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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	Docket Nos. 50-443 OL-01
PUBLIC SERVICE COMPANY OF)	50-444 OL-01
NEW HAMPSHIRE, <u>et al.</u>)	On-site Emergency Planning
)	and Safety Issues
(Seabrook Station, Units 1 and 2))	

NRC STAFF RESPONSE
TO BOARD ORDER OF APRIL 26, 1988

INTRODUCTION

On April 26, 1988, the Licensing Board issued an order directing the parties "to provide their views as to how this Board should proceed with the remanded issue regarding the environmental qualification of RC-58 coaxial cable." April 26 Order at 1. The views of the NRC Staff are set forth below. In brief, it is the Staff's position that the Board should reopen the evidentiary record on the RC-58 cable environmental qualification issue and afford Applicants the opportunity to supplement the record with relevant, competent, and admissible evidence -- testimonial and/or documentary -- which in Applicants' view supports the position that RC-58 coaxial cable is environmentally qualified for its intended purposes. ^{1/} After a reasonable time (15 days) from receipt of

^{1/} "Electrical equipment important to safety" must be environmentally qualified for its intended use. 10 C.F.R. § 50.49(b). Pursuant to section 50.49(b), an item is considered "important to safety" if it (i) has an accident mitigation function; (ii) its failure under

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Applicants' submission, any other party supporting Applicants' position should be afforded the opportunity to submit additional testimonial or documentary evidence. Fifteen days after receipt of such evidence, any party who opposes Applicants' position should then submit relevant and admissible evidence in support of its position.

If, upon review of all the materials submitted, there exists no genuine issue as to any material fact and Applicants are entitled to judgment as a matter of law, the Board should close the record and issue an initial decision favorable to Applicants. On the other hand, if there exists a genuine issue as to any material facts, the Board should then schedule a hearing to resolve them.

DISCUSSION

In ALAB-891, the Appeal Board reversed the Licensing Board's conclusion in the March 25, 1987 Partial Initial Decision (LBP-87-10) that the environmental qualification of RG-58 coaxial cable had been established and remanded the matter to the Licensing Board for "a further evidentiary exploration." ALAB-891, slip op. at 22. The next day, April 26, 1988, the Licensing Board issued its order soliciting the parties' views as to how best to effectuate the Appeal Board's order.

(FOOTNOTE CONTINUED FROM PREVIOUS PAGE)

postulated environmental conditions could prevent satisfactory performance of safety related equipment relied upon to remain functional during and subsequent to design basis events; or (iii) involves "certain post-accident monitoring equipment." 10 C.F.R. § 50.49(b)(1-3).

The Board's finding regarding the environmental qualification of RG-58 coaxial cable was reversed by the Appeal Board for one reason: That the evidentiary record contained insufficient evidence to support the conclusion that the cable was environmentally qualified to perform its intended function. See ALAB-891, slip op. at 22. The Appeal Board did not rule that RG-58 cable was not environmentally qualified. Consequently, to cure the deficiency in the existing record it is necessary to receive additional evidence from the parties sufficient to enable the Board to reach a sound decision as to whether RG-58 coaxial cable is qualified. Applicants, who bear the burden of proof, see 10 C.F.R. § 2.732, should be required to present such evidence in the first instance.

The character of the evidence to be presented by Applicants can take one or more of several forms. At a minimum, the evidence presented by Applicant should identify the environment qualification criteria, if any, pertaining to the RG-58 cable (e.g., the applicable provision of 10 C.F.R. § 50.49(b)); explain why the standards selected are appropriate; and demonstrate that the RG-58 coaxial cable meets the applicable criterion (e.g., 10 C.F.R. § 50.49(e)).

At this stage of the proceeding, Applicants have a number of options available. First, Applicants can subject the RG-58 cable itself to the tests necessary to establish its environmental qualification as appropriate. 10 C.F.R. § 50.49(f)(1); see ALAB-891, slip op. at 26, n.66. Second, Applicants can submit additional evidence demonstrating that RG-58 coaxial cable is sufficiently similar to RG-59 coaxial cable such that the acceptable test results of the latter can serve to demonstrate the environmental qualification of the former under 10 C.F.R. § 50.49(f)(2).

