.6 Registered Agent and Address of Registered Agent. The initial registered agent of the Company is Walter T. Woelfle and the registered office is 231 West Michigan Street, Milwaukee, Wisconsin 53203. The registered agent of the Company and the registered office may be changed in accordance with the provisions of the Act.

2.7 Principal Place of Business. The Company's principal place of business shall be located at 231 West Michigan Street, Milwaukee, Wisconsin. The Company's principal place of business may be changed from time to time by the Board of Directors.

2.8 Term. The term of the Company shall commence on the effective date of the filing of the Company's Articles of Organization with the Department of Financial Institutions of the State of Wisconsin, and shall continue until dissolution of the Company pursuant to Article IX hereof.

2.9 Documents.

(a) The Members and the Board of Directors shall promptly execute and file all certificates or other documents, including without limitation amendments to the Company's Articles of Organization and fictitious name or assumed name certificates, and shall execute such other documents and take such other acts, as shall from time to time be required by the Act, other applicable laws of the State of Wisconsin and applicable laws of other states in which the Company conducts its business.

(b) The Members agree that, conditioned on obtaining any required PSC approval of appropriate "affiliated interest" filings (and any similar approvals required under any laws, rules or regulations of any governmental or regulatory authority applicable to the Company, any Member, and/or any Owner), the Company shall enter into a Services Agreement, in the form as set forth in Exhibit A hereto, with each Owner, pursuant to which the Company will provide certain services to each Owner in connection with the maintenance and operation of such Owner's nuclear power plant facility or facilities. The Members contemplate that one or more of the Owners may seek and obtain approval from the NRC to transfer responsibility for operating one or more nuclear power plant facilities to the Company. In the event such approval is sought and obtained, such Owner and the Company shall enter into a Nuclear Power Plant Operating Agreement, which shall replace, supersede and/or amend the existing Services Agreement by and between such Owner and the Company.

ARTICLE III

CAPITAL CONTRIBUTIONS AND LOANS

3.1 Initial Capital Contributions and Percentage Interests. Each Member shall make the initial Capital Contributions to the Company set forth in Schedule I attached hereto, and upon making such initial Capital Contributions, shall have the Percentage Interest shown opposite such Member's name on Schedule I, until changed in accordance with this Agreement. Additional Members, if any, shall make initial Capital Contributions to the Company upon admittance in such amounts as determined by the existing Members pursuant to Section 5.2(a) and such admittee, and Schedule I shall be amended to properly reflect such Capital Contributions.

3.2 Additional Capital Contributions.

(a) Except as provided in Section 3.2(b), no Member shall have the right or obligation to make additional Capital Contributions.

(b) The Board of Directors may make calls for additional Capital Contributions from the Members from time to time as the Board of Directors, in its discretion, may determine by a Majority Vote of the Directors; provided, however, that a Supermajority Vote of the Directors shall be required to make a call for additional capital:

- (i) in an amount greater than Two Hundred Fifty Thousand Dollars (\$250,000) per member during any calendar year; or
- (ii) for any purpose other than necessary for the Company's administration or infrastructure or the completion of the Company's express responsibilities pursuant to a Service Agreement or Nuclear Power Plant Operating Agreement.

Any call for additional Capital Contributions shall be made by delivery of written notice by the Board of Directors to each Member specifying the aggregate amount of the required additional Capital Contribution and each Member's share of such additional Capital Contribution based on the respective Percentage Interests of the Members. Each Member shall deliver to the Company its proportionate share of the additional Capital Contribution called for within thirty (30) days following the date the notice for the call for additional Capital Contribution is given.

(c) If a Member fails timely to make an additional Capital Contribution upon the call of the Board of Directors as provided for in Section 3.2(b) above, then the defaulting Member shall be in breach of this Agreement and as a consequence, in addition to any other remedies the Company or the other Members may have with respect to such breach,

the defaulting Member shall be removed as a Member of the Company as provided for in Section 8.2(c), and shall forfeit to the Company a default penalty in an amount equal to such defaulting Member's Capital Account at the time of said default.

(d) Any Member giving notice of voluntary withdrawal pursuant to Section 8.2(a) shall not be responsible for any additional Capital Contribution levied after such Member gave notice or five (5) days prior to such Member giving notice.

3.3 No Interest on Capital Contribution. No Member shall be entitled to receive interest on any Capital Contribution.

3.4 Withdrawal of Capital. Except as provided in Section 8.2, prior to the dissolution and the liquidation of the Company under Article IX, no Member shall be entitled to withdraw all or any part of such Member's Capital Account or, except as otherwise provided in this Agreement, to any Distribution.

3.5 Capital Accounts.

(a) A separate Capital Account shall be maintained for each Member. Each such Capital Account shall initially be equal to the initial Capital Contribution of each Member described in Section 3.1 hereof, and

(b) Shall be increased by:

(i) The amount of money and the fair market value of property contributed by the Member to the Company (net of liabilities secured by such property which the Company is considered to assume or take subject to, pursuant to Section 752 of the Code), and

(ii) Allocations to the Member of Profits, and

(c) Shall be decreased by:

(i) The amount of money and fair market value of property distributed to the Member by the Company (net of liabilities secured by such property which the Member is considered to assume or take subject to, pursuant to Section 752 of the Code), and

(ii) Allocations to the Member of Losses, and

(d) Shall be increased or decreased by:

- (i) Special allocations of income, gain, loss or deduction as provided in Sections 4.4, 4.5, 4.6, 4.7 and 4.8, and
- (ii) Any other allocation or adjustment as provided under Treasury Regulations, Section 1.704-1(b).

In the event of a Transfer of an Interest to a Transferee who becomes a Member, such Transferee shall succeed to the Transferor's Capital Account as of the effective date of the Transfer.

3.6 Member Loans. No Member shall have any obligation to make a Member Loan to the Company. The Board of Directors may, in its discretion, request that the Members make a Member Loan to the Company. Such request shall be in writing, shall specify the terms and conditions associated with the requested Member Loan, including the proposed interest rate on funds borrowed by the Company, and shall be provided to the Members not less than thirty (30) days prior to the date the Member Loan is proposed to be made. Each Member shall have the right to participate in any requested Member Loan in proportion to such Member's Percentage Interest. If less than all of the Members agree to participate in any requested Member Loan, then those Members who agree to so participate shall do so in proportion to the ratio each such Member's Percentage Interest bears to the Percentage Interests of all of those Members so participating.

ARTICLE IV

PROFITS AND LOSSES; DISTRIBUTIONS

4.1 Profits and Losses.

- (a) Profits. Profits shall be allocated as follows:
 - (i) First, to the Members pro rata to the Losses allocated to them pursuant to Section 4.1(b)(iii) hereof until each Member has been allocated an amount of Profits pursuant to this Section 4.1(a)(i) in the current and previous fiscal years that equals the Losses allocated to that Member pursuant to Section 4.1(b)(iii) hereof in the previous fiscal years;
 - (ii) Second, to the Members pro rata to the Losses allocated to them pursuant to Section 4.1(b)(ii) hereof until each Member has been allocated an amount of Profits pursuant to this Section 4.1(a)(ii) in the current and previous fiscal years that equals the

Losses allocated to that Member pursuant to Section 4.1(b)(ii) hereof in the previous fiscal years; and

(iii) Thereafter, to all Members in proportion to their Percentage Interests.

(b) Losses. Losses shall be allocated as follows:

(i) First, to the Members pro rata to the Profits allocated to them pursuant to Section 4.1(a)(iii) hereof until each Member has been allocated an amount of Losses pursuant to this Section 4.1(b)(i) in the current and previous fiscal years that equals the Profits allocated to that Member pursuant to Section 4.1(a)(iii) in the previous fiscal years;

(ii) Second, to the Members based on their respective positive Capital Accounts until each Member has been allocated an amount of Losses pursuant to this Section 4.1(b)(ii) in the current and previous fiscal years to reduce that Member's Capital Account to zero; and

(iii) Thereafter, to all Members, in proportion to their Percentage Interests.

(c) Allocation Within Periods. For purposes of determining the Profits, Losses, or any items allocable to any period, Profits, Losses and any such other items shall be determined on a daily, monthly or other basis, as determined by the Board of Directors using any permissible method under Section 706 of the Code and the Treasury Regulations thereunder.

