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January 19, 1999

VIA COURIER

John C. Hoyle, Secretary
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Attention: Rulemakings and Adjudications Staff

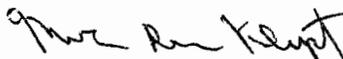
Re: Docket No. 50-443, License No. NPF-86

Dear Secretary Hoyle:

Pursuant to the Nuclear Regulatory Commission's Rules of Practice and Procedure, specifically 10 C.F.R. § 2.1306, please find enclosed an original and two copies of New England Power Company's Response to the Answers of Montaup Electric Company and Little Bay Power Corporation.

Please date and time stamp the additional copy of this pleading and return it to our courier.
Thank you.

Sincerely,



Mark R. Kluyt

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be accorded standing at the construction permit stage based on radiological injury. Indeed, case law is clear that it is not even necessary to show that injury will inevitably occur. Gulf States Utilities co., et al. (River Bend Station, Unit 1), LBP-94-3, 39 NRC 31, aff'd, CLI-94-10, 40 NRC 43 (1994). Surely the injury here is no more speculative than that found sufficient in Quivera Mining company (Ambrosia Lake Facility, Grants New Mexico), CLI-98-11, 48 NRC 1 (1998). Indeed, NEP'S case is virtually "on all fours" with Gulf States Utilities Company, et al. (River Bend Station, Unit 1), CLI-94-10, 40 NRC 43 (1994) ("Gulf States"). In Gulf States, the Commission rejected the argument that an injury similar to that alleged here was too speculative and granted standing to a non-operating co-owner to challenge a license transfer. The notice of hearing opportunity, cited on page 11 of Little Bay's answer reflects little more than a pro forma NRC Staff administrative action. It hardly constitutes a Commission adjudication, binding on the parties, that would deprive NEP of any standing.

As to the supposed failure of NEP to raise material issues of fact, NEP, by affidavit, has pointed out critical facts that should be obvious to Little Bay: that nuclear units in New England have not operated for their full license terms and the planned entry of an enormous amount of efficient new generation that will put enormous pressure on the continued economic viability of existing generation. NEP has also pointed out that it has not been uncommon to have to revise upward decommissioning cost estimates.

Little Bay's response avoids even joining issue, let alone meeting the burden of persuasion that is its responsibility. As to the possibility that the current decommissioning estimate may prove inadequate, Little Bay points to the obligation to update estimates and suggests that if necessary it will add to the amount that Montaup now proposes to prefund. But how will Little Bay meet its

obligation for any decommissioning deficiency, particularly if it is necessary to terminate operations at Seabrook prematurely? Little Bay, after all, will be a single-asset corporation without any revenue-producing asset other than Seabrook. Little Bay's only response is to point to license extensions sought for two other units operating in different parts of the country without at all suggesting that the economic circumstances confronted by those units at all parallels the situation in New England. This failure is all the more surprising since Little Bay is quick to castigate NEP for its alleged failure to offer factual support. NEP in fact has done so. It has pointed out the facts germane to New England, and Little Bay offers nothing pertinent by way of refutation. In particular, it has offered nothing to support its entreaty that the Commission have faith that Seabrook will be cost-competitive throughout the term of its operating license. The experience of Little Bay's affiliate, which has consistently failed to turn a profit on its investment in Seabrook, hardly supports Little Bay's rosy view of the future.² Neither in the application nor in its Answer does Little Bay offer any factual support for its position. Again, the burden rests with Little Bay, not with NEP.

NEP's specification of issues clearly satisfies the NRC requirements for specificity and basis. It is not required that petitioner prove his case at the contention stage. What is required instead is a "minimal showing that material facts are in dispute thereby demonstrating that an inquiry in depth is appropriate." Gulf States at 51, citing 54 Fed. Reg. 33168 (Aug. 11, 1984) (preamble to 10C.F.R. § 2.714 (revised contention rule)). See also Yankee Atomic Electric Company (Yankee Nuclear Power Station), CLI-96-7, 43 NRC 235, 249 (1996). NEP has clearly met this burden. At

²The appended Supplemental Affidavit of James S. Robinson relates the statements of Little Bay's affiliate, and its financial results, as reflected in filings with the Securities and Exchange Commission. Commission consideration of this supplemental affidavit is appropriate. Houston Lighting & Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-565, 10 NRC 521, 524-35 (1979).

best, Little Bay's discussion of NEP'S request and the associated affidavit amount to an impermissible invitation to the Commission to decide the case on the merits at the contention state on the basis that NEP, rather than Montaup or Little Bay, bears the ultimate burden of proving reasonable assurance of safety. 54 Fed. Reg. 33168 (Aug. 11, 1989).

