

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

**In the Matter of the Application for All)
Approvals Necessary for the Transfer of)
Ownership and Operational Control of the)
Point Beach Nuclear Plant From Wisconsin)
Electric Power Company (d/b/a WE)
Energies) to FPL Energy Point Beach, LLC, a)
subsidiary of FPL Group Capital, Inc.)
)**

Docket No. 6630-EI-113

**PUBLIC VERSION
Surrebuttal Testimony of
David A. Schlissel
Synapse Energy Economics, Inc.**

**On Behalf of
Wisconsin Citizens Utility Board
and
Clean Wisconsin**

June 5, 2007

1 **Q. Mr. Schlissel, please state your name, position and business address.**

2 A. My name is David A. Schlissel. I am a Senior Consultant at Synapse Energy
3 Economics, Inc, 22 Pearl Street, Cambridge, MA 02139.

4 **Q. On whose behalf are you testifying in this case?**

5 A. I am testifying on behalf of the Wisconsin Citizens Utility Board (“CUB”) and
6 Clean Wisconsin.

7 **Q. Have you previously filed testimony in this proceeding?**

8 A. Yes. I filed Direct Testimony on May 4, 2007.

9 **Q. What is the purpose of this surrebuttal testimony?**

10 A. The purpose of this surrebuttal testimony is to respond to misstatements and
11 comments made in the rebuttal testimony of WEPCO witnesses Reed and
12 Weaver, FPLE Point Beach witnesses O’Sullivan and Stall, and PSCW witness
13 Ferris.

14 **WEPCO WITNESSES REED AND WEAVER**

15 **Q. Do you have any comment on Mr. Reed’s claim that his Direct Testimony**
16 **does not ignore the effect of WEPCO’s being responsible for the payment of**
17 **the Gross Receipts Taxes on the power purchases under the proposed PPA?**

18 A. Yes. Mr. Reed is correct that his Direct Testimony does discuss that WEPCO
19 would be responsible for the payment of Gross Receipts Taxes under the proposed
20 PPA. However, Mr. Reed does not discuss this fact until page 41, after he has
21 presented each of his economic comparisons between the PPA, the costs of
22 continued ownership (CCO) and market prices. More importantly, as I noted in
23 my Direct Testimony, the tables and figures in Mr. Reed’s Direct Testimony that
24 present the results of his comparisons between the proposed PPAs and WEPCO’s
25 CCO do not reflect the fact that the Company’s ratepayers would be responsible

1 for the payment of the Gross Receipts Taxes.¹ Consequently, Mr. Reed's
2 presentation of the results of these comparisons is misleading because it does not
3 reflect the \$125.7 million of incremental Gross Receipts Taxes that ratepayers
4 would pay under the PPA. His after-the-fact discussion of the double taxation
5 does not fully compensate for his omission of those incremental taxes in his
6 economic analyses of the value of the proposed PPA that are presented in Tables
7 1 through 3 and Figure 1 of his Direct Testimony. Nor does the language
8 presented in his Footnote 13 compensate for his omission of the incremental
9 Gross Receipts Taxes in Tables 1 through 3 and Figure 1.

10 **Q. In his Rebuttal Testimony, Mr. Reed presents an explanation of why he**
11 **segregated his analysis into two parts, one of which quantifies customer**
12 **benefits without reflecting a negative value associated with the GRT and**
13 **another section that includes this effect.² Did Mr. Reed, in fact, present any**
14 **Tables or Figures that compare the PPA and WEPCO's CCO that include**
15 **the proposed incremental GRT that the Company's ratepayers would have to**
16 **pay under the proposed PPA?**

17 A. No. Mr. Reed did not present any tables or figures that compared the annual costs
18 under the PPA to WEPCO's CCO that included the incremental GRT. Table 6 is
19 the only table in his testimony that quantifies the incremental GRT under the PPA
20 and that table does not compare the proposed PPA to the CCO. Although Mr.
21 Reed did note the incremental GRT would amount to \$125.7 million, he did not
22 indicate that this would mean that the PPA would be more expensive for
23 ratepayers than WEPCO's CCO. Indeed, the results presented in his Tables 1
24 through 3 and Figure 1 suggest exactly the opposite – that the PPA would be less
25 expensive than WEPCO's CCO and would produce significant cumulative present
26 value savings for ratepayers.

