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UNITED STATES OF AMERICA '88 JUN -8 A11 :22  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

NRC STAFF RESPONSE TO APPLICANTS' SUGGESTION OF MOOTNESS

INTRODUCTION

On May 19, 1988, Applicants filed a "Suggestion Of Mootness" in which they request the Licensing Board "to enter an order that the issue regarding the environmental qualification of RG-58 coaxial cable pending before the Licensing Board is moot." Id. at 1. On May 23, 1988, the Licensing Board directed the Staff and NECNP to respond to Applicants' filing by June 3, 1988. See May 23, 1988 Order at 1. The Staff's views concerning Applicants' "Suggestion of Mootness" are set forth below.

BACKGROUND

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." Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), ALAB-891, 27 NRC \_\_\_\_, slip op. at 22 (April 25, 1988). The next day, April 26, 1988, the Licensing Board

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issued its order soliciting the parties' views as to how best to effectuate the Appeal Board's order. See April 26, 1988 Order at 1.

In its response to the Board's April 26, 1988 order <sup>1/</sup>, the Staff noted that the Licensing Board's finding regarding the environmental qualification of RG-58 coaxial cable was reversed by the Appeal Board for only one reason -- that the evidentiary record contained insufficient evidence to support the conclusion that the cable was environmentally qualified to perform its intended function. May 6 Staff Response at 3, citing, ALAB-891, slip op. at 22. The Staff pointed out that the Appeal Board did not rule that RG-58 cable was not environmentally qualified. Id. The Staff advised the Board that to cure this deficiency it was 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 for its intended uses. Id. The Staff further advised that because Applicants bear the burden of proof, see 10 C.F.R. § 2.732, they should be required to present such evidence in the first instance.

The Staff identified three ways in which Applicants could carry their burden. See May 6 Staff Response at 3-4. First, Applicants can subject the RG-58 cable itself to the tests necessary to establish its environmental qualification. Id. at 3, citing, 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

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<sup>1/</sup> NRC Staff Response To Board Order Of April 26, 1988 (May 6, 1988) ("May 6 Staff Response").

demonstrate the environmental qualification of the former under 10 C.F.R. § 50.49(f)(2). Id. Third, Applicants can attempt to demonstrate that RG-58 coaxial cable is not intended to be used for any purpose in which it may be required to perform an accident mitigation function and that the cable is qualified to perform its intended function function. Id. at 4. A fourth option available to Applicants which the Staff did not address is to replace all RG-58 coaxial cables requiring environmental qualification with another type cable that has previously been demonstrated to be environmentally qualified for its intended use. This course of action is appropriate because it addresses and eliminates the central claim of remanded NECNP Contention I.B.2 -- that RG-58 coaxial cable was being utilized in a harsh environment at the Seabrook Station without first being environmentally qualified pursuant to 10 C.F.R. § 50.49.

Applicants state that remanded NECNP Contention I.B.2 should be dismissed as moot because they plan to replace the RG-58 coaxial cables with RG-59 coaxial cable in each instance where the requirements of 10 C.F.R. § 50.49 are applicable. Suggestion Of Mootness at 5-6. To the extent that Applicants suggest that the Board dismiss remanded NECNP Contention I.B.2 without making the appropriate findings of fact and conclusion of law, the Staff does not agree that Applicants' submission in itself moots the issue. <sup>2/</sup> Rather, as the Staff outlined in its May 6

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<sup>2/</sup> There is no inconsistency between this position and the one taken by the Staff with respect to remanded NECNP Contentions I.V and IV. See Letter from Gregory Alan Berry, Esq. to Licensing Board at 1 (April 28, 1988). Since remanded NECNP Contentions I.V and IV were abandoned by the intervenor, they properly were dismissed by the

response, the affidavits submitted by Applicants in support of their mootness motion should be received into the record as evidence offered to establish that the safety concern alleged in remanded NECNP Contention I.B.2 has been satisfactorily resolved. See May 6 Staff Response at 3-5. Thus, the Board should follow the procedure outlined by the Staff and afford NECNP and the Staff a reasonable opportunity to present evidence in support of or in opposition to Applicants' position. Id. at 4-5. <sup>3/</sup>

The Staff may submit a further presentation after reviewing Applicants' evidentiary submission. It is useful at this juncture, however, for the Staff to provide the following comments on Applicants' submission based upon a preliminary review of that information.

