



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20585-0001

PDR

50-443

February 3, 1998

CHAIRMAN

The Honorable Beverly A. Hollingsworth
The Senate of the State of New Hampshire
107 N. Main Street, Room 302
Concord, New Hampshire 03301-4951

Dear Senator Hollingsworth:

Thank you for your letter dated December 18, 1997, concerning the decommissioning funding obligations of Great Bay Power Corporation (Great Bay) and the legislation you have introduced to complement the accelerated decommissioning funding payment schedule recently proposed by Great Bay.

As you may be aware, the Commission is proposing to amend its regulations on financial assurance requirements for the decommissioning of nuclear power plants. (62 Fed. Reg. 47,588 (1997).) Although we anticipate that this rulemaking will be completed prior to the expiration of Great Bay's exemption, it is not clear at this time whether Great Bay will be able to comply with any new requirements applicable to it. However, to the extent that your proposed legislation may augment funding assurance for the decommissioning of the Seabrook facility, it will certainly be considered in connection with any resolution of decommissioning funding assurance matters for Great Bay.

Sincerely,

Shirley Ann Jackson



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The Senate of the State of New Hampshire

107 N. Main Street, Room 302, Concord, N.H. 03301-4951

BEVERLY A. HOLLINGWORTH
District 23

Office 271-2117

TTY/TDD
1-800-735-2964

December 18, 1997

Shirley Ann Jackson, Chairman
United States Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Chairman Jackson:

I am writing with respect to efforts underway to find means of assuring that the decommissioning obligations of Great Bay Power Corporation, owner of 12.13240 percent of Seabrook Station, will be fulfilled.

As you may know, representatives of Great Bay Power Corporation met with Craig Smith, Seabrook Project Manager, and other members of the agency's staff on December 16th to broach the notion of accelerating their payments to the decommissioning fund in order to comply with the NRC's requirements. I understand the company intends to submit a formal filing to the NRC in January.

I fully endorse accelerated funding which limits the risks to the decommissioning fund. However, in light of the peculiar and unique commercial exigencies of Great Bay Power Corporation, I do not consider accelerated funding alone provides the assurance required by both the NRC and the State of New Hampshire.

Consequently, I have introduced legislation (a copy of which is enclosed) to provide the necessary assurance in the form of a proportional guarantee of Great Bay Power Corporation's decommissioning obligation by the joint-owners of Seabrook Station. This legislation, I believe, is a necessary complement to the accelerated payment schedule proposed by the company.

As you are aware, the *Final Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry*, issued by the NRC on August 19, 1997, anticipated that "in highly unusual situations" like that of Great Bay Power Corporation, owners of nuclear entitlements might be held jointly and severally liable for decommissioning obligations. I believe a proportional guarantee, though short of joint and several liability, provides sufficient assurance for the risk posed by Great Bay Power Corporation until the restructuring and deregulation of the electric power industry in New Hampshire is complete.

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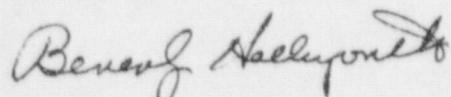
The legislation is tailored and limited strictly to assuring the decommissioning obligation of Great Bay Power Corporation between the effective date of the statute and the restructuring of the electric power industry. *Restructuring New Hampshire's Electric Utility Industry: Final Plan*, issued by the Public Utilities Commission on February 28, 1997, contemplates utilities will divest their generating assets within two years of initiating competition. Therefore, restructuring will require a mechanism for assuring decommissioning obligations in a deregulated and competitive marketplace.

The development of this mechanism is contingent upon and integral to resolution of other aspects of restructuring the industry. Meanwhile, Great Bay Power Corporation presents an immediate problem open to a discrete solution. In addressing this specific problem, my legislation is not intended to serve as a precedent for the general assurance of decommissioning obligations required to complete the restructuring of the industry.

If successful, this legislation would be effective upon passage; that is, by July 1998 when the extension granted by the NRC to Great Bay Power Corporation expires. I trust the NRC will conclude that with this legislation no purpose would be served by a further extension which would simply prolong exposure to the risk of default.

I would ask the NRC to consider this legislation as it addresses the case of Great Bay Power Corporation.

Sincerely,



Beverly Hollingsworth
BAH:mk

enclosure

cc: Craig Smith, NRR, Seabrook Project Manager

Sen. Hollingworth, Dist 23
December 19, 1997
1998-0229s
03/01

Amendment to SB 140

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to the obligations of joint owners to the nuclear decommissioning finance fund.

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 Decommissioning of Nuclear Electric Generating Facilities; Guarantee of Payment; Default
8 of Payment.

9 I. The joint owners of a facility shall be proportional guarantors of the decommissioning
10 obligations of any joint owner of the facility which on the effective date of this section, does not have
11 a franchise territory.

12 II. The nuclear decommissioning financing committee shall designate the joint owners of a
13 facility as proportional guarantors of any joint owners of the facility that are unable to meet their
14 obligations as proportional guarantors of the decommissioning obligations of any joint owner of the
15 facility without a franchise territory.

16 III. If a joint owner of a facility without a franchise territory defaults on its
17 decommissioning obligations, the committee shall require the remaining owners of the facility to
18 submit for the committee's approval a plan for the fulfillment of the defaulting owner's
19 decommissioning obligations. The plan shall be submitted within 30 days after the default. The
20 plan may include the sale of the defaulting owner's share of the power generated by the facility, and
21 the application of the proceeds of such sale to the defaulting owner's decommissioning obligations.
22 For purposes of this section, "default" means the failure by an owner to make 2 consecutive
23 payments to the fund required by RSA 162-F.

24 IV. If there is no plan submitted and approved pursuant to paragraph III, the committee
25 may prepare and implement a plan for recovering the decommissioning costs in default.

26 V. Notwithstanding any other provision of law, a utility that is required to pay a
27 proportional share as guarantor pursuant to this section may charge all or some of the amount to
28 customers on a per kilowatt hour basis only upon approval by the public utilities commission after a
29 finding that such a charge is just and reasonable and in the public good.

30 2 Repeal. Section 1, relative to decommissioning of nuclear electric generating facilities, is
31 repealed.

Amendment to SB 140

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1 3 Contingency. Section 2 of this act shall take effect 90 days after the chairman of the public
2 utilities commission has certified that retail electric competition exists in the entire state pursuant
3 to RSA 38:36.

4 4 Effective Date.

5 I. Section 2 of this act shall take effect as provided in section 3.

6 II. The remainder of this act shall take effect upon passage.

Amendment to SB 140
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1998-0229s

AMENDED ANALYSIS

This bill designates joint owners of a facility as guarantors of the decommissioning obligations of a joint owner without a franchise territory. This bill also provides that the nuclear decommissioning finance committee shall require a plan for the fulfillment of the decommissioning obligations of a joint owner of a facility without a franchise territory that defaults.