

EXHIBIT 100-1000000000

Filed: October 26, 1983

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the matter of:

PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE, et al

Docket Nos. 50-443 OL
50-444 OL

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

(Seabrook Station, Units 1 and 2)

SAPL'S MOTION TO COMPEL
ANSWERS TO INTERROGATORIES

Pursuant to 10 CFR §2.740(f), SAPL hereby moves to compel the Applicants' responses to SAPL interrogatories numbers 1 and 4 filed October 5, 1983.

INTERROGATORY 1

By Order of September 1, 1983, SAPL contention 2 was admitted for litigation in this proceeding. This contention reads:

Contrary to the requirement of NUREG-0654, II.A2.b., New Hampshire law does not provide clear authority for the Governor to order a protective response, to include evacuation. Board's Order, page 5.

In its argument against allowing the above contention, the Applicants asserted that the cited provision of NUREG-0654 requires only a description of the legal basis for the authority to be exercised. However, in ruling against that argument, the Board noted that:

However, if the legal basis described does not in fact support the authority to be exercised, this Board does not believe that the evaluation criterion has been satisfied; and while NUREG-0654 does not establish regulatory requirements, this Board accepts, in the absence of any dispute, NUREG-0654, II.A as a reasonable interpretation of the requirements and 10 CFR §50.47(b)1. Therefore, the Board finds an adequate basis for SAPL II. Board's Order, infra at pages 5-6.

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The entire issue in this contention is a legal one: simply put, whether New Hampshire law provides clear authority for the Governor to order a protective response, including evacuation.

In its interrogatories propounded to the Applicants, SAPL asked:

In the opinion of Applicants, does New Hampshire law provide clear authority for the Governor to order a protective response, including evacuation, in the event of a radiological emergency? If the answer is in the affirmative, state with particularity the legal analysis upon which that conclusion is based, including the steps the processees utilized in arriving at that conclusion. Provide all applicable references to existing statutory and case law, and cite any and all documents or other informational sources relied upon in your response. See SAPL interrogatories, page 2.

In response, the Applicants state that:

The question is objected to as being truly a question of law and a request for legal research to be done for SAPL at Applicants' expense. SAPL has its own counsel which it can ask to provide a legal analysis of the question asked. Applicants' responses to SAPL interrogatories, page 2.

The Applicants' objection is without basis and its response is irrelevant to the question asked. Indeed, the entire question focuses on the matter of law, and SAPL is entirely within its discovery rights to ascertain in detail the Applicants' position with respect to this contention. In this case, the burden is on the Applicants to demonstrate compliance with federal requirements of NUREG-0654 II.A. as a reasonable interpretation of 10 CRF §50.47(b)1, and in order to meet that burden it will have to take a firm position on this wholly legal question. By admitting this contention for litigation in these proceedings, the Board has in fact, ruled that a legal basis for the authority to be exercised as stated by Applicants may be insufficient as a matter of law. Consequently, the

way in which SAPL can effectively litigate this contention is to determine exactly how the Applicants arrived at their legal conclusion that such a legal basis does in fact exist, and is legally defensible. For this reason, the Applicants' objection to this interrogatory should be overruled, and a relevant and detailed response should be ordered.

INTERROGATORY 4

In its Order of September 1, 1983, this Board also admitted for litigation in these proceedings SAPL contention 6 which states:

The NHRERP fails to meet the requirements of 10 CFR §50.47(b)11 and NUREG-0654 K.5b because there has been no showing that the means for a radiological decontamination of emergency personnel wounds, supplies, instruments, and equipment have been established. Furthermore, there has been no showing that there exists a means for waste disposal.
See Board Order, infra, page 7.

This contention is a straightforward assertion by SAPL that a specific regulation as interpreted by NUREG-0654 has not been met. Assuming that the Applicants intend to contest this assertion, it is entirely reasonable and proper for SAPL to know precisely how the Applicants believe they have met this requirement strictly within the context of the NHRERP. In that since SAPL does not believe that any portion of the NHRERP substantiates a position of compliance with the regulation and NUREG interpretation cited in the contention, it seeks to found out what the Applicants view as a sufficient basis for compliance with the regulation. SAPL's interrogatory 4 was designed to elicit such a response:

Is the Applicant aware of any provision in the NHRERP for any decontamination centers adequately staffed and equipped to perform the numbers of decontaminations that would be required of emergency personnel and supplies, instruments and equipment? If so, cite with particularity the provisions and page numbers in the NHRERP which make the above provision. SAPL interrogatories, page 5.

In response, the Applicants make the following flip and, wholly nonresponsive remarks:

The NHRERP is a document. The document speaks for itself. Without waiving the foregoing we suggest that Appendix H and §2.7.5 appear to discuss the subject referenced. See Applicants' responses, page 5.

SAPL is not interested in what the NHRERP "appears to discuss." We wish to know whether or not the Applicants can state with specificity and provision in the NHRERP which provides for the facilities and means for decontamination mandated by the regulations. This request is fundamental to the preparation of SAPL's case, is directly related to the contention as admitted by this Board, and is hardly burdensome to the Applicants. Therefore, the Applicants should be ordered to make a complete and candid response to the above interrogatory.

Respectfully submitted,
Seacoast Anti-Pollution League
By its Attorneys,

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Dated: October 26, 1983