

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

before the

'88 SEP 19 P3:36

ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF PUBLIC SERVICE
DOCKETING & SERVICE
BRANCH

In the Matter of)

PUBLIC SERVICE COMPANY OF)
NEW HAMPSHIRE, et al)

(Seabrook Station, Units 1 and 2))

) DOCKET NOS. 50-443-OL
) 50-444-OL
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MOTION OF EDWARD A. THOMAS FOR LEAVE TO FILE A
RESPONSE TO THE APPLICANT'S REPLY TO PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW AND THE NRC
STAFF'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Edward A. Thomas, Chief of the Natural and Technological Hazards Division of FEMA Region 1 and a witness in the above-captioned proceeding, moves the Board, pursuant to 10 C.F.R. §2.730(c), to allow him to file a response to the Applicant's Reply to Proposed Findings of Fact and Conclusions of Law of Other Parties on Shelter Contentions and to the NRC Staff's Proposed Findings of Fact and Conclusions of Law with Respect to Sheltering Issues. Mr. Thomas states the following as grounds for this motion.

The pleadings recently submitted to the Board by the Applicant and the NRC Staff constitute a belated and unjustified attack on Mr. Thomas' reputation and credibility. Immediately prior to Mr. Thomas' most recent testimony before the Board on June 14 and 15, 1988, counsel for Mr. Thomas requested the opportunity to question Mr. Thomas following any cross-examination by the parties and to file proposed findings on

behalf of Mr. Thomas, if necessary. Tr., 13366-68. In response, Judge Smith stated that he would permit counsel for Mr. Thomas to present any specific requests in this regard to the Board following any cross-examination of Mr. Thomas. Tr., 13369.

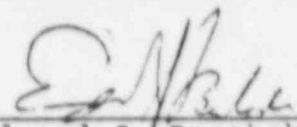
Mr. Thomas testified on direct examination by Mr. Oleskey, counsel for the Commonwealth of Massachusetts, for nearly two full days. During the course of Mr. Thomas' direct examination, the Board made it clear on the record that any issues concerning Mr. Thomas' credibility were to be addressed while Mr. Thomas was before the Board with independent representation. Tr., 13551-52; Tr., 13601-03; Tr., 13749; Tr., 13759. In fact, Judge Smith explicitly acknowledged that the only way in which Mr. Thomas could redress the prior attacks which were made on his integrity and credibility was to come before the Board with independent counsel. Tr., 13368-69. In view of the content of Mr. Thomas' direct testimony, particularly in response to questions by the Board, Tr., 13615-29, and the fact that virtually no cross-examination was conducted by counsel for either the Applicant or the NRC Staff, Mr. Thomas and his counsel were satisfied following the June, 1988 hearings that the record was complete on all issues relating to Mr. Thomas' credibility.

The Applicant and the NRC Staff, however, months following the June, 1988 hearings, have now raised an unwarranted attack on Mr. Thomas' professionalism and integrity. As Mr. Thomas is no longer before the Board, the only opportunity which he has to defend against these baseless allegations is to file a written

response with the Board. Finally, the submission of a response on behalf of Mr. Thomas should not result in any undue delay to the Board in making its findings of fact and conclusions of law.

WHEREFORE, Mr. Thomas requests this Board to allow his motion to file a response to the most recent filings by the Applicant and the NRC Staff. Mr. Thomas' response is presented with this motion for the Board's convenience.

By his attorneys,
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