

July 26, 1990

Mr. Edward A. Brown
President and Chief Executive Officer
New Hampshire Yankee Division
Public Service Company of New Hampshire
Post Office Box 300
Seabrook, New Hampshire 03874

Dear Mr. Brown:

SUBJECT: ISSUANCE OF AMENDMENT NO. 2 TO FACILITY OPERATING LICENSE
NO. NPF-86 - SEABROOK STATION, UNIT NO. 1 REGARDING THE UNITED
ILLUMINATING COMPANY'S SALE AND LEASEBACK OF A PORTION OF THEIR
FINANCIAL INTEREST IN SEABROOK STATION, UNIT 1

The Nuclear Regulatory Commission has issued the enclosed Amendment No. 2 to Facility Operating License No. NPF-86 for the Seabrook Station, Unit 1 (the facility). This amendment is in response to your application dated April 23, 1990, as supplemented by letters dated April 26 and June 6, 1990.

The amendment revises the Facility Operating License to allow the United Illuminating Company (UI) to enter into an arrangement for the sale and leaseback of a portion of their financial interest in Seabrook Station, Unit 1 to certain equity investors. The License amendment is subject to the condition that neither the Owner Trustee, Meridian Trust Company, nor the equity investors can exercise any control, either directly or indirectly, over (i) Seabrook Station Unit 1, (ii) power and energy produced by Seabrook Station, Unit 1, or (iii) the licensee of Seabrook Station, Unit 1. The licensee, through its New Hampshire Yankee Division, will continue its present responsibility as the sole licensee authorized to operate and maintain the plant and will remain exclusively responsible for all safety decisions.

A copy of our Safety Evaluation is also enclosed. Notice of Issuance will be included in the Commission's biweekly Federal Register notice.

Sincerely,

Victor Nerses, Acting Director
Project Directorate I-3
Division of Reactor Projects I/II
Office of Nuclear Reactor Regulation

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PDR ADDCK 05000443
P PDC

Enclosures:

- 1. Amendment No. 2 to No. NPF-86
- 2. Safety Evaluation

cc w/enclosures: See next page

*See previous concurrence

LA:PDI-3* PM:PDI-3* NRR:PTSB* OGC* (A) PDI-3
MRushbrook ELeeds DNash VNerses
07/06/90 07/06/90 07/06/90 07/16/90 07/26/90

OFFICIAL RECORD COPY:

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Docket No. 50-443

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New Hampshire Yankee Division
Public Service Company of New Hampshire
Post Office Box 300
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Sincerely,

Walter R. Butler, Acting Assistant
Director for Reactor Projects I/II
Office of Nuclear Reactor Regulation

Enclosures:

1. Amendment No. 2 to No. NPF-86
2. Safety Evaluation

cc w/enclosures: See next page

*See previous concurrence

LA:PDI-3*	PM:PDI-3*	NRR:PTSB*	OGC*	 M. A. PDI-3	(A) ADR1
MRushbrook	ELeeds	DNash		W. Nerses	WButler
07/06/90	07/06/90	07/06/90	07/16/90	07/16/90	07/ /90

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Sincerely,

Richard H. Wessman, Acting Assistant
Director for Reactor Projects I/II
Office of Nuclear Reactor Regulation

Enclosures:

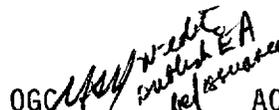
- 1. Amendment No. to No. NPF-86
- 2. Safety Evaluation

cc w/enclosures: See next page

LA: PDI-3
MRushbrook
7/16/90

PM: PDI-3
ELeeds
7/16/90


NRR: PDSB
DNash
7/16/90

OGC: 
M. Young
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ACTING PD: PDI-3
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Mr. Edward A. Brown

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Adjudicatory File (2)
Atomic Safety and Licensing Board
Panel Docket
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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AMENDMENT NO. 2 TO NPF-86 SEABROOK STATION, UNIT 1 DATED July 26, 1990

DISTRIBUTION:

Docket File 50-443

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Wanda Jones-MNBB-7103

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ACRS (10)-P-315

GPA/PA-2G-5

OC/LFMB-MNBB-4503

J. Johnson, Region I

Robert Wood-12E-4



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, ET AL*

DOCKET NO. 50-443

SEABROOK STATION, UNIT NO. 1

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 2
License No. NPF-86

1. The Nuclear Regulatory Commission (the Commission or the NRC) has found that:
 - A. The application for amendment filed by the Public Service Company of New Hampshire (the licensee), acting for itself and as agent and representative of the 11 other utilities listed below and hereafter referred to as licensees, dated April 23, 1990 and supplemented by letters dated April 26 and June 6, 1990, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance: (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations set forth in 10 CFR Chapter I;
 - D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

*Public Service Company of New Hampshire is authorized to act as agent for the: Canal Electric Company, the Connecticut Light and Power Company, EUA Power Corporation, Hudson Light & Power Department, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company, New Hampshire Electric Cooperative, Inc., Taunton Municipal Light Plant, The United Illuminating Company, and Vermont Electric Generation and Transmission Cooperative, Inc., and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility.