This brings us to Montaup and Little Bay's final, and prevalent theme: that NEP is seeking collaterally to attack Commission regulations. NEP has done no such thing. In its intervention, NEP recognized that prefunding of decommissioning and five-year expense and revenue projections are permissible for non-utility licensees. What is impermissible is for Little Bay to take refuge behind those rules in lieu of a bona fide presentation of financial qualification. First, we doubt seriously that the Commission intended five-year projections to suffice for a new single-asset licensee, whose license extends more than 20 years beyond the projection period, and who is operating in a deregulated market where new entrants are and will be competing aggressively for load.³ Second, the Commission surely did not intend *any* five-year projection, however speculative, to suffice, and to stand as a shield precluding probing inquiry. Taken to its logical conclusion, Little Bay's argument would shut-off inquiry even if upon the gentlest probing the projections were shown to be specious. The Commission cannot judge the validity of Little Bay's projections until they are shared

³The finding required is that the applicant be financially qualified "for the period of the license." The requirement that data be submitted for five years does not limit the scope of the finding. Moreover the regulation recognizes that newly formed entities may need to submit more information. 10 CFR ¶ 50.33(f). The Standard Review Plan and prior decision involving Great Bay, cited on pages 20-21 of Little Bay's answer, do not constitute full adjudicatory decisions which are binding on NEP or the Commission, notwithstanding any informal approval of them. See, e.g., Porter County Chapter of Isaak Walton League of America v. AEC, 533 F.2d 1011 (7th Cir. 1976); Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), ALAB-875, 26 NRC 251, 260-261 (1987); Washington Public Power Supply System (WPPSS Nuclear projects Nos. 3 and 5), ALAB-485, 7 NRC 986, 988 (1978).

with the intervenors (they have been filed on a confidential basis) and tested by those who know something about the dynamic New England bulk power marketplace.⁴

We, like Little Bay, are mindful of the Commission's desire to avoid time-consuming factual inquiries. We share that objective. But in the end, there must be a reasonable basis upon which to judge Little Bay financially qualified to assume Montaup's obligations for the safe operation and decommissioning of Seabrook. NEP offered a simple solution, one that would avoid the necessity of any factual inquiry at all. Little Bay cannot have it both ways; it cannot urge rejection of the condition sought by NEP and insist that its financial qualifications need not be subjected to evidentiary review.

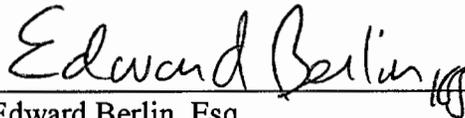
⁴Moreover, it surely cannot be contended that NEP's prima facie presentation questioning the assumption that Seabrook will remain in service for its full license term calls into question a Commission rule. There is no generic rule requiring the assumption that plants will operate for the full term of their initial licenses. The decommissioning regulation, 10 CFR § 50.75, as amended last year (63 Fed. Reg. 50465 (Sept. 22, 1998), as clarified, 63 Fed. Reg. 57236 (Oct. 27, 1998)) requires that prepayment be sufficient to pay for the cost of safe decommissioning "at the time termination of operation is expected," and provides that credit may be taken for projected earnings on decommissioning funds "through the projected decommissioning period." Montaup misstates the regulation of page 4 of its answer by claiming that the regulation contemplates a revenue projection until "the end of the license period." The actual language is "projected decommissioning period," a critical wording difference which is fatal to Montaup's (and Little Bay's) argument.

