UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Helen F. Hoyt, Chairperson
Emmeth A. Luebke
Jerry Harbour

In the Matter of	Docket Nos. 50-443-OL 50-444-OL
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, et al. (Seabrook Station, Units 1 and 2)	September 8, 1983

CONTENTIONS OF TOWN OF RYE
RELATIVE TO EMERGENCY PLANNING
FOR NEW HAMPSHIRE AND TOWN OF RYE

CONTENTION I: The Applicant's Radiological Emergency Response Plan for New Hampshire and the Town of Rye does not satisfy the requirements of 10 C.F.R. §50.47(b)(1), (8), (9) or (12) because it is not authorized by Rye, and; there has been no assessment of the Town's or the State's emergency response needs and resources or satisfaction of its resource requirements in the following areas: emergency personnel, emergency notification, notification of key response personnel, sheltering, exposure control, medical support, education, reception facilities, decontamination, training, radiological monitoring, public information, special needs of children and infirm, special needs of transients, exercise and drills, recovery and reentry, overall emergency transportation, transportation for special facilities, schools, and people with special needs or without private transportation, emergency medical transportation, medical treatment for contaminated injured individuals, radiological monitoring and assessment equipment, dosemeters and respiratory equipment for emergency workers, and manpower for traffic management and access control, emergency transportation and security operations, emergency maintenance of evacuation routes and response to abandoned vehicles, traffic accidents, and other obstructions to evacuating traffic flow, and staffing of emergency response facilities. In the absence of an assessment

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and satisfaction of the requirements in these areas, there can be no "reasonable assurance that adequate protective measures can and will be taken" to protect persons present in the Town of Rye in the event of a radiological emergency at Seabrook Station, as required by 10 C.F.R. §50.47(a)(1).

BASIS FOR RYE'S CONTENTION 1 THAT:

There is no reasonable assurance that adequate protective action for the Town of Rye and neighboring populations can and will be taken in the event of certain forseeable kinds of radiological emergencies which can and may occur at the Applicants projected nuclear reactors if they are operated.

Applicants calculations and estimates do not account for: preparation and mobilization and notification time, power failures affecting criticals systems such as phone and lights, bounds of error in calculation models, dynamic responses of public officials and evacuees, adverse weather, directional bias of evacuees, shadow evacuation, role conflicts of emergency personnel, actual evacuation routes, local options and agreements, transport resources, road conditions, equipment and facilities, current accurate population counts, back ups and in-depth reosurces, systems and personnel.

Reasonable assurance of adequate protection for Rye would require in some cases of reactor excursions, events, runaways, scrams, melts, partial melts and other such loss of control, a more or less instantaneous awareness and mobilization of great numbers of willing and able public servants and/or volunteers, and; vast physical resources, equipage, transport, roadways, repair, and safe refuge, and; realistic planning and direction. These basic resources, and such readiness, willingness and ability, do not exist in the Town of Rye, and as far as is known in Rye, does not exist in the Towns

around Rye. Rye has barely begun the process of evaluating the radiological threats to health and safety which exist in the Town's surrounding environment, and those which may exist in the future, such as at Seabrook Station.

After careful consideration in an ongoing process begun early this year, the Town is finding (from reports of the Rye Nuclear Intervention Advisory Committee) that: "we are prepared in only the crudest way for only the least kinds of accidents, and; we see no agency or resources which we could call (rely) on in the event of a serious accident (radiological) affecting Rye", and; "The Committee agrees that any meaningful emergency response plan (radiological or other) will be a product of Rye's own planning and resources; that in these matters, if we don't do it, it won't get done", and; that the PSNH/Lomasney plan fails to assure adequate or timely staff, supplies, assistance, communications, coordination, notification, equipment or medical resources for even the relatively minor radiological emergencies which it projects (1 to 25 rems whole body dose).