4.2 Distributions. Except for Distributions upon liquidation of the Company (which are governed by Section 9.3), Cash from Operations for any fiscal period of the Company shall be distributed to the Members in accordance with their Percentage Interests as of the record date for such payment at such times as the Board of Directors may determine.

4.3 Limitations Upon Distributions. No Distribution shall be declared or made if, after giving effect to the Distribution, the Company would be unable to pay its debts as they become due in the usual course of business or if the fair market value of the total assets of the Company would be less than the sum of all liabilities of the Company. Except as otherwise may be permitted upon liquidation of the Company under Section 9.3 or as may be agreed to by all of the Members, the Company shall not make any Distribution to the Members in property other than in cash.

4.4 Qualified Income Offset. Notwithstanding any other provision of this Agreement:

(a) No allocation of deductions, losses or items thereof under this Agreement shall be made to any Member to the extent that such allocation (i) would cause such Member to have an Adjusted Capital Account Deficit as of the last day of such taxable year or (ii) would increase any Member's Adjusted Capital Account Deficit or (iii) in the good faith judgment of the Board of Directors or upon advice of the Company's independent certified public accounting firm or legal counsel, would otherwise not likely be respected under Section 704(b) of the Code. In any such event, the allocation of such deductions, losses or items thereof to such Member shall be reduced to the extent necessary to comply with the first sentence of this Section and the allocation of such deductions, losses or items thereof to the other Members shall be increased to the same extent. No such determination by the Board of Directors in their good faith judgment or upon the advice of such accounting firm or legal counsel shall give rise to any claim or cause of action by any Member.

(b) To the extent any deductions, losses or items thereof have been specially allocated to any Member in accordance with Section 4.4(a), then items of income and gain shall thereafter first be specially allocated to such Member in proportion to and in an amount up to, but not exceeding, the amount of any such allocations of deductions, losses or items thereof made to the Member under such Section 4.4(a).

(c) If any Member unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations, Sections 1.704-1(b)(2)(ii)(d)(4),(5) or (6) in an amount not reasonably expected, and if such Member has an Adjusted Capital Account Deficit as of the last day of such taxable year, then the Member shall be allocated all items of income and gain, including gross income, of the Company for such year and for all subsequent taxable years of the Company in the manner provided in Treasury Regulations, Section 1.704-1(b)(2)(ii)(d) until such Adjusted Capital Account Deficit has been eliminated. This Section 4.4(c) is intended to constitute a "qualified income offset" within the meaning of Treasury Regulations, Section 1.704-1(b)(2)(ii)(d) and all allocations shall be made so as to comply therewith.

4.5 Company Minimum Gain Chargeback. Notwithstanding any provision hereof to the contrary, if there is a net decrease in Company Minimum Gain for a taxable year of the Company within the meaning of Treasury Regulations, Section 1.704-2(f)(1), each Member shall be specially allocated items of income and gain for such taxable year (and, if necessary, for subsequent taxable years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, computed in accordance with Treasury Regulations, Sections 1.704-2(f)(1) and 1.704-2(g)(2) and subject to the exceptions set forth in Treasury Regulations, Sections 1.704-2(f)(2) and (3). The Members intend that items with respect to nonrecourse liabilities, if any, shall be determined and allocated in accordance with the so-called "minimum gain chargeback" provisions of Treasury Regulations, Section 1.704-2.

4.6 Member Minimum Gain Chargeback. Notwithstanding any other provision hereof to the contrary (except Section 4.5 hereof), if there is a net decrease in Member Minimum Gain attributable to a Member Nonrecourse Debt during any taxable year of the Company, then each Member who has a share of the Member Minimum Gain attributable to such Member Nonrecourse Debt (as determined in accordance with Treasury Regulations Section 1.704-2(i)(5)) shall be specially allocated items of income and gain for such taxable year (and if necessary, subsequent taxable years) in an amount equal to the portion of such Member's share of the net decrease in Member Minimum Gain attributable to such Member Nonrecourse Debt (as determined in accordance with Treasury Regulations Section 1.704-2(i)(4)). Any allocations made pursuant to this Section shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items of income or gain to be specially allocated under this Section shall be determined in accordance with Treasury Regulations Section 1.704-2(i)(4). This Section is intended to comply with the minimum gain chargeback requirements of Treasury Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

4.7 Member Nonrecourse Deductions. Member Nonrecourse Deductions shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i).

4.8 Section 754 Adjustment. To the extent an adjustment to the adjusted tax basis of any Company property undertaken pursuant to Section 734(b) or 743(b) of the Code is required to be taken into account in determining the Capital Accounts of the Members under Treasury Regulations Section 1.704-1(b)(2)(iv)(m), then the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to the aforementioned Section.

4.9 Tax Allocations; Code Section 704(c). In accordance with Code Section 704(c) and the Treasury Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Carrying Value (computed in accordance with Section 1.8 hereof). In the event the Carrying Value of any Company asset is adjusted pursuant to Section 1.8(b) hereof, subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Carrying Value in the same manner as under Code Section 704(c) and the Treasury Regulations thereunder. Any elections or other decisions relating to such allocations shall be made by the Tax Matters Member in any manner that reasonably reflects the purpose and

intention of this Agreement. Allocations pursuant to this Section 4.9 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, other items, or Distributions pursuant to any provision of this Agreement.

ARTICLE V

MANAGEMENT

5.1 **Management.** The business and affairs of the Company shall be managed by a Board of Directors in accordance with the provisions of this Agreement. Except as provided in Section 5.2, the Board of Directors shall, to fullest extent permitted by the Act, have full and complete authority, power and discretion to direct, manage and control the business, affairs and properties of the Company, to make all decisions regarding such matters and to perform any and all acts and to engage in any and all activities necessary, customary or incident to the management of the Company's business, affairs and properties. The authority of the Board of Directors and its duties in connection with the management of the business and affairs of the Company, or any portion thereof, may be delegated to and exercised and discharged by the Chief Executive Officer and/or one or more of the other Officers appointed by the Board of Directors as provided in Section 5.5 hereof, all of which Officers shall serve at the pleasure of the Board of Directors.

5.2 **Limitation of Authority of the Board of Directors.** Notwithstanding Section 5.1 hereof, neither the Board of Directors nor any Officer shall have authority to:

(a) do any of the following without a Supermajority Vote of the Members, except that if there are four (4) or less Members only a Majority Vote of the Members shall be required with respect to Section 5.2(a)(i) and (iii) (all as provided for in Article VII):

- (i) Issue any additional Interests in the Company;
- (ii) Amend the Company's Articles of Organization; or
- (iii) Amend this Agreement in connection with issuance of additional Interests in the Company.

(b) do any of the following without a Unanimous Vote of the Members (as provided for in Article VII):

- (i) Engage in any act in contravention of this Agreement;
- (ii) Sell all or substantially all of the Company Property;

- (iii) Dissolve the Company; or
- (iv) Amend the Agreement other than in connection with the issuance of new Interests.

5.3 Duties of the Directors. The Directors shall use reasonable efforts and devote such time as they, in their reasonable judgment, deem necessary to carry out the business and activities of the Company, and shall promptly take all action that the Directors, in their reasonable judgment, deem necessary or appropriate for the organization and continuance of the Company and the protection of the Company's assets.

5.4 Board of Directors.

(a) **Appointment of Directors.** The Board of Directors shall initially consist of no fewer than three (3) individuals. Each Member shall appoint one (1) Director. Each Member hereby appoints the individual set forth opposite such Member's name on Schedule II as such Member's initial Director. In addition to those individuals appointed by the Members, the Members may, by Supermajority Vote of the Members, elect any number of additional individuals to serve on the Board of Directors. Each Director shall hold office until his or her death, resignation, replacement or removal.

