

Filed: February 7, 1983

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USNRC

'83 FEB -9 P1:02

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 & 2)

Docket Nos. 50-443 OL  
50-444 OL

APPLICANTS' FOURTH MOTION FOR  
SUMMARY DISPOSITION  
(CONTENTION NECNP I.I.)

Pursuant to 10 CFR § 2.749, the Applicants hereby  
move for summary disposition of contention NECNP I.I.

This contention is premised upon the proposition that there is an enforceable regulatory requirement that the Applicants provide and demonstrate that they have environmentally qualified one path to cold shutdown. The contention was advanced, not on the

basis of any regulation, but rather on an I & E Bulletin issued by the Staff. Whatever may have been the Staff's position earlier, however, it is equally plain both that the Staff no longer feels that the Applicants have any such duty and that the NRC itself has explicitly declined to impose any such requirement upon the Applicants.

In their answer to NECNP Interrogatory No. 15, the Staff stated as follows:

"At this time the NRC does not require even on path of equipment necessary to achieve and maintain cold shutdown to be environmentally qualified. . . . The Commission believes it would be premature at this time to impose the requirement to environmentally qualify electric equipment and systems necessary to achieve and maintain cold shutdown prior to the final resolution of [Unresolved Safety Issue] A-45."<sup>1</sup>

The basis for this position, plainly, is the promulgation by the Commission of a new final rule, 10 CFR ¶ 50.49, 48 Fed. Reg. 2729 (1/21/83). This rule,

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<sup>1</sup>"NRC Staff Response to NECNP Second Set of Interrogatories and Request for Production of Documents" (filed 1/21/83) at 13.

entitled "Environmental Qualification of Electric Equipment Important to Safety for Nuclear Power Plants," establishes and bounds the Applicants' environmental qualification responsibilities. In particular, § 50.49(b) lists those items required to be qualified; one path to cold shutdown is not included. This omission was intentional, as is revealed by the statement issued by the Commission in connection with the promulgation:

"(2) Scope -- Cold Shutdown Requirement -- Paragraph 50.49(b).

. . .

"The Commission believes it would be premature at this time to impose the requirement to environmentally qualify electric equipment and systems necessary to achieve and maintain cold shutdown prior to the final resolution of [Unresolved Safety Issue] A-45. Therefore, this requirement is not included in the final rule."

48 Fed. Reg. at 2731 (emphasis added).

Whatever regulatory basis might previously have existed for the admission of this

contention has now evaporated. The contention should  
and must be dismissed.

Respectfully submitted,

*/s/ Thomas G. Dignan, Jr.*

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Dated: February 7, 1983

STATEMENT OF MATERIAL FACTS  
AS TO WHICH THERE IS NO DISPUTE

1. The NRC has published a final rule on environmental qualification of electrical equipment, 10 CFR § 50.49, 48 Fed. Reg. 2729(1/21/83). This final rule intentionally omits to impose any regulatory requirement that operating license applicants demonstrate one environmentally qualified path to cold shutdown.

CERTIFICATE OF SERVICE

I, R. K. Gad III, one of the attorneys for the Applicants herein, hereby certify that on February 7, 1983, I made service of the within "Applicants' Fourth Motion for Summary Disposition (Contention NECNP I.I)" by mailing copies thereof, postage prepaid, to:

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