#### DISCUSSION

Applicants state that a review of all installed RG-58 coaxial cable at the Seabrook Station resulted in the identification of 126 RG-58 coaxial cables, grouped into five categories. Suggestion of Mootness at

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(FOOTNOTE CONTINUED FROM PREVIOUS PAGE)

Board. See May 12, 1988 Order. In contrast, NECNP has not abandoned or withdrawn remanded NECNP Contention I.B.2. The only thing changed by Applicants' instant filing is the manner in which Applicants have elected to address the safety concern raised in remanded NECNP Contention I.B.2.

<sup>3/</sup> The Staff advised the Board in its May 6 response that the need for an evidentiary hearing would be obviated "[i]f, 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[.]" May 6 Staff Response at 5. In such case, "the Board should close the record and issue an initial decision favorable to Applicants." Id. The Staff advised the Board that if, upon review of all the materials submitted by the parties, there existed genuine issues as to any material facts, the Board should then schedule a hearing to resolve those issues. Id.

1, citing, Affidavit of Richard Bergeron at ¶¶ 3-6. According to Applicants, only the cables (a total of 12) in one the five categories are required to meet the environmental qualification standards set forth in 10 C.F.R. § 50.49. Bergeron Affidavit at ¶ 15. Applicants take the position that for various reasons, the remaining 114 cables in the four other categories need not satisfy the requirements of section 50.49. See Id. at ¶¶ 12-14. As explained below, the Staff agrees with Applicants that the requirements of 10 C.F.R. § 50.49 apply only to RG-58 cables located in harsh environments. <sup>4/</sup>

Section 50.49 governs the environmental qualification of electrical equipment important to safety. 10 C.F.R. § 50.49. An item is considered "important to safety" if it (i) has an accident mitigation function; (ii) its failure under 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). However, not every item of electrical equipment which is "important to safety" need be environmentally qualified in accordance with 10 C.F.R. § 50.49. Paragraph (c)(3) provides that "[r]equirements for . . .

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<sup>4/</sup> It should be noted that Applicants have not submitted the source material upon which the claim that a total of 126 RG-58 cables have been installed in the Seabrook Station is founded. Similarly, Applicants have not submitted the materials evaluated by them in determining which category grouping a particular RG-58 cable belonged. Consequently, the Staff is not in a position to confirm or deny the accuracy of Applicants' representations that (1) 126 RG-58 cables have been installed at the Seabrook Station and (2) the particular category groupings are appropriate. The Staff after reviewing the nature of this submission may make a further presentation on its sufficiency.

(3) environmental qualification of electric equipment important to safety located in a mild environment are not included within the scope of this section." 10 C.F.R. § 50.49(b)(3). A "mild" environment is defined as "an environment that would at no time be significantly more severe than the environment that would occur during normal plant operation, including anticipated operational occurrences." Id. In view of the foregoing, electrical equipment must be environmentally qualified in accordance with 10 C.F.R. § 50.49 if it (1) is "important to safety" as that term is defined in section 50.49(b)(1-3) and (2) is located in a harsh (i.e., non-mild) environment. Unless both of these conditions exist, the electrical equipment item need not be environmentally qualified. The Staff has applied these criteria to Applicants' RG-58 coaxial cable groupings.

A. Applicants' RG-58 Cable Category Groupings

1. Spare RG-58 Coaxial Cables

Applicants' expert, Mr. Bergeron, states that 18 of the 126 installed RG-58 coaxial cables are spares. Bergeron Affidavit at ¶ 9. According to Mr. Bergeron, none of these cables need be environmentally qualified pursuant to 10 C.F.R. § 50.49 because, inter alia, they "are not functioning or energized and therefore do not pose any threat to other cables in the same raceway." Id. at ¶ 14. Mr. Bergeron further states

that before a spare RG-58 cable may be used, "a design change has to be initiated prior to its incorporation into the plant design." Id. <sup>5/</sup>

Based on the information presented by Applicants to date, the Staff agrees that spare cables need not meet the requirements of 10 C.F.R. § 50.49. As noted above, the Commission's environmental qualification requirements do not apply to nonsafety related electrical equipment unless the failure of such equipment under postulated environmental conditions could prevent satisfactory performance of safety related equipment relied upon to remain functional during and after a design basis event. See 10 C.F.R. § 50.49(b)(2). An electrical cable that is not energized or functional does not present any threat to the ability of other electrical cables or components to perform their safety functions during or subsequent to an accident. Consequently, such cables are not "important to safety" as that phrase is defined in 10 C.F.R. § 50.49(b) and thus need not satisfy the environmental qualification standards even if located in a harsh environment. <sup>6/</sup>

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<sup>5/</sup> Although the Staff possesses no information to dispute this claim, it should be noted that no documentary materials are cited or provided in support of this claim. For this reason, the Staff has indicated that the Seabrook Final Safety Analysis Report should be amended to reflect this design commitment. See n.6, infra.