(b) **Removal; Resignation.** A Director appointed by a Member may be removed (i) only by the Member appointing such Director (whether with or without cause), or (ii) immediately upon the withdrawal or removal under Article VIII hereof of the Member appointing such Director. A director elected by a Supermajority Vote of the Members (not appointed by a Member) may be removed only upon a Supermajority Vote of the Members. Any such removal shall be effective upon the date the notice of removal is given, and any notice of removal given with respect to a Director appointed by a Member shall also specify the name of the new Director who shall become a Director effective upon the date the notice is given. The Board of Directors shall not have the right to remove any Director appointed by a Member except upon withdrawal or removal under Article 8 hereof of the Member appointing such Director. A Director may voluntarily resign at any time by delivering a written notice to the Board of Directors. A resignation is effective when such notice is delivered to the Company or the Board of Directors unless the notice specified a later effective date. Upon the removal, death or resignation of any Director appointed by a Member, the Member which originally appointed such Director shall appoint a new Director to fill the vacancy.

(c) **Meetings.** Meetings of the Board of Directors, for any purpose, may be called by any two or more Directors, or by the Chairperson. The individual or individuals calling the meeting may designate any place either within or outside of the State of Wisconsin as the place of the meeting before any meeting of the Board of Directors. If no designation is

made, the place of meeting shall be the Company's principal place of business. Written notice stating the place, day and hour of the meeting, and the general purpose or purposes for which the meeting is called, shall be delivered not less than five (5) nor more than thirty (30) days before the date of the meeting; provided, however, that if all of the Directors shall meet at any time and place, either within or outside of the State of Wisconsin, and consent to the holding of the meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting any lawful action may be taken.

(d) Quorum; Voting. A majority of the Directors, by number, shall constitute a quorum at any meeting of the Board of Directors. In the absence of a quorum at any such meeting, a majority of the Directors present may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice. If a quorum is present, a Majority Vote of the Directors (whether or not present) shall be the act of the Board of Directors, except as otherwise specifically provided for in this Agreement. Notwithstanding the foregoing, the Board of Directors shall not do any of the following without a Supermajority Vote of the Directors:

- (i) Borrow money in excess of \$250,000 in any year, make any guarantee or encumber, mortgage or otherwise subject to any lien, any Company Property;
- (ii) Amend or enter into any lease of Company Property;
- (iii) Make any expenditure or commitment which would cause the annual budget approved by the Board to be exceeded by \$250,000 in the aggregate;
- (iv) Confess a judgment against the Company in connection with any threatened or pending legal action; or
- (v) Possess any Company asset or assign the rights of the Company in any Company Property for other than a Company purpose.

(e) Action by Board of Directors Without a Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken, signed by all of the Directors, and such written consents shall be delivered for inclusion in the minutes or for filing with the Company records. Consents may be executed in counterparts.

(f) Meeting by Telephone or Other Communication Technology. Any or all Directors may participate in a meeting by, or conduct the meeting through the use of, telephone or other means of communication by which either: (i) all participating Directors may simultaneously hear each other during the meeting, or (ii) all communication during the

meeting is immediately transmitted to each participating Director, and each participating Director is able to immediately send messages to all other participating Directors. If a meeting of the Board of Directors will be conducted through the use of any means described herein, all participating Directors shall be informed that a meeting is taking place at which official business may be transacted. A Director participating in a meeting by any means described herein is deemed to be present in person at the meeting.

5.5 Officers.

(a) Appointment of Officers. Except as otherwise provided herein, the Board of Directors may appoint a Chairperson, a Chief Executive Officer, a President, one or more Vice Presidents, a Secretary, a Treasurer and Chief Financial Officer and a Chief Nuclear Officer. One individual may hold any number of offices.

(b) Term of Office and Qualification. Each Officer appointed by the Board of Directors shall hold office until such Officer's successor shall have been duly elected and qualified or until such Officer's death or such officer's resignation or removal in the manner hereinafter provided.

(c) Subordinate Officers. The Board of Directors may appoint such other Officers and agents as the Board of Directors shall deem necessary who shall hold their offices for such terms, have such authority and perform such duties as the Board of Directors may from time to time determine. The Board of Directors may delegate to any committee or Officer the power to appoint any such subordinate Officer or agent. No subordinate Officer appointed by any committee or superior Officer as aforesaid shall be considered as an Officer of the Company, the officers of the Company being limited to the officers appointed as such by the Board of Directors.

(d) Resignation. Any Officer may resign at any time by giving written notice thereof to the Board of Directors, the Chairperson or President of the Company. Any such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

(e) Removal. Any Officer appointed by the Board of Directors may be removed at any time with or without cause by the affirmative vote of a majority of the Board of Directors, except as otherwise specifically provided for herein. The removal of any Officer shall be without prejudice to the contract rights, if any, of the individual so removed. Election or appointment of an Officer or agent shall not of itself create any contract rights.

(f) Chairperson. The Chairperson shall be appointed from among those individuals serving on the Board of Directors, shall preside at all meetings of the Members and Board of Directors, shall be ex officio a member of all standing committees, shall have full power to see that the duties of all other Officers are properly performed and shall see that

all orders and resolutions of the Board of Directors are carried into effect. In the absence of the Chairperson, the Chief Executive Officer will preside at all meetings of the Members and Board of Directors. In addition, the Chairperson shall perform whatever duties and shall exercise all powers that are given to him or her by the Board of Directors.

(g) The Chief Executive Officer. The Chief Executive Officer shall, subject to the direction and control of the Board of Directors, have the power, authority and duty to conduct the general and active management and supervision of the day-to-day business of the Company and shall see that all orders and resolutions of the Board of Directors are carried into effect. The Chief Executive Officer may sign any deeds, bonds, mortgages, contracts and other documents, except where required by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors or this Agreement to some other Officer or agent of the Company. In addition, the Chief Executive Officer shall perform whatever duties and shall exercise all the powers that are given to him or her by the Board of Directors. Removal of the Chief Executive Officer shall require a majority Vote of the Directors.

(h) The President. The President shall be the Chief Operating Officer of the Company. The President shall, subject to the direction and control of the Board of Directors and the Chief Executive Officer, participate in the general and active management of the day-to-day operations of the Company, and shall assist the Chief Executive Officer in assuring that all orders and resolutions of the Board of Directors are carried into effect. At the request of the Chief Executive Officer, or in the case of the disability of the Chief Executive Officer or the vacancy of the office of Chief Executive Officer, the President shall perform the duties and exercise the powers of the Chief Executive Officer. In addition, the President shall perform whatever duties and shall exercise all the powers that are given to him or her by the Board of Directors.

(i) The Vice Presidents. The Vice Presidents shall perform such duties as are assigned to them by the Board of Directors, the Chief Executive Officer or the President. At the request of the President, or in the President's absence or disability, the Vice President designated by the President (or in the absence of such designation, the senior Vice President as determined by tenure), shall perform the duties and exercise the powers of the President.

(j) The Secretary. The Secretary, when available, shall attend all meetings of the Board of Directors and all meetings of the Members and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the standing committees of the Board of Directors when required. The Secretary shall give, or cause to be given, notice of all meetings of the Members and special meetings of the Board of Directors as required by law or this Agreement, be custodian of the limited liability company records and shall perform such other duties as may be prescribed by the Board of Directors or by the Chairperson.

(k) The Treasurer and Chief Financial Officer. The Treasurer shall have custody of and be responsible for all funds and securities of the Company, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Company and shall deposit all monies and other valuable effects in the name and to the credit of the Company in such depositories as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the Company as may be ordered by the Board of Directors taking proper vouchers for such disbursements, and shall render to the Chairperson, the Board of Directors, the Chief Executive Officer, and the President, at the regular meetings of the Board of Directors, or whenever they may require it, an account of all transactions as Chief Financial Officer and of the financial condition of the Company.

(l) Chief Nuclear Officer. The Chief Nuclear Officer shall have responsibility for overall nuclear safety and for the acceptable performance of the staff in operating, maintaining, and providing technical support to the nuclear power plant facilities owned by those Owners whose NRC operating licenses have been transferred to the Company. The duties of the Chief Nuclear Officer shall include administration and control of Owner-approved annual budgets for operations and maintenance and capital improvements for those facilities. The Chief Nuclear Officer shall also cause such actions to be taken as are necessary, and shall obtain and maintain all licenses and permits required, to comply with all applicable regulations of the NRC and any other governmental agencies or authorities having jurisdiction over operation of such nuclear power plant facilities. The Chief Nuclear Officer shall be appointed by a majority of those Directors who have been appointed by Members which are Owners or are affiliated with an Owner which is then a party to a Nuclear Power Plant Operating Agreement with the Company, and the Chief Nuclear Officer may be removed from office only by a majority of those Directors appointed by Members who are Owners or are affiliated with an Owner which is then a party to a Nuclear Power Plant Operating Agreement.