¹ Confidential Direct Testimony of David A. Schlissel, at page 7, line 16, to page 8, line 2.

² Rebuttal Testimony of John J. Reed, at page 7, line 13, to page 8, line 8.

1 **Q. Do you agree with Mr. Reed's claim that a high effective price for power**
2 **under the PPA would not be detrimental for WEPCO's customers?**³

3 A. No. The double payment of the GRT clearly would be a detriment for WEPCO's
4 ratepayers and would make the PPA more expensive than the cost of continued
5 ownership of Point Beach by WEPCO.

6 Moreover, the State of Wisconsin would receive nearly the same incremental
7 revenues if FPLE Point Beach, instead of WEPCO's customers, were to pay the
8 Gross Receipts Taxes on the power sales under the proposed PPA.

9 **Q. Mr. Reed claims that the numbers presented in Table 1 in your Direct**
10 **Testimony are wrong because the prices per MWH you offer is taken from**
11 **the FPLE presentation to the NRC for a 92 percent capacity factor case and**
12 **not an 87 percent capacity factor case.**⁴ **Is that true?**

13 A. No. The Effective Energy Prices in the second column of Table 1 in my Direct
14 Testimony are the correct prices that FPLE provided to the NRC assuming a 5-
15 year average capacity factor of 87%.⁵ Thus, I used the correct numbers and not
16 the 92% average annual capacity factor case, as Mr. Reed has incorrectly claimed.

17 **Q. Please comment on Mr. Reed's claim that you failed to note or account for**
18 **the fact that WEPCO's projections assume that an uprate occurs, while**
19 **FPLE Point Beach's analysis does not assume an uprate.**⁶

20 A. Mr. Reed's claim is misleading and incorrect. First, WEPCO only expects
21 *****BEGIN WEPCO CONFIDENTIAL*****

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³ Ibid., at page 18, lines 14-23.

⁴ Rebuttal Testimony of John J. Reed, at page 18, lines 1-5.

⁵ FPLE Submission to the U.S. NRC, dated January 26, 2007, provided in FPLE's Confidential Response to CUB-1-8.

⁶ Rebuttal Testimony of John J. Reed, at page 18, lines 6-8.

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***END WEPCO

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CONFIDENTIAL*** Second, and far more significantly, the Effective Prices, in \$/MWh, shown in Table 1 in my Direct Testimony are based on FPLE estimates of generation at Point Beach that are *****BEGIN FPLE**

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CONFIDENTIAL***

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*****END FPLE CONFIDENTIAL***** as Mr. Reed would have the

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Commission believe. This is shown in Table S-1 below:

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Table S-1: FPLE vs. WEPCO Projected Point Beach Generation, 2008-2012⁷

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*****BEGIN WEPCO/FPLE CONFIDENTIAL*****

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*****END WEPCO/FPLE CONFIDENTIAL*****

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Q. Have you testified that the NRC may not be competent enough to protect Wisconsin Energy's customers from a potential financial collapse by FPLE Point Beach, as Mr. Reed has suggested?⁸

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A. No. Mr. Reed creates a straw person by first inappropriately and misleadingly testifying that I made this claim and then saying that such accusations are completely unfounded and irresponsible. In fact, my concern is based on the large number of licensees that the NRC has to monitor and the lack of evidence that the NRC would have the staff resources, financial expertise and institutional

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⁷ WEPCO Confidential Response to 2-CUB-45 and FPLE Submission to the U.S. NRC, dated January 26, 2007, provided in FPLE's Confidential Response to CUB-1-8.

⁸ Rebuttal Testimony of John J. Reed, at page 25, lines 14-18.

