

PDR



CHAIRMAN

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

February 11, 1988

The Honorable Gordon J. Humphrey
United States Senate
Washington, D.C. 20510

Dear Senator Humphrey:

I am replying to your letter of January 29, 1988, in which you urged the Commission to reinstate its stay on issuance of a license for low power operations at the Seabrook nuclear power plant in light of the voluntary bankruptcy filing by Public Service Company of New Hampshire (PSNH). Pursuant to requirements established by the Congress and regulations promulgated by the Commission, the Commission is unable to respond on the merits because the matter of the Seabrook license is in formal adjudication within the agency. Your letter has been served on the parties to this proceeding, and any action that the Commission takes will be on the formal record of the proceeding.

I may, however, provide some facts with respect to the status of the proceeding that have some relevance to your concerns. Specifically on the point you raise, our Appeal Board is considering whether the Licensing Board erred in deciding that parties opposing the license had not made a prima facie showing that the Commission's rule eliminating financial qualifications review of public utility applicants should be waived in this case to the extent necessary to require the applicants to demonstrate prior to low power operation that they are financially qualified to operate and decommission the facility. The Appeal Board has very recently allowed the parties thirty days to recast their legal papers in light of PSNH's bankruptcy filing and related events. In the event that the Appeal Board holds that a prima facie showing has been made, it will be for the Commission itself to decide the rule waiver question under 10 CFR 2.758 of its regulations. In the alternative, the Appeal Board's negative decision would be subject to Commission review.

In a second recent development, the Appeal Board on February 3, 1988, reopened the record underlying the low power decision for consideration of prompt notification problems in light of the apparent unavailability of any fixed-position emergency notification sirens within the Massachusetts portion of the plume exposure pathway emergency planning zone.

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Certain other technical contentions are before the Licensing Board on remand either because the contentions were improperly denied at the outset or because of questions on the adequacy of the basis for decision. These matters will either be resolved before low power is authorized, or the Licensing Board will issue a written decision that low power need not await their resolution. In the latter event, the Appeal Board has already provided for a delay in the effectiveness of that decision to permit an appeal for relief.

I am sure you understand that the Commission is unable to respond further at this time, but we hope that this status report will prove helpful.

Sincerely,

Lando W. Zech Jr.
Lando W. Zech, Jr.



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OFFICE OF THE
SECRETARY

2/24/88

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FROM: Correspondence & Records Branch *SS*

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PLEASE INDEX INDIVIDUALLY.