

# UNITED STATES NUCLEAR REGULATORY COMMISSION

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In the Matter of:	)	
	)	Docket Nos.
PUBLIC SERVICE COMPANY OF	)	50-443-OL
NEW HAMPSHIRE, et al.,	)	50-444-OL
	)	OFF-SITE EMERGENCY
(SEABROOK STATION, UNITS 1 & 2)	)	PLANNING
	)	
TELECONFERENCE	)	

Pages: 14266 through 14281

Place: Bethesda, Maryland

Date: July 19, 1988

TR-01  
o/i

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UNITED STATES NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

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NEW HAMPSHIRE, et al., ) 50-443-OL  
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PLANNING )

Tuesday,  
July 19, 1988

Room 453  
East-West Building  
4350 East-West Highway  
Bethesda, Maryland

The above-entitled matter came on for hearing,  
pursuant to notice, at 3:02 p.m.

BEFORE: JUDGE IVAN W. SMITH, CHAIRMAN  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

JUDGE GUSTAVE A. LINENBERGER, JR., MEMBER  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

JUDGE JERRY HARBOUR, MEMBER  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

## APPEARANCES:

For the Applicant

THOMAS G. DIGNAN, JR. ESQ.  
Ropes & Gray  
225 Franklin Street  
Boston, Massachusetts 02110

For the NRC Staff:

SHERWIN E. TURK, ESQ.  
MS. CHAN, ESQ.  
Office of General Counsel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

For the Commonwealth of Massachusetts:

STEPHEN OLESKEY, ESQ.  
Commonwealth of Massachusetts  
One Ashburton Place, 19th Floor  
Boston, Massachusetts 02108

For the New England Coalition against Nuclear  
Pollution:

ELLYN R. WEISS, ESQ.  
Harmon & Weiss  
2001 S Street, NW  
Washington, D.C. 20009

For the Seacoast Anti-Pollution League:

JANE DOUGHTY, DIRECTOR  
Seacoast Anti-Pollution League  
5 Market Street  
Portsmouth, New Hampshire 03801

For the Town of Hampton:

MATTHEW T. BROCK, ESQ.  
Shaines & McEachern  
25 Maplewood Avenue  
P.O. Box 360  
Portsmouth, New Hampshire 03801

P R O C E E D I N G S

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JUDGE SMITH: We are on the record.

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MS. WEISS: Your Honor, we are asking for an extension of time for filing our remaining findings on the New Hampshire Plan to August 12th. I calculate that they are now due the 28th. We received them in our office, the applicants for both findings in our offices the 18th.

Basically the reasons are that it's a very, very large job. For us in particular, we've basically having to kind of weave a thread through a lot of cross-examination and we attempted to divide those possibilities amongst ourselves in general areas, and we've been in communication with each other a great deal. We're finding that there is a need to coordinate among ourselves to send out the drafts for the input and review of the other parties and we aren't able to accommodate that within the time schedule that we've been given. Other people may want to add.

MR. OLESKEY: As I think the Board is aware, we have had Terrell Snyder pretty much fully responsible for the bulk of the work in this area on a day to day basis. But it's -- for me, the person who's responsible now for pulling it together. -- otherwise occupied by the offices involved.

JUDGE SMITH: Mr. Oleskey, I think there is a defect in, you're using a speaker phone, aren't you?

MR. OLESKEY: Yes.

1 JUDGE SMITH: Would it be too much if you used a  
2 regular telephone? Could you do that?

3 MR. OLESKEY: Okay. It's a brand new phone, Judge.  
4 Can you hear me now?

5 JUDGE SMITH: Yes, that's fine. Your speaker phone  
6 is cutting your words short. We could hear you all right, but  
7 your words were just abbreviated. Go ahead.

8 MR. OLESKEY: In any event, it's largely Terrell  
9 Snyder's responsibility and it's a massive responsibility  
10 which the exercise somewhat disrupted because we had to have  
11 her and have the other lawyer involved in that for the period  
12 of time it took to prepare it.

