

Docket Nos. 50-443  
and 50-444  
(10 CFR 2.206)

William S. Jordan, III, Esq.  
Weiss & Jordan  
2001 S Street, N. W.  
Suite 430  
Washington, D. C. 20009

Dear Mr. Jordan:

This letter is in response to the "New England Coalition on Nuclear Pollution Petition for Enforcement and Motion for Suspension of Construction at the Seabrook Nuclear Power Plant" (Petition) filed on August 22, 1984 requesting that the Commission take action to remedy alleged violations and deficiencies associated with construction of the Seabrook facility by a number of electric companies. The Commission referred the Petition to me for action under 10 CFR 2.206 of the Commission's regulations. For the reasons stated in the enclosed "Director's Decision Under 10 CFR 2.206," (DD-85- ) the Petition has been denied.

A copy of this decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, the decision will constitute the final action of the Commission 25 days after the date of issuance of the decision unless the Commission, on its own motion, institutes a review of the decision within that time.

A copy of a notice, which is being filed with the Office of Federal Register for publication, is also enclosed.

Sincerely,

Original Signed by  
H. R. Denton

Harold R. Denton, Director  
Office of Nuclear Reactor Regulation

Enclosures:  
(1) Director's Decision  
(2) Notice

cc: See next page  
\*Previous concurred on by:

DL:LB#3	DL:LB#3*	DL:LB#3*
VNurses/yt	JLee	GWKnighton
3/5/85	1/23/85	1/29/85
NRR	NRR	
DGE/senhut	HRDenton	
3/13/85	3/10/85	

*JOELD  
DIERBERMAN  
3/16/85*

*DL  
Novak  
3/12/85*

*DL  
HThompson  
3/13/85*

8503200545 XA

3pp

*On 3/5/85, Silvey notified me that IE concurred without comment  
on 3/5/85, Kello, Region I, concurred with comments. Comments were discussed  
with OSEP (Hoffman) and parties agreed not to incorporate comments. On 3/6/85,  
Carne, Region I, resident at spacer had comments, there were no comments and Carne concurred.  
O. Neva 3/6/85*

March 18, 1985

DISTRIBUTION

Docket File - 50-443/444  
NRC PDR\*  
Local PDR\*  
PRC System  
NSIC\*  
EDO #14752  
EDO Reading File  
W. Dircks  
V. Nerses  
J. Lee  
LB3 Reading File/G. Knighton  
M. Jambor/H. Thompson  
R. Hoefling  
R. Perlis  
P. O'Brien/T. Novak  
D. Eisenhut  
H. Denton  
K. Bowman, P-428 #14752  
C. Miles, OPA  
V. Yanez, TIDC - 2  
ASLB  
ASLAB  
ACRS - 16  
JoAnn Resner, W-501

BLUE BAG  
SECY - 5  
General Counsel  
J. Lieberman, OELD

\*with incoming

Seabrook

Mr. Robert J. Harrison  
President and Chief Executive Officer  
Public Service Company of New Hampshire  
Post Office Box 330  
Manchester, New Hampshire 03105

Thomas Dignan, Esq.  
John A. Ritscher, Esq.  
Ropes and Gray  
225 Franklin Street  
Boston, Massachusetts 02110

Mr. Bruce B. Beckley, Project Manager  
Public Service Company of New Hampshire  
Post Office Box 330  
Manchester, New Hampshire 03105

Dr. Mauray Tye, President  
Sun Valley Association  
209 Summer Street  
Haverhill, Massachusetts 01839

Robert A. Backus, Esq.  
O'Neil, Backus and Spielman  
116 Lowell Street  
Manchester, New Hampshire 03105

Ms. Beverly A. Hollingworth  
7 A Street  
Hampton Beach, New Hampshire 03842

William S. Jordan, III  
Diane Curran  
Harmon, Weiss & Jordan  
20001 S Street, NW  
Suite 430  
Washington, DC 20009

Jo Ann Shotwell, Esq.  
Office of the Assistant Attorney General  
Environmental Protection Division  
One Ashburton Place  
Boston, Massachusetts 02108

D. Pierre G. Cameron, Jr., Esq.  
General Counsel  
Public Service Company of New Hampshire  
Post Office Box 330  
Manchester, New Hampshire 03105

Regional Administrator - Region I  
U.S. Nuclear Regulatory Commission  
631 Park Avenue  
King of Prussia, Pennsylvania 19406

E. Tupper Kinder, Esq.  
G. Dana Bisbee, Esq.  
Assistant Attorney General  
Office of Attorney General  
208 State Hosue Annex  
Concord, New Hampshire 03301

Resident Inspector  
Seabrook Nuclear Power Station  
c/o US Nuclear Regulatory Commission  
Post Office Box 700  
Seabrook, New Hampshire 03874

Mr. John DeVincentis, Director  
Engineering and Licensing  
Yankee Atomic Electric Company  
1671 Worchester Road  
Framingham, Massachusetts 01701  
Mr. A. M. Ebner, Project Manager  
United Engineers & Constructors  
30 South 17th Street  
Post Office Box 8223  
Philadelphia, Pennsylvania 19101

