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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

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Before Administrative Judges:  
Sheldon J. Wolfe, Chairman  
Emmeth A. Luebke  
Jerry Harbour

OFFICE OF SECRETARY  
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BRANCH

SERVED MAR 25 1988

In the Matter of  
  
PUBLIC SERVICE COMPANY  
OF NEW HAMPSHIRE, et al.  
  
(Seabrook Station, Units 1 and 2)

Docket Nos. 50-443-OL-1  
50-444-OL-1  
  
(On-Site Emergency Planning  
and Safety Issues)  
  
(ASLBP No. 88-558-01-OLR)  
  
March 25, 1988

MEMORANDUM AND ORDER

MEMORANDUM

A. Background

In ALAB-883, 27 NRC \_\_\_ (February 3, 1988), the Appeal Board granted two motions to reopen the record which had been filed respectively by Massachusetts (Mass.) on November 13, 1987 and January 7, 1988, and admitted and remanded two new contentions to this Board for appropriate consideration and disposition.\* Noting that suitable measures for early

\* The first contention alleged that no means have been established to provide early notification and clear instruction to Newburyport's residents. The second contention alleged that the same is true with respect to the residents of the remainder of the Massachusetts portion of the Seabrook plume exposure pathway emergency planning zone (EPZ).

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public notification are an absolute precondition to the authorization of low-power operation, the Appeal Board stated that:

...Upon the receipt for inclusion in the record of the applicants' public notification alternative to the now-removed sirens, the Licensing Board must provide the Attorney General (and the other parties) with a reasonable period in which to submit additional contentions challenging the adequacy of proposed substitute arrangements.<sup>30</sup> For the reasons already assigned with respect to the contentions set forth in the Attorney General's motions at hand, if filed within the Licensing Board-prescribed period any such additional contentions most likely will survive a balancing of all five lateness factors. Thus, so long as they also satisfy the specificity and basis requirements imposed by the Rules of Practice, there is a high probability that the Board will be obliged to admit them for litigation.

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<sup>30</sup> It may be that, if dissatisfied with those arrangements, the Attorney General need only amend the contentions we admit today so as to claim with an accompanying statement of basis, that "inadequate" (rather than "no") means have been established to provide the requisite "early notification and clear instruction" to Massachusetts residents within the EPZ. We need not decide that matter here but, rather, leave it for Licensing Board consideration if necessary.

(Slip op. at 14, 19-20).

Under date of February 26, 1988, Applicants forwarded to NRC, to FEMA, and to the parties a description of the alternative Alert and Notification System proposed to be utilized to alert those Massachusetts communities within the Seabrook Station plume exposure pathway EPZ. In the covering letter, Applicants advised that they would submit a revised design report prior to the upcoming graded exercise.

In a letter of March 7, 1988, Mass. asserted that the description of the system was summary in form and that the system would be tested by April 30, 1988. It requested that it and the other parties be allowed

one month from the submission of the revised design report and any system tests within which to submit additional contentions. Mass. asserted that this request was advanced in the interest of economy in that multiple layers of contentions would be eliminated. In a letter dated March 9, the Applicants opposed the request. The Staff did not respond--hereafter, if the Staff does not intend to file a submission, it shall promptly so advise the Board.

B. Discussion

In CLI-87-13, 26 NRC 400 (1987), the Commission directed that this Licensing Board "shall expeditiously determine whether considering the issues it is hearing upon remand [NECNP Contentions IV and I.V.], it is appropriate to renew at this time its authorization of low power or whether low power operations must await further decisions" with respect to NECNP Contentions IV and I.V. In LBP-88-6, 27 NRC \_\_\_ (February 17, 1988), we renewed our authorization to operate Seabrook, Unit 1 up to 5% of rated power insofar as NECNP Contentions IV and I.V. were concerned. However, we could not give effect to our renewed authorization in light of ALAB-883 and in light of the Appeal Board's Memorandum of February 10, 1988 (unpublished), and thus we did not authorize the Director of NRR, upon making the findings required by 10 C.F.R. §50.57(a), to issue the low power license.

The instant request of Mass. is denied. We feel that we remain under a continuing obligation imposed by the Commission to expeditiously determine whether or not we should give effect to our renewed authorization of low power. To make such an expeditious determination,

we must decide the merits of early public notification issues as soon as is possible. We refuse to speculate that multiple layers of contentions will result from our Order, infra, and we cannot and will not allow any delays in this proceeding with respect to the resolution of the early public notification issues.

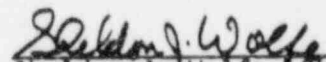
ORDER

1. The March 7, 1988 request of Massachusetts is denied.
2. Mass. may so amend its two contentions by no later than April 8, 1988 in line with the suggestion in footnote 30 of ALAB-883. The Applicants and the Staff shall have ten (10) days to answer from the date of service of the Mass. motion to amend, and Mass. shall have ten (10) days from the date of service of the Applicants' and Staff's answers within which to respond.
3. The other intervening parties shall have, and Mass. shall have (if it elects not to amend its two contentions in line with the suggestion in ALAB-883) thirty (30) days from the date of service of this issuance within which to file contentions challenging the adequacy of the alternative Alert and Notification System submitted on February 26, 1988. In attempting to secure the admission of these late-filed contentions, the parties must discuss all of the factors in 10 C.F.R. §2.714(a)(1), including the Appeal Board's three-part test for good cause. Duke Power Company (Catawba Nuclear Station, Units 1 and 2), CLI-83-19, 17 NRC 1041 (1983).

4. The Applicants shall have twenty (25) days to answer from the date of service of the Intervenors' submissions filed pursuant to paragraph 3 above, and the Staff shall have thirty (30) days to answer.

5. The Intervenors shall have twenty (20) days from the date of service of the Applicants' and the Staff's answers within which to respond.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

  
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Sheldon J. Wolfe, Chairman  
ADMINISTRATIVE JUDGE

Dated in Bethesda, Maryland  
this 25th day of March, 1988.