Little Bay's discussion of a 25% contingency in NUREG-1307 and of accelerated funding in the 1998 decommissioning financial assurance rulemaking adds nothing of relevance. First of all, it is elementary administrative law that proposed rules and NUREGs do not constitute rulemaking decisions; only final rules may do so. Little Bay cites to no final rulemaking conclusion that a 25% contingency would address premature shutdown as it might affect the prefunding option. Clearly, the 25% was intended as a contingency for increased decommissioning cost, not for premature shutdown. Nor is there any final rulemaking finding that periodic adjustments of cost estimates and reporting requirements themselves will account for premature shutdown. The actual conclusion on accelerated funding in the 1998 final rule was that "the NRC does not consider accelerated funding to provide reasonable decommissioning financial assurance." 63 Fed. Reg. 50465, 50470 (Sept. 22, 1998). From the preamble discussion, it is clear that the NRC was discussing and then rejecting accelerated funding as another possible funding option, not as an interpretation of another option (prefunding). To be relevant to Montaup's and Little Bay's rule challenge argument, the 1998 final rulemaking would need to include a generic finding, for the purpose of implementation of the prefunding option, that plants would generally operate to the end of their license term. No such rulemaking finding is apparent, either here or in any other NRC rule, so there is no rulemaking finding for NEP to challenge. See Public Service Company of New Hampshire et al. (Seabrook Nuclear Power Station, Units 1 and 2), CLI-88-10, 28 NRC 573 (1988).

If, notwithstanding the above, the Commission should decide that some or all of NEP's request constitutes a collateral rule challenge, NEP respectfully requests that it be afforded the opportunity to file the appropriate rule challenge with the Commission pursuant to 10 CFR § 2.1329, based on special circumstances. NEP cannot do so now, even on a contingency basis, because absent a Commission ruling on its intervention and hearing request, it cannot even speculate what particular rule might be challenged. In any event, by establishing a separate provision enabling "participants" to file rule challenges (a counterpart to 10 CFR § 2.758), with time periods and reply provisions which differ from those applicable to intervention requests, the Commission must have contemplated that rule challenges could be filed on a timely basis separate from the intervention request itself. Accordingly, NEP should be accorded full party status, and the Commission either should now condition the transfer of Montaup's Seabrook ownership interest on the retention by Montaup of contingent responsibility for the financial obligations associated with the safe operation and

decommissioning of the transferred ownership portion in the event of the default of Little Bay or, failing adoption of that condition, set for full hearing the issue of whether Little Bay reasonably can be assured of having the requisite financial qualifications safely to operate and decommission its ownership share of Seabrook.

Respectfully submitted,



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January 19, 1999

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
North Atlantic Energy Service Corporation) Docket No. 50-433
and Montaup Electric Company)
) (License No. NPR-86)
(Seabrook Station, Unit No. 1)
_____)

SUPPLEMENTAL AFFIDAVIT OF JAMES S. ROBINSON

James S. Robinson, being duly sworn, states as follows:

1. I am Vice President and Director of Generation Investments of New England Power Company ("NEP"), the wholesale electric generation and transmission subsidiary of New England Electric System, a public utility holding company.

2. I made an affidavit that was appended to the Motion of NEP for Leave to Intervene and Petition for Summary Relief or, in the Alternative, for a Hearing in the above-captioned proceeding. I submit this supplemental affidavit to provide information concerning the financial results of BayCorp Holding, Ltd. ("BayCorp") and its subsidiary, Great Bay Power Corporation ("Great Bay"). BayCorp is the corporate parent of Little Bay Power Corporation ("Little Bay"), the proposed transferee of Montaup Electric Company's interest in Seabrook Station, Unit No. 1. Like Little Bay, Great Bay's sole asset is its Seabrook interest. Great Bay's recent financial results and its statements regarding its future prospects thus shed light on the competitiveness of Seabrook's power under recent market conditions. All of the financial information and statements I discuss were taken from public filings made by BayCorp and/or Great Bay at the Securities and Exchange Commission.

3. For the period January 1, 1995 through September 30, 1998, operating revenues of BayCorp / Great Bay have totaled approximately \$102 million. During the same period, operating expenses totaled approximately \$128 million, resulting in a net operating loss of approximately \$26 million. For the same period, BayCorp/Great Bay experienced a net loss of approximately \$19 million ¹

4. As of December 31, 1996, BayCorp/Great Bay had liquid assets (cash, cash equivalents and short-term investments) totaling approximately \$29 million. As of September 30, 1998, the balance was approximately \$13 million, which is a \$15 million reduction or 54% reduction since December 31, 1996.²

5. For the period January 1, 1998 through September 30, 1998, operating revenues of BayCorp/Great Bay have totaled approximately \$21 million. During the same period, operating expenses totaled approximately \$27 million, resulting in a net operating loss of approximately \$6 million. For the same period, BayCorp/Great Bay experienced a net loss of approximately \$6 million.³

6. As of December 31, 1997, BayCorp/Great Bay had liquid assets (cash, cash equivalents and short-term investments) totaling approximately \$19 million. As of September 30, 1998, the balance was approximately \$13 million, which is a \$6 million reduction or 30%

¹ As reported in Forms 10K and 10Q filed for the relevant periods by BayCorp Holdings, Ltd. / Great Bay Power Corp. with the Securities and Exchange Commission. A table showing the information reported in these documents are included in Exhibit 1.