The purpose of the Lomasney/PSNH plan, published in the name of Rye, is twice described and is revealing:

a) in the preface, page -v- "This plan describes the preparation and emergency response required by the Town of Rye to react to a potential radiological emergency at Seabrook Station Nuclear Power Plant"

b) in section I-A page I-1 PURPOSE "This Radiological Emergency Response Plan is designed to provide the Town of Rye with organizational procedures and a description of protective action to be taken in the event of a radiological incident at the Seabrook Station Nuclear Power Plant"

It is significant that public health and safety are never mentioned in the statements of purpose, and are mentioned but once in the entire 150 page document. The plan does not even begin to address the needs for medical care appropriate to radiological sickness in a substantial number of people. Rye's population is 4,300. There are no appropriate medical services in Rye and only one physician practicing in Rye.

The plan made in the name of Rye is apparently for the purpose of expediting a license but is utterly useless as a tool for meaningful radiological emergency response preparedness in that; all other defects aside, it fails to recognize or address the nature of a radiological emergency. Most creatures, humans for sure, are sickened by radiation, even small doses, therefore; unless a population successfully evades radiation, it must have medical care. And of a special kind, not ordinarily handy. 10 C.F.R. 50.47(b)(12) mandates it. The Applicants are oblivious to it. Rye is only interested in action that protects the public's health and safety. We know that keeping radiation out of our lines is the best protection, that successfully fleeing from it is next best, and that failing that, swift sure medical care is the only other protection possible. Rye must and will plan all its radiological emergency responses based on dose-effect relationships of radiation and human health, and assured medical care for every citizen exposed, and; rejects out of hand all radiological emergency planning that doesn't assure such protection. Rye believes the law supports us in our own proper choices in these matters. The Atomic Energy Act directs the Nuclear REgulatory Commission to base its decisions only on the protection of the public's health and safety. Under current regulations, the Federal Emergency Management Agency (FEMA) must find that a utility's plan has sufficient local support to work. 10 C.F.R. 2.715(c) allows interested municipalities " . . . reasonable opportunity to participate and to introduce evidence, interrogate witnesses, and advise the Commission." New Hampshire's RSA 107-b requires "The civil defense

agency shall act in cooperation with affected local units of government". The towns, in exercising rights and prerogatives in areas of basic public protection such as health and safety, could not be any closer to the bedrock foundations of law. Rye and other seacoast New Hampshire towns have seen that the NRC has recently filed bills in the United States Congress H.R. 2512 and S. 893 which if passed into law, would strip "local vetoes" as Senator Simpson of Wyoming, the bill's point man describes it. New Hampshire's Senator Gordon Humphrey says "I am concerned about the ramifications of these proposed revisions, for I have a fundamental problem with cases of federal preemption of local responsibilities and prerogatives." See attached discussions. The intention of the Applicant and the record of the Commission's actions and findings is all toward licensing, but when involved local governments, after all due deliberations, find and advise the Commission of, basic health and public security presumptions in the license application, the Commission has the duty and responsibility to deny a license.

CONTENTION 2: For purposes of planning radiological emergency responses to protect the public, the Applicant has insufficient and/or inaccurate and/or undeveloped protective action guidelines, and; has insufficient and/or inaccurate and/or undeveloped evacuation time estimates. The Applicant treats protective action guidelines and evacuation time estimates as though they are worlds apart considerations and in an unlawful and unacceptable, cursory manner. No radiological emergency preparation can reasonably assure public health and safety if it does not recognize and provide protection against health effects to human populations, which are absolutely and directly related to kinds of exposure and duration of exposure.

BASIS FOR RYE'S CONTENTION 2 THAT:

Applicants planning is not accurately or directly tied to evacuation times, radiation exposure, and health effects combined, and therefore; cannot reasonably assure the public's protection.

Applicants witness McDonald of Yankee Atomic Company in testimony before A.S.L.B. in Dover, New Hampshire in August 1983 stated: for purposes of planning radiological emergency responses,

> *" . . .estimates of evacuation times must be tied to radiological consequences."

Rye finds such apparent wisdom coming from the Applicant an unusual, but important admission. It is important because it goes to the heart of the issue of reasonable assurance of protective action. There can be no protective action coming out of the Applicant's emergency response plans because the plans are not based on accurate estimes of evacuation times, thus duration of exposures, and; are not based on accurate

*taken from handwritten notes rather than the record of hearings, which Rye does not have.

or realistic estimates of the kinds of radiation that might occur, thus the consequences to the public health.

