September 9, 1988

## UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

'88 SEP 12 P2:11

before the COMMISSION

BUCKETHIN & NEWSTIT

In the Matter of

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, ET AL.

(Seabrook Station, Unit 1 and 2)

Docket Nos. 50-443-OL-1 50-444-OL-1

(Onsite Emergency Planning and Safety Issues)

MOTION OF MASSACHUSETTS ATTORNEY GENERAL JAMES M. SHANNON FOR LEAVE TO FILE A DOCUMENT NOT AUTHORIZED BY THE COMMISSION'S RULES OF PRACTICE

Massachusetts Attorney General James M. Shannon hereby moves the Nuclear Regulatory Commission ("Commission") for leave to file a document not authorized by the Commission's rules of practice. Specifically, the Massachusetts Attorney General moves for leave to file the accompanying THIRD SUPPLEMENT TO MASSACHUSETTS ATTORNEY GENERAL JAMES M. SHANNON'S PETITION UNDER 10 C.F.R. 2.758 FOR A WAIVER OF OR AN EXCEPTION FROM THE PUBLIC UTILITY EXEMPTION FROM THE REQUIREMENT OF A DEMONSTRATION OF FINANCIAL QUALIFICATION. In support of this motion, the Massachusetts Attorney General states:

1. That on August 31, 1988, the lead owner and operator of the Seabrook Nuclear Power Station, Public Service Company of New Hampshire (Public Service), filed with the Commission responses to certain requests for additional financial information

propounded by the Commission's Staff in a letter dated August 17, 1988.

- 2. That included in the eighteen pages of text and the attachments filed by Public Service on August 31, 1988 are representations bearing, both directly and indirectly, on the matter before the Commission: whether in the particular circumstances of the Seabrook Nuclear Power Station low power license proceeding the application of the Commission's public utility exemption to the requirement of a demonstration of financial qualification prior to the issuance of any operating license would serve the purposes for which rule was adopted. 10 C.F.R. 2.758(b).
- 3. That on September 2, 1988 the U.S. Bankruptcy Court for the District of New Hampshire denied approval of Public Service's intention to enter into transactions which would have the effect of transferring management and operational control of the Seabrook Nuclear Power Station from the New Hampshire Yankee Division of Public Service to a separate corporate entity, New Hampshire Yankee Electric Corporation.
- 4. That the September 2, 1988 opinion of the U.S. Bankruptcy Court for the District of New Hampshire bears directly upon the question of whether the rate making process can assure that sufficient funds will be available to assure the safe low power operation and permanent shut down of the Seabrook Nuclear Power Station.

- 5. That neither the Commission's rules of practice nor its July 14, 1988 order in this proceeding address the question of whether and how a party may bring new information to Commission's attention when the Commission is considering a petition for the waiver of one of its regulations.
- by the Commission on the pending petition for the wavier of the public utility exemption from the requirement of a demonstration of financial qualification, considerations of fairness, and the interest in conserving administrative resources require that the information referenced in paragraphs one through four above as well as the Massachusetts Attorney General's analysis thereof should be presented to the Commission prior to its decision on the pending petition.

WHEREFORE, the Massachusetts Attorney General moves that the Commission grant leave to file and consider the accompanying THIRD SUPPLEMENT TO MASSACHUSETTS ATTORNEY GENERAL JAMES M. SHANNON'S PETITION UNDER 10 C.F.R. 2.758 FOR A WAIVER OF OR AN EXCEPTION FROM THE PUBLIC UTILITY EXEMPTION FROM THE REQUIREMENT OF A DEMONSTRATION OF FINANCIAL QUALIFICATION .

RESPECTFULLY SUBMITTED

JAMES M. SHANNON ATTORNEY GENERAL

by Steven A. Jonas
George B. Dean
Assistant Attorneys General
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-2200

DATED: September 9, 1988