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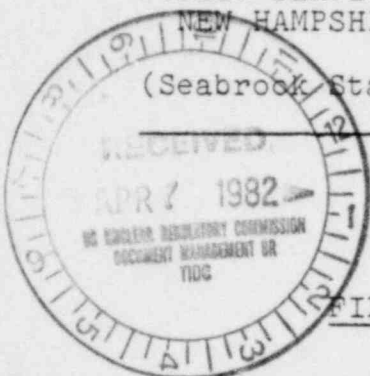
NUCLEAR REGULATORY COMMISSION

before the

ATOMIC SAFETY AND LICENSING BOARD

\_\_\_\_\_ )  
 In the Matter of )  
 )  
 PUBLIC SERVICE COMPANY OF )  
 NEW HAMPSHIRE, et al )  
 )  
 (Seabrook Station, Units 1 and 2) )  
 \_\_\_\_\_ )

Docket Nos. 50-443-OL  
50-444-OL



APPLICANTS' ANSWER IN OPPOSITION TO  
 THE MOTION OF THE STATE OF  
 NEW HAMPSHIRE FOR ADDITIONAL TIME FOR  
 FILING SUPPLEMENT TO PETITION TO INTERVENE

The notice of opportunity for hearing in the above captioned matter was published in the Federal Register on October 19, 1981. 46 Fed. Reg. 51330 et. seq. That notice provided for the filing of petitions to intervene by November 18, 1981. Id. at 51331. On November 17, 1981, the State of New Hampshire and its Attorney General (hereinafter collectively "New Hampshire") filed a petition for leave to intervene. On November 25, 1981, the applicants filed an answer to that petition, admitting New Hampshire's interest but pointing out that New Hampshire still had to comply with the "one good contention" requirement, 10 CFR § 2.714(b), before New Hampshire could be admitted as a party. On December 7, 1981, the Staff filed a response taking the same position.

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On March 12, 1982 this Board issued a Memorandum and Order Setting Special Prehearing Conference (hereinafter "Order"). Inter alia, the order directed that any amended petition to intervene must be filed not later than 30 days prior to the contemplated Special Prehearing Conference. This would make the filing due on April 6, 1982. This Order was received by New Hampshire on March 17, 1982. Motion For Additional Time for Filing Supplement to Petition to Intervene (NH) ¶ 5. One week after receipt, on March 24, 1982, New Hampshire filed the motion at bar entitled "Motion for Additional Time for Filing Supplement to Petition to Intervene" (hereinafter "Motion"). The Motion seeks relief in the alternative of either a 42-day postponement of the contemplated Special Prehearing Conference or the granting of a dispensation to New Hampshire which would permit New Hampshire to file its contentions on June 1, 1982, some 24 days after the prehearing conference is held.

A careful reading of the Motion indicates that three separate arguments are being made in support thereof. These are:

1. New Hampshire is the sovereign state in which the Seabrook reactors are located and hence is entitled to special consideration.
2. Certain documents either have not yet been submitted or have been submitted so recently that it is unfair to require New Hampshire to formulate its contentions at this time.
3. The delay contemplated is not very long in light of the contemplated length of the whole process involved.

Each of these arguments is addressed seriatim below.

A. Special Status of  
New Hampshire

The NRC and its predecessor AEC have long recognized the special status of states and their political subdivisions in relation to the licensing of Nuclear facilities. It is for this reason that such public entities have long had the right to participate in the hearing process under 10 CFR § 2.715(c) whereby they are relieved of any requirement to formulate or take a position on issues. However, New Hampshire has elected not to take advantage of its rights in this regard. It seeks instead to become a full party intervenor under 10 CFR § 2.714. In light of this it is entitled to no special consideration and must play by the same rules as all other parties. Gulf States Utilities Co. (River Bend Station, Units 1 and 2), LBP-76-32, 4 NRC 293, 294 (1976). Accord, Gulf States Utilities Co. (River Bend Station, Units 1 and 2), ALAB-444, 6 NRC 760, 768 (1977). See also Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), CLI-77-25, 6 NRC 535, 537 at n.1 (1977); Gulf States Utilities Co. (River Bend Station, Units 1 and 2), ALAB-317, 3 NRC 175, 180 at n.7 (1976).

B. Documentation Not Yet or  
Only Recently Submitted

New Hampshire points out that the Staff's Draft Environmental Impact Statement (DES)<sup>1/</sup> and the ACRS letter have yet to

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<sup>1/</sup> The Motion states "The Public Service Company of New Hampshire ('PSC')(sic) has not submitted its draft Environmental Impact Statement, ...." Motion ¶ 7(b). The reference to PSC is obviously inadvertent. PSC has submitted its Environmental Report; the DES is authored and submitted by the staff.

issue. Motion ¶ 7(b). Also New Hampshire references a fairly extensive (in its view) amendment to the FSAR filed about one month before the Motion. Motion ¶ 7(c).

There is no requirement that issuance of the DES or ACRS letter precede the formulation of contentions; indeed the precise opposite is the practice and the law. Nor does the referenced amendment of the application provide any ground for the relief sought by New Hampshire. See Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), LBP-74-30, 7 AEC 877, 879. Furthermore, should the DES, ACRS Letter, or New Hampshire's perusal of the FSAR give rise at some later date to a contention believed by New Hampshire to be of significance, 10 CFR § 2.714 provides an accepted procedure for addressing late filed contentions based upon new information; and this is the procedure which should be followed. Maine Yankee Atomic Power Company (Maine Yankee Atomic Power Station), LBP-81- \_\_\_\_, 14 NRC \_\_\_\_ (December 30, 1981), Slip Op. at 2.

C. The Delay Is Allegedly Minimal

Prescinding from the ongoing disagreement between the Applicants and at least certain portions of the Staff as to the likely completion date of Seabrook Unit #1, the fact is that New Hampshire is seeking an over one month delay in the now scheduled licensing process. The major delays which have for years racked the NRC licensing process are often simply the sum of smaller delays. The delays in the Seabrook Construction

Permit proceeding are legendary. There is no need to start the Operating License Proceeding off by granting, with respect to the first motion filed, a delay.

CONCLUSION

New Hampshire's motion should be denied.

Respectfully submitted,

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March 30, 1982



CERTIFICATE OF SERVICE

I, Thomas G. Dignan, Jr., one of the attorneys for the applicants herein, hereby certify that on March 30, 1982, I made service of the within document by mailing copies thereof, postage prepaid, to:

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