Mr. Philip Ahrens, Esq.  
Assistant Attorney General  
State House, Station #6  
Augusta, Maine 04333

Mr. Warren Hall  
Public Service Company of  
New Hampshire  
Post Office Box 330  
Manchester, New Hampshire 03105

Seacoast Anti-Pollution League  
Ms. Jane Doughty  
5 Market Street  
Portsmouth, New Hampshire 03801

Mr. Diana P. Randall  
70 Collins Street  
Seabrook, New Hampshire 03874

Mr. Calvin A. Canney, City Manager  
City Hall  
126 Daniel Street  
Portsmouth, New Hampshire 03801

Ms. Letty Hett  
Town of Brentwood  
RFD Dalton Road  
Brentwood, New Hampshire 03833

Ms. Roberta C. Pevear  
Town of Hampton Falls, New Hampshire  
Drinkwater Road  
Hampton Falls, New Hampshire 03844

Ms. Sandra Gavutis  
Town of Kensington, New Hampshire  
RDF 1  
East Kingston, New Hampshire 03827

Ms. Anne Verge, Chairman  
Board of Selectmen  
Town Hall  
South Hampton, New Hampshire 03842

Mr. Angie Machiros, Chairman  
Board of Selectmen for the Town of Newbury  
Newbury, Massachusetts 01950

Ms. Rosemary Cashman, Chairman  
Board of Selectmen  
Town of Amesbury  
Town Hall  
Amesbury, Massachusetts 01913

Honorable Richard E. Sullivan  
Mayor, City of Newburyport  
Office of the Mayor  
City Hall  
Newburyport, Massachusetts 01950

Mr. Donald E. Chick, Town Manager  
Town of Exeter  
10 Front Street  
Exeter, New Hampshire 03823

Mr. William B. Derrickson  
Senior Vice President  
Public Service Company of  
New Hampshire  
Post Office Box 700, Route 1  
Seabrook, New Hampshire 03874

Mr. Alfred V. Sargent,  
Chairman  
Board of Selectmen  
Town of Salisbury, MA 01950

Senator Gordon J. Humphrey  
U. S. Senate  
Washington, DC 20510  
(Attn: Tom Burack)

Senator Gordon J. Humphrey  
1 Pillsbury Street  
Concord, New Hampshire 03301  
(Attn: Herb Boynton)

Mr. Owen B. Durgin, Chairman  
Durham Board of Selectmen  
Town of Durham  
Durham, New Hampshire 03824

Charles Cross, Esq.  
Shaines, Mardrigan and  
McEaschern  
25 Maplewood Avenue  
Post Office Box 366  
Portsmouth, NH 03801

Mr. Guy Chichester, Chairman  
Rye Nuclear Intervention  
Committee  
c/o Rye Town Hall  
10 Central Road  
Rye, New Hampshire 03870

Jane Spector  
Federal Energy Regulatory  
Commission  
825 North Capital Street, NE  
Room 8105  
Washington, D. C. 20426

Mr. R. Sweeney  
New Hampshire Yankee Division  
Public Service of New Hampshire  
Company  
7910 Woodmont Avenue  
Bethesda, Maryland 20814

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF NUCLEAR REACTOR REGULATION  
Harold R. Denton, Director

In the Matter of  
PUBLIC SERVICE COMPANY  
OF NEW HAMPSHIRE, ET AL  
(Seabrook Station, Units 1 & 2)

)  
)  
)  
)  
)

Docket Nos. 50-443  
50-444

(10 CFR 2.206)

DIRECTOR'S DECISION UNDER 10 CFR 2.206

INTRODUCTION

In its "New England Coalition on Nuclear Pollution Petition for Enforcement and Motion for Suspension of Construction at the Seabrook Nuclear Power Plant" dated August 22, 1984 (Petition), the New England Coalition on Nuclear Pollution (Petitioner) requested that the Nuclear Regulatory Commission (NRC) take action to remedy alleged violations and deficiencies associated with construction of the Seabrook facility by a number of electric companies (the Licensees) including Public Service Company of New Hampshire (PSNH). Specifically, the Petition contends that construction activities underway at the Seabrook facility are being conducted in violation of the terms of the construction permit issued to the Licensees authorizing construction of the Seabrook facility. The construction permit identified PSNH as the sole technically qualified entity responsible for construction of the Seabrook facility. The

~~8563200551~~

Petition alleges that PSNH is no longer acting in that capacity due to a series of recent management changes. The Petition also alleges violations of the Commission's quality assurance (QA) requirements, specifically, 10 CFR Part 50, Appendix B. Based on these alleged violations and deficiencies, the Petitioner seeks immediate suspension of construction of the plant until a construction permit amendment has been obtained reflecting the management changes which have occurred at Seabrook and conformance with NRC QA requirements are demonstrated.

