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September 15, 1988

Judge Sheldon J. Wolfe
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

Judge Emmeth A. Luebke
4514 Willard Avenue
Chevy Chase, MD 20815

Re: Public Service Company of New Hampshire, et al.
Docket Nos. 50-443-OL-01 and 50-444-OL-01

Your Honors:

Pursuant to your order and to the agreement of the parties, this memorandum memorializes the parties' statements and the Board's orders in two telephone conference calls between the Board and counsel for Applicants, the Attorney General for the Commonwealth of Massachusetts ("Mass AG"), and the NRC Staff on September 12, 1988.

The first call was initiated to determine the status of Applicants' September 8, 1988 motion for sanctions. Jeffrey Trout, for Applicants, stated that the additional responses to Applicants' Interrogatories No. 12, 18 and 20(e) filed by Mass AG on September 9, 1988 addressed the problems which Applicants perceived with Mass AG's earlier responses to those interrogatories. Applicants stated that, based upon those additional responses, Applicants withdrew their sanctions motion to the extent that it called for the dismissal of Bases A.3 and A.5 of Mass AG's Amended Contention on Notification System.

Applicants added, however, that the need to address the material contained in Mass AG's additional responses severely strained Applicants' ability to meet the September 15 deadline for filing their summary disposition motion on the Amended Contention. Accordingly, Applicants requested an

extension until September 19, at which date Applicants would serve their summary disposition motion in hand. Stephen Jonas, for Mass AG, indicated that he had no objection to the extension, and the Board accordingly granted it.

Parties indicated that they were ready to argue, without any further filings, the remaining issue in Applicants' motion for sanctions, i.e., the adequacy of Mass AG's response to Applicants' Interrogatories 6 and 7. The Board indicated that it was prepared to hear argument and to rule. At the suggestion of Gregory Berry, for the NRC Staff, it was agreed and ordered that the party prevailing on the motion should memorialize the proceedings in a letter to the Board with copies to the parties, in lieu of a transcript.

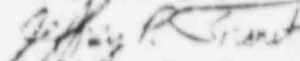
Mass AG argued that such conversations as occurred between himself and local officials were discussions of litigation strategy between counsel and not within the scope of the Board's August 19 order compelling response and production. Applicants referred the Board to the Lord letter of March 7, 1988, Attachment 1 to Applicants' Revised Motion to Compel of August 2, 1988. The Lord letter, Applicants' stated, referred to one communication between a local official and Mass AG concerning the Amesbury ordinance which Mass AG posits as the basis for Basis A.2, and the letter also asks for a follow-up communication concerning that same ordinance. Mass AG stated that no follow-up communication occurred, because the protective order in place in these proceeding forbade such communication. Mass AG denied that the original communication with Mr. Lord was probative, and asserted that Applicants wished to use it to revive their estoppel argument. Applicants denied that they wanted the communication for that purpose, and the Board stated that it would not allow Applicants to reargue the estoppel issue. (On this point, Applicants and Mass AG disagree whether it was the Mass AG or the Board who used the language in quotes in the letter of Stephen A. Jonas, attached.)

After further discussion, in which the Staff indicated that it would take no position on the issue, the Board asked Applicants what it was they sought. Applicants indicated that they sought a response, in the form of an interrogatory answer, that described in detail who said what to whom in the Jonas-Lord conversation referenced in the letter of March 7. Failing that, Applicants asked that Basis A.2 be struck. The Board then ruled that Mass AG would "provide the information requested." The Board further ordered that it would withhold action on Applicants' sanctions motion until Applicants received and evaluated Mass AG's further response.

The second call was initiated to determine when Mass AG would provide the further response ordered by the Board. Mass AG indicated that he would serve his response by hand on Tuesday, September 13. Mass AG also raised the question of whether the pending Commission rulemaking should alter the timing of proceedings on sirens. The Board indicated that it did not know what the Commission's rulemaking would be, and stated that it therefore would not address the question any further at this time.

With the exception of the single disagreement noted above, Mass AG has indicated that he concurs with the accuracy of this memorialization.

Very truly yours,



Jeffrey P. Trout
Counsel for Applicants

cc: Gregory Berry, Stephen Jonas



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE ATTORNEY GENERAL

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JAMES M. SHANNON
ATTORNEY GENERAL

September 14, 1988

Jeffrey P. Trout, Esq.
Ropes & Gray
225 Franklin Street
Boston, MA 02110

Re: Public Service Company of New Hampshire, et al.
Dockets Nos. 50-443-OL-1 & 50-444-OL-1

Dear Jeff:

I received your 9/13/88 letter and the draft letter to the Board. I have only one point of departure. In my view Judge Wolfe said not only that the Applicants could not reargue the estoppel issue but that they could not make arguments the substance of which would be that it is "unlawful or untoward for the Commonwealth to consult with its agencies or political subdivisions and to take corrective actions to protect the public health and safety." This broader prohibition is, of course, right out of the Board's order on your motion to compel.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Stephen A. Jonas".

Stephen A. Jonas
Deputy Chief
Public Protection Bureau

SAJ/BT

CERTIFICATE OF SERVICE

DOCKETED
USNRC

I, Jeffrey P. Trout, one of the attorneys for the Applicants herein, hereby certify that on September 15, 1988, I made service of the within documents by depositing copies thereof with Federal Express, prepaid, for delivery to (or where indicated, by depositing in the United States mail, first class postage paid, addressed to) the individuals listed below.

88 SEP 20 P4:33
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Adjudicatory File
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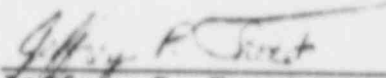
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Jeffrey P. Trout

(*-Ordinary U.S. First Class Mail.)