13 We all talked this morning and feel that we can meet  
14 a date which is essentially a two week extension. We think we  
15 need it because it's a very important area, a point obviously  
16 on which we've spent a lot of time and we want to do it right.  
17 Probably, in fact, some of the same reasons that Sherwin Turk  
18 seems to have, the same kind of concerns that he expressed to  
19 the Board back a month or so ago.

20 MS. WEISS: I should add that I have contacted the  
21 adverse parties and the staff told me they have no objections,  
22 Public Service does object.

23 JUDGE SMITH: You say Ms. Chan or Mr. Turk had no  
24 objections to the extension?

25 MS. WEISS: Ms. Chan has no objections.

1 MS. CHAN: No objections provided we have a proposed  
2 schedule before the Board now in response to the applicant's  
3 motion for schedule, and we have proposed for a pre-hearing  
4 conference on the Massachusetts contingent of August 3 and 4,  
5 and the filing of general exercise -- on August 15. I wasn't  
6 sure whether or not the extension of the proposed finding  
7 deadline for intervenors would -- the schedule the staff had  
8 proposed on other parts of this meeting.

9 JUDGE SMITH: The Board plans to set a pre-hearing  
10 conference on the SMBC and any other matter that's ripe for  
11 the 16th of August. So that would cut right into your  
12 response time, to your finding time.

13 Mr. Dignan, do you want to be heard?

14 MR. DIGNAN: Yes I do, Your Honor.

15 You'll recall when we were studying these tapes I  
16 asked to shorten my time and give them a ten day interval.  
17 The Board denied my view saying they had -- and therefore  
18 should have the full 40 days, gave them the full 40 days, and  
19 now they want more time. I object.

20 JUDGE SMITH: We have a reporter here who has never  
21 covered this before. Would you please remember, I'll try to  
22 remember too, to identify yourselves.

23 All right, you object.

24 MR. DIGNAN: I do, Your Honor. You gave them a full  
25 40 days, you overruled my shortening the time up. I was

1 willing to go 10 days and go out. They've had the full 40  
2 days and now it's more time. I don't know what they've been  
3 doing all these last 30 days, but I don't see any need to  
4 allow this. It's obviously in your discretion, and with that  
5 I subside.

6 JUDGE SMITH: We'll consult and go off the record  
7 for a moment. Anything further on that point?

8 MS. CHAN: Not from the staff, Your Honor.

9 (Discussion held off the record.)

10 JUDGE SMITH: We're back on the record now.

11 We're back in the same situation as before. We  
12 simply cannot ourselves use those proposed findings until  
13 after the pre-hearing conference up in Boston. On the other  
14 hand, and also we're concerned that the delay that it may  
15 cause the staff because we probably can use those proposed  
16 findings before the staff would be required to respond if we  
17 gave the staff 10 days. If we gave the staff 10 days after  
18 the 12th, they would not have to respond to those proposed  
19 findings until August 29th. If the staff can shorten up that  
20 period it would be very helpful.

21 MR. TURK: We can, Your Honor.

22 JUDGE SMITH: It would be very helpful to us. But  
23 one of the commitments we want from the intervenors on this,  
24 and it is not a quantitative commitment, it's a qualitative  
25 commitment, is that this additional time is as Ms. Weiss and

1 Mr. Oleskey alluded to, used for better coordinated  
2 submittals. That would be very helpful to us if they're not  
3 redundant intervenor by intervenor.

4 MR. OLESKEY: We want very much to do that.

5 JUDGE SMITH: You'll have a more effective product  
6 if you do. And that the time is simply not used to add on and  
7 add on and add on, because there is absolutely no limit to the  
8 amount of things you can think about to put in proposed  
9 findings. Proposed findings have been very heavy.

10 We really urge you to not do that and to sharpen  
11 your proposed findings. If you do that you'll have more  
12 effective ones. But we can't use them, we simply cannot get  
13 to them until after the pre-hearing conference on the 16th.

