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October 4, 2000

Douglas Patch, Chairman
Nuclear Decommissioning Finance Committee
NH Public Utilities Commission
8 Old Suncook Road
Concord, NH 03301

Re: NDFC 2000-1

Dear Chairman Patch:

Enclosed is the direct testimony submitted by the undersigned on behalf of the Campaign for Ratepayer's Rights.

Copies have been sent to all parties listed on the attached service list.

Very truly yours,



Robert A. Backus
RAB/acw

A001

THE STATE OF NEW HAMPSHIRE
NUCLEAR DECOMMISSIONING FINANCE COMMITTEE

NDFC 2000-01

DIRECT TESTIMONY OF ROBERT A. BACKUS ON BEHALF
OF THE CAMPAIGN FOR RATEPAYERS' RIGHTS

Q. Please state your name, address and position.

A. My name is Robert A. Backus, and I maintain a law practice at the firm of Backus, Meyer, Solomon, Rood & Branch at 116 Lowell Street, Manchester, New Hampshire. I am also the volunteer president of the Campaign for Ratepayers' Rights, or CRR.

Q. What is the interest of CRR in this proceeding?

A. CRR exists to advocate for the interests of residential and small commercial ratepayers in regard to monopoly electric utilities. In this regard, CRR has frequently appeared before the New Hampshire PUC and the Supreme Court. In addition, CRR has been an active intervenor in all of the contested proceedings before this Committee in regard to the appropriate funding for the thorough and safe decommissioning of the Seabrook atomic reactor. CRR mission includes consideration of the best interests of both current and future ratepayers. Therefore it has in past proceedings advocated a higher level of funding for the decommissioning trust fund than that proposed by NAESCO, even though this creates an increase, albeit a very small one, in the decommissioning charge collected through monthly electric bills. CRR does not want to subject future ratepayers or New Hampshire taxpayers to a large unfunded decommissioning obligation at the time the plant is permanently shut down or - even worse - to tolerate a funding shortfall that might lead to a less than thorough and safe decommissioning.

Q. What are your qualifications?

A. I have been deeply involved in atomic energy, and especially Seabrook issues, since June of 1972, when I represented some of the first intervenors in regard to the licensing of the Seabrook reactor. I represented the Seacoast Anti-Pollution League before the AEC, and then its successor, the NRC, both before its adjudicatory boards and before the Commission itself. One of the issues I raised, for SAPL, at the time of the construction permit proceeding, was whether the long term costs of decommissioning had been appropriately evaluated under the National Environmental Policy Act. I have appeared before this Committee both as an advocate and as a witness. In the last proceeding, 98-1, I prepared and furnished extensive testimony on several of the issues before the Committee, including the issue of anticipated plant life. When I appeared to defend that testimony before the Committee, counsel for NAESCO declined to challenge the testimony by foregoing any cross examination.

.I also serve as the chairman of the board of the Nuclear Information and Resource Services, or NIRS, the only Washington based national non-profit organization whose principal concern is the civilian atomic power program.

Finally, my academic and professional credentials were furnished with my testimony in the last proceeding, which I understand has been officially noticed as part of the record in this docket

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to urge the Committee not to accept the invitation of the NAESCO witnesses to retreat from its position in the 1998 proceeding concerning plant life. I also want to contest some of the specific arguments made by Mr. John Hart on this

issue.

Q. Why should the Committee not accept the NAESCO position that a 36 year operational life should be assumed for Seabrook?

A. I suggest there are two basic reasons. The first is that this proceeding is a limited one, and was not intended to result in a review of the major policy changes made in the 1998 proceeding. Changing the useful life assumption would, in my view, be a major change. The 1998 proceeding was a full scale proceeding, and the issue of anticipated plant life was probably the most hotly contested issue. After substantial evidence from several witnesses concerning nuclear industry experience, and the tax implications of expediting funding, the Committee reached a final decision on this issue, which was not appealed. This issue, if it is to be revisited at all, should be revisited only in the next plenary proceeding, which is still two years away.

The second reason is that Mr. Hart fails to provide a sufficient basis to conclude that the Committee's 1998 decision was in error.

Q. What are the problems with Mr. Hart's analysis?

A. Mr. Hart's analysis is long on what NAESCO believes about the likely life of its Seabrook asset, and short on facts. Mr. Hart cites to the fact that, since the announced closure of Millstone 1 in 1998, there have been no more announced plant closures. Two years is, I submit, too short a period to know whether the turmoil arising out of electric deregulation will improve the chances of extending plant life, or shorten it.

Mr. Hart also relies heavily on the sale of various nuclear plants to suggest the economic viability of the plants. However, the sales of these plants, most at drastically discounted prices, indicates nothing about the likelihood of any of them operating for their 40

licensed lives. For example, at such discounted prices as the \$81 million paid by Entergy for the Pilgrim plant, (of which \$68 million was allocated to the nuclear fuel and only \$13 million for the plant) and which had a book value of \$700 million, the purchaser may well have an opportunity to make a large gain on the investment even if the plant was to close within a few years, given rising energy prices.

In addition, some industry observers are suggesting that some buyers are making purchases in the hopes of making money on the decommissioning trust funds. This certainly indicates that before the current sales of nuclear plants can be taken to indicate something about the reasonable anticipated useful life of these units that an extensive analysis of each sale is required. No such analysis has been provided by Mr. Hart.