² Ibid.

³ As reported in Form 10Q for the period ending September 30, 1998 filed by BayCorp Holdings, Ltd. with the Securities and Exchange Commission.

reduction since December 31, 1997.⁴

7. BayCorp/Great Bay itself has identified potential financial risks associated with its investment in the Seabrook Project. BayCorp made the following statements on this subject in Exhibit 99.1 to the Form 10Q that it filed with the Securities and Exchange Commission for the period ending September 30, 1998 (excerpts from this document are included as Exhibit 2):

- a. “BayCorp's principal asset is its equity interest in Great Bay. Great Bay owns a single principal asset, a 12.1% joint interest in the Seabrook Nuclear Power Project in Seabrook, New Hampshire. Accordingly, BayCorp's results of operations are completely dependent upon the successful and continued operation of the Seabrook Project. In particular, if the Seabrook Project experiences unscheduled outages of significant duration, Great Bay's results of operations will be materially adversely affected.” (Emphasis added)
- b. “BayCorp has never reported an operating profit for any year since its incorporation. The Company's business strategy is to seek purchasers for its share of the Seabrook Project electricity output at prices, either in the short-term market or pursuant to medium or long-term contracts, significantly in excess of the prices currently available in the short-term wholesale electricity market. Sales at current short-term rates do not result in sufficient revenue to enable BayCorp to meet its cash requirements for operations, maintenance and capital related costs. Great Bay's ability to obtain such higher prices will depend on regional, national and worldwide energy supply and demand factors that are beyond the control of Great

⁴ Ibid.

Bay. There can be no assurance that Great Bay ever will be able to sell power at prices that will enable it to meet its cash requirements.” (Emphasis added)

- c. “As of December 31, 1997, BayCorp had approximately \$19.1 million in cash and cash equivalents and short-term investments. . . . If the Seabrook Project operated at a capacity factor below historical levels, or if expenses associated with the ownership or operation of the Seabrook Project, including without limitation decommissioning costs, are materially higher than anticipated, or if the prices at which Great Bay is able to sell its share of the Seabrook Project electricity do not increase at the rates and within the time expected by Great Bay, Great Bay or [BayCorp] would be required to raise additional capital, either through a debt financing or an equity financing, to meet ongoing cash requirements. There is no assurance that Great Bay or [BayCorp] would be able to raise such capital or that the terms on which any additional capital is available would be acceptable.” (Emphasis added)

- d. “Certain costs and expenses of operating the Seabrook Project or owning an interest therein, such as certain insurance and decommissioning costs, are subject to increase or retroactive adjustment based on factors beyond the control of BayCorp or Great Bay. The cost of disposing of Unit 2 of the Seabrook Project is not known at this time. These various costs and expenses may adversely affect BayCorp and Great Bay, possibly materially.” (Emphasis added)

8. In the same document, BayCorp/Great Bay also identified potential risks associated with the adequacy of Great Bay’s future revenues from the wholesale power market:

a. “In the past, wholesale sellers of electric power, which typically were regulated electric utilities, frequently entered into medium or long-term power sale contracts providing for prices in excess of the prices available in the short-term market, which includes contracts of one year or less in duration. In recent years, increased competition in the wholesale electric power market, reduced growth in the demand for electricity, low prices in the short-term market and the uncertainty associated with deregulation of the industry have reduced the willingness of wholesale power purchasers to enter into medium or long-term contracts and have reduced the prices obtainable from such contracts.” (Emphasis added)

b. “Great Bay sells its share of Seabrook Project electricity primarily into the Northeast United States wholesale electricity market. There are a large number of suppliers to this market and competition is intense. A primary source of competition comes from traditional utilities, many of which presently have excess capacity. In addition, non-utility wholesale generators of electricity, such as IPPs, QFs and EWGs, as well as power marketers and brokers, actively sell electricity in this market. Great Bay may face increased competition, primarily based on price, from all sources in the future.” (Emphasis added)

9. BayCorp/Great Bay also acknowledged in that document the potential risk of a premature shutdown of Seabrook Unit 1:

“Substantial controversy has existed for some time concerning nuclear generating plants and over the years such opposition has led to construction delays, cost overruns, licensing delays, demonstrations and other difficulties. The Seabrook

Project was the subject of significant public controversy during its construction and licensing and remains controversial. An increase in public concerns regarding the Seabrook Project or nuclear power in general could adversely affect the operating license of Seabrook Unit 1. While Great Bay cannot predict the ultimate effect of such controversy, it is possible that it could result in a premature shutdown of the unit.” (Emphasis added.)