14 MR. OLESKEY: On that point, Judge, may I ask a  
15 question?

16 JUDGE SMITH: Yes.

17 MR. OLESKEY: Mr. Traficante I believe is going on  
18 vacation the evening of August 12th for a couple of weeks.  
19 He's wondering if that conference possibly could be done on  
20 the 12th so that he could be part of it before he goes on  
21 vacation, it being his special responsibility here.

22 JUDGE SMITH: I know he does. Both Judge Harbour  
23 and I have longstanding, incidentally, in my case pre-paid  
24 vacation commitments for the week of the 8th through the 12th,  
25 and there is simply no way that that can be changed.

1           Again, I'm very much aware that Mr. Traficonte has  
2   been the principal person involved here.   . don't know what to  
3   do.

4           MR. DIGNAN:  If it will make Traficonte feel any  
5   better, I'm going to have to come back from my vacation to  
6   make the 16th.

7           JUDGE SMITH:  Let's hold this open for a minute and  
8   see what --

9           MR. DIGNAN:  No, Your Honor.  I want it the 16th.  I  
10   want to move this case.  I'm prepared to sacrifice my vacation  
11   to do it.

12          JUDGE SMITH:  Okay, you just won because I was  
13   thinking about moving it up to the 2nd.

14          (Laughter)

15          JUDGE SMITH:  You have argued very eloquently, Mr.  
16   Dignan.

17          MR. DIGNAN:  What I don't want to do is let my  
18   vacation interfere with it moving.

19          JUDGE SMITH:  I understand.

20          MR. DIGNAN:  I want Mr. Oleskey to tell that he can  
21   tell my friend Traficonte, no sympathy.

22          MR. OLESKEY:  Were you talking about the 15th or the  
23   16th, Judge?

24          JUDGE SMITH:  The 16th.  Let's back up a minute.  We  
25   plan on two days, the 16th and 17th.

1           Let's back up a minute and we'll tell you where we  
2 are and how we arrived at that date.

3           We have ruled on every contention now by the  
4 Attorney General, NECNP, SAPL and SAPL. We are substantially  
5 through Amesbury, but we have not done much on the other  
6 towns. And Newbury Port. I had not looked at any of the  
7 cities and towns, but we have done in, well to cut it short,  
8 we hope to have by express mail out this week part one of our  
9 ruling on the contentions which will be for the Attorney  
10 General, NECNP and SA'L.

11           That will be accompanied by an order authorizing  
12 discovery to begin except where there is a bonafide need for  
13 clarification as to the issues. We don't think there's going  
14 to be a lot of need for that because we have gone to a lot of  
15 trouble to explain our concept of the applicable law, who has  
16 the burden of proceeding with the evidence on the various  
17 presumptions, and that type of thing.

18           The pre-hearing conference will be for the purpose  
19 of seeking additional guidance and not to argue contentions,  
20 as I understand Mr. Traficonte thought, but to correct errors,  
21 mistakes, flat out mistakes, and to begin the consolidation  
22 process.

23           MR. BROCK: Your Honor, this is Matt Brock. As I  
24 understand it then, the Board in this order will not be  
25 issuing a ruling on the admissability of Town of Amesbury

1 contentions?

2 JUDGE SMITH: That's right, Mr. Brock. We cut it  
3 off at the towns and cities to get out part one as quickly as  
4 we can because part one gives the legal guidance that the  
5 parties need.

6 MR. BROCK: All right. Would I understand then that  
7 any discovery period obviously that would begin to run would  
8 not be applicable to towns and cities?

9 JUDGE SMITH: That's right. It does not follow,  
10 however, that we add that much time on the end of the  
11 discovery period. We look at it as to the absolute needs.  
12 But we want to get this cut so that the respective parties and  
13 all of the parties and participants will have advance notice  
14 as to what type of contentions we are accepting and rejecting,  
15 what our legal standards are, and just our general approach to  
16 contentions. Then we hope to have the cities and towns out by  
17 the end of next week, or before if possible.

