

Date Mailed
September 3, 1999

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Joint Application of WPL Holdings, Inc. and Wisconsin Power & Light Company for all Requisite Approvals in Connection With a Series of Related Transactions by Which Interstate Power Company Becomes a Subsidiary of WPL Holdings, Inc., IES Industries, Inc. is Merged Into WPL Holdings, Inc. and is Renamed Interstate Energy Corporation and for Certain Related Transactions and Matters

6680-UM-100

ORDER DENYING PETITION FOR REHEARING

On July 15, 1999, the Commission issued its Decision and Order on the Motion for Enforcement of Merger Conditions and Sanctions (the "Motion") filed by Madison Gas and Electric Company, the Wisconsin Industrial Energy Group, the Wisconsin Federation of Cooperatives, and the Citizens' Utility Board (the "Movants"). The Decision and Order concluded that the applicants ("Alliant") violated the Commission's November 4, 1997, final decision (the "Merger Order") by withdrawing from the Midwest Independent Transmission System Operator, Inc. ("Midwest ISO") and failing to file with a Commission an alternative proposal to either join another ISO or spin off its transmission assets. The Decision and Order deferred consideration of appropriate remedies because of the pending "Reliability 2000" legislation, which, if enacted, would give Alliant an opportunity to contribute its transmission facilities to a new transmission company (a "Transco").

On August 4, 1999, the Movants filed a Petition for Rehearing, requesting that the Commission reconsider deferring the issue of remedy. The Movants contend that the

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Commission, having found a violation of the Merger Order, is bound by Wis. Stat. § 196.66(1) to report Alliant to the Attorney General. The Commission disagrees. Wis. Stat. § 196.44(1) provides:

196.44(1) DUTY OF COMMISSION. The commission shall inquire into the neglect or violation of the laws of this state by public utilities, or by their officers, agents or employes or by persons operating public utilities, and shall enforce all laws relating to public utilities, and report all violations to the attorney general.

A violation of the Merger Order is a violation of an administrative decision, not a violation of law. The “laws of this state” and “laws relating to operating public utilities” are the Wisconsin statutes. *See State v. Lange Canning Co*, 164 Wis. 228, 235, 157 N.W. 777 (1916). This distinguishes *Citizens’ Utility Board, Inc v. PSCW*, the circuit court decision the Movants rely upon.

The Commission observes that subsequent to the Decision and Order, Alliant notified the Commission that it intended to either join the Midwest ISO or participate in the Transco proposed in the Reliability 2000 legislation. This is further support for the Commission’s determination to defer enforcement remedies.

For these reasons, the Petition is DENIED.

Dated at Madison, Wisconsin, _____

By the Commission:

Lynda L. Dorr
Secretary to the Commission

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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