In a letter dated October 17, 1984, I acknowledged receipt of the Petition but declined to take any immediate actions with respect to the alleged concerns identified in the Petition. I determined that no immediate action was necessary based on the preliminary conclusion of the NRC staff that PSNH continued to have the necessary authority over the Seabrook project to assure continued implementation of the QA Program. This conclusion was based in part on continued oversight of construction at the Seabrook facility by NRC inspectors. With respect to any violations of the construction permits or NRC regulations, I concluded that the Petition failed to identify any imminent hazard to the public associated with the alleged violations. Furthermore, the Petition concerns a facility under construction which will not operate for some time and where construction activities have been found generally acceptable and in accordance with the approval QA program. For these reasons, I declined to take any action.

I further indicated that a final decision with respect to the concerns raised would be forthcoming within a reasonable time. This decision constitutes my final action with respect to the Petition. In reaching my decision, I have considered the "Permittees' Response to the New England Coalition on Nuclear Pollution Petition for Enforcement and Motion for Suspension of Construction at the Seabrook Nuclear Power Plant" submitted on September, 6, 1984 by the Licensees. (Licensees' Response).

#### DECISION

The Petition raises essentially two concerns. First, the Petition alleges a violation of the terms of the construction permit issued to the Licensees based on a series of organizational changes which, the Petitioner argues, has effectively removed PSNH as the entity solely responsible for construction of the Seabrook facility. Second, the Petition alleges violations of the Commission's quality assurance requirements. Each of these issues will be discussed below in turn.

##### A. Present Construction Activities Are Authorized Under the Construction Permit

The construction permits issued for the Seabrook facility (Construction Permit Nos. CPPR-135 and 136, issued July 7, 1976) presumed that PSNH would act on behalf of all Licensees in accordance with the Joint Ownership Agreement (JOA) that was then in effect. The construction permits were

issued to the Licensees based on a finding that PSNH was technically qualified to design and construct the Seabrook facility. As is generally the case in the construction of nuclear facilities, PSNH would contract for and assign certain responsibilities to others. This was recognized by the Atomic Safety and Licensing Board which considered the issue of technical qualifications in the construction permit proceeding.<sup>1/</sup> The Licensing Board based its conclusions regarding the technical qualifications of PSNH in large measure on the fact that the Yankee Atomic Electric Company (YAEC), United Engineers and Constructors, Inc., and Westinghouse Electric Corporation had suitable qualifications and had been assigned major responsibilities for construction of the Seabrook facility.<sup>2/</sup> Indeed the participation by YAEC was deemed essential by the Licensing Board because Seabrook was the first nuclear venture for PSNH.<sup>3/</sup> In any event, regardless of the degree to which activities were delegated, the Licensing Board recognized that ultimate responsibility lay with PSNH.<sup>4/</sup>

Following issuance of the construction permits in 1976, the construction permits were amended from time to time to reflect changing ownership interests in the Seabrook facility. However, at no time did these amendments reduce the responsibilities of PSNH with respect to design and construction of the Seabrook facility. Indeed, as the Petition points out, in approving the construction permit amendments, the NRC recognized the fact that PSNH would continue to retain full responsibility and

---

<sup>1/</sup> Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), LBP-76-26, 3 NRC 857 (1976).

<sup>2/</sup> Id. at 800-807.

<sup>3/</sup> Id. at 917.

<sup>4/</sup> Id. at 866.



authority under the JOA for design and construction of the Seabrook facility and would continue to utilize suitably qualified contractors. The Petition contends in essence that, under recently executed amendments to the JOA, and other agreements concerning continued funding of the Seabrook project, PSNH in fact no longer remains solely accountable for design and construction of the Seabrook facility and, consequently, construction of the facility is being performed in violation of the construction permit and the provisions of the Atomic Energy Act of 1954, as amended, and the Commission's regulations limiting the transfer of licenses, specifically Section 183 and 10 CFR 50.54(a). While there has been a number of agreements recently involving organizational changes at and financing of the Seabrook facility, in the NRC staff's view, for the reasons stated below, none have had the effect of removing PSNH as the entity solely accountable and responsible for design and construction of the Seabrook facility.

Petitioner points to the "Fifteenth Amendment of Agreement for Joint Ownership, Construction and Operation of New Hampshire Nuclear Units" dated April 30, 1984, (Fifteenth Amendment) to support its view that Commission requirements have been violated. Petitioner argues that the Fifteenth Amendment eliminated PSNH's "veto power" over the Seabrook project by reducing the vote necessary for effecting decisions from 80% to 51% of the ownership shares. While the Fifteenth Amendment did permit certain actions to be taken based on a vote of 51% of the ownership shares, Petitioner attributes undue significance to the so-called "veto power" of PSNH. What is significant is that the entity found to be