10. BayCorp/Great Bay also identified in that document the potential risk that the ultimate cost of decommissioning Seabrook Unit 1 may exceed amounts set aside in decommissioning trust funds:

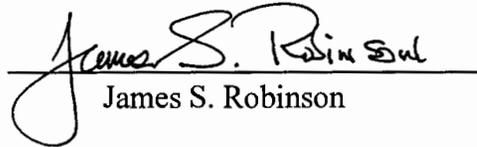
“While the owners of the Seabrook Project are accumulating a trust fund to defray decommissioning costs, these costs could substantially exceed the value of the trust fund, and the owners (including Great Bay) would remain liable for the excess. Moreover, the amount that is required to be deposited in the trust fund is subject to periodic review and adjustment by an independent commission of the State of New Hampshire, which could result in material increases in such amounts.” (Emphasis added)

11. BayCorp also explained in that document that under New Hampshire law, other co-owners of Seabrook Unit 1 may be required to fund a portion of Great Bay’s decommissioning obligation. and that this obligation served as the basis of the NRC staff’s determination that Great Bay complies with the decommissioning funding assurance requirements under NRC regulations:

“In June 1998, the New Hampshire State legislature enacted legislation that provides that in the event of a default by Great Bay on its payments to the

decommissioning fund, the other Seabrook joint owners would be obligated to pay their proportional share of such default. As a result of the enactment of this legislation, the NRC notified Great Bay in July 1998 of the staff's determination that Great Bay complies with the decommissioning funding assurance requirements under NRC regulations." (Emphasis added)

Signed under pains and penalties of perjury, this 19th day of January, 1999.


James S. Robinson

Excerpts from filings by
 BayCorp Holdings, Ltd. And or Great Bay Power Corporation
 at the Securities and Exchange Commission¹

	----- (\$Thousands) -----				
	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998²</u>	<u>Cumulative</u>
Operating Revenues	\$25,524	\$30,324	\$26,642	\$20,500	\$101,990
Operating Expenses	32,381	32,563	36,880	26,747	128,571
Operating Income (Loss)	(7,857)	(2,239)	(10,238)	(6,247)	(26,581)
Net Income (Loss)	(6,059)	4,100	(11,215)	(6,195)	(19,369)

	----- (\$Thousands) -----		
	<u>12/31/96</u>	<u>12/31/97</u>	<u>9/30/98</u>
Liquid Asset Balances	\$28,775	\$19,092	\$13,343

¹ Information for 1995, 1996, and 1997 are from the 1997 Form 10-K. Information for 1998 is from September 30, 1998 Form 10-Q.

² As of September 30, 1998.

Exhibit 99.1
to BayCorp Holdings, Ltd. SEC Form 10-Q
for Period September 30, 1998

CERTAIN FACTORS THAT MAY AFFECT FUTURE RESULTS¹

This Annual Report on Form 10-K contains forward-looking statements. For this purpose, any statements contained herein that are not statements of historical fact may be deemed to be forward-looking statements. Without limiting the foregoing, the words "believes," "anticipates," "plans," "expects," "intends" and similar expressions are intended to identify forward-looking statements. There are a number of important factors that could cause the results of BayCorp and/or Great Bay to differ materially from those indicated by such forward-looking statements. These factors include, without limitation, those set forth below and elsewhere in this Annual Report.

Ownership of a Single Asset. BayCorp's principal asset is its equity interest in Great Bay. Great Bay owns a single principal asset, a 12.1% joint interest in the Seabrook Nuclear Power Project in Seabrook, New Hampshire. Accordingly, BayCorp's results of operations are completely dependent upon the successful and continued operation of the Seabrook Project. In particular, if the Seabrook Project experiences unscheduled outages of significant duration, Great Bay's results of operations will be materially adversely affected.

