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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DUCKETED
USNRC

ATOMIC SAFETY AND LICENSING APPEAL BOARD 91 FEB -4 P2:04

Administrative Judges:

G. Paul Bollwerk, III, Chairman
Alan S. Rosenthal
Howard A. Wilber

February 4, 1991

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

SERVED FEB - 4 1991

In the Matter of)	
)	
PUBLIC SERVICE COMPANY OF)	Docket Nos. 50-443-OL
NEW HAMPSHIRE, <u>et al.</u>)	50-444-OL
)	(Offsite Emergency
(Seabrook Station, Units 1)	Planning Issues)
and 2))	
)	

ORDER

We have in hand the February 1, 1991, response of Massachusetts Attorney General (MassAG) to our January 22, 1991, order. The response states that on January 31, 1991, the MassAG was advised in writing of eight issues addressed in his appellate brief that the applicants believe "potentially may have been resolved by planning changes or other events." Although the MassAG lacked sufficient time "to explore and investigate the factual basis" underlying that belief (his response was due on February 1), we are told by him that he has been able to "identify only two issues that potentially may be susceptible of resolution."

In the circumstances, we call upon the applicants to provide us with a list of the eight issues, as well as with a full explanation of the basis for their conclusion that those issues might now have been resolved. The memorandum

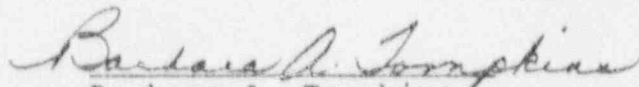
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setting forth this information shall be in our hands and those of counsel for the MassAG and the NRC staff no later than 4:00 p.m. on February 12, 1991. Those parties may reply in memoranda to be in our hands and those of the applicants' counsel no later than 4:00 p.m. on February 20, 1991.¹

It is so ORDERED.²

FOR THE APPEAL BOARD


Barbara A. Tompkins
Secretary to the
Appeal Board

¹ Prior to the filing of their submission, the applicants might well wish to consult with the MassAG to ascertain whether a meeting of the minds might be achieved on at least some of the issues.

In their submission, the applicants should additionally address the MassAG's observation that they did not inform us during briefing (or at oral argument) that the rejection on jurisdictional grounds of Basis A of his Contention No. 56 had become moot by reason of changes in the Seabrook Plan for Massachusetts Communities (SPMC). Inasmuch as the SPMC is the applicants' own emergency response plan, presumably (unlike apparently the MassAG) they kept abreast of changes in it that had a crucial bearing upon issues in litigation.

² We assume that the applicants are not maintaining that issues raised by intervenors other than the MassAG are likewise potentially subject to resolution by reason of subsequent developments. If this assumption is incorrect, the applicants should forthwith so notify the Secretary to this Board by telephone. Moreover, in that event their memorandum should, of course, address those additional issues and be served as well upon the intervenor(s) that sponsored them.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

PUBLIC SERVICE COMPANY OF NEW
HAMPSHIRE, ET AL.
(Seabrook Station, Units 1 and 2)

Docket No.(s) 50-443/444-OL

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing AB ORDER DTD 2/4/91 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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Docket No. (s)50-443/444-OL
AB ORDER DTD 2/4/91

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Docket No. (s) 50-443/444-OL
AB ORDER DTD 2/4/91

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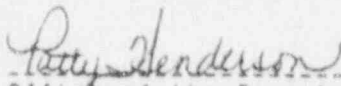
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Dated at Rockville, Md. this
4 day of February 1991


Office of the Secretary of the Commission