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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'99 JAN 13 P2:07

OFFICE OF REGULATORY  
RULES AND ADJUDICATION

In the Matter of North Atlantic  
Energy Services Corporation and  
Montaup Electric Company  
(Seabrook Station, Unit No. 1)

Docket No. 50-443 - **LT**  
(License No. NPF-86)

**SERVED JAN 14 1999**

WRITTEN COMMENTS OF MASSACHUSETTS  
MUNICIPAL WHOLESALE ELECTRIC COMPANY

Pursuant to the Nuclear Regulatory Commission ("Commission") Rules of Practice and Procedure, 10 C.F.R. §2.1305, the Massachusetts Municipal Wholesale Electric Company ("MMWEC") submits these written comments regarding the above-captioned application for license transfer.

MMWEC is a joint owner and licensee of Seabrook Unit 1. As such, MMWEC has an interest in the financial qualification of each other joint owner.

In this proceeding, North Atlantic Energy Services Corporation ("NAESCO"), the operator of Seabrook, and Montaup Electric Company ("Montaup"), a minority owner of Seabrook Unit 1, seek authorization for a license transfer of Montaup's ownership share to Little Bay Power Corporation ("Little Bay").

Montaup is a rate regulated electric utility. Under its approved restructuring settlements, there is a mechanism in place to ensure that Montaup can meet its financial obligations with

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respect to Seabrook.

Little Bay, on the other hand, is an exempt wholesale generator with no rate protections. To meet its financial obligations to Seabrook, Little Bay will look exclusively to Great Bay Power Corporation ("Great Bay"). Both Little Bay and Great Bay are wholly owned subsidiaries of Bay Corp. Holdings, Ltd. Great Bay owns an approximately 12.1% ownership in Seabrook. Like Little Bay, Great Bay has no rate protections. It is totally dependent upon market revenues to satisfy its financial requirements.

The proposed transfer in effect would transfer the ongoing financial obligations associated with Montaup's ownership interest in Seabrook from a rate regulated entity with rate protections to an exempt wholesale generator which is dependent upon market revenues to meet its obligations. The proposed transfer clearly would result in a lessening of financial qualifications with respect to the ownership and licensing of Montaup's share and would increase commensurately the financial risk to other joint owners, including MMWEC.

MMWEC's concern regarding the financial qualifications of its co-owners, including Little Bay, is heightened by the Commission's "Final Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry", 62. Fed. Reg. 44071 (Aug. 19, 1997). In that policy statement, the Commission implicitly accepted the practice that co-owners generally divide the costs of their facilities using a

contractually defined pro rata standard, as in the case of Seabrook. However, the Commission reserved "the right, in highly unusual situations where adequate protection of public health and safety would be compromised if such action were not taken, to consider imposing joint and several liability on co-owners of more than *de minimis* shares when one or more co-owners have defaulted". Id. at 44074. This policy puts MMWEC at risk for the financial risks associated with the proposed license transfer.

Furthermore, Little Bay is relying exclusively on Great Bay to backstop its financial qualifications. This Commission has had occasion to question and to investigate the financial qualifications of Great Bay. Although the Commission ultimately determined Great Bay's financial qualifications to be adequate, the fact the investigation occurred illustrates the added financial risk associated with a license transfer to an entity which is not rate regulated.

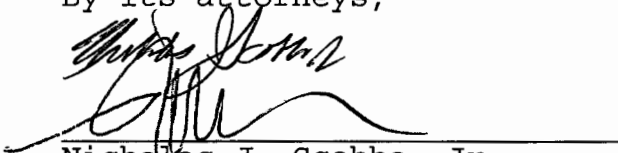
In its motion for leave to intervene, New England Power Company ("NEP") (another Seabrook joint owner) has proposed that the Commission condition authority to transfer Montaup's Seabrook interest to Little Bay on the condition that Montaup agree to remain contingently responsible for Little Bay's financial responsibilities in the event of default by Little Bay. If the effect of such a condition would be to extend the existing rate protections associated with Montaup's current ownership of Seabrook to Little Bay in the event of default, MMWEC would join

in such a proposal.<sup>1</sup> Absent such a condition, MMWEC requests the Commission to consider carefully the potential financial risk to other joint owners associated with the proposed license transfer.

Respectfully submitted,

MASSACHUSETTS MUNICIPAL  
WHOLESALE ELECTRIC COMPANY

By its attorneys,



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Dated: January 12, 1999

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<sup>1</sup> NEP asserts that such a condition is necessary in part because the prepayment of Montaup's decommissioning fund could prove deficient if Seabrook were decommissioned prior to the expiration of its license term. NEP Motion to Intervene at 6. In MMWEC's view, there is no evidence before the Commission to consider or conclude that Seabrook Unit 1 would, or should, be retired early.

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CERTIFICATE OF SERVICE

'99 JAN 13 P2:07

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 C.F.R. §2.712.

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January 12, 1999

VIA OVERNIGHT MAIL

John C. Hoyle, Secretary  
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Attn: Rulemakings and Adjudications Staff

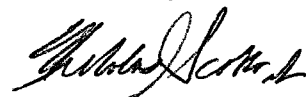
Re: Docket No. 50-443, License No. NPF-86

Dear Secretary Hoyle:

Pursuant to 10 C.F.R. §2.1305, enclosed for filing is an original and two copies of Massachusetts Municipal Wholesale Electric Company's ("MMWEC") Written Comments.

If you have any questions with respect to the enclosed, please let us know.

Sincerely,



Nicholas J. Scobbo, Jr.

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Enclosures

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

NORTH ATLANTIC ENERGY SERVICES CORP.  
AND MONTAUP ELECTRIC COMPANY  
(Seabrook Station, Unit No. 1)

Docket No.(s) 50-443-LT

CERTIFICATE OF SERVICE

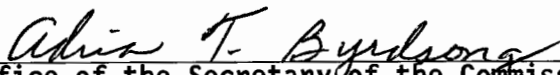
I hereby certify that copies of the foregoing MMWEC COMMENTS DATED 1/12/99 have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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Dated at Rockville, Md. this  
14 day of January 1999

  
Office of the Secretary of the Commission