History of Losses; Implementation of Business Strategy. BayCorp has never reported an operating profit for any year since its incorporation. The Company's business strategy is to seek purchasers for its share of the Seabrook Project electricity output at prices, either in the short-term market or pursuant to medium or long-term contracts, significantly in excess of the prices currently available in the short-term wholesale electricity market. Sales at current short-term rates do not result in sufficient revenue to enable BayCorp to meet its cash requirements for operations, maintenance and capital related costs. Great Bay's ability to obtain such higher prices will depend on regional, national and worldwide energy supply and demand factors that are beyond the control of Great Bay. There can be no assurance that Great Bay ever

¹ BayCorp's Form 10-Q for the period ending September 30, 1998 contained the following language: "Certain Factors That May Affect Future Results, set out on pages 18-22 of the Company's Annual Report on Form 10-K for the period ended December 31, 1997, except for the risk factor therein captioned "Year 2000," which is replaced in its entirety by the disclosure in this Form 10-Q for the period ended September 30, 1998 under the caption "Management's Discussion and Analysis of Financial Conditions and Results of Operations--Year 2000 Issues." The Company's Annual Report on Form 10-K for the period ended December 31, 1997 shall not be deemed to be filed except to the extent that portions thereof are expressly incorporated by reference herein."

will be able to sell power at prices that will enable it to meet its cash requirements.

Liquidity Needs. As of December 31, 1997, BayCorp had approximately \$19.1 million in cash and cash equivalents and short-term investments. The Company believes that such cash, together with the anticipated proceeds from the sale of electricity by Great Bay, will be sufficient to enable the Company to meet its cash requirements until the prices at which Great Bay can sell its electricity increase sufficiently to enable the Company to cover its annual cash requirements. However, if the Seabrook Project operated at a capacity factor below historical levels, or if expenses associated with the ownership or operation of the Seabrook Project, including without limitation decommissioning costs, are materially higher than anticipated, or if the prices at which Great Bay is able to sell its share of the Seabrook Project electricity do not increase at the rates and within the time expected by Great Bay, Great Bay or the Company would be required to raise additional capital, either through a debt financing or an equity financing, to meet ongoing cash requirements. There is no assurance that Great Bay or the Company would be able to raise such capital or that the terms on which any additional capital is available would be acceptable. If additional funds are raised by issuing equity securities, dilution to then existing stockholders will result.

Changes in Power Sale Contract Terms Available in Wholesale Power Market. In the past, wholesale sellers of electric power, which typically were regulated electric utilities, frequently entered into medium or long-term power sale contracts providing for prices in excess of the prices available in the short-term market, which includes contracts of one year or less in duration. In recent years, increased competition in the wholesale electric power market, reduced growth in the demand for electricity, low prices in the short-term market and the uncertainty associated with deregulation of the industry have reduced the willingness of wholesale power purchasers to enter into medium or long-term contracts and have reduced the prices obtainable from such contracts.

Risks in Connection with Joint Ownership of Seabrook Project. Great Bay is required under the Agreement for Joint Ownership, Construction and Operation of New Hampshire Nuclear Units dated May 1, 1973, as amended, by and among Great Bay and the other 10 utility companies that are owners of the Seabrook Project (the "JOA"), to pay its share of Seabrook Unit 1 and Seabrook Unit 2 expenses, including without limitation operations and maintenance expenses, construction and nuclear fuel expenditures and decommissioning costs, regardless of Seabrook Unit 1's operations. Under certain circumstances, a failure by Great Bay to make its monthly payments under the JOA entitles certain other joint owners of the Seabrook Project to purchase Great Bay's interest in the Seabrook Project for 75% of the then fair market value thereof.

In addition, the failure to make monthly payments under the JOA by owners of the Seabrook Project other than Great Bay may have a material adverse effect on Great Bay by requiring Great Bay to pay a greater proportion of the Seabrook Project expenses in order to preserve the value of its share of the Seabrook Project. In the past, certain of the owners of the Seabrook Project other than Great Bay have not made their full respective payments. The electric utility industry is undergoing significant changes as competition and deregulation are introduced into the marketplace. Some utilities, including certain Participants, have indicated in state regulatory proceedings that they may be forced to seek bankruptcy protection if regulators, as part of the industry restructuring, do not allow for full recovery of stranded costs. If a Participant other than Great Bay filed for bankruptcy and that Participant was unable to pay its share of Seabrook Project expenses, Great Bay might be required to pay a greater portion of Seabrook Project expenses. In the past, the filing of bankruptcy by a Participant has not resulted in a failure to pay Seabrook Project expenses or an increase in the percentage of expenses paid by other Participants.