(m) Salaries. Each Officer of the Company shall be entitled to receive such salary or other compensation for the fulfillment of obligations to the Company as approved by the Board of Directors.

ARTICLE VI

RIGHTS AND OBLIGATIONS OF MEMBERS

6.1 Limitation of Liability. No Member shall be liable for the debts, obligations and liabilities of the Company except as expressly provided by the Act.

6.2 Priority and Return of Capital. No Member shall have priority over any other Member, either as to the return of Capital Contributions or as to Profits, Losses or Distributions; provided, however, that this Section 6.2 shall not apply to any Member Loan (as distinguished from Capital Contributions) which a Member has made to the Company.

6.3 Representations and Warranties. Each Member ("Representing Member") represents and warrants to the Company and the other Members that the Representing Member has full power and authority to execute and deliver this Agreement, and to perform all of its obligations hereunder, and that this Agreement constitutes a legally binding agreement of the Representing Member, enforceable against such Member in accordance with its terms.

6.4 Confidentiality. Except as contemplated by this Agreement, each Member shall keep confidential and not disclose to other Persons which are not Members, and shall use reasonable efforts to prevent such Member and such Member's Affiliates, and their respective employees, agents and representatives, from disclosing to Persons which are not Members, any information or materials which (a) pertain to this Agreement or any of the transactions contemplated hereby, or the business of the Company, or (b) pertain to confidential or proprietary information of any other Member or of the Company; provided however, that a Member may disclose to the respective employees, agents and representatives of such Member and its Affiliates and of the Company and its Affiliates any information or materials to the extent it is reasonably necessary for any such employee, agent or representative to possess or use such information in connection with the Member's interest in the Company or the conduct of business by such Member or the Company or any Affiliate thereof on behalf of the Company. The Members further agree that plant-specific cost data shall be shared only among each Member's or their affiliated Owner's NMC Steering Committee members and Member's or Affiliated Owner's headquarters employees for purposes of evaluating the NMC's projected financial performance in providing services, plant operations, or the Generating Company Business and not for any other purpose. Each Member will develop access protocols to such information that assure that adequate precautions regarding distribution of such information are in place including but not limited to precautions that prohibit such information from being shared with any Member or affiliated Owner employees with responsibility for power marketing and so as to otherwise comply with applicable law. Notwithstanding the foregoing, a Member or Affiliated Owner may disclose information with respect to the Company or Owner's plant as may be reasonably requested in connection with any due diligence investigation required pursuant to any financing, corporate reorganization, securities offering or asset disposition provided the Person to whom such information is disclosed has executed a confidentiality agreement with respect to such information. Information of the Company or a Member shall not be deemed confidential to the extent it is (i) known to the receiving party prior to disclosure by the disclosing party; (ii) disclosed to the receiving party by a third party without any obligation of confidentiality to the disclosing party or the Company; (iii) publicly available or becomes publicly available other than as a result of a breach by the receiving party of such party's obligation of confidentiality set forth herein; or (iv) required to be disclosed by law. The obligations of confidentiality contained herein shall survive the termination of this Agreement.

6.5 Other Activities of the Members and Affiliates. The Members and their Affiliates may engage in any other ventures or activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right by virtue of this Agreement or the membership relationship created hereby in or to such other ventures or activities or to the income or proceeds derived therefrom, and the pursuit of such ventures or activities, even if competitive with the business of the Company, shall not be deemed wrongful or improper.

6.6 Power and Authority to Bind Company. Except as specifically provided for in this Agreement, no Member shall have the power or authority to make legally binding commitments of any kind or nature on behalf of the Company.

ARTICLE VII

VOTING AND MEETINGS OF MEMBERS

7.1 Place of Meetings. The Members, by Majority Vote of the Members, may designate any place, either within or without the State of Wisconsin, as the place of meeting for any meeting of the Members. A waiver of notice signed by all Members entitled to vote at a meeting may designate any place, either within or without the State of Wisconsin, as the place for the holding of such meeting. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the Company's principal office.

7.2 Meetings. Meetings of the Members, for any purpose or purposes, when otherwise prescribed by the Act, may be called by any Member holding at least 10% of the Interests.

7.3 Notice of Meetings. Written or printed notice of all meetings of Members stating the place, day and hour thereof shall be personally delivered or mailed, not less than five (5) days nor more than sixty (60) days prior to the date of the meeting, to the Members of record entitled to vote at such meeting. If mailed, the notice shall be addressed to the Members as their addresses appear on the books and records of the Company and the postage shall be prepaid. Personal delivery of any such notice to any member of a partnership or to any officer or a corporation, limited liability company or other entity shall constitute delivery of such notice to such partnership, corporation, limited liability company or other entity.

7.4 Meeting of all Members. If all of the Members shall meet at any time and place, either within or outside of the State of Wisconsin, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting any lawful action may be taken.

7.5 Record Date. For the purpose of determining Members entitled to notice or to vote at any meeting of Members or any adjournment thereof, the date on which notice of the meeting is mailed shall be the record date for such determination. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section 7.5, such determination shall apply to any adjournment thereof unless the adjournment is for more than sixty (60) days, in which event the record date shall be a date which is sixty (60) days following the date of such adjourned meeting.

7.6 Quorum. Members having a majority of the total number of votes of all Members, represented in person or by proxy, shall constitute a quorum at any meeting of Members. In the absence of a quorum at any such meeting, any Member may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice. If the adjournment is for more than sixty (60) days a notice of the meeting shall be given to each Member of record entitled to vote at the meeting.

7.7 Required Vote. If a quorum is present, a Majority Vote of the Members (whether present or not) shall be the act of the Members, unless a different vote is required by law or this Agreement. Except to the extent a Member votes by proxy as provided for in Section 7.8 hereof, the vote of each Member shall be exercised by the Director appointed by such Member, unless the Member designates a different individual to exercise its vote by written notice given to the Company before or at the time of the meeting at which any vote is taken. Notwithstanding anything in this Agreement to the contrary, no Member shall be entitled to vote on any matter coming before the Members from and after the date on which such Member gives notice of voluntary withdrawal, or involuntarily withdraws, or is removed in accordance with Section 8.2 hereof.

7.8 Proxies. At all meetings of Members, a Member may vote in person or by proxy executed in writing by the Member or a duly authorized attorney-in-fact. Such proxy shall be filed with the Company before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

7.9 Action by Members Without a Meeting. Any action required or permitted to be taken at a meeting of Members may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken, signed by all Members entitled to vote for the action taken, and such written consents shall be delivered to the Company for inclusion in the minutes or for filing with the Company records. The record date for determining Members entitled to take action without a meeting shall be the date the first Member signs the written consent.

7.10 Waiver of Notice. When any notice is required to be given to any Member, a waiver thereof in writing signed by such Member before, at or after the time stated therein shall be equivalent to the giving of such notice.

(H) *Direction of funds or goods* – No owning company or its connected PAC has directed or encouraged the transfer of funds from NMCPAC to any other sponsoring organization or committee.

(I) *Active or significant role in formation* – NMCPAC was formed without the active involvement of the five federal PACs connected to the owning companies. However, some people involved in organizing the NMCPAC have previous experience in those five PACs.

(J) *Patterns of contributions, formal relationship* – NMCPAC has not made any contributions to date. There is not a formal and ongoing relationship between NMCPAC and the owning company PACs, other than that Wisconsin Public Service Company's PAC is currently listed as affiliated on the NMCPAC Statement of Organization. Since NMCPAC and all of the owning-companies' connected PACs are concerned with energy policy issues, some similarity in contributions is likely to occur.

Respectfully submitted,

A handwritten signature in cursive script that reads "George Aandahl". The signature is written in black ink and is positioned above the printed name.