Q. Is there any sale listed by Mr. Hart that you would challenge?

A. On the table on page 8, Mr. Hart lists the Vermont Yankee plant as being sold to AmerGen. My understanding is that this sale has not been approved by the Vermont Public Service Board, and that there was substantial evidence to indicate that the closing of the plant might be more in the public interest than would approval of the sale, which includes a purchase power commitment. I understand the Board is likely to make a decision on this issue sometime this month, (October, 2000).

Q. What about the license extensions granted to Calvert Cliffs and Oconee?

A. A license extension is no more an indication of what the actual life of a plant will be than is the original grant of a 40 year license, although it may be an indication of licensee optimism. In a prior proceeding, I furnished testimony on behalf of the Office of Consumer Advocate that the 40 year licenses granted by the NRC to each and every plant was no indication of the actual probable useful life of those plants, and the Committee

accepted this. Just as the original license does not establish a probable 40 year life, so a 20 year extension is not an indication of a 60 year life. As Mr. Hart's testimony states, none of the Calvert Cliffs or Oconee units has yet reached 30 years of commercial operation.

Q. What about global warming as an incentive to longer nuclear plant operational lives?

A. I do not believe that global warming, or the Kyoto convention, has played any role whatsoever in either the decision of certain nuclear plant operators to seek license extensions or in the decision of buyers such as Entergy and AmerGen to acquire nuclear plants, and I know of no evidence to suggest this. Meanwhile, of course, the problem of safely permanently storing high level nuclear waste remains unresolved, and may just as readily at some point cause the early shutdown of nuclear plants as the threat of global warming may arguably keep them open.

Q. What about the condition of the Seabrook steam generators?

A. Mr. Hart has provided information that only a small percentage of the steam generator tubes have been plugged. However, he cannot offer any assurance that a steam tube problem cracking will not emerge, and cause a difficult decision to be made about whether to replace the steam generators, or to close the plant. The problem that this can cause is demonstrated by the experience at Consolidated Edison's Indian Point II reactor, which attempted to operate with degraded some tubes for several years, until a full tube rupture occurred, causing a long term shutdown of the plant. (See attached NRC news release of August 31, 2000.) The salient point is that, as the Committee noted in its prior decision, the spare steam generators intended for Unit 2 were sold by NU, although

NAESCO had contended in prior proceedings that the availability of these as spares was a reasonable basis to find steam generator degradation would not be a factor that might shorten the anticipated energy producing life of Seabrook. This is another factor that supported the Committee's decision on the likely energy producing life that has not changed since the last proceeding.

Q Is there any other reason to adhere to the current finding on anticipated plant life?

A. Yes. I would again recall to the Committee that testimony and recommendations of its first consultant, Technical Analysis Corporation. TAC recommended, in the first contested proceeding, in 1987, that the Committee should target the fund to meet the highest cost decommissioning mode to help assure that when the time to decommission Seabrook arrives that New Hampshire will be able to opt for the best method of decommissioning, rather than just the cheapest. Although the Committee has never accepted this recommendation, it should at least move in this direction by being conservative in assuring adequate funding. Accelerating the funding based on an assumed 25 operational life is one way, along with contingencies and escalation factors, to help provide an additional and appropriate conservatism to assure that the decommissioning of Seabrook will not be constrained by inadequate funding.

Q Does this complete your testimony?

A. Yes.



NRC NEWS

UNITED STATES NUCLEAR REGULATORY COMMISSION

OFFICE OF PUBLIC AFFAIRS, REGION I

475 Allendale Road, King of Prussia, Pa. 19406

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NRC ISSUES INDIAN POINT 2 STEAM GENERATOR INSPECTION REPORT

The Nuclear Regulatory Commission has issued a report to Consolidated Edison Company of New York detailing the findings of a special inspection that reviewed the cause of the February 15th steam generator tube failure at the Indian Point 2 nuclear power plant. The team inspection was conducted from March 7 through July 20 at the Buchanan, N.Y., facility and focused on Con Ed's performance during its 1997 inspection of the plant's four steam generators.

The NRC team has preliminarily concluded that the overall direction and execution of the 1997 steam generator in-service examinations were deficient in several respects. Deficiencies in the steam generator inspection program resulted in the company's failure to adequately account for conditions which adversely affected the detectability of, and increased the susceptibility to, tube flaws. The team concluded that these failures resulted in tubes with flaws being left in service following the 1997 inspection.

Under the NRC's revised reactor oversight process, the agency assesses the inspection findings and characterizes their risk significance by color, specifically green, white, yellow or red. (A green finding results in normal NRC oversight, while white, yellow, or red assessments are considered progressively more serious and receive commensurately greater oversight.) That process assessed the potential impact of running the plant for an operating cycle with the steam generators in a degraded condition. The NRC determined the issue to be of potentially high risk significance. As such, the staff has preliminarily characterized the findings as "red."

While the NRC staff has identified these areas of concern, it is important to note that a review of the February 15th event by an NRC Augmented Inspection Team (AIT) earlier this year found that the plant's licensed operators appropriately responded to the situation, that plant equipment performed as expected and that there were no public health and safety consequences associated with the event itself.

The NRC will meet with Con Ed at a Regulatory Conference, tentatively scheduled for September 26,

to discuss the finding. At the conference, which will be held in the NRC's Region I office in King of Prussia, Pa., Con Ed will have an opportunity to provide NRC staff with additional information, including its position on the significance of the issues discussed in the report. This information will be used by the NRC in determining its final characterization of the issues.

The inspection report is posted on the NRC's web site at:
<http://www.nrc.gov/NRC/REACTOR/IP/index.html>.

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