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DOCKETED
USNRC
October 15, 1998

UNITED STATES OF AMERICA '98 OCT 16 P1:38
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
REGULATIONS AND
ADJUDICATIONS STAFF

BEFORE THE COMMISSION

In the Matter of)	
)	
North Atlantic Energy Service Corporation)	Docket Nos. 50-443-LA
)	50-443-LA-2
(Seabrook Station))	

MOTION TO WITHDRAW APPLICATIONS
AND TO TERMINATE PROCEEDINGS

Pursuant to 10 C.F.R. 2.107(a), North Atlantic Energy Service Corporation ("NAESCO"), the applicant in the above-captioned proceedings, requests issuance of an order authorizing withdrawal of the two license amendment applications at issue and terminating the two proceedings.

By Motion dated October 1, 1998, NAESCO, along with Seacoast Anti-Pollution League ("SAPL") and New England Coalition on Nuclear Pollution ("NECNP"), the petitioners to intervene with respect to these matters, requested a short deferral of the briefing schedule in this proceeding in order to accommodate settlement negotiations between the parties. The parties have not settled the case. Instead, due to other considerations, NAESCO has opted to cease in its efforts to obtain the requested Technical Specification changes at this time. As stated in the attached NAESCO letter on the licensing docket, NAESCO has requested that the applications be

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withdrawn.^{1/} Plans have been revised such that the next refueling outage at Seabrook Station are set to be conducted on a schedule consistent with the existing Technical Specifications.

Under the current circumstances, there is no basis or need for conditions on the withdrawal of the OL application or on the termination of this proceeding. See, e.g., Duke Power Company (Perkins Nuclear Station, Units 1, 2 and 3), LBP-82-81, 16 NRC 1128, 1134-35(1982)(federal law favors dismissals without prejudice where the other parties will not be harmed; conditions on withdrawal would be imposed only when needed to obviate legal harm). No conclusions of fact or law have been reached and no party to this proceeding will be harmed by a dismissal. Should NAESCO ever seek similar Technical Specification changes, petitioners hearing rights are preserved.^{2/} Moreover, the alleged harm due to the proposed Technical Specification changes, the very basis for this proceeding, will not occur because the changes will not be made at this time and, absent such relief, equipment surveillances will be conducted within current Technical Specification allowances. Compare Sequoyah Fuels Corporation, LBP-93-25, 38 NRC 304, 327 (1993).

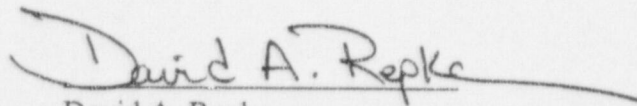
^{1/} These two proceedings relate to NAESCO's License Amendment Request 98-03, NYN-98053 ("Submittal No. 2"), of April 8, 1998, and 98-05, NYN-98070 ("Submittal No. 4") of May 21, 1998. These two applications are part of a series of amendment applications that includes two others filed with the NRC. NAESCO has withdrawn all four license amendment applications.

^{2/} The possibility of future litigation and related expenses is not a basis for conditions on withdrawal. Puerto Rico Electric Power Authority (North Coast Nuclear Plant, Unit 1), ALAB-662, 14 NRC 1125, 1135 (1981).

In light of NAESCO's decision to withdraw the amendment applications, NAESCO concludes that the issues raised in the Commission's Order of September 17, 1998, CLI-98-18, are moot. NAESCO does not plan to file a brief on these issues unless the Commission instructs otherwise.

Counsel for the Nuclear Regulatory Commission Staff has informed NAESCO's counsel that the Staff does not intend to oppose this Motion. Counsel for SAPL and NECNP was advised of the withdrawal and this Motion, but had not indicated a position on the Motion.

