

7035

DOCKETED  
USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'88 SEP -9 P3:55

Commissioners:

Lando W. Zech, Jr., Chairman  
Thomas M. Roberts  
Kenneth M. Carr  
Kenneth C. Rogers

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of	)	Docket Nos. 50-443-OL-1
	)	50-444-OL-1
PUBLIC SERVICE COMPANY	)	(Onsite Emergency Planning
OF NEW HAMPSHIRE, ET AL.	)	and Safety Issues)
	)	
(Seabrook Station, Units 1 and 2	)	September 6, 1988

JOINT INTERVENORS' APPLICATION  
FOR STAY OF ORDER AUTHORIZING  
ISSUANCE OF LOW-POWER LICENSE

Attorney General James M Shannon ("Mass AG") the Seacoast Anti-Pollution League, the New England Coalition On Nuclear Pollution and the Town of Hampton request that the Commission impose a stay of ten days of any future order authorizing the issuance of a low-power license for Seabrook Station. The purpose of such a stay would be to give the Mass AG and other intervenors the opportunity to file timely and full stay applications pursuant to 10 C.F.R. § 2.788 and Fed. R. App. P. 18.

As grounds for this application, the applicants state:

BB09120134 BB0906  
PDR ADOCK 05000443  
G PDR

DS03

1. A low-power license would authorize, for the first time, the radiation and contamination of the fuel rods and certain internal plant components. Particularly if full-power operation does not follow, severe environmental and financial consequences will result from low-power testing.

2. The Mass AG and other intervenors intend to file full stay applications pursuant to 10 C.F.R. § 2.788 and Fed R. App. 18 if and when the Commission authorizes the issuance of a low-power license. The parties intend to argue inter alia that: (a) the recent proposed rule change on public notification systems, see 53 Fed. Reg. 16435 (May 9, 1988), if adopted as a final rule is arbitrary, capricious and not in accordance with law; (b) the Commission's denial, if that occurs, of the Mass AG and other intervenors' petitions for waiver of the financial qualifications rule would be arbitrary, capricious and not in accordance with law; (c) the issuance of a low-power license prior to hearings on all emergency planning and safety issues violates the Atomic Energy Act, 42 U.S.C. § 2201 et seq., and is arbitrary and capricious in this case; and (d) a separate or supplemental environmental impact statement under the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., is required for a low-power license in this case.

3. The Mass AG and intervenors cannot file their stay applications now based on the Commission's Memorandum and Order (Lifting the Order Staying the Director of Nuclear Reactor

Regulations from Authorizing Low-Power Operations Due to the Lack of an Emergency Plan for Massachusetts) dated November 25, 1987. The Commission dismissed various stay motions before it because no order authorizing low-power operations was then in force and because the papers were "in some respects outdated." The Commission also noted that "[s]hould low power be authorized in the future, opposing parties are free to file updated stay motions."

4. Under that Memorandum and Order, stay applications prior to the issuance of a low-power license could be considered premature. In addition, pending decisions on such outstanding matters as the waiver petition for financial qualifications and the public notification rule, the Mass AG and intervenors are not in a position to frame the substance of a stay application. However, without the relief requested by this application such a request could not be filed quickly enough for the Commission to prevent the irradiation of the plant and the beginning of low-power testing.

5. In its November 25, 1987 Memorandum and Order, the Commission imposed a similar ten day stay on any decision by the Licensing Board, prior to completion of remanded issues, authorizing low power. The reasons justifying that order with respect to the Licensing Board also justify the same order with respect to the Commission.

For all of these reasons, the Mass AG, and other intervenors, request that the Commission impose a ten day stay on the effectiveness of any future order authorizing the issuance of a low-power license.

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS,  
SEACOAST ANTI-POLLUTION LEAGUE,  
NEW ENGLAND COALITION ON NUCLEAR  
POLLUTION, AND  
THE TOWN OF HAMPTON

By: 

Stephen A. Jonas  
Deputy Chief  
Public Protection Bureau  
Department of the Attorney General  
One Ashburton Place, 19th Floor  
Boston, MA 02108  
(617) 727-2200

DATED: September 6, 1988

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DUCKETED  
USNRC

'88 SEP -9 P3:55

\_\_\_\_\_  
In the Matter of )  
 )  
 )  
 PUBLIC SERVICE COMPANY )  
 OF NEW HAMPSHIRE, ET AL. )  
 )  
(Seabrook Station, Units 1 and 2 )  
\_\_\_\_\_ )

OFFICE OF SECRETARY  
DUCKETING & SERVICE  
BRANCH

Docket No.(s)  
50-443/444-OL-1

CERTIFICATE OF SERVICE

I, Stephen A. Jonas, hereby certify that on September 6, 1988, I made service of the within JOINT INTERVENORS' APPLICATION FOR STAY OF ORDER AUTHORIZING ISSUANCE OF LOW-POWER LICENSE, by first class mail to:

Alan S. Rosenthal, Chairman  
Atomic Safety and Licensing  
Appeal Panel  
U.S. Nuclear Regulatory  
Commission  
East West Towers Building  
4350 East West Highway  
Bethesda, MD 20814

