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Court says NRC critic wronged

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GLOBE STAFF

A federal judge has ruled that the Nuclear Regulatory Commission violated the First Amendment rights of Steve Comley, a Rowley businessman and longtime NRC critic, on several occasions when it barred or ejected him from NRC meetings.

The commission "prevented Comley from engaging in protected speech because they did not like his message," Judge John H. Pratt of the US District Court for the District of Columbia wrote in a decision filed Sept. 19.

The court held that Comley's display of posters and bumper stickers bearing the message, "Stop Chernobyl Here," at NRC hearings on the Seabrook and Pilgrim nuclear power plants "is protected speech under the First Amendment."

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JUDGE JOHN H. PRATT
US District Court

The NRC's rules against display of "visually disruptive" posters or signs at its public meetings are a reasonable restriction, but it failed to show that the actions against Comley were "viewpoint neutral," Pratt wrote.

The court said NRC officials singled Comley out, assigned security guards to monitor him at commission meetings, and at one point barred him from a meeting because he was carrying a small bag, although other members of the public were allowed into the room carrying briefcases, purses and similar items.

"It appears that NRC officials treated Comley differently from other meeting attendees, and that this difference in treatment was based on Comley's views, which no doubt were irritating and annoying," the court said.

Ernest Hadley, Comley's attorney, observed: "The First Amendment is not based on what government officials find distressing. Mr. Comley's conduct was not disruptive, and no one complained."

Hadley said the decision bolsters arguments that the NRC treats its critics more harshly than industry representatives.

Robert A. Backus, a Manchester, N.H., attorney who has represented Seabrook opponents for more than a dozen years, said the decision showed the NRC has been less than evenhanded.

"I don't think anybody other than NRC staff or license applicants ever thought they got a fair hearing," he said, complaining of what he described as the agency's "barely disguised contempt for intervenors."

Joseph J. Fouchard, the NRC's director of public affairs, said the agency is reviewing the decision. "We don't permit signs or banners in NRC meetings, but we do not single out individuals," he said.