The Applicant has factored misinformation into evacuation time estimates. In particular: assumptions that all routing and movements are controlled by local law enforcement personnel, road clearing personnel, and equipment of public and private agencies, and; that weather is favorable, that all evacuees will comply with orderly directions and planned routes, that no vehicles will break down or run out of fuel, that no one would attempt entering into the evacuation area, that livestock would not be herded into the evacuation routes, that panic or contrary behavior would not ensue among evacuees or public officials, that people on the perimeter and outside the evacuation zone would not clog the chosen escape routes, that brigands and looters will not add mayhem to confusion, that sufficient feeder roads, main trunk roads, traffic control, communications, coordination and support facilities can be identified, can be kept ready, can be mobilized. As yet all is speculative and wanting, yet all has been used in the time estimate models. In short, the models, scenarios, generic matrixes, and other formulae used to produce Applicant's estimates of evacuation times and therefore the Applicant's estimates of evacuation times are critically faulty in that they do not account for a host of needs and problems which can reasonably be known and seen as properly included in any basis for estimating such.

Analysis of 1983 Nuclear Powerplant Licensing "Reform" Legislation

The Reagan Administration (through the Department of Energy) and the Nuclear Regulatory Commission have both filed legislation to "streamline" the process for licensing nuclear powerplants. The bills are numbered H.R. 2511 and S. 894 (Administration/DOE bill) and H.R. 2512 and S. 893 (NRC bill).

As you might expect, the nuclear industry -- many large utilities, reactor makers such as Westinghouse and General Electric, and major architect/engineering firms like Bechtel and Stone & Webster -- are putting heavy pressure on Congress to move these bills. They know that nuclear power is in trouble, because both the marketplace and the public at large have rejected it in favor of safer, more reliable energy technologies.

No reactor has been ordered since 1978, and all 13 reactors ordered between 1974-8 have been cancelled or indefinitely postponed. At the same time, at least 26 coal-fired powerplants were ordered between 1979-1982. And recent public opinion polls, including one taken for the nuclear industry, consistently show that 55% of the American people oppose nuclear power while only 33% support it.

~~However, this legislation would, if anything, make the industry's problems worse,~~ by further reducing public confidence in the NRC's ability to effectively regulate this technology. As former NRC Commissioner Peter Bradford told a Senate subcommittee, "the NRC hearing process ranks very low among the issues that have brought nuclear power to its present situation. NRC hearings did not cause Three Mile Island. NRC hearings did not bring about the cancellation and default at the WPPSS units. NRC hearings had nothing to do with the quality assurance breakdowns at Diablo Canyon and Zimmer. NRC hearings are not causing the Midland containment to sink. NRC hearings are not even at the bottom of the cost overruns at Shoreham and Seabrook."

Both the DOE and NRC bills are structured around the same set of regulatory concepts: restricted backfitting (based on quantitative cost/benefit analysis), "one-step" licensing, hybrid hearings, early site review, and pre-approval of plant designs.

* Both bills introduce, for the first time, the concept of cost/benefit balancing into the Atomic Energy Act. The Act now directs the NRC to base its decisions only on the protection of the public's health and safety. Under a cost/benefit standard, any improvement in public protection would easily be "outweighed" by the cost of needed repairs, since the latter can be precisely calculated but the former is necessarily imprecise and speculative.

* The DOE bill would make it much more difficult for the NRC to order safety-related upgradings ("backfits") in the equipment or operations of any reactor that has already received initial NRC approval. NRC now has, and has needed, a great deal of flexibility to respond to the constantly-emerging safety problems that neither the agency nor the industry were prepared for. Among other things, the DOE bill:

-- requires the NRC Commissioners to personally approve all backfit orders, a function now largely handled by staff;

-- restricts the information NRC can require licensees to submit, thus making it harder to investigate emerging safety problems;

-- allows NRC to adopt a lower standard of safety for older plants by directing it to consider the "remaining life of the facility" before ordering repairs;

-- implicitly requires all backfits to be justified by complex quantitative risk assessments that can easily be manipulated to downgrade the need for expensive repairs.