1 experience to monitor all of these licenses on an ongoing basis, including FPL
2 Group and FPLE Point Beach, in the same depth as the PSCW currently monitors
3 WEPCO and the financial assistance it provides to Point Beach.

4 My concern also is based on the PSCW's current capability to disallow the
5 recovery of imprudently incurred costs from ratepayers and the fact that it will be
6 unable to do so if the sale of Point Beach and the associated PPA are approved.
7 Finally, a federal agency in Washington, D.C. might not be as attuned to and/or as
8 concerned about the interests of Wisconsin ratepayers as the PSCW.

9 **Q. WEPCO witness Reed has testified that your views about the loss of state
10 regulatory [jurisdiction] have been rejected in every instance in which you
11 have raised them in opposition to a nuclear plant sale.⁹ FPLE witness
12 O'Sullivan similarly has testified that you have ignored the Commission's
13 analysis and determination in the Kewaunee proceeding and the
14 determination made by every state commission which has approved the sale
15 of a nuclear plant from a utility owner to a non-utility owner.¹⁰ Do you agree
16 with these claims?**

17 **A.** No. The concerns discussed by the PSCW in its December 2004 Final Decision
18 in Docket 05-EI-136, and which formed the basis for the Commission's original
19 determination that the proposed sale of Kewaunee to Dominion Energy Kewaunee
20 was not in the public interest, reflected the concerns about loss of state regulatory
21 jurisdiction that I had raised in my testimony in that proceeding.

22 My testimony also reflect concerns about regulatory oversight that were
23 considered by the Vermont Public Service Board when it approved the proposed

⁹ Ibid., at page 27, lines 11-15.

¹⁰ Rebuttal Testimony of Michael O'Sullivan, at page 2, lines 8-11.

1 sale of the Vermont Yankee nuclear plant.¹¹ However, I was not a witness on
2 those issues in that case.

3 **Q. Do you have any comment on WEPCO witness Weaver's Rebuttal Testimony**
4 **that WEPCO's long-term capacity factor assumption in its CCO calculations**
5 **approximates the previous six-year average performance of Point Beach?**

6 A. Yes. As I noted in my Direct Testimony, Point Beach achieved an 87.7% average
7 annual capacity factor in the most recent six year period, that is 2001-2006 – not
8 the 86.84% figure used by WEPCO.¹² The 86.84% average annual capacity
9 factor used in the calculation of WEPCO's CCO is roughly based on the unit's
10 performance during the six-year period 2000-2005. Thus, it excluded the unit's
11 excellent operating performance in 2006.

12 **Q. Is Mr. Weaver correct that the Company's projection for refueling outage**
13 **duration and the resulting forced outage rate have no impact on its**
14 **calculated CCO?**¹³

15 A. No. The assumption of an 86.84% projected average capacity factor reflects
16 ranges for future refueling outage durations and forced outage rates and the
17 specific figures that WEPCO assumes for future refueling outage durations and
18 forced outage rates provides insight into the reasonableness of its 86.84%
19 projected average annual capacity factor. For example, if WEPCO assumed
20 refueling outage durations of 44 days and a 2 percent forced outage rate, its
21 projected average annual capacity factor would be approximately 90%, not
22 86.84%. Thus, the Company's forecasts for refueling outage durations and forced
23 outage rates are important factors to evaluate when considering the
24 reasonableness of its CCO analyses.

¹¹ Direct Testimony of David A. Schlissel, at page 27, lines 5-18.

¹² Rebuttal Testimony of David A. Weaver, at page 4, lines 9-10.

¹³ Direct Testimony of David A. Schlissel, at page 11, line 12, to page 13, line 5.