technically qualified has the requisite authority to fulfill its responsibilities to construct a facility in accordance with the Commission's regulations. PSNH was given such authority under the original JOA. The Fifteenth Amendment at page 3 explicitly recognizes that PSNH remains the entity ultimately responsible for project construction. To the extent that the Fifteenth Amendment contemplates possible removal of PSNH as Project Manager upon a 51% vote of ownership shares, such removal is conditioned upon obtaining needed regulatory approvals, including that of the NRC, and appointment of a new Project Manager. Until then, PSNH remains ultimately responsible for Seabrook facility design and construction. Nor do the terms of the Fifteenth Amendment regarding the appointment of a dispersing agent upon a 51% vote of the ownership shares change this result. The very term itself, "dispersing agent", makes clear that this is a particular function associated with design and construction of the Seabrook facility which may readily be contracted to or assigned to another entity. <sup>5/</sup> Finally, the requirement in the Fifteenth Amendment that PSNH report to and consult with an Oversight Committee prior to making major decisions in connection.

---

<sup>5/</sup> The appropriate disbursing agent for the Seabrook facility is also the subject of the "Interim Agreement to Preserve and Protect the Assets of an Investment in the New Hampshire Nuclear Units" dated April 27, 1984 and the "Agreement for Seabrook Disbursing Agent" dated May 23, 1984. Both documents concern disbursement of payments due from certain participants in the Seabrook project in light of the financial difficulties associated with the Project. The documents place no limitations on the authority of PSNH in managing design and construction of the Seabrook project and Petitioner points to none.

with the Seabrook project does not detract from its role as the entity solely accountable for design and construction of the Seabrook facility. To the contrary, the provision itself recognizes that PSNH is the entity responsible for making decisions associated with design and construction of the project (Fifteenth Amendment, pp. 2-3). Also, the Fifteenth Amendment makes clear that PSNH can disregard the recommendations of the Oversight Committee when it believes that such recommendations are not in accordance with NRC regulations. (Fifteenth Amendment, p. 3). Nor does the "Sixteenth Amendment of Agreement for Joint Ownership, Construction and Operation of New Hampshire Nuclear Units" dated June 15, 1984 (Sixteenth Amendment) affect the role of PSNH as the entity solely accountable for the design and construction of the Seabrook facility. It appears from the document that the role of the Executive Committee created under it is to closely monitor the expenses of the project to assure that they do not exceed approved levels. It is a vehicle apparently designed to monitor the financial course of the project. While it could be argued that such monitoring could in some fashion affect PSNH's commitment to quality, which inherently involves expenses, it does nothing to undermine PSNH's sole accountability under the construction permit. Every nuclear construction project has an inherent tension between keeping costs reasonable and ensuring that the quality demanded in construction of the project meet NRC regulations. Every project has associated with it budget control and the monitoring of construction expenses. A central concern with regard to every nuclear construction project, including Seabrook, is that the entity in charge has the authority to carry out its responsibilities to

ensure construction in accordance with the Commission's requirements. The Sixteenth Amendment expressly rebuts the Petitioner's claims that PSNH is no longer in charge. It specifically states that its terms do not affect the duties and responsibilities for construction, operation and maintenance of the units by PSNH. (Sixteenth Amendment, pp. 8-9).

The June 23, 1984 "Resolution for Transfer of Managing Agent Responsibility" (Resolution) also does not support the Petitioner's view. The Resolution contemplates an orderly process for transferring responsibility for design, construction and operation of the Seabrook facility from PSNH to a new entity, New Hampshire Yankee Electric Company. The first stage of this process calls for the creation of the New Hampshire Yankee Division within PSNH. The Division has been formed.<sup>6/</sup> With the exception of the President and Chief Executive Officer of the Division, who is an employee of YAEC, all other employees of the Division are employees of PSNH.<sup>7/</sup> The Division reports to the Chief Executive Officer of PSNH. PSNH thus remains the entity accountable for, and with the authority to carry out, design and construction of the Seabrook facility. The New Hampshire Yankee Division is envisioned under the Resolution to ultimately dissolve with separate corporate entities assuming responsibility for completion of construction and operation of the Seabrook facility. Staffing of the Division by employees of YAEC, an entity experienced in nuclear construction and operation and recognized by the Licensing Board as essential for

---

<sup>6/</sup> Licensees' Response, p. 4.  
<sup>7/</sup> Licensees' Response, p. 5 and p. 9.

construction of the Seabrook facility, is not inappropriate. In any event, the current organizational structure has the New Hampshire Yankee Division and its employees subordinate to PSNH with PSNH remaining accountable for the design and construction of the Seabrook facility. Incorporation of the Division under the Resolution as the New Hampshire Yankee Electric Corporation responsible for completing construction of Seabrook Unit 1 would become effective upon receipt of any necessary regulatory approvals. (Resolution, p. 2).