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2. Accordingly, the license is amended by adding a new paragraph, 2.B(7), as follows:

2.B(7) The United Illuminating Company (UI) is authorized to transfer any portion of its 17.5% interest in Seabrook Station, Unit 1 and rights with respect to its interest in the Seabrook common facilities (up to and inclusive of \$250 million of aggregate appraised value) to certain equity investors and at the same time to lease back from such purchasers such interests and rights transferred in the Seabrook Station, Unit 1 facility. The expected initial term of the lease is for approximately 32 years, subject to the rights of renewal. Such sale and leaseback transactions are subject to the condition that lessors and anyone else who may acquire an interest under these transactions are prohibited from exercising directly or indirectly any control over (i) Seabrook Station, Unit 1, (ii) power and energy produced by Seabrook Station, Unit 1, or (iii) the licensees of Seabrook Station, Unit 1. Further, any rights acquired under this authorization may be exercised only in compliance with and subject to the requirements and restrictions of this operating license, the Atomic Energy Act of 1954, as amended, and the Commission's regulations. For purposes of this condition the limitations in 10 C.F.R. 50.81, as now in effect and as may be subsequently amended, are fully applicable to the lessor and any successor in interest to that lessor as long as the license for Seabrook Station, Unit 1 remains in effect.

Further, the licensees are also required to notify the NRC in writing prior to any change in: (i) the terms or conditions of any lease agreements executed as part of these transactions; (ii) the Seabrook Operating Agreement, or (iii) the existing property insurance coverage for Seabrook Station, Unit 1. In addition, the licensees are required to notify the NRC of any action by a lessor or others that may have an effect on the safe operation of the facility.

3. This license amendment is effective as of its date of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION



Victor Nerses, Acting Director
Project Directorate I-3
Division of Reactor Projects I/II
Office of Nuclear Reactor Regulation

Date of Issuance: July 26, 1990



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
SUPPORTING AMENDMENT NO. 2 TO FACILITY OPERATING LICENSE NO. NPF-86
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
SEABROOK STATION, UNIT 1
DOCKET NO. 50-443

1.0 INTRODUCTION

By letter dated April 23, 1990, as supplemented by letters dated April 26 and June 6, 1990, Public Service Company of New Hampshire (the licensee), requested an amendment to Facility Operating License No. NPF-86 for Seabrook Station, Unit 1 (Seabrook or the facility). The proposed amendment would revise Facility Operating License No. NPF-86 to allow the United Illuminating Company (UI) to enter into an arrangement for the sale and leaseback of a portion of their financial interest in Seabrook to certain equity investors. The license amendment would be subject to the condition that neither the Owner Trustee, Meridian Trust Company, nor the equity investors could exercise any control, either directly or indirectly, over (i) Seabrook Station, Unit 1, (ii) power and energy produced by Seabrook Station, Unit 1, or (iii) the licensee of Seabrook Station, Unit 1. The licensee, through its New Hampshire Yankee Division, would continue its present responsibility as the sole licensee authorized to operate and maintain the plant and would remain exclusively responsible for all safety decisions.

The June 6, 1990 submittal identified the Owner Trustee. This supplemental information did not change the action or affect the initial determination published in the Federal Register, on May 30, 1990.

2.0 EVALUATION

Operating Considerations

The proposed amendment to the license to reflect the sale and leaseback transaction would not result in any physical changes to the facility. In addition, all Operating Procedures, Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits as specified in the Technical Specifications to Facility Operating License No. NPF-86 will remain unchanged. Therefore, the staff concludes that the facility conditions for which the design bases and accident analyses were performed continue to be valid.

Public Service Company of New Hampshire, through its New Hampshire Yankee Division, will continue to be responsible for the safe operation of the facility. No changes will be made to the operating organization or the personnel at the facility as a result of the proposed sale and leaseback transaction. Therefore, the staff expects the sale and leaseback transaction will have no adverse impact on the safe operation of the facility.

Financial Considerations

The proposed amendment would allow UI to sell 39% of its 17.5% ownership share in Seabrook for fair market value to the Meridian Trust Company which will act as Owner Trustee under one or more grantor trust agreements. The beneficiaries of the trusts will be one or more equity investors, i.e., financial institutions or institutional investors. The Owner Trustee will hold legal title to the Undivided Interest conveyed. Concurrently, the Owner Trustee will lease back to UI the Undivided Interest under separate but substantially identical leases for a term of up to 32 years for a stipulated basic rent. At the end of the base term, UI will have the option, but not the obligation, to renew the lease or purchase the Undivided Interest at then fair market value.

