UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

THE ASSET TOWN IN

Before the ATOMIC SAFETY AND LICENSING BOARD

In the matter of:

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE) Docket Nos.: ET AL.

(Seabrook Station, Units 1 and 2)

50-443 and

50-444

March 23, 1983

THE STATE OF NEW HAMPSHIRE'S ANSWER TO APPLICANT'S FIFTH MOTION FOR SUMMARY DISPOSITION (CONTENTION NH-9)

Pursuant to 10 C.F.R. §2.749, the State of New Hampshire hereby answers the Applicant's Fifth Motion for Summary Disposition relating to Contention NH-9 on radioactivity monitoring. Contention NH-9 was admitted into this proceeding by order of the Board dated September 13, 1982 as follows:

> The Seabrook design does not provide an adequate program for monitoring the release of radioactivity to the plant and its environs, either under normal operating conditions or in pre- and post-accident circumstances. Thus, the Application is not in compliance with general design criteria 63 and 64 of Appendix A, 10 C.F.R. Part 50 and the requirements of NUREG-0737 and NUREG-0800.

In the wake of substantial discovery on this issue and design modifications in Amendment 48 to the FSAR, New Hampshire no longer asserts noncompliance with GDC 63 and GDC 64, and focuses its attention now only on NUREG-0737, Item II.B.3, relating to post-accident monitoring. Regarding that

remaining issue, New Hampshire asserts that (a) because discovery is not complete on this issue summary disposition should be held in abeyance or (b) should the Board make a determination on this Summary Disposition Motion, it should be denied as to NUREG-0737, Item II.B.3.

As of the date of this pleading, the Applicant has not provided details on its post-accident sampling capability in response to NH Interrogatory 9.14 (filed on October 15, 1982), and it stated in response to NH Interrogatories 9.7 and 9.33 that a comparison of the Seabrook post-accident monitoring system (PAMS) with the requirements of Reg. Guide 1.97 has not been prepared. Similarly, the Staff has been unable to respond to discovery requests on this issue, indicating that the Applicant has made no formal submission addressing NUREG-0737, Item II.B.3. (See Staff's November 30, 1982 Response to New Hampshire's Interrogatories, at p. 4.) Given this complete absence of information on the PAMS, it is evident that the Motion for Sunnary Disposition as to this issue is prenature and should be held in abeyance.

Should the Board determine, however, that the Applicant's Fifth Motion for Summary Disposition is not premature, New Hampshire asserts that the Applicant has not yet produced sufficient information for the Board to conclude that the

technical safety requirement of NUREG-0737, Item II.B.3 has been met. On this basis, the Applicant's Motion for Summary Judgment as to NUREG-0737 Item II.B.3 must be denied.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

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By:

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Attorney

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603-271-3678

Dated: March 23, 1983

CERTIFICATE OF SERVICE

I, George Dana Bisbee, Esquire, do hereby certify that a copy of the foregoing THE STATE OF NEW HAMPSHIRE'S ANSWER TO THE APPLICANT'S AND THE STAFF'S MOTIONS FOR SUMMARY DISPOSITION OF CONTENTION NECNP-I.B.1, THE STATE OF NEW HAMPSHIRE'S ANSWER TO APPLICANT'S SIXTH MOTION FOR SUMMARY DISPOSITION AND TO THE STAFF'S MOTION FOR PARTIAL SUMMARY DISPOSITION OF CONTENTION NH-13, THE STATE OF NEW HAMPSHIRE'S ANSWER IN OPPOSITION TO THE APPLICANT'S NINETEENTH MOTION FOR SUMMARY DISPOSITION (CONTENTION SAPL SUPP III), THE STATE OF NEW HAMPSHIRE'S ANSWER IN OPPOSITION TO APPLICANT'S SEVENTH MOTION FOR SUMMARY DISPOSITION (CONTENTIONS NH-21 AND CCCNH-5), and THE STATE OF NEW HAMPSHIRE'S ANSWER TO APPLICANT'S FIFTH MOTION FOR SUMMARY DISPOSITION (CONTENTION NH-9) have been mailed this 23rd day of March, 1983, by first class mail, postage prepaid, to:

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Dated: Manh 23 1983

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