Third, Applicants can attempt to demonstrate that RG-58 coaxial cable does not serve any of the purposes specified in 10 C.F.R. § 50.49(b) and that the cable is qualified to perform its intended function. No matter which option Applicants elect, the evidence must address the following matters.

1. The particular purpose or purposes for which the RG-58 coaxial cable will be used.
2. The precise environmental qualification standards selected for such purposes and the reasons for doing so.
3. The basis for concluding that RG-58 is environmentally qualified for its intended use, including an explanation of the methodology used to qualify the RG-58 cable and a discussion of the results obtained. ^{2/}

Within 15 days after receipt of Applicants' evidentiary filing, parties supporting Applicants' position, if so inclined, may file additional evidence. Fifteen days after receipt of such evidence, parties opposing Applicants' position shall file its opposing evidence, or identify and

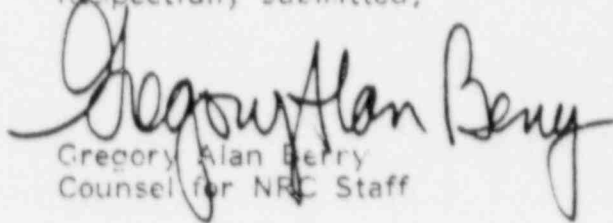
^{2/} In its April 26 Order, the Licensing Board requested the parties' views on the two questions propounded by the Appeal Board in ALAB-891. Those questions are (1) whether RG-58 coaxial cable performs an accident mitigation function and (2) if so, whether a high-potential withstand test is sufficient to establish its environmental qualification. ALAB-891, slip op. at 23. It should be noted that the latter claim was first advanced by Applicants and has never been endorsed by the Staff. See NRC Staff Response To NECNP Supplemental Memorandum On Environmental Qualification Of RG-58 Coaxial Cable at 5 (April 8, 1988). Rather, the Staff has maintained that RG-58 cable is sufficiently similar to RG-59 cable such that the environmental qualification test results of the latter can serve to establish the environmental qualification of the former. Id. In the event Applicants continue to claim that RG-58 cable does not perform an "accident mitigation" function but need only remain "intact," Applicants should present evidence explaining clearly why this is so. See ALAB-891, slip op. at 23.

explain with particularity the factual issues in genuine dispute. If, upon review of all the materials submitted, there exists no genuine issue as to any material fact and Applicants are entitled to judgment as a matter of law, the Board should close the record and issue an initial decision favorable to Applicants. On the other hand, if there exists a genuine issue as to any material facts, the Board should then schedule a hearing to resolve them.

CONCLUSION

The Board should issue an order adopting the position of the Staff set forth herein.

Respectfully submitted,


Gregory Alan Berry
Counsel for NRC Staff

Dated at Rockville, Maryland
this 5th day of May 1988

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

MAY 18 P5:01

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PUBLIC SERVICE COMPANY OF) Docket Nos. 50-443 OL-01
NEW HAMPSHIRE, et al.) 50-444 OL-01
) On-site Emergency Planning
(Seabrook Station, Units 1 and 2) and Safety Issues

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO BOARD ORDER OF APRIL 26, 1988" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk, by deposit in the Nuclear Regulatory Commission's internal mail system, this 6th day of May 1988.

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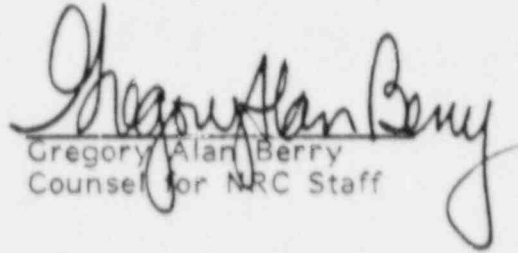
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