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AT

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April 24, 1999

Judge Charles Bechhoefer, Chairman,
Atomic Safety and Licensing Board
United States Nuclear Regulatory Commission
Washington, D.C. 20555
BY: FAX AND FIRST CLASS MAIL

RE: Failure of NRC Staff to serve EA upon Petitioners per request of the Board in
Yankee Atomic Electric Company (License Termination Plan) [LTP]
50-029-LA-R (ASLBP No. 99-754-01-LA-R)

Dear Judge Bechhoefer:

New England Coalition on Nuclear Pollution (NECNP), a party to the above referenced proceeding, believes that on January 27, 1999, the Panel requested that, when issued, the NRC Staff serve a copy of the Environmental Assessment [EA] for the LTP upon the parties in the above referenced proceeding. Counsel for the NRC staff assured the Panel that this request would be honored. The Official Transcript of the Prehearing Conference reads as follows:

JUDGE BECHHOEFER: I just wanted to mention, and I assume this is the case, that when the assessment is complete, the staff will serve it on all the parties?

MS. ZOBLER: We can do that, Your Honor.

JUDGE BECHHOEFER: The petitioner's parties --

MS. ZOBLER: Certainly. Certainly provide them a copy.

JUDGE BECHHOEFER: Yes. And do you have any schedules, more or less? Do you know about what the progress of that is? I'm not trying to confine you to any schedule, but --

MR. FAIRTILE: Roughly two to three months.

JUDGE BECHHOEFER: Okay.

Official Transcript of the Proceedings of the United States Nuclear Regulatory Commission, "Yankee Atomic Electric Company (Yankee Nuclear Power Station) Prehearing Conference" [Tr.](January 27, 1999) at 248-249, lines 17-24 (emphasis added);

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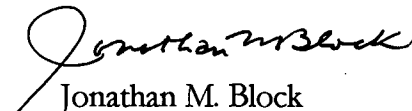
see generally, id. at 236-249. Counsel for NECNP recently acquired an internet posting of a Federal Register Notice of the EA at issue--not, significantly, by NRC staff counsel's service of same. Counsel for NECNP does not know if any other parties to this proceeding or interested persons received a copy of the EA.

Under the circumstance evidenced above, counsel for NECNP requests the Board to take action to remedy the Staff's failure to comply with the Board's request and NRC Staff counsel's representation to the Board in relation to that request.

Counsel for NECNP asks the Board to direct the Staff to honor its commitment to serve every party to the proceeding with a copy of the EA. Further, in the interests of fairness, counsel for NECNP requests that, in evaluating the admissibility of any late-filed contentions proffered pursuant to the EA at issue, the Board consider the parties' (and any other person's¹) receipt of the EA by the NRC staff counsel's service of same upon the parties, rather than publication in the Federal Register. This would avoid prejudice to any one who may have relied upon the NRC Staff counsel's representation to the Board that the parties would be served with a copy of the EA upon issuance (as opposed to relying upon monitoring the Federal Register for publication and notice of the EA). Interested persons in attendance at the Prehearing Conference may have reasonably believed that intervenors would inform such interested persons as soon as the NRC staff counsel served the EA upon the parties. Hence, the need for this Panel, when fashioning a proper remedy, to carefully consider the scope of the prejudice worked by the NRC staff counsel's failure to provide promised service of the EA at issue.

Thank you for your kind consideration and attention to this matter.

Sincerely,


Jonathan M. Block
Attorney for NECNP

cc: Service list

¹ Region I of the United States Environmental Protection Agency and Friends of the Coast Opposing Nuclear Pollution (FOTC) demonstrated interest in the proceeding through limited appearance statements, and, in the case of FOTC, a filing of some kind with the Board and parties. Tr. (Limited Appearances) at 5-10, 10-15, and attachments (Jan. 26, 1999, 7:02 p.m. to 9:31 p.m.); *see also* Tr. at 269-281 (Jan. 27, 1999). Based upon the limited appearance statements and other actions, it is reasonably foreseeable that such persons may choose to place NEPA-related late-filings before this Board.

Certificate of Service

I, Jonathan M. Block, attorney for New England Coalition on Nuclear Pollution [NECNP], do hereby certify that on April 24, 1999, I served the within pleading upon parties (and others indicated with '*' by First Class mail only) in this matter by First Class United States Mail and fax transmission as follows:

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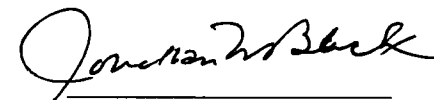
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