In summary, none of the changes raised in the Petition have had the effect of undermining the authority of PSNH to continue managing the construction of the Seabrook facility. PSNH remains in charge. While future changes may be contemplated, present responsibility and authority for construction continues to rest with PSNH. While actions and proposals by PSNH for continued construction of Seabrook are reviewed by newly-created committees, and while such committees may voice concerns with proposed expenditures, ultimate decision making authority remains with PSNH. Nor does the NRC oversight of construction activities suggest differently. The NRC monitors and inspects construction at the Seabrook site through Regional and Resident Inspectors. The design process is also the subject of inspections not only at the site but at the corporate headquarters and at contractors and vendors. The results of these inspection activities confirm that PSNH continues in its role as managing agent solely accountable and responsible for design and construction at

Seabrook. Consequently, no actions on my part with respect to this matter are appropriate.

B. Construction of the Seabrook Facility is being Undertaken in General Conformance With the NRC's Quality Assurance Requirements

The Petition also alleges violations of the Commission's Quality Assurance (QA) requirements, specifically 10 CFR Part 50, Appendix B. The Petition alleges that the recent organizational changes discussed above with respect to construction of the Seabrook facility make it unclear who has authority over the construction quality assurance in violation of Criterion I of Appendix B. The Petition claims that PSNH no longer has clearly established and delineated authority with respect to QA and construction. Further, to the extent that PSNH does retain any control over the construction program for Seabrook, the Petition alleges that PSNH has compromised its authority and organizational freedom to effectively supervise QA by becoming heavily indebted to its contractors and creditors, again in violation of Criterion I of Appendix B.

The current management and organization associated with the implementation of the QA Program at the Seabrook facility have been the subject of a recent NRC staff review and were found to continue to satisfy the requirements of 10 CFR Part 50, Appendix B. The description of this management and organizational arrangement is provided in PSNH's letter of October 31, 1984

from W. P. Johnson to G. W. Knighton which has been reviewed by the NRC staff. <sup>8/</sup> As a result of this review, the staff found that PSNH has established a new integrated project organization, the New Hampshire Yankee Division, with delegated responsibility for the design, construction and operation of the Seabrook facility. Under this new organizational arrangement, PSNH continues to delegate to the Yankee Atomic Electric Company (YAEC), through the Division, responsibility for establishing and implementing the Quality Assurance Program. Also, PSNH continues to retain ultimate responsibility for this program. This arrangement has been acceptable in the past and complies with Criterion I which permits PSNH to delegate to others, such as contractors, agents, or consultants, the work of establishing and executing the Quality Assurance Program or any part thereof, providing PSNH retains responsibility therefor.

The Petition alleges that responsibilities and authorities over quality assurance are not clearly defined at Seabrook, and specifically, that individuals immediately responsible for QA may be accountable to four different organizations. The staff has found that lines of responsibilities and authorities over quality assurance are adequately described in the Final Safety Analysis Report (FSAR) Section 1.4 "Identification of Agents and Contractors," Section 13.1.1.5 "Construction and Construction/Operation Interface," and Section 17.1 "Quality Assurance During Design and Construction," which includes a Section 17.1.1.1.(a) on "Authority, Responsibilities, and Duties." (See Appendix A attached hereto). From these descriptions, it

---

<sup>8/</sup> Letter of January 31, 1985 to R. J. Harrison from D. G. Eisenhut transmitting the NRC staff review, attached hereto as Appendix A.

is clear that QA personnel within YAEC who are responsible for establishing and implementing the Seabrook QA Program report to the YAEC Construction QA Manager. The YAEC Construction QA Manager is assigned exclusively to the Seabrook Project and is responsible for interfacing with the New Hampshire Yankee Division Vice President in charge of Administrative Services. United Engineers and Constructors and Westinghouse Electric Corporation QA Programs are extensions of the YAEC QA Program and have been reviewed and accepted by YAEC. YAEC maintains control of these and other contractors by means of audits, surveillance, surveys, investigations and reviews. In turn, YAEC is accountable to the New Hampshire Yankee Division of PSNH which is responsible for the construction of Seabrook Station. The overall responsibility for all activities associated with Seabrook Station resides with the PSNH President and Chief Executive Officer.

The New Hampshire Yankee Division consists of an integrated project organization to ensure effective project management control. This integrated organization is comprised of the Director of Construction, the Director of Engineering and Licensing, the Vice President of Nuclear Production, and the Vice President in charge of Administrative Services who is responsible for interfacing with YAEC Quality Assurance Department. Responsibility for quality assurance has been delegated to the YAEC for the development, execution, and administration of the QA Program.

The YAEC Director of Quality Assurance who reports to the YAEC President is responsible for establishing policies under which the Yankee quality assurance organization works, and with which contractors comply. He approves the Seabrook Station Quality Assurance Manual which governs all



YAEC program activities and receives copies of correspondence and reports generated by the Quality Assurance Department. He evaluates and reports to the President on the effectiveness of the Quality Assurance Program. He reports on a quarterly basis to the New Hampshire Yankee Division management to keep them advised of the program status. He coordinates the activities and program direction of quality assurance during design, construction and certain phases of operation to maintain a consistency of the program and a continuity of the effort. The YAEC Construction Quality Assurance Manager, who reports to the Director of Quality Assurance, is responsible for the direction and supervision of work performed by the Construction Quality Assurance Group staff, at both the corporate office and at the plant site, and by consultants hired to supplement this staff. Off-site personnel (Home Office QA Engineers) perform staff functions, i.e., develop QA programs and procedures, review technical and QA documentation submittals, provide training and indoctrination and perform audit and/or surveillance functions internally as well as over contractors, constructors, subcontractors and suppliers. Onsite personnel perform QA line functions, i.e., plan and develop verification procedures and controls, perform surveillance activities over constructors and subcontractors and review contractor and subcontractor implementing procedures.

