

6752

07/19/88

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'88 JUL 20 P6:20

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
ADMINISTRATIVE & SERVICE
BRANCH

In the Matter of)	
)	Docket Nos. 50-443 OL-01
PUBLIC SERVICE COMPANY OF)	50-444 OL-01
NEW HAMPSHIRE, <u>et al.</u>)	On-site Emergency Planning
)	and Safety Issues
(Seabrook Station, Units 1 and 2)	

NRC STAFF RESPONSE TO NECNP'S
MOTION FOR CLARIFICATION OR RECONSIDERATION
OF THE BOARD'S ORDER OF JUNE 23, 1988

INTRODUCTION

On July 13, 1988, the New England Coalition On Nuclear Pollution (NECNP) filed a "Motion For Reconsideration Or Clarification Of The Board's Order Of June 23, 1988" (hereinafter "NECNP Motion"). For the reasons set forth below, the motion should be denied.

DISCUSSION

In its motion NECNP requests the Board to clarify or reconsider the following ruling made by the Board during a June 23, 1988 telephone conference:

[W]e will neither allow nor give consideration to any arguments or to any efforts to contend that RG-59 cable is not environmentally qualified.

Tr. at 1179. NECNP expressly eschews any effort to challenge the "[environmental] qualification of RG-59 coaxial cable in its original application" but claims that "the cable's qualification for its replacement applications is a central issue in this case." NECNP Motion at 6. Thus, in NECNP's view, it is necessary for the Board to reconsider

8807220033 880719
PDR ADCK 05000443
G PDR

D507

or clarify its ruling to permit an inquiry into "the question of whether the RG-59 cable is qualified for purposes of meeting the performance specifications for the twelve applications in which Applicants intend to substitute RG-59 coaxial cable for RG-58 coaxial cable." Id. at 6.

The Staff opposes NECNP's request for reconsideration to the extent it seeks to inject into this remand proceeding the question whether RG-59 coaxial cable satisfies the environmental qualification requirements set forth in 10 C.F.R. § 50.49(e). As the Board noted (see Tr. 1180), inquiry into that question was emphatically foreclosed by the Appeal Board's decision in ALAB-886. ^{1/}

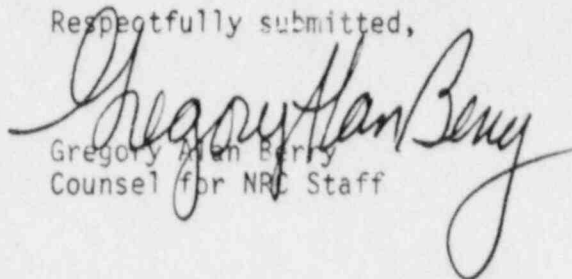
NECNP's motion for clarification similarly should be denied. In its June 23 order, the Board stated that Applicants "must prove that the RG-59 cable is a technically acceptable substitute for the RG-58 coaxial cable." Tr. at 1178-79. The Board's statement leaves little room for doubt that the only "qualification" issue to be litigated is whether RG-59 coaxial cable is an acceptable replacement for RG-58 coaxial cable from a functional requirement, as opposed to an environmental, standpoint. See Tr. at 1178-79. There is no need for the Board to issue a supplemental order reiterating this point. Accordingly, NECNP's motion for clarification or reconsideration of the Board's June 23, 1988 order barring litigation of the environmental qualification of RG-59 coaxial cable should be denied.

^{1/} In Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), ALAB-886, 27 NRC 1 (1988), the Appeal Board denied NECNP's motion to reopen the record and admit a late-filed contention challenging the environmental qualification of RG-59 coaxial cable. The Licensing Board observed correctly that the Appeal Board's "ruling is now the law of the case." Tr. at 1180.

CONCLUSION

For the reasons stated in this response, NECNP's Motion For Clarification Or Reconsideration Of The Board's Order Of June 23, 1988 should be denied.

Respectfully submitted,

A handwritten signature in cursive script that reads "Gregory Alan Berry". The signature is written in dark ink and is positioned above the typed name and title.

Gregory Alan Berry
Counsel for NRC Staff

Dated at Rockville, Maryland
this 19th day of July 1988

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'88 JUL 20 P6:21

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of

PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE, et al.

