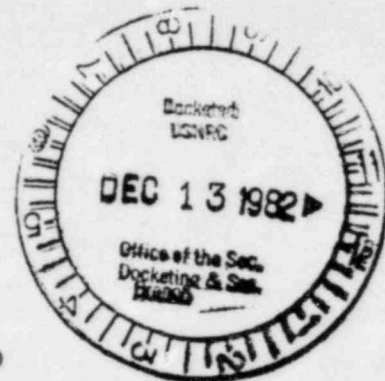


~~RELATED DOCUMENTS~~

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

THE STATE OF NEW HAMPSHIRE'S WITHDRAWAL
OF MOTION TO COMPEL ANSWERS
WITH REGARD TO CERTAIN INTERROGATORIES
AND RESPONSE TO THE APPLICANT'S ANSWER
TO THE MOTION TO COMPEL ANSWERS TO INTERROGATORIES

On October 15, 1982, the State of New Hampshire (hereinafter the State) served Interrogatories and Requests for Production of Documents on the Applicant, Public Service Company of New Hampshire, Inc. (hereinafter the Applicant). The State received answers on November 5, 1982 and subsequently documents were produced on November 23, 1982. The Applicant did not object or apply for a protective order as to any of the Interrogatories as required by 2.740(f). On November 15, 1982, the State filed a Motion to Compel Answers in that a number of the Applicant's responses appeared incomplete. Several of the responses were both incomplete and evasive in nature.

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The parties attempted to resolve their differences with regard to the Interrogatories in the course of several telephone conversations. However, because the completeness of response related in large part to the documents produced and the State was not able to review the documents in detail until December 3, 1982, the parties were unable to resolve all concerns raised by the State. Based on the telephone conversation with Applicant's counsel and the answer to the State's Motion to Compel, the State is willing to accept the Applicant's answer with regard to certain Interrogatories and withdraw the Motion to Compel with regard to those Interrogatories. The State reasserts its position with regard to other Interrogatories as set forth below.

Interrogatory No. 9.1

The Interrogatory asked the Applicant to identify all those persons who were and are responsible in a supervisory capacity for the radioactivity monitoring system. The Applicant's position that the terminology "were and are" means "are" seems somewhat silly and overly stringent. The Applicant did not object to the Interrogatory and should be required to file a complete answer.

Interrogatory No. 9.6

The State withdraws its Motion to Compel with regard to this Interrogatory and accepts the Applicant's answer. However, it should be noted that while the company alleges that there is no such terminology as PAMS used by the company, a letter from John D. Hazeltine to D.H. Rhodes dated May 25, 1978 makes a reference to the PAM nameplate on the main control board. In any event, there is an understanding between the Applicant and the State that the answer to the Interrogatory is complete.

Interrogatory No. 9.8

The Applicant apparently now wishes to object to the Interrogatory. The rule, Section 2.740(f), is clear that "failure to answer or respond shall not be excused on the ground that discovery sought is objectionable unless the person or party failing to answer or respond has applied for a protective order pursuant to paragraph c of this section." Since the Applicant did not apply for protective order, the Interrogatory must be answered. From a substantive point of view, the State agrees with the Applicant that compliance with Regulatory Guide 1.97 is not a contention in this proceeding. However, we disagree that compliance with a Regulatory Guide is irrelevant to the proceeding. Certainly, compliance or lack thereof with the Regulatory Guide is relevant for the purposes of discovery.

Interrogatory No. 9.16

The State withdraws its Motion to Compel and accepts the Applicant's answer as true.

Interrogatory No. 10.1

(See State's response regarding Interrogatory No. 9.1.)

Interrogatory No. 10.2

The State withdraws its Motion to Compel and accepts the Applicant's answer as true. However, we assume that the Applicant will supplement its answer as required by Section 2.740(e).

Interrogatories Nos. SAPL Supp. 3.7, 3.10, and 3.11

Despite the Applicant's argument to the contrary, New Hampshire has accepted this Board's ruling and does not seek to litigate the Probabilistic Risk Assessment (PRA) contention in this proceeding. However, this hearing process does not occur in a vacuum. It is conceivable, and in fact probable, that as the PRA develops, it will produce information and documents which are pertinent to this proceeding. As stated by Chairman Palladino, at his remarks to the American Nuclear Society on April 5, 1982 in Arlington, Virginia,

We have other expectations as well as for the use of the PRA in regulatory decisionmaking. We, on the Commission, have directed that special attention be given by the Staff to use these techniques in a variety of applications provided that the data base warrants such use. We believe it has a place in licensing reviews in addressing generic safety issues, in formulating new regulatory requirements, in evaluating new designs, in setting priorities for reactor research, and in allocating inspection resources.

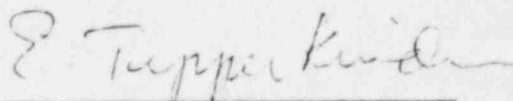
The Applicant's position is that even though it may have information relevant to the contentions in this proceeding, it need not produce that information when requested if the information was developed as part of what the Applicant views as its PRA process. The purpose of this proceeding on the admitted contentions is to allow for a full and fair hearing and proper resolution of the issues. This requires the production of all information requested which is under the control of the parties and which may be helpful to the parties and the Board in reaching the required determinations. It should be noted that the Applicant did not object to these Interrogatories as required by Section 2.740(f) and thus cannot raise an objection at this point. The Applicant should be required to fully answer the above-mentioned Interrogatories, including providing information from the PRA process if such information is encompassed by the Interrogatory.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

GREGORY H. SMITH
ATTORNEY GENERAL

By

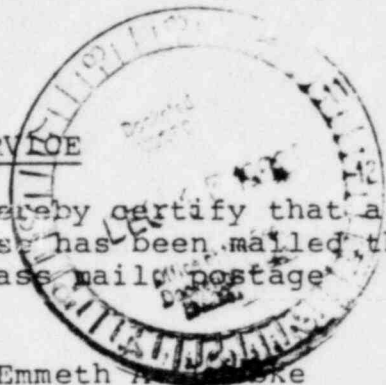


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Dated: December 9, 1982

CERTIFICATE OF SERVICE

I, E. Tupper Kinder, Esquire, do hereby certify that a copy of the foregoing Withdrawal and Response has been mailed this 9th day of December, 1982, by first class mail, postage prepaid, to:



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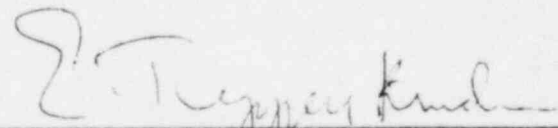
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