

plant operating license.[1] In particular, the Attorney General requested a waiver of or exception from Sections 2.104(c)(4), 50.33(f), and 50.57(a)(4) of the Commission's regulations to the extent necessary to require that the Applicants demonstrate, prior to low power operation, financial qualification to cover the costs of Seabrook Unit 1's operation for the period of the license and the costs to permanently shut it down and maintain it in a safe condition. In support of that petition, the Attorney General maintained that the substantial present and potential future costs associated with low power operation and testing of the Seabrook plant (MassAG Pet at 16 - 23), together with the bankruptcy related constraints on the availability of funds to PSNH to cover those costs (Id. at 24 - 32) and the present inability/unwillingness of the remaining joint applicants to commit to cover PSNH's share of those present and future costs (Id. at 4 -15), demonstrated that it is more likely than not that adequate funding for the costs of safe low power operation and permanently shutting down the Seabrook plant and maintaining it in a safe condition would not be available during the pendency of the PSNH bankruptcy. Subsequent to the filing of the Attorney General's Petition, additional

1. MASSACHUSETTS ATTORNEY GENERAL JAMES M. SHANNON'S PETITION UNDER 10 C.F.R. 2.758 FOR A WAIVER OF OR AN EXCEPTION FROM THE PUBLIC UTILITY EXEMPTION FROM THE REQUIREMENT OF A DEMONSTRATION OF FINANCIAL QUALIFICATION (hereinafter referenced as "MassAG Pet").

information became available bearing on the likelihood that adequate funding will be available to assure the safe operation and/or decommissioning of the Seabrook plant. The Attorney General informed this Appeal Board of that information in a Supplement to his petition dated May 13, 1988. On June 1, 1988, the Board of Directors of the Massachusetts Municipal Wholesale Electric Company, the entity with the fourth largest ownership share of the Seabrook plant, took certain extraordinary action which provides further proof of the uncertainty that adequate funding will ever be available to ensure the safe operation and decommissioning of the Seabrook plant. The Attorney General is filing this Second Supplement to his original Petition to bring this information to the attention of this Appeal Board. In support of the AG Petition, the Attorney General states:

1. On June 1, 1988, the Board of Directors of MMWEC voted unanimously to endorse the analysis and recommendations contained in two reports by the MMWEC General Manager to the Board of Directors: Seabrook Strategic Plan of Action and Seabrook Options Analysis. (Appended hereto as Second Supplemental Appendix I).[2]

2. The Attorney General was not able to obtain a copy of the MMWEC record memorializing the vote of the Board of Directors, but the Attorney General did receive confirmation of the vote telephone and has been informed that a copy of the vote will be provided no later than June 3, 1988. Upon receipt of this document, the Attorney General will supply a copy to this Appeal Board.

2. In the executive summary of the General Manager's Seabrook Strategic Plan of Action, after referencing the extensive analysis conducted in preparation of the report, the report indicates that the General Manager had concluded "that it is reasonable, prudent, and in the best interest of MMWEC to get out of Seabrook ..." Second Supplemental Appendix I at 1.

2. In the recommendations of the General Manager's Seabrook Strategic Plan of Action, it was recommended that:

- a. MMWEC not make the current payment due on June 2, 1988 towards the ongoing costs of the Seabrook Plant (Second Supplemental Appendix I at 8);
- b. MMWEC seek to sell its interest in the Seabrook Plant to either another joint owner or to an outside investor (Id. at 7);
- c. MMWEC prepare a proof of claim for filing in the PSNH bankruptcy proceeding seeking to recover its past investment in the Seabrook Plant (Id. at 9);
- d. MMWEC take legal action against the constructors of the Seabrook Plant seeking "to recover its investment and damages associated with its involvement in the project." Id. at 10.

3. On knowledge and belief, MMWEC did not make the payment due on June 2, 1988 towards the continuing costs of the Seabrook Plant.

4. Although the June 1, 1988 action of the MMWEC Board of Directors does not explicitly call for a permanent suspension of payments towards the costs of the Seabrook Plant, it clearly has increased the level of risk associated with continued expenditures by any of the other joint owners and can only be seen as further reinforcing the capital market's already solid lack of interest in Seabrook related financings.

CONCLUSION

WHEREFORE, Attorney General James M. Shannon prays that this Appeal Board:

(1) find that a prima facie case has been made that the application here of the public utility exemption from the requirement of a demonstration of financial qualification would not serve the purpose for which the exemption was adopted and that application of that exemption should be waived or an exception granted;

(2) certify directly to the Commission for determination of whether the public utility exemption from the requirement of a demonstration of financial qualification should be waived or an exception granted with respect to the licensing of the Seabrook plant;

(3) stay the issuance of a license authorizing low power operation and testing pending the resolution by the Commission of the certified issue and, if the Commission determines that in the circumstances of the Seabrook plant a waiver of or exception from the public utility exemption from the financial qualification rule should be granted, a determination of financial qualification;

(4) issue such other orders and grant such other relief as may be equitable and necessary to assure the public health and safety in light of the present extraordinary financial straits of the Joint Applicants, particularly that of lead owner and the other entities in or soon to be in default on interest due on their securities.

RESPECTFULLY SUBMITTED,

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Dated: May 11, 1988