George Aandahl

References

11CFR100.5(g), 11CFR110.3(a), AO 1992-17, AO 1994-9, AO 1994-11, and AO 1997-13

7.11 Meetings By Telephone or Other Communication Technology. Any or all Members may participate in a meeting by, or conduct the meeting through the use of, telephone or any other means of communication by which either: (a) all participating Members may simultaneously hear each other during the meeting or (b) all communication during the meeting is immediately transmitted to each participating Member, and each participating Member is able to immediately send messages to all other participating Members. If a meeting will be conducted through the use of any means described in this Section 7.11, all participating Members shall be informed that a meeting is taking place at which official business may be transacted. A Member participating in a meeting by any means described in this Section 7.11 is deemed to be present in person at the meeting.

ARTICLE VIII

TRANSFER OF INTERESTS AND WITHDRAWALS OR REMOVAL OF MEMBERS

8.1 Transfers.

(a) Except as otherwise provided in this Article VIII, no Member may Transfer all or any portion of or any interest or rights in such Member's Interest, without prior approval of the other Members, granted by a Majority Vote of the Members, excluding the Member proposing to make the Transfer.

(b) The restriction of Section 8.1(a) shall not apply: (i) to a Transfer to an Affiliate which is part of the same Affiliated Group (as defined in Section 1504(a)(1) of the Code) as the Transferring Member; and (ii) to a Transfer in connection with a merger of the Member or Owner, the sale or other disposition of substantially all of the assets of a nuclear power plant of an Owner.

(c) Each Member hereby acknowledges the reasonableness of the prohibition contained in this Section 8.1 in view of the purposes of the Company and the relationship of the Members. The Transfer of any Interest in violation of the prohibition contained in this Section 8.1 shall be deemed invalid, null and void, and of no force or effect.

8.2 Withdrawals or Removal.

(a) Voluntary Withdrawal. A Member may withdraw by voluntary act from the Company at any time upon thirty (30) days advance written notice or by providing written notice of such voluntary withdrawal no later than five (5) days after approval of any additional Capital Contribution pursuant to Section 3.2. Upon any such voluntary withdrawal, the withdrawn Member shall forfeit such Member's Capital Account, which shall be allocated to those Members other than the withdrawn Member in proportion to such Members' relative

Capital Account balances. The forfeiture of the withdrawn Member's Capital Account shall be the exclusive legal and equitable remedy for voluntary withdrawal.

(b) **Involuntary Withdrawal.** Immediately upon the occurrence of an event of dissociation under the Act of a Member, the successor(s) of the dissociated Member, if any, shall thereupon become an unadmitted assignee of the dissociated Member's Interest, but shall not become a Member. Such successor(s) shall only be entitled to receive the Distributions and to share in the allocations of Profits and Losses to which the dissociated Member would have been entitled with respect to such Interest and shall not be entitled to any other membership rights unless such successor is admitted as a Member by a Unanimous Vote of the Members, excluding the withdrawn Member.

(c) **Removal.** A Member shall be removed as a Member of the Company upon the occurrence of any of the following events:

- (i) If such Member fails timely to make an additional Capital Contribution upon a call by the Board of Directors as provided for in Section 3.2(b); or
- (ii) Following ninety (90) days after formation of the Company, if such Member, if it is an Owner or an Owner who is an Affiliate of such Member or a successor in ownership of such Owner's nuclear power plant, has not executed either a Services Agreement or a Nuclear Power Plant Operating Agreement with the Company, or filed for all necessary regulatory approvals of the Services Agreement or Nuclear Power Plant Operating Agreement during the 90 day period, or is not diligently pursuing obtaining the necessary regulatory approvals, or if at any time after obtaining all necessary regulatory approvals, does not have in effect with the Company a Services Agreement or a Nuclear Power Plant Operating Agreement. This provision shall not be applicable after five (5) years following formation of the Company to Persons who are then Members; or
- (iii) With respect to a Member admitted by reason of Section 8.1(b)(ii) (a "Substitute Member"), if there were no Owners whose nuclear power plant operating licenses had been transferred to the Company, upon a Supermajority Vote of the Members (not including the Substitute Member) made on the earlier of the first anniversary date of admission of the Substitute Member, or 30 days prior to the transfer of an Owner's nuclear power plant operating license to the Company,

if such transfer would occur subsequent to the admission of a Member pursuant to Section 8.1(b)(ii).

- (iv) With respect to a Member admitted by reason of Section 8.1(b)(ii) if one or more Owners have transferred their nuclear power plant operating licenses to the Company, by majority vote of the Members (not including the Substitute Member); or
- (v) By a unanimous vote of all Members, except such Member being removed.

Except as specifically provided for in this Section 8.2(c), no Member shall otherwise be subject to removal. If a Member is removed as a Member of the Company pursuant to parts (c)(i) and (c)(ii) of this Section 8.2, such Member shall forfeit its Capital Account, and shall have no other rights whatsoever with respect to the Company, including any rights to Distributions or to share in Profits and Losses of the Company, which shall be allocated to those Members other than the Member subject to removal, in proportion to such Members' relative Capital Account balances. In the event of removal pursuant to part (c)(iii), (iv) or (v), of this Section 8.2, the Member or Substitute Member promptly shall be paid a cash amount equal to its Capital Account as of the date of such removal. Each Member hereby acknowledges the reasonableness of the foregoing Capital Account provisions in the event of an event of removal pursuant to Section 8.2(c)(ii), (iii), (iv) or (v), and agrees that any other legal or equitable remedy otherwise available to a Member or the Company in connection with removal and the events precipitating removal is hereby waived.

(d) No Right to Fair Value. Upon the occurrence of an event of dissociation under the Act, neither the dissociated Member nor the successor(s) to the dissociated Member's Interest, if any, shall be entitled to receive a distribution in complete redemption of the fair value of such dissociated Member's Interests pursuant to Section 183.0604 of the Act. Each Member acknowledges and agrees that the rights of a Member set forth in this Agreement, are expressly in lieu of any right a dissociating Member or successor to the Interest of such dissociated Member may have to receive a distribution or complete redemption of the fair value of such Interest under Section 183.0604 of the Act and accordingly, such right of a dissociating Member under Section 183.0604 of the Act and any right to an accounting which may exist with respect to a dissociating Member when the Company is not dissolved are hereby waived by each Member.

8.3 Issuance by the Company of Additional Interests. The Company may not sell or issue additional Interests except upon the Supermajority Vote of the Members except as provided in Section 5.2(a). In such event, the Percentage Interests of any new and the then existing Members shall be adjusted effective as of the date of sale or issuance as determined by such Supermajority Vote of the Members or, if no such determination is made by the Members, then in accordance with the provisions of the Act.

8.4 General Restrictions; Documents; Effectiveness.

(a) Notwithstanding any provision herein to the contrary, no Transfer shall be made if such Transfer in the opinion of legal counsel for the Company would violate any federal or state securities laws, or any other law, or would cause or would likely cause a breach of any covenant or other provision of any material agreement of the Company, including any loan agreement. In each case in which the vote, consent or approval of Members is required pursuant to this Agreement before a Person is admitted as a Member, such vote, consent or approval may be granted or denied in the sole discretion of such Members.

(b) No acquisition of an Interest by a Person by Transfer shall be effective, and no such Person shall become a Member, until the Transferor and such Person execute all necessary certificates or other documents and perform all acts required in accordance with the laws of the State of Wisconsin and any other states in which the Company is then conducting business and execute any and all documents as shall be required from time to time by the rules and regulations of any regulatory body or commission having jurisdiction over the Company, to the extent necessary to give effect to the Transfer and to preserve the status of the Company as a limited liability company after the completion of the Transfer. Each Transferee of an Interest, whether or not such Transferee becomes a Member, and each Person acquiring Interests from the Company, shall be bound by all the terms and conditions of this Agreement. A Member seeking to Transfer an Interest shall pay all of the Company's legal and other expenses incurred in connection with the Transfer, including without limitation the expenses incurred in obtaining any legal opinions or other legal advice deemed necessary or appropriate by the Company in effecting the Transfer of such Interest.

(c) Any admission of a Person as a Member shall be deemed to have occurred, unless otherwise consented to by the Company, in its sole discretion, as of the opening of business on the first day of the calendar month following the month in which all conditions have been met and actions taken to have such Member admitted to the Company.