<sup>6/</sup> It should be noted, however, that should Applicants choose in the future to utilize any spare RG-58 coaxial cable located in a harsh environment, it will be necessary for Applicants to first establish the environmental qualification of the cable in accordance with section 50.49. In the meantime, the Seabrook Final Safety Analysis Report should be amended to reflect that no spare RG-58 coaxial cable may be utilized in a harsh environment.

2. RG-58 Coaxial Cables Routed Through A Harsh Environment

Applicants have identified twelve RG-58 coaxial cables routed through harsh environments. Bergeron Affidavit at ¶ 9. Applicants state that these cables must comply with the environmental qualification requirements of 10 C.F.R. § 50.49. Id. at ¶ 15. Although Applicants do not expressly state, it appears that these cables are important to safety (i.e., their failure under postulated environmental conditions could impair the ability of safety related equipment to perform its safety function satisfactorily). See Id. If this assumption is correct, the Staff agrees that the requirements of section 50.49 are applicable to the subject cables since they are located in harsh environments.

3. RG-58 Coaxial Cables Located in A Mild Environment

Applicants' expert, Mr. Bergeron, states that 77 of the 126 installed RG-58 coaxial cables are exempt from the requirements of 10 C.F.R. § 50.49 because they are located in mild environments. Bergeron Affidavit at ¶¶ 9, 12. Section 50.49(c)(3) expressly provides that electrical equipment important to safety located in mild environments is not subject to the environmental qualification requirements set forth in 10 C.F.R. § 50.49. See 10 C.F.R. § 50.49(c)(3). Thus assuming Applicants are correct in stating these 77 RG-58 coaxial cables are located in "mild" environments, they need not be environmentally qualified in accordance with section 50.49. <sup>7/</sup>

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<sup>7/</sup> Again, Applicants have not provided any documentary materials to substantiate the claim that the environment in which these cables are located is a mild one; and the Staff has no independent information to confirm or deny the accuracy of this claim.



4. RG-58 Coaxial Cables Routed With Other Nonsafety-Related Cables Outside The Nuclear Island

Ten RG-58 coaxial cables are routed with other non-safety related cables outside the Seabrook nuclear island according to Mr. Bergeron. Bergeron Affidavit at ¶ 9. Among the structures included in the Seabrook nuclear island are the containment, control room, fuel storage, diesel generator, and primary auxillary buildings. See Seabrook FSAR, Figure 8.3-58. According to Applicants, RG-58 cables routed with other nonsafety related cables outside the nuclear island need not comply with 10 C.F.R. § 50.49 because they are not "important to safety." Id. at ¶ 13. Mr. Bergeron opines that failure of the subject RG-58 coaxial cables would not prevent the accomplishment of safety functions but his affidavit does not reference or contain any factual information against which this conclusion can be evaluated. See Id. <sup>8/</sup> The Applicants fails to show that important to safety RG-58 cable might not be exposed to a harsh environment outside of the nuclear island. As the basis of the Applicant's assertion that these cables will not be exposed to a harsh environment is only that they are not in the nuclear island, the Staff is not able to take a position at this time as to whether the RG-58 coaxial cables routed with other nonsafety related cables outside the nuclear island must be environmentally qualified in accordance with 10 C.F.R. § 50.49.

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<sup>8/</sup> Non-safety related equipment is "important to safety" and subject to environmental qualification requirements, if (1) it is located in a harsh environment and (2) its "failure under postulated environmental conditions could prevent satisfactory accomplishment of safety functions." Compare 10 C.F.R. § 50.49(b)(2), with, 10 C.F.R. § 50.49(c)(3). If either of these conditions are lacking, the requirements of section 50.49 do not apply. Mr. Bergeron's affidavit does not explain clearly why one or the other of these conditions is not present with respect to the RG-58 coaxial cables routed with other non-safety related cables outside the nuclear island.

5. RG-58 Coaxial Cables Routed In Mild Environments Within The Nuclear Island And Routed With Nonsafety-Related Cables Outside The Nuclear Island

According to Mr. Bergeron, nine RG-58 coaxial cables are routed in mild environments within the nuclear island and with nonsafety related cables outside the nuclear island. Bergeron Affidavit at ¶ 9. Electrical cables, even ones important to safety, which are located in mild environments within or outside the nuclear island are not subject to environmental qualification requirements of section 50.49. See 10 C.F.R. § 50.49(c)(3). Electrical cables routed outside the nuclear island need not be qualified where it is shown that such cables (1) are located in mild environments or (2) the failure of such under postulated environmental conditions would not prevent satisfactory accomplishment of safety functions. As noted in Part A(4) of this response, Mr. Bergeron's affidavit does not clearly explain the basis for the determination that the RG-58 coaxial cables routed with other nonsafety related cable outside the nuclear island is not in a harsh environment as those environments are also present outside of a nuclear island. Consequently, the Staff has no current position as to whether the subject cables must be qualified in accordance with 10 C.F.R. § 50.49.

