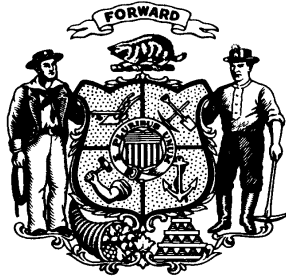


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March 5, 2007

Senator Jeff Plale, Chair
Senate Committee on
Commerce, Utilities and Rail
Room 313 South, State Capitol
Madison, WI 53703

Dear Senator Plale:

During its deliberations, the Joint Legislative Council's Special Committee on Nuclear Power, which I chair, spent considerable time reviewing the management of spent nuclear fuel as part of its study of the future of nuclear power in Wisconsin. Part of this review included an examination of s. 196.497, Stats., which sets forth the state's policy on the long-term disposal of high-level radioactive waste, including spent nuclear fuel. At its January 29, 2007 meeting, the Special Committee directed me to request your cooperation in having the Senate Committee on Commerce, Utilities and Rail jointly review with the Assembly Committee on Energy and Utilities the implementation of s. 196.497 (11s), Stats., and whether subsection (11s) should be amended. Before explaining sub. (11s) and the purpose of this review, I will first provide some background information relevant to this request.

The federal policy on the management of high-level radioactive waste, including spent nuclear fuel, is set forth in the Nuclear Waste Policy Act of 1982, as amended (hereafter, the "federal act"). The federal act directs the Department of Energy (DOE) to develop and operate a repository for the disposal of spent nuclear fuel. It also directs the DOE to enter into contracts with operators of nuclear power plants to take title to spent nuclear fuel and, beginning no later than January 31, 1998, dispose of the spent nuclear fuel in the federal repository. The federal act also requires the operators of commercial nuclear power plants to pay a fee to the federal Nuclear Waste Fund to cover the cost of disposal of spent nuclear fuel by the federal government.

The Special Committee was concerned about the slow pace of implementation of the federal act, especially the development of the federal repository at Yucca Mountain in Nevada. Staff from the DOE indicated in testimony to the Special Committee that under the most favorable circumstances the Yucca Mountain repository would begin receiving wastes in 2017, 19 years after the statutory deadline. This delay has forced operations of nuclear power plants across the country to incur additional expenses for the storage and management of their spent nuclear fuel, including, to date, over \$20 million at the Point Beach Nuclear Power Plant and

about \$50 million at the La Crosse Boiling Water Reactor (which closed in 1987).

Section 196.497 establishes a number of duties of the Public Service Commission (PSC) regarding the long-term disposal of high-level radioactive wastes. It was initially enacted in response to investigations of Wisconsin as a potential site for a nuclear waste repository. One of the provisions in the state policy, s. 196.497 (11s), Stats., requires the PSC, if it determines that the federal DOE is not meeting its contractual obligations under the federal act with state agencies or nuclear power plant operators, to direct the state agencies or operators to pay to the PSC, instead of the federal DOE, the federal fees described earlier in this letter for the period during which the DOE is not meeting its contractual obligations. The PSC may only take this action if a federal court or the DOE has authorized the PSC to receive the payment of these fees.

The withholding of the Nuclear Waste Fund fees by the state represents one type of potential strategy that the state could pursue to encourage the federal government to expedite its implementation of the federal act and fulfill its obligations under the act. The Special Committee felt that it would be appropriate for the relevant standing committees in the Legislature to review the implementation of s. 196.497 (11s), Stats., including the effect of any recent court decisions and settlements between DOE and nuclear power plant operators regarding DOE's violations of its federal contracts under the federal act. After conducting such a review, the standing committees would then be in a position to determine if any amendments to s. 196.497 (11s) would be warranted.

I hope you will look favorably on the request in this letter for a joint review of s. 196.497 (11s). If you have any questions on this request, please feel free to contact me.

Sincerely,

Representative Phil Montgomery, Chair
Special Committee on Nuclear Power

PM:ksm