On February 28, 1997, the NHPUC issued an order requiring stranded cost recovery to be based on the average market price of electricity in New England, rather than alternative regulatory accounting methods that are more favorable to the Participants. On March 10, 1997, one of the Participants, Northeast Utilities (along with three of its subsidiaries), received a temporary restraining order from the U.S. District Court for the District of Rhode Island. This temporary restraining order stayed the NHPUC's February 28, 1997 order to the extent that the order established a rate methodology that is not designed to recover the cost of providing service and would require Northeast Utilities and certain of its affiliates to write-off any regulatory assets. If this stay or a similar court action does not remain in effect and Northeast Utilities is unable to pay its share of Seabrook Project expenses, Great Bay might be required to pay a greater portion of Seabrook Project expenses.

The Seabrook Project is owned by Great Bay and the other owners thereof as tenants in common, with the various owners holding varying ownership shares. This means that Great Bay, which owns only a 12.1% interest, does not have control of the management of the Seabrook Project. As a result, decisions may be made affecting the Seabrook Project notwithstanding Great Bay's opposition.

Certain costs and expenses of operating the Seabrook Project or owning an interest therein, such as certain insurance and decommissioning costs, are subject to increase or retroactive adjustment based on factors beyond the control of BayCorp or Great Bay. The cost of disposing of Unit 2 of the Seabrook Project is not known at this time. These various costs and expenses may adversely affect BayCorp and Great Bay, possibly materially.

Extensive Government Regulation. The Seabrook Project is subject to extensive regulation by federal and state agencies. In particular, the Seabrook Project and Great Bay as part owner of a licensed nuclear facility, are subject to the broad jurisdiction of the NRC, which is empowered to authorize the siting, construction and operation of nuclear reactors after consideration of public health and safety, environmental and antitrust matters. Great Bay is also subject to the jurisdiction of the FERC and, as a result, is required to file with FERC all contracts for the sale of electricity. FERC has the authority to suspend the rates at which Great Bay proposes to sell power, to allow such rates to go into effect subject to refund and to modify a proposed or existing rate if FERC determines that such rate is not "just and reasonable." FERC's jurisdiction also includes, among other things, the sale, lease, merger, consolidation or other disposition of facilities, interconnection of certain facilities, accounts, service and property records. Compliance with the various requirements of the NRC and FERC is expensive. Noncompliance with NRC requirements may result, among other things, in a shutdown of the Seabrook Project.

The NRC has promulgated a broad range of regulations affecting all aspects of the design, construction and operation of a nuclear facility, such as the Seabrook Project, including performance of nuclear safety systems, fire protection, emergency response planning and notification systems, insurance and quality assurance. The NRC retains authority to modify, suspend or withdraw operating licenses, such as the license pursuant to which the Seabrook project operates, at any time that conditions warrant. For example, the NRC might order Seabrook Unit 1 shut down (i) if flaws were discovered in the construction or operation of Seabrook Unit 1, (ii) if problems developed with respect to other nuclear generating plants of a design and construction similar to Unit 1, or (iii) if accidents at other nuclear facilities suggested that nuclear generating plants generally were less safe than previously believed.

Great Bay is also subject to the New Hampshire public utility law and regulations of the NHPUC that affect, among other things, the issuance of securities, transfer of utility property and contacts with affiliates as well as the sale, lease, merger, consolidation or other disposition of facilities. The NHPUC does not regulate wholesale electricity rates.

Risk of Nuclear Accident. Nuclear reactors have been used to generate electric power for more than 35 years and there are currently more than 100 nuclear reactors used for electric power generation in the United States. Although the safety record of these nuclear reactors in the United States generally has been very good, accidents and other unforeseen problems have occurred both in the United States and elsewhere, including the well-publicized incidents at Three Mile Island in Pennsylvania and Chernobyl in the former Soviet Union. The consequences of such an accident can be severe, including loss of life and property damage, and the available insurance coverage may not be sufficient to pay all the damages incurred.

Public Controversy Concerning Nuclear Power Plants. Substantial controversy has existed for some time concerning nuclear generating plants and over the years such opposition has led to construction delays, cost overruns, licensing delays, demonstrations and other difficulties. The Seabrook Project was the subject of significant public controversy during its construction and licensing and remains controversial. An increase in public concerns regarding the Seabrook Project or nuclear power in general could adversely affect the operating license of Seabrook Unit 1. While Great Bay cannot predict the ultimate effect of such controversy, it is possible that it could result in a premature shutdown of the unit.