1 **Q. Have the PPAs in other recent nuclear power plant sales similarly been based**
2 **on the nuclear unit's recent six-year operating performance?**

3 A. No. The PPA between FPLE Duane Arnold and Interstate Power and Light
4 Company ("IP&L"), included as part of the sale of the Duane Arnold nuclear
5 plant in 2005, included a target capacity factor equal to 90%, which, according to
6 IP&L witness John J. Reed "exceeds DAEC's actual capacity factor which
7 averaged 86.79% over the past four years [and] provides incentive for improved
8 performance at the plant."¹⁴ Similarly, with respect to the derivation of the CCO
9 for the recently sold Palisades nuclear plant, Mr. Reed, who was a witness for the
10 Consumers Energy Company, the seller, explained that the plant's most recent
11 three year average capacity factor was used as the basis for future years operating
12 performance with modifications in two operating periods to reflect longer
13 duration maintenance outages to replace the unit's steam generators and reactor
14 vessel head.¹⁵

15 **FPLE POINT BEACH WITNESSES O'SULLIVAN AND STALL**

16 **Q. Please comment on Mr. Stall's Rebuttal Testimony that the size of the NRC**
17 **staff has increased since 1997.**¹⁶

18 A. Mr. Stall correctly cites from the article in the January 22, 2007 issue of *Inside*
19 *NRC* evidence that indicates that the size of the NRC staff did increase from 1997
20 through 2006. However, Mr. Stall completely fails to note that the overall theme
21 of the article he cited was that the NRC faced mounting challenges to ensure that
22 it would have adequate staff in light of the dramatically increasing workload
23 associated with the regulatory review of the applications to build new nuclear

¹⁴ Direct Testimony of John J. Reed on behalf of Interstate Power & Light Company, in Iowa Utilities Board Docket No. SPU-05-15, at page 31, lines 1-3.

¹⁵ Direct Testimony of John J. Reed on behalf of Consumers Power Company, in Michigan PSC Case No. U-14992, at page 35, line 10, through page 36, line 12.

¹⁶ Rebuttal Testimony of John A. Stall, at page 5, lines 9-14.

1 power plants that are expected to pour in later this year and into 2008. That
2 overall theme reinforces, rather than undercuts, the concerns expressed in my
3 Direct Testimony concerning whether the NRC has adequate resources to
4 complete all of its assigned work including monitoring the financial
5 circumstances of all licensees in a detailed manner on an ongoing basis.

6 For example, the article in *Inside NRC* was titled “Mounting retirements pose
7 problem.”¹⁷ The article also noted the following:

- 8 • NRC has been effective in recruiting, developing and retaining a critically
9 skilled workforce to date, but it’s unclear whether that trend will continue
10 in the next few years, the Government Accountability Office said in a new
11 report.
- 12 • By 2010, about one-third of NRC’s workforce with mission-critical skills
13 will be eligible to retire.
- 14 • NRC already is seeing an exodus at the top ranks.... Many others are
15 expected to leave the agency in the next couple of years....
- 16 • At the same time as the retirements increase, NRC faces the need to
17 expand its workforce because the agency expects to receive at least 20
18 applications for 29 new power reactors beginning in October 2007....
19 NRC also is responsible for licensing and regulating DOE’s planned
20 repository project at Yucca Mountain.
- 21 • NRC projects that its workforce size will need to grow from about 3,100
22 employees in early fiscal 2006 to nearly 4,000 workers by FY-2010 to
23 meet increased workload demand.
- 24 • GAO said NRC’s “human capital” management has been generally
25 effective in comparison to its federal government counterparts. However,
26 it said it is unclear how the confluence of several factors will ultimately
27 influence NRC’s generally positive workforce trends and successes. These
28 factors include increasingly regulatory workload demands, maintaining
29 existing focus on safety and security activities, rising numbers of
30 retirement-eligible employees, and anticipated industry competition for
31 critically skilled workers.
- 32 • If overall workforce and resource allocations are not balanced, NRC risks
33 overextending its available workforce, undermining employee satisfaction,

¹⁷ A copy of this article is attached as Exhibit ____ (DAS-3).

1 and potentiality increasing attrition, GAO said. If that occurs, reviewing
2 license applications and conducting other mission-critical activities within
3 established time frames could become more difficult and could adversely
4 affect NRC’s ability to ensure a safe and secure nuclear power industry,
5 GAO said. Also, substantial delays in the license application process could
6 adversely affect confidence, decrease the likelihood of nuclear energy
7 generation being cost beneficial, and possibly reduce the amount of
8 electricity available to the US market, it said.