ARTICLE IX

DISSOLUTION AND TERMINATION

9.1 Events Causing Dissolution. Notwithstanding any event of dissociation of a Member under the Act, the Company shall only be dissolved upon the occurrence of any one of the following events:

(a) The Unanimous Vote of the Members to dissolve the Company;

(b) The entry of a decree or order of dissolution under Section 183.0902 of the Act;

(c) The happening of any event which makes it unlawful for the Company's business to be conducted; or

(d) A sale of all or substantially all of the Company Property.

9.2 Winding Up of the Company. Immediately upon the dissolution of the Company, the Board of Directors shall wind up the affairs of the Company and sell or otherwise dispose of all Company Property for cash to the extent practicable. The Board of Directors shall have full right and unlimited discretion to determine the time, manner and terms of any sale or sales of Company Property pursuant to such liquidation. The Members shall continue to share Profits and Losses following the dissolution and before liquidation in the same proportion as before the dissolution.

9.3 Distribution of Proceeds. Following the winding up of the Company, and subject to the right of the Board of Directors to set up such Reserves as the Board of Directors deems reasonably necessary for any known, contingent or unforeseen expenses, liabilities or obligations of the Company, the cash and other assets of the Company shall be applied first to the payment of all debts and liabilities of the Company including Member Loans, which for such purpose shall be treated the same as all other Company liabilities and all expenses of liquidation, and the remainder shall be distributed to the Members in accordance with the positive balances in their Capital Accounts as determined after taking into account all Capital Account adjustments for the taxable year during which such liquidation occurs, as required by Treasury Regulations Section 1.704-1(b), with such adjustments to be made within the time specified by such Section 1.704-1(b), by the end of such taxable year (or, if later, within ninety (90) days after the date of liquidation). Any funds constituting Reserves shall be paid to the extent remaining after a reasonable passage of time in accordance with the provisions of this Section 9.3.

9.4 Payment of Capital Account Deficits. If following the dissolution and liquidation of the Company, the Company's assets remaining after payment and discharge of the liabilities, obligations and expenses of the Company, including any liabilities to any one or more of the Members, are insufficient to return any amount to a Member, such Member shall have no recourse or further right or claim against any other Member by reason of such insufficiency. No Member shall be obligated to eliminate any deficit balance in such Member's Capital Account.

9.5 Final Report. Within ninety (90) days following the completion of the liquidation of the Company, the Board of Directors shall cause to be prepared a statement which shall set forth the assets and the liabilities of the Company as of the date of complete liquidation and the amounts, if any, distributed to the Member pursuant to Section 9.3.

9.6 Articles of Dissolution. Upon the completion of the liquidation of the Company and the distribution of all Company funds and assets, the Company shall terminate and the Members shall promptly execute and file Articles of Dissolution of the Company in accordance with the provisions of the Act, together with any and all other documents required to effectuate the dissolution and termination of the Company.

ARTICLE X

LIABILITY INDEMNIFICATION

10.1 Liability. No Member, nor any Director, Officer, employee, including a contract or leased employee or agent of the Company, shall be liable, responsible, or accountable, in damages or otherwise, to any other Member or to the Company for any act performed by such Person within the scope of the authority conferred on the Person by this Agreement, except for fraud, intentional misconduct, a breach of this Agreement or a violation of Section 183.0402 of the Act.

10.2 Indemnification. Each Member and each Director, Officer, employee, including a contract or leased employee or agent of the Company shall be indemnified against any losses, judgments, liabilities, expenses and amounts paid in settlement of any claims sustained by such Person in connection with any action or inaction taken in good faith and believed by such Person to be in the best interest of the Company, and further provided that such action or inaction does not constitute fraud, intentional misconduct or breach of this Agreement or a violation of Section 183.0402 of the Act. Company funds shall be advanced to such Person for legal expenses and other costs incurred by such Person as a result of any legal action for which indemnification by the Company is claimed by such Person if: (a) the legal action relates to the performance of duties or services on behalf of the Company and (b) such Person undertakes to repay the advanced funds to the Company in cases in which it is found by any court of competent jurisdiction not to be entitled to indemnification pursuant to the provisions of this Agreement or the Act. Any indemnity under this Section 10.2 shall be paid from, and only to the extent of, Company Property, and no Member shall have any personal liability on account thereof.

ARTICLE XI

BOOKS, RECORDS, ACCOUNTING, AND TAX ELECTIONS

11.1 **Bank Accounts.** All funds of the Company shall be deposited in a bank account or accounts maintained in the Company's name. The Board of Directors shall determine the institution or institutions at which the accounts will be opened and maintained, the types of accounts, and the Persons who will have authority with respect to the accounts and the funds therein.

11.2 **Books and Records.** The Board of Directors shall cause to be kept at the Company's principal place of business complete and accurate books and records with respect to all business transactions of the Company and supporting documentation thereof, including without limitation all of the following:

(a) A list, kept in alphabetical order, of each past and present Member. The list shall include the full name and last-known mailing address of each Member, the date on which the Person became a Member and the date, if applicable, on which the Person ceases to be a Member.

(b) A copy of the Company's Articles of Organization and amendments to such Articles, together with executed copies of any powers of attorney under which any such Articles have been executed.

(c) Copies of the Company's federal, state and local income or franchise tax returns and financial statements, if any, for the four most recent years or, if such returns and statements are not prepared for any reason, copies of the information and statements provided to, or which should have been provided to, the Members to enable them to prepare their federal, state and local income tax returns for the four most recent years.

(d) Copies of this Agreement or any subsequent operating agreements, and all amendments to the foregoing.

(e) Provide monthly financial reports to the Members.

(f) Except to the extent already set forth in this Agreement, a writing containing all of the following information: (i) the value of each Member's Capital Contribution made to the Company as determined in accordance with Section 183.0501(2) of the Act; (ii) records of the time at which or the events upon which any additional Capital Contributions are agreed to be made by each Member; (iii) any events upon which the Company is to be dissolved and its business wound up; and (iv) other writings prepared under a requirement, if any, in this Agreement or any subsequent operating agreement.

Upon reasonable request a Member may, at the Company's expense, inspect and copy during ordinary business hours any record required to be kept pursuant to this Section 11.2 and any other record of the Company, wherever the record is located. The Members shall provide, to the extent the circumstances are just and reasonable, true and full information of all things affecting the Members to any Member or to a legal representative of any Member upon reasonable request of such Member or legal representative.

11.3 Annual Accounting Period. The Company's annual accounting period shall be the calendar year. The annual accounting period of the Company shall be its taxable year.

11.4 Reports. Within ninety (90) days after the end of each taxable year of the Company, the Board of Directors shall cause to be sent to each Person who was a Member at any time during the accounting year then ended, audited financial statements for such taxable year along with that tax information concerning the Company which is necessary for preparing the Member's income tax returns for that year.

11.5 Tax Matters Member. The initial Tax Matters Member shall be WEC Nuclear Corporation. The Tax Matters Member shall have all powers and responsibilities provided in Code Section 6221, et seq. to so-called tax matters partners, or such other provisions as may become applicable to limited liability companies. The Tax Matters Member shall keep all Members informed of all notices from government taxing authorities which may come to the attention of the Tax Matters Member. The Company shall pay and be responsible for all reasonable third-party costs and expenses incurred by the Tax Matters Member in performing those duties.

11.6 Tax Elections. All elections permitted to be made by the Company under federal or state income, franchise or other tax laws, including without limitation the elections referred to in Sections 704(c), 734, 743 and 754 of the Code, shall be determined by the Tax Matters Member upon consultation with each of the Members and the independent accounting firm then serving the Company. Each of the Members, upon request, shall supply to the Company such information as may be necessary to give proper effect to any such election.