YAEC has delegated to the engineer-constructor, United Engineers and Constructors Inc. (UE&C), and to the nuclear steam system supplier, Westinghouse Electric Corporation-Water Reactor Divisions (WRD), administration and execution of large portions of the Quality Assurance Program

associated with the design, procurement and installation of safety-related structures and equipment. UE&C and WRD and their vendors and subcontractors who are responsible for safety-related components and structures, are required to have quality assurance programs consistent with the requirements of 10 CFR 50, Part Appendix B. The UE&C QA program is described in Topical Report No. UEC-TR-001. The WRD QA program is described in the Westinghouse WRD Quality Assurance Plan (WCAP-8370).

The YAEC Construction Quality Assurance Manager has direct communication with Westinghouse and UE&C regarding quality-related activities. YAEC reviews and concurs with all quality-related procedures, programs, plans, that are generated by UE&C. YAEC reviews and concurs with the Westinghouse QA Topical Report and reviews department procedures in the process of auditing Westinghouse performance.

The contractors are responsible for the review and approval of their supplier and subcontractor quality-related documents. The adequacy of the contractors' reviews are verified by YAEC audit and/or surveillance.

The New Hampshire Yankee Division Vice President of Administration and his staff maintains cognizance of and evaluates the QA Program activities in the following manner:

1. Reviews and approves of the YAEC Quality Assurance Program.
2. Participates in major QA decisions and program changes.

3. Receives copies of all YAEC audit reports (internal and external) pertaining to the Seabrook project. Monthly he receives the status of outstanding items indicating the status of audit findings
4. Participates on a quarterly basis in selected external audits by YAEC to assess YAEC performance in contractor activities.
5. Participates on a quarterly basis in selected internal audits of YAEC to assess YAEC performance in QA activities.
6. Performs management audits of YAEC construction quality assurance performance. The management audits are conducted annually using approved checklists and follow a preestablished schedule assuring compliance with the program.
7. Reviews quarterly evaluations of QA program activities.
8. Receives copies of all YAEC correspondence with contractor relating to QA program activities.

Organizational changes that culminated in creation of the New Hampshire Yankee Division reinforces the position that PSNH is responsible for the establishment and execution of the Seabrook Quality Assurance Program.

As the above description of the current Quality Assurance Program for the Seabrook facility demonstrates, the lines of organizational authority are clear and well defined and dispel the allegation of the Petition that individuals immediately responsible for quality assurance may be accountable to four different organizations. As the staff concluded in

Appendix A, establishment of the New Hampshire Yankee Division and the delegated responsibilities to this Division from PSNH have not diluted nor weakened the previously approved QA Program for design and construction. Therefore, the organization and the QA Program for design and construction is acceptable for the remaining construction activities at the Seabrook Station.

The Petition alleges that the chief officials of PSNH's New Hampshire Yankee Division are actually employees of, and therefore answerable to, a different corporation, YAEC, suggesting that the Division is subordinate to PSNH in name only.

As was discussed earlier in this decision, staffing of the Division by employees of YAEC would not be inappropriate if it remained clear that those employees were ultimately responsible to PSNH, as is in fact the case. Indeed, given the explicit recognition by the Licensing Board of the need for YAEC, an entity experienced in nuclear construction and operation, to be involved in the Seabrook Project, such staffing is of great importance.

The Petition also alleges that PSNH has compromised its authority and organizational freedom to supervise QA by becoming heavily indebted to its contractors and other creditors. Because of this heavy indebtedness, the Petition alleges that PSNH is in no position to make objective and independent decisions where safety and financial considerations are in opposition. The

Petition's allegation lacks specificity in that there is no instance given where such a compromise has actually occurred. Although one could argue that PSNH's position may be weakened by its financial problem, PSNH is well aware of the need for it to demonstrate that it does properly balance safety and financial considerations in the execution of its Quality Assurance Program. It should be emphasized that the Petition fails to point to any instance where a compromise of safety has occurred. This can also be said of the allegation raised in the Petition that, in making difficult QA decisions, PSNH may be influenced by the authority of the other owners to dismiss it immediately as manager of the Seabrook project. No specific instance of undue influence is presented in either instance.