18 That would leave open, theoretically, the  
19 possibility, and I haven't discussed this with the Board  
20 members, but we could possibly go up to Boston on the 2nd and  
21 3rd and take a good shot at it.

22 JUDGE LINENBERGER: I don't think that's enough  
23 time.

24 JUDGE SMITH: It's not enough time for the cities  
25 and towns.

1 MS. WEISS: And that would take the time out of --

2 JUDGE SMITH: The time that you need for findings.

3 It looks like the most practical way is to have a  
4 pre-hearing conference on the 16th and 17th. I just hate to  
5 upset vacations. They're hard enough for you people to plan  
6 and to keep.

7 MR. DIGNAN: I'd go for the week of the first any  
8 time, Your Honor. But if the only choice is the 16th and  
9 17th, the applicant will take that.

10 MR. OLESKEY: I guess we'd go for the week of the  
11 first too, Your Honor.

12 JUDGE SMITH: Ms. Weiss, I might note that with  
13 respect to your, what was that last comment? I didn't hear.

14 MR. OLESKEY: I said that this office, the Attorney  
15 General's office, would also be willing to do it the week of  
16 the first. We recognize it might very well impose a very  
17 great burden on Ms. Weiss.

18 JUDGE SMITH: Ms. Weiss, I don't see a great burden  
19 on you. You only have four contentions, two of which are  
20 purely legal contentions, and I understood that Ms. Curan was  
21 the lead person from your firm on that.

22 MS. WEISS: On this --?

23 JUDGE SMITH: Yes.

24 MS. WEISS: She is. She hasn't been able to travel.  
25 I will probably be doing the traveling.

1 JUDGE SMITH: We haven't arrived at any decision on  
2 this, but let me say that we'll try to accommodate the  
3 parties. I think you'll see that your part of it with respect  
4 to your contentions could be handled very quickly.

5 MS. WEISS: And it's perfectly all right with me if  
6 it's better for the other people to do it that week, and then  
7 maybe tack a day or two on--

8 JUDGE SMITH: And there's a possibility we can come  
9 back up the 16th and 17th, too.

10 MS. WEISS: Or have the findings due the 14th  
11 instead of the 12th, just so I don't lose the two days.

12 JUDGE SMITH: Let's leave it go at that and let the  
13 Board consult to see if that is a practical proposal. We are  
14 eager to get it going and we also would like to avoid  
15 disrupting vacations if possible.

16 If the parties can sort of mark out the 2nd and 3rd  
17 of August, and you can come and go as you see fit, Ms. Weiss.  
18 We can come and take up your business or not, as it might be.

19 MS. WEISS: This would be in Boston?

20 JUDGE SMITH: Yes, it would be in Boston. But  
21 definitely the 16th and 17th. We will see if the 2nd and 3rd  
22 is practical.

23 MR. OLESKEY: Judge, to be clear, the 2nd and 3rd  
24 would be instead of the 16th and 17th, is that right?

25 JUDGE SMITH: Well, no. We would, the reason we're

1 going with the 2nd and 3rd is we would like to get the  
2 Attorney General and NECNP and SAPL off to an early  
3 understanding of what they have in and out of the case and so  
4 that they can begin discovery and as a secondary thing, so  
5 that Mr. Traficonte doesn't destroy his vacation, and while  
6 we're at it, Mr. Dignan. Mr. Traficonte can decide whether or  
7 not he wants to come back on the 16th and 17th for the towns  
8 and cities.

9 MR. OLESKEY: Okay.

10 JUDGE SMITH: Mr. Dignan, I don't know. Maybe we  
11 can get it all done. I don't know. Maybe we can put the  
12 towns and cities off to the 23rd and 24th.

13 MR. DIGNAN: That would change it for me. If it's  
14 going to be the 16th and 17th, I'd rather do that than then  
15 23rd and 24th.