ARTICLE XII

MISCELLANEOUS

12.1 Notices. Each notice, demand or other communication given or made pursuant to this Agreement shall be in writing and shall be (a) personally delivered, (b) sent by certified mail, return receipt requested, postage prepaid, (c) sent by commercial courier, charges prepaid, or (d) sent by facsimile transmission, but only if a facsimile number of a Member is on file with the Company and such facsimile communication is confirmed by sending the original thereof to the other party by mail or commercial courier as provided herein within twenty-four (24) hours. Each such notice, demand or other communication which is not personally delivered shall be addressed (in the case of the Company) to its principal place of business or (in the case of a Member) to the Member's address as shown on the books of the Company or otherwise to such Member's last known address. Each notice, demand or other communication hereunder shall be deemed to have been given when personally delivered, on the date when sent by facsimile transmission or on the fifth day following the date when sent by mail or commercial courier. Copies of each notice, demand or other written communication given by a Member to the Company hereunder shall be sent to the other Members. Any written notice, demand or other communication hereunder which does not comply with this Section 12.1 shall nonetheless be effective against a Member if it is actually received by such Member.

12.2 Waiver of Partition. Each Member hereby agrees that neither such Member nor any successor in interest shall have the right during the term of this Agreement to have any real estate owned by the Company partitioned, or to file a complaint or institute any proceeding at law or in equity to have such real estate partitioned, and the Members on behalf of themselves, and their respective successors and permitted assigns, and heirs and legal representatives, as applicable, hereby waive any such right.

12.3 Choice of Law. This Agreement shall be construed in accordance with the internal laws of the State of Wisconsin, without application of its conflicts of law principles.

12.4 Severability. If any provision of this Agreement shall be unenforceable under the laws of Wisconsin or any other applicable law, at the present time or in the future, such unenforceability shall not affect the enforceability of the remaining provisions of this Agreement. This Agreement shall be deemed to be modified and amended so as to be in compliance with applicable law and this Agreement shall then be construed so as to best serve the intention of the parties at the time of the execution of this Agreement.

12.5 Captions. The captions in this Agreement are inserted only as a matter of convenience and in no way affect the terms or intent of any provisions of this Agreement.

12.6 Counterparts. This Agreement may be executed in counterparts. Each such counterpart shall be considered an original, and all of such counterparts shall constitute a single agreement binding the parties as if they had signed a single document.

12.7 Binding Effect. Except as provided to the contrary herein, the terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the Members and their respective successors and permitted assigns, as applicable.

12.8 Entire Agreement. This Agreement constitutes the entire agreement between or among the Members regarding its subject matter as of the date hereof, and supersedes all prior agreements, statements, understandings and representations of the Members with respect thereto.

12.9 Rights of Creditors. The provisions of this Agreement are not intended to be for the benefit of any Person (other than a Member) to whom any debts, liabilities or obligations are owed by, or who otherwise has a claim against, the Company or a Member, and no such Person shall have any rights under such provisions or shall by reason of such provisions make any claim in respect of any of such debts, liabilities or obligations against the Company or a Member.

12.10 Amendments. This Agreement may be amended in a writing approved by a vote of the Members pursuant to Section 5.2.

12.11 Rules of Construction. Whenever in this Agreement the context so suggests, references to the masculine shall be deemed to include the feminine and the neuter, references to the singular shall be deemed to include the plural, and references to "or" shall be deemed to be disjunctive but not necessarily exclusive. References to Sections herein include all subsections which are subsidiary to the Section referred to.

12.12 Arbitration. Any dispute or controversy arising out of or relating to this Agreement shall be determined and settled by third party arbitration and judgement upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction. Such arbitration shall be conducted with three arbitrators in accordance with the then effective Commercial Arbitration Rules of the American Arbitration Association.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

NORTHERN STATES POWER COMPANY

By: _____
Title: _____

WEC NUCLEAR CORPORATION

By: _____
Title: _____

WPS NUCLEAR CORPORATION

By: _____
Title: _____

DATE MAILED
MAR 31 2000

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Application for Approval of Services Agreement Between Wisconsin Electric Power Company, Wisconsin Public Service Corporation, and Nuclear Management Company, LLC 05-AE-101

Order

On November 24, 1999, Wisconsin Electric Power Company (WEPCO) and Wisconsin Public Service Corporation (WPSC) each requested approval of a Services Agreement with Nuclear Management Company, LLC (NMC), 700 First Street, Hudson, Wisconsin. A supplement to the filing was made on February 28, 2000.

WEC Nuclear Corporation (WEC-N), WPS Nuclear Corporation (WPS-N), and Northern States Power Company (NSP) formed NMC on February 25, 1999¹. WEC-N and WEPCO are wholly owned subsidiaries of Wisconsin Energy Corporation (WEC). WPS-N and WPSC are wholly owned subsidiaries of WPS Resources Corporation (WPSR).

NMC is therefore a nonutility affiliate of each of the applicants, as defined in Wis. Stat. § 196.795(1)(j). WEPCO and NMC, and WPSC and NMC, are each affiliated interests as defined in Wis. Stat. § 196.52.

WEPCO and WPSC have each requested approval of a Nuclear Power Plant Operating Services Agreement (NPPOSA) with NMC. These agreements are identical in all material aspects². The NPPOSA for WEPCO and WPSC are Attachments A and B to this order.

¹ Alliant Energy Corporation became a member of the NMC on November 23, 1999.

² Exhibit 1 to the WPSC application includes some terminology variances pertinent to the Kewaunee facility.

In docket 05-AE-100, the Commission approved service agreements and employee lease agreements that allowed the NMC to provide certain nuclear power plant services to its members using utility resources and employees. Under the NPPOSA, the NMC will be using its own employees, as well as some utility-employees, to provide a broader range of services than previously approved. The NPPOSA is structured to provide these services to the member utilities at the NMC's cost, including a return on and of capital.

When the NPPOSA becomes effective, it will replace the service agreements approved in docket 05-AE-100³. The lease agreements approved in that docket will remain in effect until the non-represented employees are transferred to the NMC. This may occur at the end of 2000, according to the supplemental filing made on February 28, 2000.

Under section 2.1(a) of the NPPOSA, the NMC has the authority to take all actions necessary to obtain or maintain any licenses or permits required by any regulatory body relating to the plant, as defined in the NPPOSA. Under section 6.1 of the NPPOSA, if any work performed by the NMC is not completed in a manner consistent with the standard of good utility practice, as defined in the NPPOSA, any reperformance of the service will be at the sole expense of the contracting member. This practice is inconsistent with general industry practice where a contractor is typically liable for rework expenses equal to the value of the contract work being performed. The parties have stated that this practice is, at this time, reasonable as the cost of carrying such insurance is expected to be greater than the cost of rework charged to member utilities.

Section 3.4 of the NPPOSA and Section 8 of Exhibit B indicate that the contracting owners agree to provide to the NMC such services as communications access and support,

³ Dated September 4, 1999.

transportation support, payroll and personnel assistance, and may also include services relating to accounting, engineering, environmental and land management of the site. Although not stated in this new agreement, any services provided to the NMC by WEPCO or WPSC and which benefit more than just the providing utility should be priced at the greater of the utility's fully allocated cost (including a reasonable return)⁴ or the fair market value.

Section I of Exhibit A requires the NMC to develop and maintain written guidelines to govern the methods and procedures for charging and allocating costs. The NMC is also required to subject transactions to internal auditing procedures on a periodic basis for compliance with NPPOSA, guidelines and orders and rules established by regulatory agencies. Copies of any written guidelines or internal audits findings by the NMC should be provided to the Commission to aid in monitoring affiliated interest concerns.

This application is approved subject to the following conditions:

1. Any subsequent changes to either NPPOSA (Attachment A or B) including exhibit B shall be approved by the Commission before becoming effective.
2. Copies of any written guidelines that are developed, or findings from internal audits required by Section I of Exhibit A, shall be provided to the Commission within 30 days of development or completion.
3. The employee lease agreement (Attachment C)⁵ shall remain in effect until the covered employees are transferred to direct employment with the NMC. WEPCO and WPSC shall notify the Commission of the effective date of transfer and the termination of this agreement.

⁴ The return should be based on each utility's authorized pre-tax return.

⁵ Although the attached agreement is for WEPCO, the agreement with WPSC is identical.

4. NMC shall notify Commission staff within 15 days after entering into the first agreement to provide services to each non-member. A copy of the contract shall be provided within 30 days.

5. Any services provided to the NMC by WEPCO or WPSC and which benefit more than just the providing utility shall be priced at the greater of the utility's fully allocated cost (including the authorized pre-tax return) or the fair market value.

