

September 26, 1983

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

RESPONSE OF THE NRC STAFF TO MOTIONS FOR
CLARIFICATION AND RECONSIDERATION FILED BY MASSACHUSETTS

I. INTRODUCTION AND DISCUSSION

A. On September 9, 1983, the Massachusetts Attorney General ("MassAG") filed a motion for clarification of a Board Order of August 30, 1983 which, inter alia, admitted for litigation its emergency planning Contention IV. The MassAG had redrafted the first sentence of the Contention IV partly in response to concerns about the structure of the contention raised by the Staff. However, the admitted contention does not reflect the re-drafted first sentence, particularly with regard to references to 10 C.F.R. §§ 50.47(a)(1), 50.47(b)(11), and the phrase "and the public" after the phrase "emergency workers." The Staff therefore does not oppose the MassAG's requested clarification of the first sentence of Contention IV to reflect the addition of the 10 C.F.R. § 50.47 references and the addition of the phrase "and the public" as noted above. The first sentence of MassAG Contention IV would thus read:

The New Hampshire Radiological Response Plan does not satisfy the requirements of 10 C.F.R. § 50.47(a)(1), b(10), or b(11) in that protective action for emergency workers and the public has not been sufficiently developed.

B. On September 9, 1983, the MassAG filed a motion for reconsideration of the Board's Memorandum and Order (Ruling on Motions for Summary Disposition) of June 30, 1983, wherein the Board "conclude[d] as a matter of law that Applicants' evacuation time estimates were not deficient in omitting notification/preparation times." By Order dated September 8, 1983, this Board invited pleadings on reconsideration of that determination. Order, p. 3 (September 8, 1983). On September 9, 1983, the MassAG filed a one paragraph motion requesting reconsideration of the aforementioned ruling. As noted by the Licensing Board in its September 8th Order, in Public Service Company of New Hampshire, et al., ALAB-737, 17 NRC ____ (August 26, 1983), the Appeal Board, while denying a request for directed certification, noted that the Licensing Board "may wish to reconsider its conclusion [regarding preparation/notification times] in this regard." ALAB-737, supra., p. 11. The Appeal Board based this comment upon a review of relevant provisions of both Appendix 4 of "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" and of the components of the CLEAR Model, NUREG/CR-2504 (March 1982).

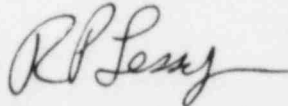
The Staff does not oppose reconsideration of the Licensing Board's ruling in its June 30, 1983 Memorandum and Order regarding preparation/notification times. The MassAG in its motion for reconsideration has not proposed a vehicle for reconsideration or discussed the effect of such reconsideration on the ongoing proceeding. A review of the evidentiary record at the recently concluded safety hearings indicates that the Board generally allowed cross-examination of Applicant and Staff witnesses on the subject of preparation/notification times. See e.g. Tr. 1035, 1038-39,

1044-45, 1047-48, 1050, 1050-53, 1054-57, 1059 (Merlino); Tr. 1312-15, 1339-40 (Urbanik). See also Tr. 1436-39 (Urbanik). Accordingly, proposed findings can be filed by parties on this very point, and the Staff herein suggests such a procedure if the Board does reconsider and modify its June 30, 1983 ruling.

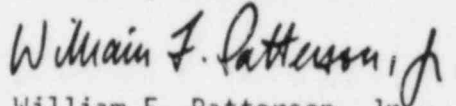
I. CONCLUSION

For the reasons discussed, the Staff does not oppose the MassAG's motion for clarification dated September 9, 1983, nor does it oppose the MassAG's motion for reconsideration of September 9, 1983.

Respectfully submitted,



Roy P. Lessy
Deputy Assistant Chief
Hearing Counsel



William F. Patterson, Jr.
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 26th day of September, 1983