(The DOE bill proposes these drastic changes, even though DOE, questioned in a House hearing, could not come up with a single example of an unnecessary backfit!)

The NRC bill does not go as far, but it does require a higher standard of proof before backfits can be ordered.

* Both bills would let the NRC issue a "one-step" license, covering operation as well as construction, but neither bill requires the NRC to resolve all outstanding safety

questions before construction begins. The DOE bill does not even require the utility to submit a complete plant design before the license is issued! NRC Commissioner Gilinsky has compared the "one-step" license to "handing an incoming freshman his college diploma on the basis of his course outline."

* The DOE bill would let a utility start site preparation work, including "safety-related construction activities", before the NRC has issued any license -- in fact, before it has approved either the reactor design or the site. Such an irrevocable commitment of the utility's resources will inevitably bias the licensing process and add to the pressure on NRC to acquiesce in whatever the utility has already done.

* The DOE bill would repeal the requirement for an adjudicatory hearing, now held upon request of any citizen-intervenor before a plant begins operation, on the issue of whether the plant was constructed properly. In recent years, these hearings have been instrumental in exposing major mistakes and shoddy construction practices at plants like Zimmer, Midland, South Texas, and Diablo Canyon. Under the DOE bill, all pre-operational reviews would be left to the NRC staff, which has a very poor record of discovering mistakes on its own; there would be no formal outside review or even any public disclosure of the utility's quality assurance records.

* Both bills weaken the public's right to cross-examine NRC and utility experts, which is often the only way to uncover safety problems. Under the bills' provisions for "hybrid" hearings, the NRC licensing board will have to decide in each case which evidence will be subject to cross-examination -- a decision that, unlike more technical safety issues, can often be reversed in court, thus lengthening rather than shortening the legal proceedings. (The current procedures allow each party to cross-examine all witnesses.) Under the DOE bill, the NRC Commissioners themselves would decide, case-by-case, which issues are subject to cross-examination! These new procedures can be applied in cases already underway, potentially changing the ground-rules in the middle of the hearing.

* Both bills, but especially the DOE bill, raise the standards for admission of evidence in ways that make it more difficult for citizens to pursue serious safety issues.

* Both bills make the NRC's approval of standardized reactor designs and proposed sites effective for long periods of time. The NRC bill makes both approvals effective for 10 years, with a 10-year renewal granted almost automatically. The burden of proof is shifted to the public to show that the design does not meet current safety standards, rather than remaining with the reactor manufacturer to show that it still meets the standards. DOE's bill goes even further, allowing an infinite number of 10-year renewals for design approvals and site permits. The effect of such provisions is to "grandfather in" obsolete designs and questionable sites for decades.

* Both bills defer payment of the application fee for design approvals and site permits until the design or site is actually used, or until the end of the 10-year approval period. (The DOE bill waives the fee entirely if the design is never used.) This amounts to an interest-free loan or gift of millions of dollars to companies like Westinghouse and General Electric -- hardly the most needy recipients of scarce federal credit.

* Both bills would delegate to the states, or to federal agencies like the Bonneville Power Authority, the responsibility for reviewing the need for the power to be generated and the availability of alternative energy sources -- essential parts of the environmental impact analysis mandated by the National Environmental Policy Act (NEPA) -- without setting any minimum standards for public participation, and without mandating full consideration of conservation and improved energy efficiency as alternatives to new powerplant construction.

* While the scope of the NRC bill is generally restricted to light-water reactors, the DOE bill would also apply to breeder reactors and reprocessing plants -- two new and potentially even more dangerous types of nuclear facilities. The bill's procedural shortcuts and backfitting restrictions are entirely inappropriate when not one breeder reactor or reprocessing plant is operating commercially in this country.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the "Rye Contentions 1 and 2" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 9th day of September, 1983.

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