Howard A. Wilber  
Atomic Safety and Licensing  
Appeal Panel  
U.S. Nuclear Regulatory  
Commission  
East West Towers Building  
4350 East West Highway  
Bethesda, MD 20814

Thomas S. Moore  
Atomic Safety and Licensing  
Appeal Panel  
U.S. Nuclear Regulatory  
Commission  
East West Towers Building  
4350 East West Highway  
Bethesda, MD 20814

Docketing and Service  
U.S. Nuclear Regulatory  
Commission  
1717 H Street  
Washington, DC 20555

Administrative Judge Sheldon  
J. Wolfe, Esquire, Chairman  
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory  
Commission  
East West Towers Building  
4350 East West Highway  
Bethesda, MD 20814

Robert Caraigg, Chairman  
Board of Selectmen  
Town Office  
Atlantic Avenue  
North Hampton, NH 03862

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

Dr. Jerry Harbour  
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory  
Commission  
East West Towers Building  
4350 East West Highway  
Bethesda, MD 20814

Adjudicatory File  
Atomic Safety and Licensing  
Board Panel Docket  
U.S. Nuclear Regulatory  
Commission  
East West Towers Building  
4350 East West Highway  
Bethesda, MD 20814

Atomic Safety and Licensing  
App'l Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, DC 20555

Philip Ahrens, Esquire  
Assistant Attorney General  
Department of the Attorney  
General  
Augusta, ME 04333

Paul McEachern, Esquire  
Matthew T. Brock, Esquire  
Shaines & McEachern  
25 Waplewood Avm nue  
P.O. Box 360  
Portsmouth, NH 03801

Mrs. Sandra Gavutis  
Chairman, Board of Selectmen  
RFD 1 - Box 1154  
Route 107  
Kensington, NH 03827

Senator Gordon J. Humphrey  
U.S. Senate  
Washington, DC 20510  
(Attn: Tom Burack)

Diane Curran, Esquire  
Andrea C. Ferster, Esquire  
Harmon & Weiss  
2001 S Street, NW / Suite 430  
Washington, DC 20009

Stephen E. Merrill, Esquire  
Attorney General  
George Dana Bisbee, Esquire  
Assistant Attorney General  
Office of the Attorney General  
25 Capitol Street  
Concord, NH 03301-6397

Sherwin E. Turk, Esquire  
Office of General Counsel  
U.S. Nuclear Regulatory  
Commission  
One White Flint North, 15th Fl.  
11555 Rockville Pike  
Rockville, MD 20852

Robert A. Backus  
Backus, Meyer & Soloman  
116 Lowell Street  
P.O. Box 516  
Manchester, NH 03105

Mr. J. P. Nadeau  
Selectmen's Office  
10 Central Road  
Rye, NH 03870

Thomas G. Dignan  
Ropes & Gray  
225 Franklin Street  
Boston, MA

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

R. Scott Hill-Whilton, Esquire  
Lagoulis, Clark, Hill-  
Whilton & McGuire  
79 State Street  
Newburyport, MA 01950

Senator Gordon J. Humphrey  
One Eagle Square, Suite 507  
Concord, NH 03301  
(Attn: Herb Boynton)

Mr. Thomas F. Powers, III  
Town Manager  
Town of Exeter  
10 Front Street  
Exeter, NH 03833

H. Joseph Flynn, Esquire  
Office of General Counsel  
Federal Emergency Management  
Agency  
500 C Street, S.W.  
Washington, DC 20472

Gary W. Holmes, Esquire  
Holmes & Ells  
47 Winnacunnet Road  
Hampton, NH 03841

Judith H. Mizner, Esquire  
79 State Street, 2nd Floor  
Newburyport, MA 01950

Lando W. Zech, Jr., Chairman  
U.S. Nuclear Regulatory  
Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852

Kenneth M. Carr,  
Commissioner  
U.S. Nuclear Regulatory  
Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852

Kenneth C. Rogers,  
Commissioner  
U.S. Nuclear Regulatory  
Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852

Mr. Peter S. Matthews  
Mayor  
City Hall  
Newburyport, MA 01950

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

Brentwood Board of Selectmen  
RFD Dalton Road  
Brentwood, NH 03833

Richard A. Hampe, Esquire  
Hampe and McNicholas  
35 Pleasant Street  
Concord, NH 03301

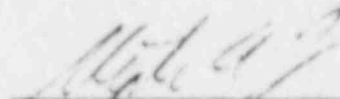
Charles P. Graham, Esquire  
Murphy and Graham  
33 Low Street  
Newburyport, MA 01950

Thomas M. Roberts, Commissioner  
U.S. Nuclear Regulatory  
Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852

Frederick M. Bernthal,  
Commissioner  
U.S. Nuclear Regulatory  
Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852

William C. Parler, Esquire  
General Counsel  
Office of the General Counsel  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852

Marjorie Nordlinger, Esquire  
Deputy General Counsel  
Office of the General Counsel  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852



---

Stephen A. Jonas  
Deputy Chief  
Public Protection Bureau  
Department of the Attorney General  
One Ashburton Place, 19th Floor  
Boston, MA 02108  
(617) 727-2200

DATED: September 6, 1988