6. The fully allocated costs process used for member companies will also be applied to services to non-member companies.

7. Liability for the provision of services to non-member companies will be born by NMC and none of the cost will be born by member utilities.

8. The utility and NMC will prepare their billings in sufficient detail to enable Commission staff to perform a detailed review of costs and for the Commission to determine which costs are appropriate for inclusion in utility rates. Such items as start-up costs, administrative oversight costs, costs from resources obtained from other utilities, and costs that have been disallowed in a rate case shall be listed separately.

9. NMC shall provide an annual reconciliation of the costs incurred either by NMC and/or billed to NMC by each utility to the charges billed to each utility, retained by NMC, or billed to third parties (detailed by the categories noted above) to the Commission by April 1 each year.

10. The NMC shall fulfill the requirements of any order point that is outstanding and applicable to any of the member utilities at the time of issuance of this order and is affected by the terms of the NPPOSA.

11. At such time as the NMC offers contract services to non-member utilities, the NMC shall perform an analysis to determine whether it would be cost effective to obtain rework insurance for its member utilities compared to the historic cost of rework charged to the member utilities. The NMC shall supply a copy of the final analysis to the Commission within 15 days of the analysis being completed.

12. If the NMC is terminated by the member utilities, any costs incurred to reassign nuclear licenses and re-staff the plants shall not be born by utility ratepayers without specific Commission review and approval.

13. The Commission shall have full access to the books and records of the NMC.

14. Approval of this agreement is not a determination by the Commission that the charges are just and reasonable.

15. As authorized in Wis. Stat. §§ 196.02, 196.52, and 196.795, this order is expressly conditioned upon the reserve power of the Commission to revise and amend its terms and conditions to protect and promote the public interest.

Dated at Madison, Wisconsin, March 30, 2000

By the Commission:



Lynda L. Dorr
Secretary to the Commission

LLD:DCB:bap:G:\Order\Pending\05-AE-101

See attached Notice of Appeal Rights

Notice of Appeal Rights

Notice is hereby given that a person aggrieved by the foregoing decision has the right to file a petition for judicial review as provided in Wis. Stat. § 227.53. The petition must be filed within 30 days after the date of mailing of this decision. That date is shown on the first page. If there is no date on the first page, the date of mailing is shown immediately above the signature line. The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

Notice is further given that, if the foregoing decision is an order following a proceeding which is a contested case as defined in Wis. Stat. § 227.01(3), a person aggrieved by the order has the further right to file one petition for rehearing as provided in Wis. Stat. § 227.49. The petition must be filed within 20 days of the date of mailing of this decision.

If this decision is an order after rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not an option.

This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

Revised 9/28/98

NMCPAC, FEC# C00365171
George Aandahl, Treasurer
700 First St.
Hudson, WI 54016
715-377-3414

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
APR 16 2 44 PM '01

April 12, 2001

Federal Election Commission
Office of General Counsel
999 E Street, N.W.
Washington, D.C. 20463

Dear Federal Elections Commission:

Nuclear Management Company Political Action Committee (NMCPAC) would like to request an Advisory Opinion regarding partnership structure in a LLC as it pertains to affiliation with other PACs, name of this PAC, and payment of administrative support.

Questions

1. Must NMCPAC declare affiliation with any or all of the PACs connected to the five companies owning NMC?
2. If so, is each owning company a "connected organization"?
3. If NMCPAC is affiliated with all of the PACs connected to the owning companies, are contributions to be tallied at 20% per affiliated PAC similar to the scheme described in AO 1997-13?
4. Is NMCPAC required to amend its Statement of Organization each time a new partner is added to NMC?
5. May NMC pay for NMCPAC administrative support and function as NMCPAC's connected organization?
6. Given that NMC is not a subsidiary of any of the owning companies, is NMCPAC required to include the names of the owning companies in the PAC name?

Background

Nuclear Management Company, LLC (NMC) is a service company formed for the purposes of jointly operating a group of nuclear power plants and increasing their economic value. The company was established in February 1999 as a joint venture among Alliant Energy, Northern States Power Company, Wisconsin Electric Power Company, and Wisconsin Public Service Company. CMS Energy joined the partnership during 2000. NMC is owned by these partners in five equal shares. At this time the services of NMC are provided almost entirely to the companies in the partnership. The five utilities each retain ownership of both the physical assets of their nuclear plant(s) and the electricity produced by them. NMC is reimbursed for its costs for the operation of the plants and the management of nuclear personnel. As the operating authority under the Nuclear Regulatory Commission operating license for each plant is transferred to the

NMC, the non-union personnel are also transferred to the NMC and are formally separated from their original employer. It is anticipated that over time contracts will be negotiated with union personnel such that some or all will eventually be employed by NMC. NMC is actively seeking additional partners. As each full partner is added, the share of current partners will be reduced accordingly.

The Board of Directors of NMC consists of the NMC CEO and a representative of each of the partner utilities. Board decisions require a simple majority vote for most issues such as approval of budgets and election of officers. A super-majority of 75% is required for certain critical decisions such as modification of the partnership agreement. No Board decision can be blocked by a single Board member.

NMCPAC has been formed to provide employees an opportunity to focus political involvement on nuclear energy-related issues. NMCPAC intends to solicit contributions only from its employee base. Each of the five companies owning a share of NMC is connected to its own federal PAC. NMCPAC has not received contributions from any of the PACs associated with the owning companies. It also has not received any financial support from either NMC or any of the five utilities owning NMC. NMCPAC anticipates receiving some direct assistance from NMC (e.g., office supplies, promotional material, or administrative assistance) in the future. In its original Form 1: Statement of Organization, NMCPAC declared affiliation with the PAC associated with Wisconsin Public Service Company. That declaration was made in response to advice from the FEC hotline in an attempt to address the questions now raised in this Advisory Opinion Request.

Response to Affiliation Criteria 11 CFR 110.3(a)(3)(ii)

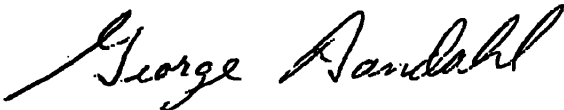
- (A) *Controlling interest in stock or securities* – Ownership is split in five shares of 20% each. No single owner has a controlling interest.
- (B) *Direct or participate in governance* - The owning companies participate in governance of NMC through Board of Directors representation. However, that participation does not constitute a controlling interest on the part of any one company.
- (C) *Control of officers and employees* - The owning companies participate in selection of officers through Board of Directors representation. Again, that participation does not constitute a controlling interest on the part of any one company.
- (D) *Common or overlapping membership* – There is currently no formal or ongoing relationship between NMCPAC and the PACs connected to the companies owning NMC (other than Wisconsin Public Service Company's PAC, as noted). The question of whether such a relationship can or should exist is central to this request.
- (E) *Common or overlapping officers* – There are no common or overlapping officers between NMC and the five owning companies.
- (F) *Officers or employees previously employed* - Most NMC officers previously served as officers in one of the owning companies. Almost all current employees were previously employed by one of the owning companies. NMC is the successor to the previous nuclear organizations of the individual owning companies.
- (G) *Provision of funds or goods* – There has been no significant or ongoing support for NMCPAC from either the owning companies or their connected federal PACs.

(H) *Direction of funds or goods* – No owning company or its connected PAC has directed or encouraged the transfer of funds from NMCPAC to any other sponsoring organization or committee.

(I) *Active or significant role in formation* – NMCPAC was formed without the active involvement of the five federal PACs connected to the owning companies. However, some people involved in organizing the NMCPAC have previous experience in those five PACs.

(J) *Patterns of contributions, formal relationship* – NMCPAC has not made any contributions to date. There is not a formal and ongoing relationship between NMCPAC and the owning company PACs, other than that Wisconsin Public Service Company's PAC is currently listed as affiliated on the NMCPAC Statement of Organization. Since NMCPAC and all of the owning-companies' connected PACs are concerned with energy policy issues, some similarity in contributions is likely to occur.

Respectfully submitted,



George Aandahl

References

11CFR100.5(g), 11CFR110.3(a), AO 1992-17, AO 1994-9, AO 1994-11, and AO 1997-13