16 JUDGE SMITH: You would. You would rather do the  
17 16th and 17th rather than the 23rd and 24th.

18 MR. DIGNAN: Yes, Your Honor. I was going to go  
19 from the 15th on.

20 JUDGE SMITH: What if we came up the 15th?

21 MR. DIGNAN: That's better than the 16th and 17th.

22 The other thing I was wondering is, maybe there's  
23 some magic to this, but what if we went later in the week of  
24 the first, say the 4th and 5th. Does that help anybody?

25 MR. OLESKEY: That's fine with us. I think that's a

1 little more convenient, in fact.

2 JUDGE SMITH: I think that's a little bit more  
3 achievable.

4 MR. DIGNAN: If we did the 4th and 5th, I don't know  
5 what the Board's intention is on the second part of that  
6 order, but if it came out, as I understand it the Board is  
7 planning this week to get out the first part of the order.

8 JUDGE SMITH: Which will include a rather lengthy in  
9 revenge discussion of the law.

10 MR. DIGNAN: Right. So if all that's coming in the  
11 second order really --

12 JUDGE SMITH: Facts. In or out, in or out.

13 MR. DIGNAN: I'm thinking if that came out even some  
14 time late in the week of the 25th we all ought to be able to  
15 do whatever yowling we want to on the 4th and 5th without so  
16 much strain.

17 MR. TURK: If we go a little bit later in the week  
18 I'd ask that we do it the 3rd and the 4th rather than the 5th.  
19 I have a vacation starting the 5th.

20 MR. DIGNAN: That's fine with me, 3rd and 4th.

21 JUDGE SMITH: Can the parties nail that 3rd and 4th  
22 down, and we'll get back to you as promptly as we possibly  
23 can. We have to get a room. I understand that the bankruptcy  
24 people up there were very hospitable, and I think we can  
25 probably get a room all right.

1           Let's mark that 3rd and 4th down and we'll get back  
2 to you as soon as we possibly can.

3           MR. BROCK: Judge Smith, just so that I'm clear, for  
4 the cities and towns including Amesbury, we're still to be  
5 marking out the 16th and 17th?

6           MR. DIGNAN: No, you go the 3rd and 4th.

7           MR. BROCK: I'm asking the Judge.

8           JUDGE SMITH: Yes, that was what we had in mind.  
9 Now understand, you're going to have a full understanding of  
10 our legal reasoning in your hands by the end of this week, we  
11 hope, or it will be in express mail at least by the end of  
12 this week, and remaining will be a factual in and out.

13           MR. BROCK: But the actual conference for cities and  
14 towns will be the 16th and 17th?

15           JUDGE SMITH: No. We're now thinking about the 3rd  
16 and 4th for the whole bit, if we can make it. We may have to  
17 split. We don't know. We'll see.

18           MR. BROCK: Okay.

19           MR. DIGNAN: Your Honor, to put on my calendar then  
20 the intervenors' time for proposed findings on the -- issues  
21 is extended to when?

22           JUDGE SMITH: The 12th.

23           MR. DIGNAN: Thank you.

24           JUDGE SMITH: When will your reply be Mr. Turk or  
25 Ms. Chan?

1 MR. TURK: Ten days from there I suppose would be  
2 the 22nd.

3 JUDGE SMITH: I thought you could move it up a  
4 little bit, but that's all right. That's fine, the 22nd.  
5 That in fact, if you went the 22nd, that is not moving it up.  
6 That's not even taking full credit for your time. You don't  
7 count the 13th and 14th.

8 MR. TURK: Will that make it the 24th?

9 (Laughter)

10 JUDGE SMITH: Yeah, that's all right. The 24th.  
11 We'll get back to you as soon as we possibly can,  
12 and we're going to shoot for the 3rd and 4th. And informally,  
13 as we're sitting here right now, that seems to be practical.  
14 We'll try to accommodate the particular needs of the parties  
15 in and out if you want to. Walk in rulings. Take a number  
16 and get your ruling.

17 MR. DIGNAN: Thank you.

18 MR. OLESKEY: Thank you.

19 MS. WEISS: Thank you.

20 JUDGE SMITH: Good bye.

21 (Whereupon, the conference was adjourned at 3:26  
22 p.m.)

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