

NUCLEAR REGULATORY COMMISSION
DOCKET NO. 50-443A
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE ET AL
NOTICE OF FINDING OF NO SIGNIFICANT ANTITRUST CHANGES
AND TIME FOR FILING REQUESTS FOR REEVALUATION

The Director of the Office of Nuclear Reactor Regulation has made a finding in accordance with Section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensee's activities or proposed activities have occurred subsequent to the construction permit review of Unit 1 of the Seabrook Nuclear Station. The finding is as follows:

"Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" finding to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since issuance of the Seabrook 1 construction permit to Public Service Company of New Hampshire, et al., the staffs of the Planning and Resource Analysis Branch, Office of Nuclear Reactor Regulation and the Antitrust Section of the Office of the Executive Legal Director, hereafter referred to as "staff", have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the antitrust construction permit review are not of the nature to require a second antitrust review at the operating license stage of the application.

"In reaching this conclusion, the staff considered the structure of the electric utility industry in New England, the events relevant to the Seabrook construction permit reviews and the events that have occurred subsequent to the construction permit reviews.

"The conclusion of the staff's analysis is as follows:

'Public Service Company of New Hampshire (PSNH), on behalf of itself and all other owners (applicants), has applied for an operating license for the Seabrook 1 nuclear unit. Pursuant to the Commission's "significant change" criteria, the staff has conducted an antitrust analysis of the applicants' activities and proposed activities since the Seabrook construction permit (CP) antitrust review was completed in January 1974. In performing this analysis, the staff has examined (1) activities undertaken by the applicants with respect to bulk power services, including coordination, transmission, and wholesale services, (2) antitrust issues raised in two separate federal court proceedings involving New England Power Company (NEPCO) and Connecticut Light and Power Company (CLP), and (3) the New England Power Pool (NEPOOL) which governs bulk power interrelationships among nearly all New England utilities.

'In the staff's view, none of the new and/or revised bulk arrangements entered into by any of the applicants present any significant consequences of an antitrust nature. Such arrangements, in fact, appear to promote access to a wide range

of alternatives for all New England utilities, regardless of size or type of ownership.

'The antitrust complaints against NEPCO were mitigated after a settlement among the parties permitted the Town of Norwood to switch wholesale suppliers. A District Court decision dismissing all antitrust complaints against CLP was affirmed by an Appeals Court on all but two counts. Those two counts both dealt with price-squeeze and were remanded to the lower court for reconsideration. Staff notes further that the Federal Energy Regulatory Commission (FERC) is required to explicitly consider price-squeeze issues when raised with regard to new rate filings. Consequently, staff has concluded that the price-squeeze issues do not warrant Commission remedy and therefore do not represent "significant changes" under the Commission's criteria.

'Finally, NEPOOL, which was only two years old at the time when the CP antitrust review was performed, appears to have evolved into a framework ensuring access to reliable and economical bulk power supply for all New England utilities. Two provisions of the original pool agreement were found to be discriminatory against smaller utilities and have since been removed. Further, because Seabrook 1 has been designated as a pool-planned unit, access to Seabrook 1 over pool transmission facilities of members is guaranteed for all participants under the term of NEPOOL.

'Thus, the changes in the activities of all of the applicants since the completion of the Seabrook 1 construction permit antitrust review do not represent significant changes of an antitrust nature and, therefore, do not require a further, formal antitrust review at the operating license stage.'

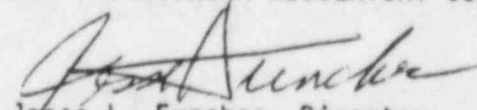
"Based on the staff's analysis, it is my finding that a formal operating license antitrust review of Seabrook Station, Unit 1 is not required."

Signed on January 22, 1986 by Harold R. Denton, Director of the Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding may file with full particulars, a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 for 30 days from the date of the publication of the Federal Register notice.

Requests for a reevaluation of the no significant changes determination shall be accepted after the date when the Director's finding becomes final but before the issuance of the OL only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

FOR THE NUCLEAR REGULATORY COMMISSION


Jesse L. Funches, Director
Planning and Program Analysis Staff
Office of Nuclear Reactor Regulation

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