

January 23, 1983

Note to: Joseph F. Scinto
Deputy Director, Hearing Division, OELD

From: William F. Patterson, Jr.
Attorney, OELD

Subject: CHALLENGES TO SEABROOK UNIT II

This note is in response to a request to be briefed on issues raised which may be relevant to the requested CP extensions for Seabrook Units I and II. There have been three challenges thus far to Seabrook Unit II: two challenges to the issuance of an operating license and one opposing the request for renewal of its construction permit.

1. Doherty Petition for Leave to Intervene

Filed September 6, 1983 and amended October 4, this late-filed petition sought to introduce a contention challenging the Unit II OL application on the ground that 10 C.F.R. § 50.57(a)(1)'s "substantial completion" requirement for the issuance of an OL could not be met because Unit II was allegedly only 22% complete. The petition was denied as nontimely by the Licensing Board on November 15, 1983. A Notice of Appeal was filed on December 1, 1983, to which the Staff responded in opposition on December 16. The parties are awaiting a decision by the Appeal Board.

2. SAPL Motion to Dismiss Unit II OL Application and Late-Filed Contention

On September 26, 1983, SAPL moved to dismiss the OL application for Unit II as untimely, on the ground that the Licensing Board could not make a finding of "substantial completion" in light of the delayed construction of Unit II. On December 14, SAPL filed a "memorandum" in support of its motion and also proffered a contention embodying the essence of that motion, in the event the motion were to be denied. On January 13, 1984, the Licensing Board denied SAPL's motion on the ground that the 50.57(a)(1) finding of "substantial completion" is made by the Director of NRR and not by the Board. The Board thus distinguished between its power to authorize the issuance of a license and NRR's power to issue the license. The Board also dismissed the late-filed contention after finding that a balancing of the § 2.714(a) factors weighed against admission. No notice of appeal has been filed to date.

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3. Connecticut Division of Consumer Counsel (CDCC) Request to Deny Renewal of Unit II's Construction Permit

On October 26, 1983 CDCC filed a petition asking the Commission to deny renewal of the construction permit for Unit II on grounds related to the cost of completion and need for power. The Staff responded on November 29, opposing the request on the ground that CDCC did not directly challenge the permit holder's asserted reasons constituting "good cause" for extension, as required under Washington Public Power Supply System (WPPSS Nuclear Project Nos. 1 & 2), CLI-82-29, 16 NRC 1221, 12²⁹ (1982). The Staff urged the Commission in the alternative to refer the matter to the Chairman of the ASLB Panel for further consideration, if it should determine further inquiry to be warranted. On January 4, 1984, SAPL filed a "joinder" supporting the CDCC request. On January 17, 1984, the Applicants adopted the Staff substantive position on this matter and asked that the petition be dismissed. No decision has issued to date.

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