With respect to both of these concerns, the issues raised by the Petition are not unique to the Seabrook project. There may be differences in degree but the problem of an inherent tension caused by the need to keep costs under control while at the same time ensuring that quality meets NRC regulations is an industry-wide one. Financial considerations may make the potential more intense at Seabrook. But Petitioner points to no specifics indicating a problem in fact. The recent NRC staff review of organizational changes indicates continued compliance with Commission regulations. Furthermore, NRC oversight of construction activities including extensive field and corporate inspections has failed to identify any compromise by PSNH in the implementation of its Quality Assurance Program. The Construction Quality Assurance Manager

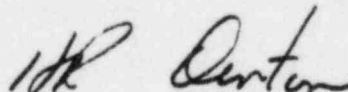
and personnel reporting to him have the authority to stop any operation found being performed contrary to approved procedures, specifications, instructions or drawings. It is expected that all provisions of the licensee's QA Program will be adhered to, including the exercise of stop work authority when appropriate. Failure to adhere to the QA Program can result in NRC enforcement action, including civil penalties and orders. Failure to adhere to the QA program would be a relevant consideration in the issuance of an operating license for Seabrook. These controls along with the inspection and surveillance activities of the resident inspector and NRC Regional office provide the necessary deterrents to discourage abuse of the QA decision process.

Recent Systematic Assessments of Licensee Performance by the NRC have recognized that management support of quality assurance remains a strong point in the construction of Seabrook Station. In recent NRC meetings with senior New Hampshire Yankee Division management personnel, PSNH has committed that such support of QA will continue. Finally, it should be noted that, during the suspension of construction and in accordance with the "Interim Agreement to Preserve and Protect the Assets of the Investment in the New Hampshire Nuclear Units", dated April 27, 1984, the Joint Owners included QA and QC activities among one of the high priorities for the limited expenditures.

CONCLUSION

The Licensee's activities in the construction of the Seabrook facility are authorized under the construction permit issued for the facility. More specifically, PSNH continues in its role as managing agent solely accountable and responsible for design and construction at Seabrook. Furthermore, the QA Program at Seabrook which has been the subject of a recent staff review and ongoing inspection oversight continues to meet the requirements of 10 CFR Part 50, Appendix B. The Petition has failed to raise issues which would warrant the relief requested, namely suspension of construction.

Accordingly, the Petitioner's request for action pursuant to 10 CFR 2.206 has been denied as described in this Decision. As provided by 10 CFR 2.206(c), a copy of this decision will be filed with the Secretary for the Commission's review.



Harold R. Denton, Director  
Office of Nuclear Reactor Regulation

Dated at Bethesda, Maryland  
this 18 day of March, 1985.

APPENDIX A



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

JAN 31 1985

Docket Nos.: 50-443  
and 50-444

Mr. Robert J. Harrison  
President & Chief Executive Officer  
Public Service Company of New Hampshire  
Post Office Box 330  
Manchester, New Hampshire 03105

Dear Mr. Harrison:

SUBJECT: SEABROOK QA PROGRAM CHANGES

Public Service Company of New Hampshire (PSNH) submitted Amendment 50 to the FSAR modifying certain portions of the Chapter 17, Operational QA Program. In addition to the amendment, PSNH's letter of August 31, 1984 provides the staff information regarding the establishment of a new division within PSNH called New Hampshire Yankee (NHY) with prime responsibility for the construction, operation, maintenance and refueling of Seabrook Station, Units 1 and 2. Accordingly, the staff has reviewed this material as it affects the Safety Evaluation Report (SER).

The staff has completed the review of the new organization as it pertains to the SER including additional information provided at our request in PSNH's letter of October 31, 1984. Since the reorganization was within PSNH, the staff review focused on the continued acceptability of the "Quality Assurance Program" and its implementation. The staff has completed its review and as stated in the Enclosure 1, finds Amendment 53 including the newly established NHY organization acceptable. The revised SER material in Enclosure 2 will be included in a future Supplement to the Seabrook Nuclear Station SER (NUREG-0896).

Questions or additional information regarding this matter should be directed to the Seabrook Project Manager, Mr. V. Nerses.

Sincerely,

A handwritten signature in cursive script, appearing to read "Darrell G. Eisenhut".  
Darrell G. Eisenhut, Director  
Division of Licensing

Enclosures: As stated

cc: See next page

~~8503190451~~



Safety Evaluation of Design and Construction

QA Program Changes

The staff has evaluated Section 17.1 "Quality Assurance During Design and Construction of Amendment 53 to the FSAR and PSNH's letters of August 31, 1984 and October 31, 1984, to G. Knighton which discusses the establishment of a new division within PSNH called New Hampshire Yankee (NHY). NHY has been delegated the responsibility for the design, construction and operation of the Seabrook Station. Under this new organizational arrangement, PSNH continues to delegate to the Yankee Atomic Electric Company (YAEC) responsibility for establishing and implementing the Quality Assurance Program for the construction of the Seabrook station. Also, PSNH continues to retain ultimate responsibility for this program. This arrangement has been acceptable in the past and complies with Criterion I of 10 CFR 50 Appendix B, which permits PSNH to delegate to others, such as contractors, agents, or consultants, the work of establishing and executing the quality assurance program or any part thereof, providing PSNH retains responsibility therefore.

