

6252

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'88 MAY 12 P1:53

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Sheldon J. Wolfe, Chairman
Emmeth A. Luebke
Jerry Harbour

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

SERVED MAY 12 1988

In the Matter of

PUBLIC SERVICE COMPANY
OF NEW HAMPSHIRE, et al.

(Seabrook Station, Units 1 and 2)

Docket Nos. 50-443-0L-1
50-444-0L-1

(On-Site Emergency Planning
and Safety Issues)

(ASLBP No. 88-558-01-OLR)

May 12, 1988

MEMORANDUM AND ORDER

Memorandum

Our Memorandum and Order of March 18, 1988 (unpublished) directed that Applicants, New England Coalition on Nuclear Pollution (NECNP) and the Staff, if they so desired, should file motions for summary disposition with respect to NECNP Contentions IV and I.V. on or before April 29, 1988, and that any answers supporting or opposing a motion for summary disposition should be filed pursuant to 10 C.F.R. §2.749. NECNP Contention I.V. was concerned with inservice inspection of steam generator tubes and NECNP Contention IV addressed the accumulation of aquatic organisms and other foreign matter in cooling systems.

In a letter dated April 22, 1988, NECNP notified that it did not intend to litigate these two contentions, and thus that it would not

8805200047 880512
PDR ADOCK 05000443
G PDR

DS02

file a motion for summary disposition on these issues, nor would it oppose any summary disposition motions filed by the Applicants or the Staff to the extent such motions addressed those issues. Further, NECNP stated:

NECNP's decision not to litigate these two Contentions is based on our review of the information and documents we have received to date as a result of discovery under Contentions I.V. and IV. Our decision also stems from this Board's procedural rulings on NECNP Contention IV, which effectively preclude NECNP from inquiring into, or litigating the adequacy of Applicants' program to control microbiologically induced corrosion, and other detrimental effects resulting from the accumulation of microbiological organisms. NECNP continues to believe that Applicants' program for monitoring and controlling microbiologically induced corrosion is not adequate, and that this issue is within the scope of NECNP Contention IV. Accordingly, NECNP intends to appeal the Board's rulings regarding the scope of NECNP Contention IV and allowable discovery thereunder at the appropriate time.

On April 29, 1988, the Applicants filed motions for summary disposition of NECNP Contentions IV and I.V.

Thereafter, in a response of May 6, 1988, NECNP asserted that, while it had stated in its letter of April 22 that it would not oppose any motions for summary disposition to the extent such motions addressed those issues, the Applicants' motion for summary disposition of NECNP Contention IV appeared to encompass the issue of microbiologically induced corrosion to some degree which was unfair in light of the Board's ruling in the Memorandum and Order of March 18, 1988 that microbiologically induced corrosion was not within the scope of the contention. NECNP requested that the Board's decision granting the Applicants' motion should make it clear that summary disposition is limited to the issue of blockage of cooling systems by macro-organisms.

Clearly, NECNP's letter of April 22 constitutes an abandonment of Contentions I.V. and IV. This being so, it would be useless exercise to prepare and to issue a decision upon the Applicants' motions for summary disposition. Moreover, since the Board is not issuing such a decision, NECNP's request in its response of May 6 has been mooted and thus is denied.

ORDER

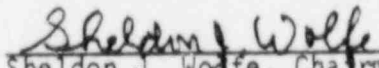
1. Since NECNP's Contentions I.V. and IV have been abandoned, they are dismissed.

2. The Board will not prepare and issue a decision upon the Applicants' motions for summary disposition filed on April 29, 1988.

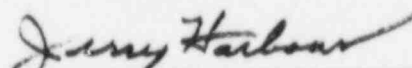
3. Since NECNP's request in its response of May 6, 1988 has been mooted, it is denied.

Judge Luebke was unavailable and did not assist in the preparation of this issuance.

THE ATOMIC SAFETY AND LICENSING BOARD



Sheldon J. Wolfe, Chairman
ADMINISTRATIVE JUDGE



Jerry Harbour
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland
this 12th day of May, 1988.