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DOCKET NUMBER 50-443-LA + LA2
PROD. & UTIL. FAC.



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

DOCKETED
USNRC

September 25, 1998

'98 SEP 25 A11:17

SECRETARY

OFFICE OF THE
RULES AND
ADJUDICATION STAFF

The Honorable Judd Gregg
United States Senate
Washington, D.C. 20510

SERVED SEP 25 1998

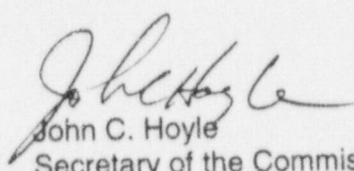
Dear Senator Gregg:

I am responding to your letter dated September 4, 1998, addressed to Chairman Jackson. Your letter, which encloses a copy of a letter dated August 5, 1998 sent to you from Robert A. Backus, an attorney representing the Seacoast Anti-Pollution League (SAPL), requests the Chairman's consideration of a request for hearing filed by Mr. Backus on behalf of SAPL in connection with a proposed license amendment for the Seabrook Station, Unit 1 reactor. This matter is currently pending before an Atomic Safety and Licensing Board (ASLB) at the Nuclear Regulatory Commission and, therefore, it would be inappropriate to comment further on the issues raised. However, I am enclosing a copy of CLI-98-18, a Commission decision issued on September 17, 1998. Pursuant to that Order, proceedings before the ASLB are halted pending Commission consideration of the "segmentation" issue.

Because the litigation is ongoing, your letter, Mr. Backus's letter, and this response will be served on the parties to the proceeding as well as the Atomic Safety and Licensing Board.

Your correspondence is appreciated.

Sincerely,


John C. Hoyle
Secretary of the Commission

Enclosure: As stated

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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'98 SEP 17 A9:46

COMMISSIONERS:

Shirley Ann Jackson, Chairman
Nils J. Diaz
Edward McGaffigan, Jr.

OFFICE OF THE
REGULATORY
ADMINISTRATOR

In the Matter of)
)
)
NORTH ATLANTIC ENERGY)
SERVICE CORPORATION)
)
(Seabrook Station Unit No. 1))
_____)

SERVED SEP 17 1998

Docket No. 50-443-LA

CLI-98-18

ORDER

The Atomic Safety and Licensing Board recently ruled on two petitions to intervene in this proceeding on an application by North Atlantic Energy Service Corporation (NAESCO) to amend its operating license for the Seabrook Station, Unit 1 nuclear reactor. LBP-98-23, 48 NRC ____ (Sept. 4, 1998). The Board granted intervention to the Seacoast Anti-Pollution League (SAPL) and denied intervention to the New England Coalition on Nuclear Pollution (NECNP). The Board's order also requested the parties to provide further information on SAPL's argument against "segmentation," *i.e.*, that license applicants should not be permitted to effectuate a major operational change requiring several license amendments through separate amendments requests rather than through a single request. SAPL reasons that without reviewing the change as a whole, the NRC may be unable to accurately assess the actual safety implications of the overall change. *Id.*, slip op. at 21.

The "segmentation" issue is novel and has broad implications for this and other proceedings. It is the type of issue that we discussed in our Statement of Policy on Conduct of

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Adjudicatory Proceedings that "could benefit from early Commission review." CLI-98-12, 48 NRC ____ CLI-98-12, 48 NRC ____, slip op. at 8 (July 28, 1998). Therefore, we exercise our inherent supervisory authority over the conduct of proceedings to take sua sponte review of the "segmentation" issue. See Baltimore Gas & Electric (Calvert Cliffs Nuclear Power Plant, Units 1 and 2), CLI-98-15, 48 NRC ____ (Aug. 26, 1998), slip op. at 4-5. Our decision to take review overtakes the Board's request in LBP-98-23 for the parties to provide it additional information on the segmentation issue. See LBP-98-23, slip op. at 22-24. We direct the Board to halt all proceedings before it pending further Commission order. Additionally, in the interest of expedition and economy of effort, rather than await any appeal of the Board's rulings granting and denying intervention pursuant to 10 C.F.R. § 2.714a, the Commission also takes sua sponte review of the Board's intervention rulings. In sum, the parties are free to file briefs supporting or opposing any aspect of the Board's ruling in LBP-98-23, and to address, as they deem necessary, any of the questions posed by the Board on pages 23-24 of its order.

In addition to any issue of concern to the parties, their briefs should address the following Board statements:

1. "Except perhaps for egregious pleading defects, it is not good policy to dismiss contentions merely for procedural reasons, especially where, as here, the challenged activities potentially could affect public health and safety." LBP-98-23, 47 NRC ____, slip op. at 16.
2. "Federal agencies should not allow an applicant to present licensing actions separately if such separate actions are part of a common action which has greater adverse consequences." LBP-98-23, 47 NRC ____, slip op. at 21.

To expedite our review, we have decided to order simultaneous rather than sequential briefs. All briefs filed before the Commission in accordance with this order shall be served in a manner to ensure receipt by midnight Eastern Time, on their due date. The Commission sets the following briefing schedule:

1. All parties, including NECNP (if it desires), may file a brief no later than October 7, 1998. The briefs shall not exceed 30 pages.

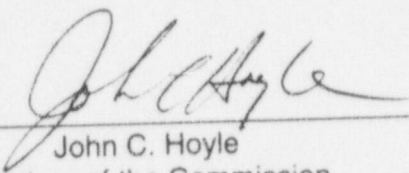
2. Each party, including NECNP, may file a single responsive brief addressing all issues in the other parties' briefs on which it wishes to be heard, no later than October 14, 1998. The responses may not exceed 20 pages.

After receiving these responses, the Commission may schedule oral argument to discuss these issues if it deems such argument necessary.

IT IS SO ORDERED.

For the Commission





John C. Hoyle
Secretary of the Commission

Dated at Rockville, Maryland,
this 17th day of September, 1998.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

NORTH ATLANTIC ENERGY SERVICE
CORPORATION
(Seabrook Station, Unit No. 1)

Docket No.(s) 50-443-LA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMISSION ORDER (CLI-98-18) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
B. Paul Cotter, Jr., Chairman
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Charles N. Kelber
Atomic Safety and Licensing Board Panel
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Administrative Judge
Linda W. Little
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5000 Hermitage Drive
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**Steven R. Hom, Esq.
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Washington, DC 20005

* Faxed

** Hand Delivered

Docket No.(s)50-443-LA
COMMISSION ORDER (CLI-98-18)

Dated at Rockville, Md. this
17 day of September 1998

Adria T. Byrdson
Office of the Secretary of the Commission