As structured, the net lease terms provide that all capital and other cost decisions remain with UI and the other plant owners. Thus, UI, as lessee, is responsible for its proportionate share of the costs of operation and maintenance of Seabrook, including insurance, taxes, assessments and other charges and liabilities relating thereto, such as decommissioning, fuel procurement, spent fuel disposal and rebuilding. UI is also responsible for a like share of any necessary capital improvements or repairs.

During the lease term, UI will receive the capacity and energy represented by the leased interests with the right to sell and dispose thereof. Thus, the source of funds needed to safely maintain the licensed activity will continue to be the revenues generated by the sale of electricity from Seabrook. Funds will be generated both from the 39% of UI's share of Seabrook that it will sell and lease back as well as the 61% of UI's share not subject to the proposed transaction. Therefore, the staff concludes that the proposed amendment does not adversely affect the source of funds for conducting the licensed activity and for complying with NRC requirements. Accordingly, there are no financial qualification concerns that impact the staff's approval of the proposed amendment.

The proposal, like previous sale/leaseback transactions approved by the Commission, is a mechanism for UI to refinance certain capital costs in return for a commitment to make lease payments over a specified period. The proposed sale/leaseback transaction has been initiated to resolve certain existing financial constraints under which UI operates and thus improve UI's financial condition and quality of credit. The proposal provides substantial tax benefits to those purchasing part of UI's share of Seabrook.

The staff believes that there will be no financial consequences adversely affecting safety from allowing UI to enter into an arrangement for the sale and leaseback of a portion of their financial interest in Seabrook. The economic benefits which UI and the equity investors anticipate from the transaction are not expected to be gained at the expense of public health and safety given UI's continuing commitment to pay its proportionate share of costs associated with Seabrook (as described previously). Thus, the staff concludes that the financial consequences of the proposed action will not adversely affect the protection of public health and safety.

Antitrust Considerations

The proposed amendment reflects a change in the legal title of a portion of UI's Ownership Share of Seabrook. However, the transferee of the legal title will lease that interest back to UI, which will receive the capacity and energy associated with that Ownership Share. The Equity Owner, by virtue of the lease, will have no right to that capacity and energy. Therefore, there will be no change in the status quo of the market for electric energy effected by the proposed amendment to the Operating License. Since UI's participation in Seabrook has already been reviewed as part of the original antitrust review of the facility, the staff has determined that there is no need for a further antitrust review under Section 105 of the Atomic Energy Act (42 U.S.C. 2135).

Restricted Data

The licensee has addressed the issue of safeguarding restricted data and other defense information and UI and the Owner Trustee agree to the appropriate conditions of protection and processes. The application does not contain any restricted data and it is not expected that any such information will become involved in the licensed activities. However, in the event that such information does become involved, UI and the Owner Trustee agree that they will appropriately safeguard such information. Therefore, the staff expects no reduction in the understanding or responsibility for safeguarding restricted data.

Foreign Ownership Considerations

Since the identity of the equity investors is not currently known, it is possible that such equity investors in the proposed transaction may be "owned", "controlled" or "dominated" by a foreign corporation within the meaning of Section 103d of the Atomic Energy Act. The staff addressed this issue in Policy Paper SECY-85-367 (November 20, 1985), which was endorsed by the Commission in its Order dated December 12, 1985 (CLI-85-17, 22 NRC 875). The Staff position is that if a licensing requirement was not imposed upon the equity investors, then the prohibition of Section 103b need not be addressed. In its Order, the Commission consented to the staff position, subject to the condition that "the lessor and anyone else who may acquire an interest under the transaction ... are prohibited from exercising directly or indirectly any control over the licensees..." Id. at 876.

Since this license amendment is subject to the condition that neither the Owner Trustee nor the equity investors could exercise any control either directly or indirectly over (i) the facility, (ii) power and energy produced by the facility, or (iii) the licensee of the facility, the staff has found that the prohibition of Section 103d of the Atomic Energy Act need not be addressed.

3.0 CONTACT WITH STATE AND OTHER OFFICIALS

The proposed transaction was approved by the Connecticut Department of Public Utility Control as required by the laws of the State of Connecticut on June 8, 1990.

The proposed transaction was approved by the New Hampshire Public Utilities Commission as required by the laws of the State of New Hampshire on July 9, 1990.

No comments were received on the no significant hazards consideration.

4.0 ENVIRONMENTAL CONSIDERATION

Pursuant to 10 CFR 51.21, 51.32 and 51.35, an environmental assessment and finding of no significant impact was published in the Federal Register on July 25, 1990, (55 FR 30329).

5.0 CONCLUSION

Based upon its evaluation of the proposed amendment, the staff has concluded that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, and (2), such activities will be conducted in compliance with the Commission's regulations and the issuance of this amendment will not be inimical to the common defense and security, or the health and safety of the public.

Dated: July 26, 1990

Principal Contributors: Eric Leeds, Robert Wood