- 9 • The NRC had already begun losing experienced employees over the past
10 five years....
- 11 • NRC filled several critical skills gaps in FY-06, but it also identified many
12 more new gaps in FY-07, GAO said. NRC determined that it closed about
13 55 critical skills gaps in FY-06, but it identified 115 new gaps and 76
14 continuing long-term gaps, GAO said. Many of these gaps will take “a
15 significant amount” of training and development to be considered filled, it
16 said....

17 **Q. Mr. Stall also has quoted testimony that the Chairman of the NRC presented**
18 **to the U.S. Senate Committee on Environment and Public Works on**
19 **April 25, 2007 in which he noted that the NRC is engaged in a “vigorous**
20 **effort” to recruit and retain talent.¹⁸ Did Mr. Stall fully quote the relevant**
21 **section of the NRC Chairman’s testimony?**

22 A. No. Mr. Stall cited only the term “vigorous effort” from the following full
23 paragraph of the NRC Chairman’s testimony:

24 That said, the volume of new work, coupled with our important
25 ongoing responsibilities, presents an enormous challenge to the NRC.
26 We are engaged in a vigorous effort to locate talented professionals to
27 augment our workforce and to secure for them the additional
28 workspace, information technology, and support services to allow
29 them to do their jobs and allow the NRC to meet all of our
30 commitments.

31 The NRC Chairman also noted the following concerns in this same testimony:

32 We expect to have a critical hiring need for at least the next four years.
33 Although we are positioned to meet our hiring challenges over the next

¹⁸ Rebuttal Testimony of John A. Stall, at page 5, lines 14-16.

1 couple of years, it will be a continuing challenge to maintain our
2 recruitment momentum. In the 2008-2009 timeframe, we expect hiring
3 competition from utilities and nuclear manufacturers to intensify as
4 they begin to staff up for construction of new nuclear plants. In
5 addition, we face competition from other government agencies, the
6 national laboratories, and academia.

7 **Q. Did Mr. Stall present or cite in his Rebuttal Testimony any evidence that**
8 **indicates that the NRC has increased the staff resources and attention being**
9 **assigned to the monitoring of licensee financial conditions and financial**
10 **support for their nuclear power plants?**

11 A. No.

12 **Q. Did Mr. Stall present or cite in his Rebuttal Testimony any evidence that the**
13 **NRC would increase the staff resources and attention that has been assigned**
14 **to monitor the financial condition of FPL Group, in general, or FPLE Point**
15 **Beach, in particular, if the proposed sale of Point Beach is closed?**

16 A. No.

17 **Q. Mr. Stall has testified that he cannot imagine a situation where the NRC**
18 **would fail to take action to ensure that a company that owns and maintains a**
19 **nuclear power plant has adequate funding to safely operate and/or**
20 **decommission the plant.¹⁹ Have you seen any recent instances in which the**
21 **NRC has failed to take action because of concerns over the financial impact**
22 **of such actions on the licensee?**

23 A. Yes. For example, in late 2001, the NRC allowed the Davis-Besse plant in Ohio
24 to continue operating rather than shut down to conduct required inspections of the
25 facility's reactor vessel head. When the plant was ultimately shut down in
26 February 2002, the licensee found that corrosion extended through the 6 inch
27 thick reactor vessel head and that only the one-third inch thick stainless steel

¹⁹ Rebuttal Testimony of John A. Stall, at page 4, lines 9-11.

