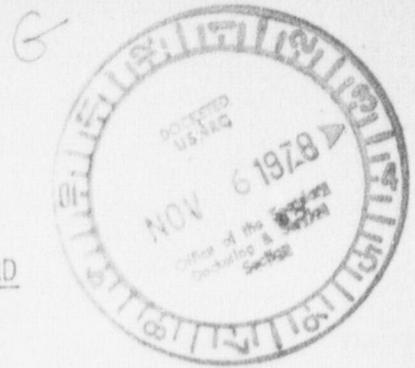


November 1, 1978



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
NEW ENGLAND POWER COMPANY, <u>et al.</u>	)	Docket Nos. STN 50-568
	)	STN 50-569
(NEP-1 and NEP-2)	)	

ANSWER OF THE NRC STAFF IN OPPOSITION TO  
THE MOTION OF THE STATE OF RHODE ISLAND  
FOR ENTRY OF AN ORDER REQUIRING FURTHER INFORMATION

On October 13, 1978, the State of Rhode Island filed a motion<sup>1/</sup> for an order directing New England Power Company to provide, as part of its Environmental Report, additional data and information about the Westerly and Rome Point alternate sites.

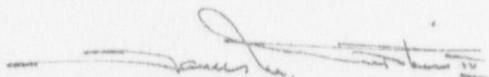
In reality the motion is a request for discovery and forbidden at the present time by the Board's Order of February 21, 1978, concerning commencement of discovery in this proceeding. Therefore, the motion should be denied.

<sup>1/</sup>The motion was signed by R. Daniel Prentiss, Chief Legal Counsel of the Rhode Island Department of Environmental Management, as attorney for the State of Rhode Island. Staff Counsel is not aware of a notice of appearance having been filed by Mr. Prentiss or of his having been designated to represent the State of Rhode Island in this proceeding. In then Governor Noel's petition for admission as an interested state a person in the Energy Office was designated to receive service. Persons in the Energy Office appeared for the State of Rhode Island at both prehearing conferences. In addition, the Board indicated in its order regarding intervention dated May 25, 1978, that in the future only Counsel who have filed appearances or have been designated would be permitted to address the Board.

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Moreover, under the National Environmental Policy Act (NEPA), it is the Commission's (as a practical matter the Staff's) and not the Applicant's responsibility to conduct an environmental analysis. Thus, it is for the Staff and not for the Board to determine whether the Environmental Report contains sufficient data to aid in the preparation of an Environmental Statement (which includes an analysis of alternative sites). The Board is an adjudicatory tribunal and serves as an independent check on whether the Staff's NEPA responsibilities have been satisfied.<sup>2/</sup>

Respectfully submitted,



James M. Cutchin, IV  
Counsel for NRC Staff

Dated at Bethesda, Maryland,  
this 1st day of November, 1978.

<sup>2/</sup> See Boston Edison Company (Pilgrim Nuclear Generating Station, Unit 2), ALAB-479, 7 NRC 774, 792-794 (May 25, 1978).

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

NEW ENGLAND POWER COMPANY, et al.

(NEP-1 and NEP-2)

)  
)  
)  
)

Docket Nos. STN 50-568  
STN 50-569

CERTIFICATE OF SERVICE

I hereby certify that copies of "ANSWER OF THE NRC STAFF IN OPPOSITION TO THE MOTION OF THE STATE OF RHODE ISLAND FOR ENTRY OF AN ORDER REQUIRING FURTHER INFORMATION" 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 by deposit in the Nuclear Regulatory Commission internal mail system, this 1st day of November, 1978:

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