(Seabrook Station, Units 1 and 2

)
) Docket Nos. 50-443 OL-01
) 50-444 OL-01
) On-site Emergency Planning
) and Safety Issues
)

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO NECNP'S MOTION FOR CLARIFICATION OR RECONSIDERATION OF THE BOARD'S ORDER OF JUNE 23, 1988" 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's internal mail system, this 19th day of July 1988.

Sheldon J. Wolfe, Esq., Chairman*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing
Board*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Jerry Harbour*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Docketing and Service Section*
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Emmeth A. Luebke
Administrative Judge
4515 Willard Avenue
Chevy Chase, Maryland 20815

Thomas G. Dignan, Jr., Esq.
Robert K. Gad, III, Esq.
Ropes & Gray
225 Franklin Street
Boston, MA 02110

Atomic Safety and Licensing
Appeal Panel*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

H. J. Flynn, Esq.
Assistant General Counsel
Federal Emergency Management Agency
500 C Street, SW
Washington, DC 20472

Philip Ahren, Esq.
Assistant Attorney General
Office of the Attorney General
State House Station
Augusta, ME 04333

Carol S. Sneider, Esq.
Assistant Attorney General
Office of the Attorney General
One Ashburton Place, 19th Floor
Boston, MA 02108

George Dana Bisbee, Esq.
Assistant Attorney General
Office of the Attorney General
25 Capitol Street
Concord, NH 03301

Ellyn R. Weiss, Esq.
Diane Curran, Esq.
Harmon & Weiss
2001 S Street, NW
Suite 430
Washington, DC 20009

Robert A. Backus, Esq.
Backus, Meyer & Solomon
116 Lowell Street
Manchester, NH 03106

Paul McEachern, Esq.
Matthew T. Brock, Esq.
Shaines & McEachern
25 Maplewood Avenue
P.O. Box 360
Portsmouth, NH 03801

Charles P. Graham, Esq.
McKay, Murphy & Graham
100 Main Street
Amesbury, MA 01913

Sandra Gavutis, Chairman
Board of Selectmen
RFD #1, Box 1154
Kensington, NH 03827

William S. Lord
Board of Selectmen
Town Hall - Friend Street
Amesbury, MA 01913

Calvin A. Canney
City Hall
126 Daniel Street
Portsmouth, NH 03801

Mr. Angie Machiros, Chairman
Board of Selectmen
25 High Road
Newbury, MA 09150

Allen Lampert
Civil Defense Director
Town of Brentwood
20 Franklin
Exeter, NH 03833

William Armstrong
Civil Defense Director
Town of Exeter
10 Front Street
Exeter, NH 03833

Gary W. Holmes, Esq.
Holmes & Ellis
47 Winnacunnet Road
Hampton, NH 03842

J. P. Nadeau
Board of Selectmen
10 Central Street
Rye, NH 03870

Judith H. Mizner, Esq.
Silvergate, Gertner, Baker,
Fine & Good
88 Board Street
Boston, MA 02110

Robert Carrigg, Chairman
Board of Selectmen
Town Office
Atlantic Avenue
North Hampton, NH 03870

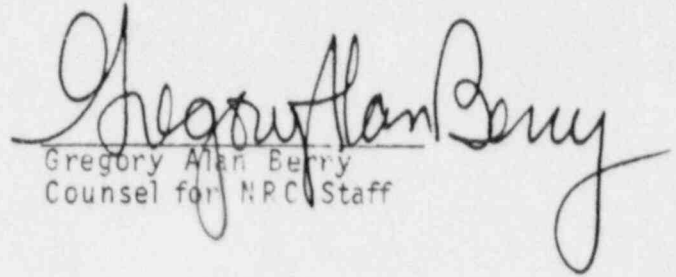
Peter J. Matthews, Mayor
City Hall
Newburyport, MA 09150

Mrs. Anne E. Goodman, Chairman
Board of Selectmen
13-15 Newmarket Road
Durham, NH 03824

Hon. Gordon J. Humphrey
United States Senate
531 Hart Senate Office Building
Washington, DC 20510

Michael Santosuosso, Chairman
Board of Selectmen
South Hampton, NH 03827

Ashod N. Amirian, Esq.
Town Counsel for Merrimac
376 Main Street
Haverhill, MA 08130


Gregory Alan Berry
Counsel for NRC Staff