1 lining prevented a possible and serious loss-of-coolant accident. The NRC's
2 internal Office of Inspector General has concluded that the decision to allow the
3 Davis-Besse plant to continue operating beyond December 31, 2001 without
4 performing reactor vessel head inspections "was driven in large part by a desire to
5 lessen the financial impact on the licensee that would result from an earlier
6 shutdown."²⁰

7 Similarly, in late 2003, the NRC discovered that licensees had failed to comply
8 with important fire protection regulations adopted after the Browns Ferry fire in
9 1975. Instead of complying with one of the three fire protection options specified
10 by the NRC, licensees were relying on operator manual actions that were not
11 approved by the NRC to shut down the plant in case of a serious fire. However,
12 rather than requiring that licensees comply with the existing automatic safe-
13 shutdown fire regulations, the NRC apparently has decided to change its
14 regulations to permit what the industry is already doing. The high cost, on
15 licensees and NRC staff, of enforcing the existing NRC fire-protection regulations
16 was one of the main reasons cited for the change in policy.

17 **Q. Mr. Stall also has testified that as the licensed operator of Point Beach,**
18 **FPLE-PB could not abandon its license or its licensed responsibilities until**
19 **the NRC transfers or terminates the license and that the failure to comply**
20 **with these requirements would expose FPLE Point Beach and its officers and**
21 **directors to potential criminal liability under Sections 222 and 223 of the**
22 **Atomic Energy Act.²¹ Do you have any comments on this testimony?**

23 A. Mr. Stall posits an extreme situation in which FPLE would fully abandon its
24 license or licensed responsibilities. However, there is a wide continuum of
25 circumstances short of full abandonment in which the NRC would not necessarily

²⁰ NRC NUREG-1100, Volume 20, at page 127, dated February 2004 and NRC Office of Inspector General Event Inquiry No. 03-02S, at pages 15-17.

²¹ Rebuttal Testimony of John A. Stall, at page 4, lines 14-18.

1 have the resources or authority to act on behalf of Wisconsin ratepayers or
2 taxpayers. For example, a situation could arise where, for its own corporate
3 purposes, FPL Group decides to transfer most or all of the earnings out of FPLE
4 Point Beach and, as a result, leaves its subsidiary without adequate funds to
5 manage and operate the plant in a prudent manner.

6 Under the current regulatory scheme, the PSCW would have the capability to
7 monitor (and prevent) such a transfer of earnings and would have the authority to
8 disallow the recovery of imprudently incurred costs. It is unclear whether the
9 NRC would have the resources to monitor the financial transactions of FPL Group
10 and FPLE Point Beach as closely as the PSCW now does, the authority to require
11 FPL Group to reduce its transfer of earnings from its subsidiary, or the interest to
12 act in this situation.

13 As a result of the proposed sale, the PSCW also would lose jurisdiction over any
14 early retirement of either Point Beach unit. Under the current regulatory scheme,
15 WEPCO would need to demonstrate to the Commission that a decision to retire
16 either unit before the end of its current NRC-issued licenses was necessary or
17 prudent. This would not be the same if the plants are sold to FPLE Point Beach.
18 Then, pursuant to Section 13.2 of the PPA, FPLE Point Beach, with notice to
19 WEPCO, would have the sole power to permanently shut down either or both
20 units if it decided that continued operation of one or both units had become
21 materially adverse such that continued operation was no longer feasible, prudent
22 or sustainable. Neither WEPCO nor the PSCW would have any jurisdiction or
23 authority to prevent such a determination by FPLE Point Beach.

1 **Q. Mr. Stall also has testified that FPL Group affiliates own and operate a**
2 **number of nuclear plants, and that a decision by FPLE not to fund Point**
3 **Beach would have severe repercussions for the other nuclear business**
4 **activities of FPL and would affect NRC confidence in other licensed activities**
5 **conducted by FPL.²² Do you have any comment on this testimony?**

6 A. Again Mr. Stall posits an extreme situation in which FPLE decides not to fund
7 Point Beach at all. However, it is unclear what action the NRC could or would
8 take in this extreme situation or in less extreme circumstances.

9 Moreover, as I noted above, the NRC would have not authority to act if FPLE
10 Point Beach decided, pursuant to Section 13.2 of the PPA, to retire either or both
11 Point Beach units for economic reasons.