B. The Acceptability Of RG-59 Coaxial Cable In Place Of RG-58 Coaxial Cable

As discussed in the preceding section of this response, the Staff agrees with Applicants that only RG-58 cables located in harsh environments need be environmentally qualified. Rather than establish the environmental qualification of RG-58 coaxial cable, Applicants propose instead to use RG-59 coaxial cable in lieu of RG-58 coaxial cables in which it recognizes are subject to harsh environments. Affidavit of

Gerald A. Kotkowski at ¶ 2; Affidavit of Ted C. Feigenbaum at ¶ 7. The Staff agrees that the substitution of RG-59 coaxial cables for the twelve RG-58 coaxial cables would satisfy the environmental qualification requirements of 10 C.F.R. § 50.49 for those cables. This is because the environmental qualification of RG-59 coaxial cable already has been established. See Public Service Company of New Hampshire (Seabrook Station, Unit 1 and 2), LBP-87-10, 25 NRC 177, 210-11, rev'd in part on other grounds, ALAB-875, 26 NRC 251 (1987); NECNP Ex. 4 (Environmental Qualification File No. 113-19-01); Affidavit of Amritpal S. Gill and Harold Walker, attached to NRC Staff's Response To NECNP Motion To Reopen The Record And Admit New Contention (February 17, 1988).

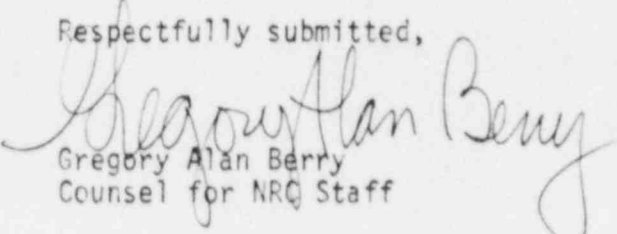
Although from an environmental qualification standpoint no concern is presented by the proposed substitution of RG-59 coaxial cable in place of the twelve RG-58 coaxial cables located in harsh environments, it remains to be considered whether the RG-59 coaxial cable is a technically acceptable replacement for the RG-58 coaxial cable. Applicants' expert on this issue, Mr. Kotkowski, concludes in his affidavit that RG-59 coaxial cables would be acceptable substitutes. See Kotkowski Affidavit at ¶¶ 3-8. On the basis of this affidavit, providing matters set out therein are not rebutted, the Licensing Board might find that the RG-59 cable is an acceptable substitute for the subject 12 RG-58 cables.

#### CONCLUSION

For the reasons stated in this response, the Board should deny Applicants' motion for an order dismissing remanded NECNP Contention I.B.2 as moot. The Board should reopen the record to receive the affidavits of Messrs. Bergeron, Kotkowski, and Feigenbaum submitted by Applicants and

any other relevant and admissible evidence which Applicants may offer to support their position on remanded NECNP Contention I.B.2 or to address the questions raised by the Staff herein. The Board should then afford NECNP and the Staff a reasonable amount of time to submit, if they so elect, relevant and admissible evidence in support of or opposition to Applicants' 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. If, however, a review of all the materials submitted by the parties reveals the existence of genuine issues as to material facts, the Board should then schedule a hearing to resolve those issues. <sup>9/</sup>

Respectfully submitted,

  
Gregory Alan Berry  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 1st day of May 1988

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<sup>9/</sup> On May 31, 1988, the Staff received a May 27, 1988 filing from the Applicants concerning its May 19, 1988 Suggestion of Mootness. In this filing the Applicants change the number of cables in two categories and set out matters which they believe are relevant to their Suggestion of Mootness. This additional filing and the changes reinforces the Staff's position that the record should be reopened to receive material proffered by the Applicants and other parties in order to determine whether this environmental qualification issue may be disposed of on the bases of those submissions or whether a hearing is needed on the subject issue.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

PUBLIC SERVICE COMPANY OF  
NEW HAMPSHIRE, et al.

(Seabrook Station, Units 1 and 2

)  
) Docket Nos. 50-443 OL-01  
) 50-444 OL-01  
) On-site Emergency Planning  
) and Safety Issues  
)

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO APPLICANTS' SUGGESTION OF MOOTNESS" 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 2nd day of June 1988.

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