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DOCKET NUMBER 50-443-LA + LA2  
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SECRETARY

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

September 25, 1998

DOCKETED  
USNRC

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OFFICE OF  
RULEMAKING  
ADJUDICATION & HEARINGS

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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USNRC

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COMMISSIONERS:

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

OFFICE  
REGISTRATION  
ADJUTANT

\_\_\_\_\_  
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-93-12, 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:

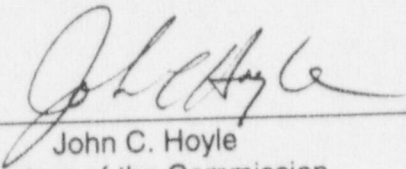
1. All parties, including NECNP (if it desires), may file a brief no later than October 7, 1998. The briefs shall not exceed 30 pages.
2. Each party, including NECNP, may file a single responsive brief addressing all issues in the other parties' briefs on which it wishes to be heard, no later than October 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 17<sup>th</sup> 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 Cutter, 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  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Linda W. Little  
ASLBP  
5000 Hermitage Drive  
Raleigh, NC 27612

\*\*Steven R. Hom, Esq.  
Office of the General Counsel  
Mail Stop - 0-15 B18  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

\*Robert A. Backus, Esq.  
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\*Lillian M. Cuoco, Esq.  
Senior Nuclear Counsel  
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P.O. Box 270  
Hartford, CT 06141

\*David A. Repka, Esq.  
Winston & Strawn  
1400 L Street, N.W.  
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

JUDD GREGG

NEW HAMPSHIRE

CHIEF DEPUTY WHIP

COMMITTEES:

BUDGET

APPROPRIATIONS

LABOR AND HUMAN RESOURCES

# United States Senate

WASHINGTON, DC 20510-2904

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September 4, 1998

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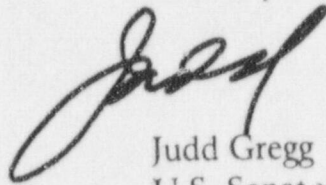
The Honorable Shirley A. Jackson, Chairman  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Shirley:

Enclosed please find a copy of a letter from a constituent of mine, Robert Backus, Esq., of Manchester, NH, who is representing the Seacoast Anti-Pollution League. On behalf of the Seacoast Anti-Pollution League, he has filed four contentions with the Nuclear Regulatory Commission and is requesting a full hearing on this matter in the NH Seacoast area.

I would appreciate your consideration and attentiveness to this matter. Thank you in advance for your prompt reply.

Sincerely,



Judd Gregg  
U.S. Senator

JG/rmj  
Enclosure

REC'D BY SECY

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SEP.

BACKUS, MEYER, SOLOMON.

ROOD & BRANCH

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JON MEYER  
STEVEN A. SOLOMON  
JENNIFER ROOD  
B. J. BRANCH  
MARIN HOOD TUCKER

ALSO ADMITTED  
TO MASSACHUSETTS BAR  
AND MAINE BAR

OF COUNSEL  
ROBERT A. BACKUS  
NANCY E. HART

August 5, 1998

Honorable Judd Gregg  
United State Senate  
Washington, DC 20510

This is to advise you that, since my last correspondence, the client I represent, the Seacoast Anti-Pollution League has joined with another citizen organization, the New England Coalition on Nuclear Pollution, and filed four contentions with the NRC concerning the exemption request. These concerns are set forth in the June 5, 1998 letter to Chairman Jackson which was copied to you. The concerns, briefly, are: first, the substantial decrease in inspections of the steam generator tubes; second, the additional stress on the fuel cladding from extending the operational run by 33% to two years; third, the increased use of on line maintenance that extending the operational run will require, and, fourth, the decreased surveillance opportunity to find and correct abnormal plant condition, including possible tampering with safety important equipment.

At this time, the NRC has appointed a three person Atomic Safety and Licensing Board, which is the equivalent of a trial court for the agency. The Board has established a deadline of August 10, 1998 for the licensee, NAESCO, and the NRC staff to respond to the contentions.

Thereafter, I expect the Board was schedule a pre-hearing conference before ruling on the admissibility of the contentions.

We believe these contentions present important safety issues and that the goal of the exemption request is to improve the economics of the plant in the face of oncoming competition, but at the cost of reducing the present margin of safety.

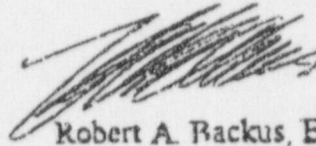
We would like your support for a full hearing into these contentions, and that any proceedings on these contentions be held in the NH seacoast area. In the past, as you know, the NRC has held hearings on Seabrook in NH, and we think this practice should be continued since this is the area of concern

Thank you for your consideration of this matter. If you need any further information,



please let me know.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Robert A. Backus', written in a cursive style with some overlapping strokes.

Robert A. Backus, Esq.

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 HOYLE LTR TO SENATOR GREGG 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  
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Administrative Judge  
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Docket No.(s)50-443-LA  
HOYLE LTR TO SENATOR GREGG

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

*Adria T. Byrdson*  
Office of the Secretary of the Commission