

July 21, 1988

UNITED STATES NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)
)
Public Service Company of)
New Hampshire, et al.)
)
(Seabrook Station, Units 1 & 2))
)
)

Docket Nos. 50-443 OL-1
50-444 OL-1
ONSITE EMERGENCY
PLANNING & TECHNICAL
ISSUES

NEW ENGLAND COALITION ON NUCLEAR POLLUTION'S
MOTION FOR EXTENSION OF DISCOVERY SCHEDULE

By telephonic order of June 23, 1988, the Licensing Board established a schedule for litigation of remanded issues relating to NECNP Contention I.B.2. Under the schedule, the time for discovery commenced on June 23, and will close on August 15, 1988. The New England Coalition on Nuclear Pollution ("NECNP") respectfully requests an extension of this hearing schedule for the sole purpose of conducting depositions during the week of August 15, 1988.¹ Undersigned counsel seeks this limited exception to the discovery schedule because of long-standing vacation plans for the week of August 9th through 15th.²

1 Based on Applicants' answers to NECNP's first set of interrogatories, we expect that the depositions could be completed in one day.

2 NECNP has filed today a notice of depositions of the four experts who assisted in the preparation of answers to NECNP's first set of interrogatories, and two of whom have previously filed affidavits before this Board. The depositions are now scheduled for August 12, when undersigned counsel for NECNP will be out of town. Although another attorney will be available to take the depositions, that attorney lacks equivalent familiarity with the complex technical issues involved in this case. Not only will NECNP's attorney's ability to conduct depositions be significantly hampered by lack of full familiarity with these issues, but undersigned counsel will not be available to prepare that attorney

NECNP seeks by this motion to postpone depositions of Applicants' experts until NECNP has had the opportunity to review with its expert consultant Applicants' answers to NECNP's third set of interrogatories, which are due on August 5.³ Because these interrogatories probe the bases for the answers to the extensive questions asked in NECNP's first set of interrogatories, it is important that NECNP be able to review them before deposing Applicants' experts.⁴ Not only will Applicants' answers to NECNP's third set of interrogatories assist NECNP in posing more effective questions to Applicants' experts, but they should make the depositions much more efficient by focusing the issues that NECNP actually needs to pursue. It is also possible that NECNP will find that depositions are unnecessary as a result of Applicants' answers. Finally, Applicants have not yet identified their affiants or witnesses in the case [see Applicants' July 13, 1988, response to Interrogatory Nos. 2 and 3 of NECNP's First Set of Inter-

(continued)

for the depositions. In particular, undersigned counsel will be unavailable to assist in reviewing with that attorney Applicants' answers for NECNP's Third Set of Interrogatories before the depositions are taken.

3 NECNP's expert consultant, Robert D. Pollard, will be out of town for the entire month of August, without ready access to a telephone. Therefore, special arrangements must be made to send him the answers to interrogatories and contact him by telephone. Given the complex and technical nature of the RG-58 coaxial cable issue, and the logistical difficulties in communicating with Mr. Pollard, NECNP would require several days following receipt of the interrogatory answers in order to prepare for depositions.

4 Some of these interrogatories are addressed to Applicants' very recent assertion that RG-58 cable has been tested and is qualified. See Applicants' Answer to NECNP's First Set of Interrogatories, interrogatory No. 16. Clearly, it is important that NECNP have an opportunity to explore the basis for this new assertion before deposing Applicant's experts.

rogatories]. An extension of time for depositions might provide sufficient time for Applicants to identify and NECNP to arrange to depose those individuals.

NECNP has been extremely diligent in attempting to confine discovery to the limits of the Board's schedule. The Coalition served Applicants with its first set of interrogatories and document requests on June 28, within three working days of the Board's discovery order. NECNP filed a second set of interrogatories to Applicants and a first set of interrogatories to the NRC Staff on July 1.⁵ Based on Applicants' answers to NECNP's first set of interrogatories, which NECNP received on July 14, NECNP has prepared and filed today a third set of interrogatories to Applicants. Thus, the need for accommodation arises not from any laxity on NECNP's part but from the fact that counsel for NECNP will be out of town during one week of the six-week discovery period.

Such a limited accommodation does not threaten to delay this proceeding or hurt Applicants' interests. The next date in the Board's litigation schedule is August 22, when the parties are required to state whether they intend to file summary disposition motions. NECNP has already stated that it does not believe summary disposition is appropriate in this case; thus, Applicants are on

⁵ NECNP was informed on July 20 that counsel for Applicants did not receive this second set of interrogatories. The Coalition has sent Applicants another copy of the interrogatories by te'efax. The parties have agreed that Applicants will answer these interrogatories by August 4.

notice of its position. It seems unlikely that one day of depositions during the preceding week would hamper Applicants unduly in deciding whether or not to file a summary judgment motion; in any event, such a motion would not be due until 30 days later.

CONCLUSION

For the foregoing reasons, NECNP requests that the Licensing Board extend the discovery schedule for the sole purpose of allowing NECNP to conduct depositions of Applicants' experts during the week of August 15, 1988.⁶ NECNP requests that the Board give expedited consideration to this motion so that counsel has sufficient time to prepare another attorney to depose Applicants' experts, if that proves necessary.

Respectfully submitted,



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July 21, 1988

⁶ NECNP has consulted with counsel for Applicants regarding this matter and has been informed that Applicants oppose the requested extension.

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CERTIFICATE OF SERVICE

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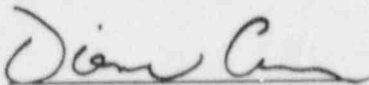
I certify that on July 21, 1988, copies of the following documents were served by overnight mail or first class mail, on the individuals listed on the attached service list:

NEW ENGLAND COALITION ON NUCLEAR POLLUTION'S
BRIEF IN OPPOSITION TO AUTHORIZATION OF
LOW POWER OPERATION AT SEABROOK NUCLEAR POWER PLANT

NEW ENGLAND COALITION ON NUCLEAR POLLUTION'S
THIRD SET OF INTERROGATORIES AND REQUEST FOR
THE PRODUCTION OF DOCUMENTS TO APPLICANTS
ON NECNP CONTENTION I.B.2

NOTICE OF DEPOSITIONS

NEW ENGLAND COALITION ON NUCLEAR POLLUTION'S
MOTION FOR EXTENSION OF DISCOVERY SCHEDULE


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