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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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COMMISSIONERS:

Lando W. Zech, Jr., Chairman
Thomas M. Roberts
Kenneth M. Carr
Kenneth C. Rogers

OFFICE OF PUBLIC AFFAIRS
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In the Matter of
PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE, et al.,
(Seabrook Station, Units 1 and 2)

Docket Nos. 50-443-OL
50-444-OL
(Offsite Emergency Planning)
Docket Nos. 50-443-OL-1
50-443-OL-1
(Onsite Emergency Planning
and Safety Issues)

ORDER
CLI-88-08

On February 3, 1988, the Atomic Safety and Licensing Appeal Board held that issues relating to the means in an emergency for promptly notifying the offsite public were required to be resolved favorably to the applicants before low-power testing operations at Seabrook could proceed. Public Service Company of New Hampshire (Seabrook Station Units 1 and 2), ALAB 883, 27 NRC 43 (1988). The applicants sought Commission review of that decision by petition dated February 18, 1988, and in due course the Commission received the views of the parties. The matter remains before us, and we dispose of it today by this order in which we vacate those portions of ALAB-883 which require a finding on prompt offsite notification systems before low-power operation.

Related to its deliberations in Seabrook and in the interval between issuance of ALAB-883 and this order, the Commission conducted a rulemaking in

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which, among other things, it reexamined whether there was a safety basis for requiring prompt public notification as a prerequisite to low-power testing operations. See Notice of Proposed Rulemaking, 53 Fed. Reg. 16435 (1988). In the preamble for the final rule, the Commission reaffirmed its earlier view that the risks at low power were significantly less than at full power and therefore concluded that such a system was not needed. The Commission clearly established by rule that it was discontinuing the practice of reviewing offsite public notification systems as part of the applicants' onsite plan which needed to be in place before low power testing began. Findings on only those offsite standards specified in 10 C.F.R. § 50.47(d), as amended, are to be prerequisite to low power testing. The rule becomes effective on October 24 and is applicable to this proceeding.

In light of the foregoing, the Commission vacates that portion of the Appeal Board's memorandum and order in ALAB-883 which holds that an adequate system for prompt public notification in the event of an accident is a prerequisite to authorizing low power operation. The Commission specifically vacates the Appeal Board's order that authorization of low-power operation may not be given effect until the contested issues about such a system are resolved favorably for Seabrook.¹ The Commission believes that no useful purpose would be served in discussing whether the Appeal Board was correct in interpreting the regulations as they stood at the time ALAB-883 was issued. Accordingly, no further consideration of ALAB-883 is warranted.

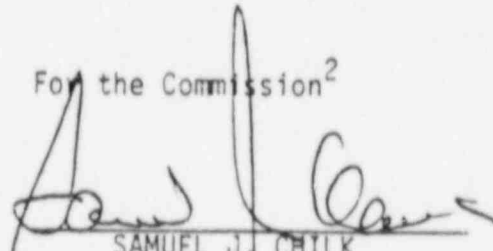
¹This is not to say that such authorization is now appropriate. The Commission has required that applicants demonstrate reasonable assurance that there will be available funding for decommissioning in the event that low-power testing occurs and a full power license is not granted. See Commission Order, CLI-88-7, (September 22, 1988).

Finally, the Commission directs the Chairman of the Atomic Safety and Licensing Board Panel in consultation with the Seabrook "onsite" and "offsite" Atomic Safety and Licensing Boards to determine which of those Licensing Boards should try the prompt notification issues. The Commission expresses no view on the question.

It is so ORDERED.



For the Commission²



SAMUEL J. CHILK
Secretary of the Commission

Dated at Rockville, MD

this 7 day of October, 1988.

²Commissioner Roberts was on official government travel and was unavailable to participate on this order.