



THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF THE ATTORNEY GENERAL  
JOHN W. MC CORMACK STATE OFFICE BUILDING  
ONE ASHBURTON PLACE, BOSTON 02108

FRANCIS X. BELLOTTI  
ATTORNEY GENERAL

November 27, 1979

Docket and Service Station  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Attention: PEG

Re: In the Matter of Public Service  
Company of New Hampshire, et al.  
(Seabrook Station, Unit 1 and 2)  
NRC Docket Nos. 50-443, 50-444;  
CPPR-135, CPPR-136

Dear Madame:

As per our conversation today, I enclose pages 22 and 23 of the "Commonwealth of Massachusetts' Memorandum in Support of Seacoast Anti-Pollution League's Request for an Order to Show Cause Dated May 2, 1979", filed on November 16, 1979 with the Director of Nuclear Reactor Regulation in the above captioned matter. Through inadvertence, these two pages were not included in your copy of the Commonwealth's memorandum.

I apologize for any inconvenience this oversight may have caused you or the parties.

Very truly yours,

Laurie Burt  
Assistant Attorney General  
Environmental Protection Division  
(617) 727-2265

cc: Seabrook Service List

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In this case, the Supreme Court stressed that even after licensing of a reactor, the Commission retains jurisdiction "to ensure that the highest safety standards are maintained." Id.

In discharging his duty to safeguard the public, the Commission has articulated the goal that emergency plans should provide "reasonable assurance" that "suitable protective actions" can be taken on a "timely basis."<sup>26/</sup> There is no question that emergency plans that satisfy the Commission's statutory duty or goal do not presently exist. The only "suitable protective action" for people on the beaches in the event of a serious atmospheric release is evacuation. It is therefore the duty of the staff to assure that an emergency plan can be developed which provides "reasonable assurance" that the beaches can be evacuated on a "timely basis."

Section 186(a) of the Atomic Energy Act (42 U.S.C. §2236(a)) authorizes the NRC to suspend or revoke "[a]ny license . . . because of conditions revealed . . . which would warrant the Commission to refuse to grant a license on an original application." The U.S. Court of Appeals for the District of Columbia Circuit recently held that this clause

applies to all licensing matters, including health, safety, and environmental considerations . . . (and) reflects a deliberate policy choice on the part of Congress when it enacted section 186(a) to render licenses for nuclear facilities subject to postlicensing review under evolving licensing standards, rather than under those standards applicable at the time the license in question was issued. Ft. Pierce Utilities Authority of the City

<sup>26/</sup> See pp. 9-10, supra.

of Ft. Pierce v. U.S.A. and the NRC, Nos. 77-1925 and 77-2101, slip op. at 19-20 (D.C. Cir., March 23, 1979).

Post-TMI investigations have resulted in significant new emergency planning licensing standards. The emergency plan for the Seabrook environs is now subject to postlicensing review under the new standards, and the staff should initiate this review promptly before further construction at Seabrook precludes an impartial resolution of this critical safety issue. It is the statutory duty of the staff to suspend or revoke the Seabrook construction permits upon finding that the present emergency plans cannot provide "reasonable assurance . . . (that) suitable protective actions (can be implemented) on a timely basis under accident conditions." (See 43 F.R. 37474)

In consideration of the grave safety issue at hand and the likelihood that a timely evacuation of the beaches near Seabrook may not be possible, it is the duty of the Staff to issue a show cause order and institute a proceeding pursuant to 10 CFR §2.202 to resolve these major outstanding safety questions.