Respectfully submitted,


David A. Repka

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ATTORNEYS FOR NORTH ATLANTIC
ENERGY SERVICE CORPORATION

Dated in Washington, D.C.
this 15th day of October, 1998

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

'98 OCT 16 P1:38

BEFORE THE COMMISSION

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

In the Matter of)

North Atlantic Energy Service Corporation)

(Seabrook Station))

Docket Nos. 50-443-LA
50-443-LA-2

CERTIFICATE OF SERVICE

I hereby certify that copies of "MOTION TO WITHDRAW APPLICATIONS AND TO TERMINATE PROCEEDINGS" 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 hand delivery service, or as marked by two asterisks (**), by overnight delivery, this 15th day of October, 1998. For those parties marked by a diamond (◇), a copy has also been provided this same day by e-mail.

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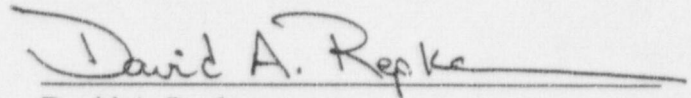
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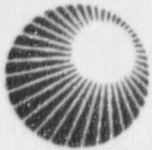
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Adjudicatory File
Atomic Safety and Licensing Board Panel
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Counsel for North Atlantic Energy Service Corporation



**North
Atlantic**

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The Northeast Utilities System

October 14, 1998

Docket No. 50-443

NYN-98121

United States Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, D.C. 20555

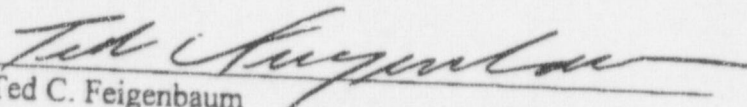
Seabrook Station
Withdrawal of License Amendment Requests 98-02, 98-03, 98-04 and 98-05
Associated With Changes In Technical Specification Surveillance Intervals
To Accommodate A 24-Month Fuel Cycle

North Atlantic Energy Service Corporation (North Atlantic) hereby withdraws License Amendment Requests (LARs) 98-02, 98-03, 98-04 and 98-05 (References a through d). These LARs were part of a planned series of LAR submittals proposing changes to the Seabrook Station Technical Specifications to accommodate fuel cycles of up to 24 months, addressing selected surveillances that are currently performed at each 18-month or other outage interval. However, because of the length of time and costs associated with pursuing these approvals and other operational considerations, the refueling outage for the current fuel cycle (Cycle 6) has been rescheduled and these LARs are no longer required at this time.

Should you have any questions regarding this letter, please contact Mr. Terry L. Harpster - Director of Licensing Services, at (603) 773-7765.

Very truly yours,

NORTH ATLANTIC ENERGY SERVICE CORP.


Ted C. Feigenbaum
Executive Vice President
and Chief Nuclear Officer

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cc: H. J. Miller, NRC Regional Administrator
J. T. Harrison, NRC Project Manager, Project Directorate 1-3
R. K. Lorson, NRC Senior Resident Inspector

Mr. Woodbury P. Fogg, P.E., Director
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References:

- a) North Atlantic Letter NYN-98052, dated April 3, 1998, Ted C. Feigenbaum to USNRC, "License Amendment Request 98-02, Changes In Technical Specification Surveillance Intervals To Accommodate A 24-Month Fuel Cycle Per Generic Letter 91-04 - Submittal No. 1"
- b) North Atlantic Letter NYN-98053, dated April 8, 1998, Ted C. Feigenbaum to USNRC, "License Amendment Request 98-03, Changes In Technical Specification Surveillance Intervals To Accommodate A 24-Month Fuel Cycle Per Generic Letter 91-04 - Submittal No. 2"
- c) North Atlantic Letter NYN-98054, dated April 22, 1998, Ted C. Feigenbaum to USNRC, "License Amendment Request 98-04, Changes In Technical Specification Surveillance Intervals To Accommodate A 24-Month Fuel Cycle Per Generic Letter 91-04 - Submittal No. 3"
- d) North Atlantic Letter NYN-98070, dated May 21, 1998, Ted C. Feigenbaum to USNRC, "License Amendment Request 98-05, Changes In Technical Specification Surveillance Intervals To Accommodate A 24-Month Fuel Cycle Per Generic Letter 91-04 - Submittal No. 4"