The lines of responsibilities and authorities over quality assurance are adequately described in the FSAR Section 1.4 "Identification of Agents and Contractors," Section 13.1.1.5 "Construction and Construction/Operation Interface," and Section 17.1 "Quality Assurance During Design and Construction," which includes a Section 17.1.1.1.(a) on "Authority, Responsibilities, and Duties." From these descriptions, it is clear that QA personnel within the

YAEC who are responsible for establishing and implementing the Seabrook QA programs report to the YAEC Construction QA Manager. The YAEC Construction QA Manager is assigned exclusively to the Seabrook Project and is responsible for interfacing with the NHY Vice President in charge of Administrative Services. United Engineers and Constructors and Westinghouse Electric Corporation QA programs are extensions of the YAEC QA program and have been reviewed and accepted by YAEC. YAEC maintains control of these and other contractors by means of audits, surveillance, surveys, investigations and reviews.

We conclude that the establishment of the NHY division and the delegated responsibilities to this division from PSNH have not diluted nor weakened the previously approved QA Program for design and construction. Therefore the NHY organization and the QA Program for design and construction is acceptable for the remaining construction activities at the Seabrook Station.

Quality Assurance Safety Evaluation

Seabrook Station, Units 1 and 2

As a result of Public Service Company of New Hampshire's submittal of Amendment 53 which affects our previous SER organizational description for the operation of the Seabrook Station, it is necessary that section 17.2 "Organization," 17.4 "Conclusions" and the QA organization chart Figure 17.1 be replaced by the following supplement

17.2 Organization

The organization responsible for the operation of Seabrook station and for the establishment and execution of the operations phase QA program is shown in Figure 17.1. The Public Service of New Hampshire (PSNH) President, has delegated to the New Hampshire Yankee (NHY) President, a division within the Public Service Company of New Hampshire, the direct responsibility for operation, maintenance, modification and refueling of the Seabrook Station, Units 1 and 2. The NHY Vice President of Nuclear Production reports through the NHY Senior Vice President to the NHY President and is responsible for the operation and operational support of the Seabrook Station, Units 1 and 2 including quality assurance functions. The Seabrook Station Manager, the Nuclear Quality Manager, and other support groups report to the NHY Vice President of Nuclear Production. The Nuclear Quality Manager is in charge of the Quality Assurance Department which consists of a Quality Assurance Section, an Audit and Evaluation Section and a Quality Control Section.

The Nuclear Quality Manager has been delegated the authority for establishing QA program requirements, verifying implementation, and measuring the overall effectiveness of the QA program. The Nuclear Quality Manager and his staff (which presently consists of 28 persons) have the responsibility and authority to stop unsatisfactory work and control further processing, delivery, or installation of nonconforming material.

The QA organization has the authority to (1) identify quality problems; (2) initiate, recommend, or provide solutions through designated channels; (3) verify implementation of solutions; and (4) stop unsatisfactory work and control further processing, delivery, or installation of nonconforming items. The QA organization is responsible for (1) reviewing and concurring with documents affecting safety; (2) verifying inplant activities by surveillance inspections and examinations; (3) evaluating suppliers before contracts are awarded; (4) inspecting suppliers' facilities; (5) ensuring that personnel qualifications are current and applicable to the work being performed; (6) ensuring that corrective actions are effective and accomplished in a timely manner; and (7) conducting (a) internal audits of maintenance, modification, and operations activities and (b) external audits of suppliers activities.

The Seabrook Station Manager reports to the Vice President-Nuclear Production and is responsible for (1) ensuring the safe, reliable, and efficient operation of the plant and (2) ensuring that quality affecting activities are conducted in accordance with the QA program. Disputes on any QA matter that arise between QA/QC and other departments are resolved by the management of the involved organizations or, if necessary, with the NHY Vice President of Nuclear Production.

17.3 Quality Assurance Program

The SER previously submitted on this subject is still valid.

17.4 Conclusion

Based on its detailed review and evaluation of the QA program as described in FSAR Section 17.2, the staff concludes

- (1) The organizations and persons performing QA functions have the required independence and authority to effectively carry out the QA program without undue influence from those directly responsible for cost and schedules.
- (2) With the exception of the outstanding issue described in Section 17.5, the QA program describes requirements, procedures, and controls that, when properly implemented, comply with the requirements of Appendix B to 10 CFR 50 and with the acceptance criteria in SRP 17.2.

Accordingly, the staff concludes that the applicant's description of the QA program, with the exception of the outstanding issue noted below is in compliance with applicable NRC regulations.

17.5 Outstanding QA Issues

The staff is evaluating the listing of those structures, systems, and components that are under the control of the QA program. The results of this review will be included in a supplement to this SER.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE (PSNH)  
OPERATIONS QA ORGANIZATION  
FIGURE 17.1