12 **Q. Finally, Mr. Stall has testified that the PSCW would be informed of any**
13 **request made to the SEC to pay dividends from funds other than FPLE Point**
14 **Beach's retained earnings.²³ Would this provide significant regulatory**
15 **oversight authority to the PSCW and adequately protect WEPCO's**
16 **ratepayers?**

17 A. No. As I mentioned in my Direct Testimony, the PSCW still would experience a
18 significant loss of jurisdiction even with the conditions, like this one, that are
19 contained in the ASA.

20 For example, the PSCW currently has the authority to ensure that WEPCO does
21 not enter into financial transactions that would limit or threaten its financial
22 capability to provide funds to safely operate and maintain Point Beach. However,
23 pursuant to the conditions in Section 5.22 of the ASA, the Commission's
24 authority and power would be limited to receiving notice of any request made by

²² Ibid., at page 4, lines 18-21.

²³ Ibid., at page 4, line 21, to page 5, line 3.

1 or for FPLE Point Beach, or any affiliated company, to the SEC to pay dividends
2 from funds other than FPLE Point Beach's retained earnings.

3 There also would be no limit set on the retention of retained earnings by FPLE
4 Point Beach to ensure safe operations and maintenance and no limits on the
5 dividends that FPLE Point Beach could pay to its affiliated owners from its
6 earnings. Therefore, FPL Group could take out all of FPLE Point Beach's
7 earnings in dividends to fund other operations or priorities, leaving insufficient
8 funds in FPLE Point Beach for nuclear operations or, later, decommissioning.
9 Nor would there be any PSCW authority to prevent FPL Group from doing so.

10 **Q. Do the additional conditions presented by FPLE witness O'Sullivan**
11 **adequately address the concerns about the loss of PSCW jurisdiction that**
12 **you discussed in your Direct Testimony?**²⁴

13 A. No. The additional conditions offered by Mr. O'Sullivan in his Rebuttal
14 Testimony do not significantly offset the significant loss of regulatory authority
15 that the PSCW would experience as a result of the proposed sale of the Point
16 Beach units to FPLE Point Beach. In particular, once the sale is closed, the
17 PSCW would still not have the jurisdiction or the power to:

- 18 1. Assure the financial integrity of FPLE Point Beach and its owners. If
19 Point Beach were sold to FPLE Point Beach, the Wisconsin Commission
20 would be unable to assure that adequate funds are made available and
21 prudently invested in and used to maintain and operate the plant. The
22 Wisconsin Commission also would be unable to assure that funds that
23 should be used to maintain and operate Point Beach are not being
24 improperly transferred to FPLE Point Beach's direct or indirect owners or
25 affiliates, or,
- 26 2. Exclude from rates imprudently incurred costs.

1 Also, it appears that under Section 5.21(a) of the proposed Asset Sale Agreement
2 the PSCW already has the jurisdiction that Mr. O’Sullivan offers in his Rebuttal
3 Testimony.²⁵ Moreover, Mr. O’Sullivan does not explain whether the U.S. SEC
4 would have to agree to the transfer of jurisdiction that he offers regarding Section
5 5.22 of the proposed Asset Sale Agreement. He also does not provide any
6 evidence that, in fact, the U.S. SEC would agree to such a transfer of jurisdiction.

7 **PSCW WITNESS FERRIS**

8 **Q. Do you have any comment on the Rebuttal Testimony by Staff witness Ferris
9 that he does not believe that the shaping factors would cause the effective
10 price of power under the PPA to vary depending on how much generation
11 occurs at different times?**²⁶

12 A. Yes. With all respect, Mr. Ferris’ analysis is not correct. With a planned 18
13 month refueling cycle, each Point Beach unit can expect to have refueling outages
14 in two out of every three calendar years. In those years in which there would be
15 no refueling outage, it is reasonable to expect that the load shaping factors will
16 not have a major impact on the effective price paid for power under the PPA.
17 However, the shaping factors will affect the effective prices of power under the
18 PPA in those years in which either unit would have a scheduled refueling outage.
19 This would be due to the fact that the refueling outages would be scheduled for
20 the shoulder month periods which would have lower peak and off-peak load
21 shaping factors.

