

UNITED STATES OF AMERICA
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
and
50-444

March 23, 1983

THE STATE OF NEW HAMPSHIRE'S ANSWER IN OPPOSITION
TO APPLICANT'S SEVENTH MOTION FOR SUMMARY DISPOSITION
(CONTENTIONS NH-21 AND CCCNH-5)

Pursuant to 10 C.F.R. §2.749 the State of New Hampshire hereby answers the Applicant's Seventh Motion for Summary Disposition, relative to Contention NH-21.

A. The Applicant's Motion For Summary Disposition
Is Premature And Should Be Held In Abeyance

The Applicant filed its Seventh Motion for Summary Disposition on February 14, 1982, which motion New Hampshire must answer by March 24, 1983. Discovery on the subject of this motion, Contention NH-21, however, is not yet complete in that the Staff has answered none of New Hampshire's interrogatories on that contention.^{1/}

^{1/} See Staff's January 21, 1983 Response to New Hampshire's Second Set of Interrogatories, at p. 9.

These interrogatories probe the Staff's position on the sufficiency of the Applicant's Emergency Plan to protect the health and safety of those persons on-site in the event of an accident. The interrogatories address in particular the adequacy of medical transportation and medical facilities for the treatment of injured, contaminated individuals, and the adequacy of the Applicant's radiation exposure control program.

Without the benefit of the Staff's views on these issues New Hampshire cannot fully state its position in opposition to a summary disposition motion on this contention. Where the Applicant alleges that it has met all the regulatory requirements for on-site emergency planning, which New Hampshire refutes, and the Staff has not yet stated its position on the issue, there exists "good reason" for the Board to defer judgment on this motion. The Board should so order, in accordance with its March 16, 1983 Order at p. 4.

B. There Are Issues Of Fact Still In Dispute

New Hampshire has contended in Contention NH-21 that the Applicant has not demonstrated that adequate protective measures can and will be taken to protect persons on-site in the event of an emergency at Seabrook Station. New Hampshire has focused its concerns on the Applicant's failure to describe the measures to be employed in minimizing personnel exposure to radiation and its failure to demonstrate that arrangements for adequate medical services have been made.

As to protection from exposure to radiation, the Applicant in its summary disposition motion and accompanying affidavit states that Sections 10.3, 10.4 and 10.5 of its Emergency Plan "describe" the radiation exposure control program. This description constitutes the Applicant's complete case on the adequacy of its radiation exposure control program. Contrary to Affiant MacDonald's conclusion that the Applicant has "fully addressed" all the relevant regulatory requirements, it is New Hampshire's position that it has not.

Section 10.3 of the Emergency Plan refers cryptically to radiation control "measures" and "emergency radiological protection programs," with no explanation or further description of either term. Interrogatories NH 21.3 and NH 21.4 propounded to the Applicant (dated December 15, 1982) called for descriptions of these "measures" and "programs." The Applicant responded as follows:

The "measures" that would be utilized consist of emergency radiological protection techniques and approaches appropriate to the radiological aspects of the emergency conditions at the time.

"Emergency radiological protection programs" techniques and approaches would be developed by Seabrook Station Emergency Response Organization personnel at the time of an emergency condition. They would be specific to the radiological conditions being experienced. (See Applicant's January 5, 1983 Answers to New Hampshire's Interrogatories, at page 44.)

From the above, it is obvious that the Applicant has not established "means for controlling radiological exposures" as that term is used

in 10 C.F.R. §50.47(b)(11), 10 C.F.R. Part 50, Appendix E, IV(E), and NUREG-0654 §J.

As to the requirement that the Applicant demonstrate that arrangements have been made for adequate medical services for injured personnel 40 C.F.R. §50.47(b)(12) the Applicant in its summary disposition motion with accompanying affidavit states simply that the Emergency Plan "fully addresses" the issue. New Hampshire takes strong exception to this statement, since the Applicant has admitted that the proper arrangements are only "now being made." See Applicant's January 5, 1983 Answers to New Hampshire's Interrogatories, at p. 43.

Furthermore, neither the Applicant's Emergency Plan nor its answers to New Hampshire's interrogatories provides reasonable assurance that the contemplated arrangements for medical services, including emergency medical transportation, will be adequate. Section 10.5.1 of the Emergency Plan refers in one paragraph to the range of medical services that will be provided to contaminated injured personnel, but it is wholly lacking in support for the adequacy of the proposed facilities and the qualifications of medical staff.

C. Conclusion

New Hampshire maintains that (1) the Applicant's Seventh Motion for Summary Disposition is premature because discovery is not complete on the issue and New Hampshire is thus deprived of information that should be available to it in formulating this

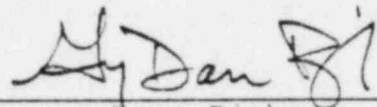
answer; (2) the papers filed in this case demonstrate that there remain genuine issues as to the adequacy of the Applicant's radiation exposure control efforts and its arrangements for adequate medical services for contaminated injured personnel; and (3) as a matter of law the Applicant is not entitled to summary disposition on this contention.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

GREGORY H. SMITH
ATTORNEY GENERAL

By: _____



George Dana Bisbee
Attorney
Environmental Protection Division
Office of Attorney General
State House Annex
Concord, New Hampshire 03301
603-271-3678

Dated: March 23, 1983

STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS DISPUTE

1. The Applicant has not adequately addressed the requirements of 10 C.F.R. §50.27(b)(11) and (12), 10 C.F.R. Part 50 Appendix E, SIV(E), and NUREG-0654, §§J, K and L in that:
 - a. The Applicant has not adequately demonstrated how its personnel will be protected from exposure to radiation; and
 - b. The Applicant has not demonstrated that arrangements for adequate medical services for emergency workers have been made.
2. The Applicant has not provided reasonable assurance that adequate protective measures can and will be taken to protect persons on-site in the event of a radiological emergency.