Waste Disposal; Decommissioning Cost. There has been considerable public concern and regulatory attention focused upon the disposal of low- and high-level nuclear wastes produced at nuclear facilities and the ultimate decommissioning of such facilities. As to waste disposal concerns, both the federal government and the State of New Hampshire are currently delinquent in the performance of their statutory obligations. See "Business -- Nuclear Waste Disposal." In April 1995, a privately owned facility in Utah was approved as a disposal facility for certain types of LLW. Additionally, the Barnwell, South Carolina disposal facility was reopened in July 1995 to all states except North Carolina as a result of legislation passed by the South Carolina legislature. The Seabrook Project began shipping certain LLW to the Utah facility in December 1995. All LLW generated by the Seabrook Project that exceeds the maximum radioactivity level of LLW accepted by the Utah facility is stored on-site at the Seabrook facility. Based on information provided by NAESCO, management believes that the on-site storage capacity for LLW generated by the Seabrook Project is adequate until at least 2006.

As to decommissioning, NRC regulations require that upon permanent shutdown of a nuclear facility, appropriate arrangements for full decontamination and decommissioning of the facility be made. These regulations require that during the operation of a facility, the owners of the facility must set aside sufficient funds to defray decommissioning costs. While the owners of the Seabrook Project are accumulating a trust fund to defray decommissioning costs, these costs could substantially exceed the value of the trust fund, and the owners (including Great Bay) would remain liable for the excess. Moreover, the amount that is required to be deposited in the trust fund is subject to periodic review and adjustment by an independent commission of the State of New Hampshire, which could result in material increases in such amounts.

In January 1997, the NRC issued a temporary exemption to Great Bay from the obligation of Great Bay to comply with the NRC's regulations applicable to a non "electric utility" owner of an interest in a nuclear power. In the exemption, the NRC staff stated that it believes that Great Bay currently does not satisfy the NRC definition of "electric utility." If Great

Bay is an "electric utility," then Great Bay may satisfy the NRC decommissioning requirements through its monthly payments into the decommissioning trust fund. If Great Bay is not an "electric utility," the NRC could require that Great Bay provide a surety bond or other allowable decommissioning funding mechanisms. On January 30, 1998, Great Bay filed a petition with the NRC seeking a determination by the NRC that acceleration of decommissioning trust fund payments provides reasonable assurance of decommissioning funding under NRC regulations, or, in the alternative, merits the issuance by the NRC of a permanent exemption to Great Bay. Failure to obtain relief may have a material adverse effect on Great Bay's business, financial condition, liquidity or results of operation. See "Business -- Recent Developments."

Intense Competition. Great Bay sells its share of Seabrook Project electricity primarily into the Northeast United States wholesale electricity market. There are a large number of suppliers to this market and competition is intense. A primary source of competition comes from traditional utilities, many of which presently have excess capacity. In addition, non-utility wholesale generators of electricity, such as IPPs, QFs and EWGs, as well as power marketers and brokers, actively sell electricity in this market. Great Bay may face increased competition, primarily based on price, from all sources in the future.

Risk Related to Holding Company. In contrast with Great Bay, the activities of BayCorp will not be subject to the extensive government regulation related to public utilities and licensed nuclear facilities. Thus, BayCorp will not receive the benefit of the scrutiny by federal and state agencies that Great Bay receives. In addition, BayCorp may pursue activities with a greater business risk than those associated with a regulated entity such as Great Bay. Depending on the success of any new activities that BayCorp determines to pursue, it is possible that BayCorp's earnings per share and dividends, if any, might be lower than if BayCorp did not pursue such activities.

Year 2000. The Company has assessed the impact of the year 2000 issue on its computer systems and applications. The Company believes that there are no material year 2000 related costs to be incurred relative to its computer systems and applications. However, Great Bay's share of the costs of addressing year 2000 issues at the Seabrook Project is currently estimated at \$177,000, according to NAESCO. If NAESCO is unable to complete year 2000 compliance efforts in a timely manner or if year 2000 compliance costs exceed NAESCO's estimate, the Company's operations, financial condition and liquidity could be materially and adversely affected.

Certificate of Service

I hereby certify that copies of the foregoing have been served upon the following persons by U.S. mail, first class, and in accordance with the requirements of 10 CFR § 2.712.

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