22 **Q. Have you seen any evidence that confirms this conclusion?**

23 A. Yes. I have reviewed the confidential financial workpapers provided by FPLE
24 Point Beach in response to 1-CUB-5 and 1-CUB-7. From the projections of

²⁴ Rebuttal Testimony of Michael O’Sullivan, at page 2, line 2, to page 3, line 13.

²⁵ Ibid., at page 3, lines 5-9.

²⁶ Rebuttal Testimony of Thomas J. Ferris, at page 7, lines 4 through 7.

1 annual revenues under the PPA and the forecast of Point Beach generation it is
2 possible to calculate the effective power prices in \$/MWh that WEPCO's
3 ratepayers would be paying in each year for power from Point Beach. Tables S-2
4 and S-3 present this information for Point Beach Units 1 and 2, respectively, and
5 compare the effective prices that FPLE Point Beach actually would receive for
6 power due to the load shaping factors against the nominal annual prices in the
7 PPA.

8 **Table S-2: Point Beach Unit 1 Effective Power Prices vs. Nominal PPA**
9 **Prices**

10 *****BEGIN FPLE CONFIDENTIAL*****

11

12 *****END FPLE CONFIDENTIAL*****

13

1 **Table S-3: Point Beach Unit 2 Effective Power Prices vs. Nominal PPA**
2 **Prices**
3 *****BEGIN FPLE CONFIDENTIAL*****

4
5 *****END FPLE CONFIDENTIAL*****

6 Thus, the effective power prices that ratepayers actually would pay would be
7 *****BEGIN FPLE CONFIDENTIAL*****
8 *****END FPLE CONFIDENTIAL***** in *every* year in which either Point Beach
9 unit would have a refueling outage.

1 Q. Do the Net Savings figures in Mr. Ferris' Exhibit TJJ-1 reflect the
2 ***BEGIN FPLE CONFIDENTIAL*** ***END
3 FPLE CONFIDENTIAL*** that ratepayers would pay for power under the
4 proposed PPAs as a result of the load shaping factors?

5 A. No.

6 Q. What effect would including the ***BEGIN FPLE CONFIDENTIAL***
7 ***END FPLE CONFIDENTIAL*** due to the
8 load shaping factors have on the Net Savings shown in Mr. Ferris' Exhibit
9 TJJ-1?

10 A. ***BEGIN FPLE CONFIDENTIAL***

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16 ***END FPLE CONFIDENTIAL***

17 Q. Do the economic comparisons between the PPA and WEPCO's CCO that
18 have been presented by WEPCO witness Reed reflect the effective power
19 prices that ratepayers would have to pay as a result of the load shaping
20 factors?

21 A. No. Mr. Reed's analyses do not appear to reflect the effective power prices that
22 ratepayers would have to pay under the proposed PPAs. Instead, Mr. Reed's
23 analyses rely only on the nominal prices in the PPA which do not reflect the load
24 shaping factors.

1 **Q. Do these effective power prices shown in Tables S-2 and S-3 reflect any**
2 **incremental Gross Receipts Taxes that WEPCO's ratepayers would have to**
3 **pay?**

4 A. No. The annual revenue figures presented in Tables S-2 and S-3 do not reflect
5 any of the incremental Gross Receipts Taxes that WEPCO's ratepayers would
6 have to pay under the terms of the proposed PPA.

7 **Q. If FPLE Point Beach's estimates of the power sales under the PPA are**
8 **correct, how much would WEPCO's ratepayers have to pay in incremental**
9 **Gross Receipts Taxes?**

10 A. WEPCO's customers will have to pay approximately *****BEGIN FPLE**
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15 in additional Gross Receipts Taxes on the incremental Gross Receipts Taxes from
16 the PPA.

17 **Q. Does this complete your Surrebuttal Testimony?**

18 A. Yes.