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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
before the
ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF THE CLERK
DOCKETED

In the Matter of

PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE, ET AL

Docket Nos. 50-443-OL
50-444-OL

(Seabrook Station, Units 1 and 2) On-Site Issues

SAPL'S RESPONSE TO APPLICANTS' MOTION FOR
SUMMARY DISPOSITION OF CONTENTION
SAPL SUPP. 6 (Formerly N.H.-10)

The Applicants on July 25, 1986 filed a Motion, accompanied by Affidavit of Edward A. Sawyer, seeking summary disposition of SAPL Supplemental Contention 6 (formerly N.H.-10). On July 28, 1986, Applicants further filed a pleading captioned "Statement of Material Facts Not In Dispute With Respect to Applicants' Motion for Summary Disposition of Contention SAPL Supp. 6 (Formerly N.H.-10)."

SAPL opposes Applicants' Motion for the following reasons. First, the Applicants' Motion is filed out of time. The Board established by its Order of September 13, 1982 a deadline of February 12, 1983 for filing of motions for summary disposition. Applicants themselves opposed deferral of consideration of summary disposition or for dismissal in a pleading filed on March 8, 1983, citing the

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fact that the Board had established deadlines for the submission and response to motions for summary disposition "some time ago".¹

The second and primary reason SAPL opposes the Applicants' Motion is because it fails to establish that there are no genuine issues of material fact with respect to SAPL Supp. 6, which was admitted into litigation as Contention N.H.-10. The contention is as follows:

The Seabrook Station control room design does not comply with general design criteria 19 through 22 and 10 C.F.R. Part 50, Appendix A, and NUREG-0737, item I.D. 1 and I.D. 2 ASLB Order of Sept. 13, 1982 at 21.

Applicants select one of the two sentences from the statement of basis and in their motion attempt only to show that no factual matters remain in dispute with respect to that one sentence. It is the contention as a whole which is to be litigated. The statement of basis has only to set forth with reasonable specificity the matters to be addressed in litigation of the contention. Applicants cannot be allowed to select only that one sentence from the statement of basis which Applicants believe they have satisfactorily dealt with, but must instead address the entire contention and entire statement of basis. In this instance, the entire statement of basis is as follows:

1. Applicants' Answer to NECNP Motion for Deferral of Consideration of Motions for Summary Disposition or For summary Disposition or for Dismissal, March 8, 1983 at 1.

The basis of this contention is to assure that displays and controls added to the control room after the DCRDR do not increase the potential for operator error. It is critical at Seabrook that the accident monitoring and control room be the optimum because of the difficulties inherent in carrying out protection [sic] actions for the population in the immediate vicinity of the plant. ASLB Order of Sept. 13, 1982 at 21.

It is clear that the intent of this contention with its basis is that the control room design be such that applicable regulations are complied with and that controls at the plant be the optimum they can be to assure that the population be protected. It is also concerned that displays and controls added not contribute to operator error.

The Applicants attempt a reducio ad absurdum interpretation of this contention and seek to construe it to mean only that controls added not contribute to operator error. To carry this logic to extremes, Applicants could, by their interpretation, comply by not adding any new controls or displays after the DCRDR. That interpretation is patently silly. Even if SAPL were to concede that the Sawyer Affidavit establishes what it purports to establish, which SAPL is not prepared to do at this point, that Affidavit becomes irrelevant insofar as it serves to support this faulty logic.

The genuine issues of material fact in dispute with regard to this contention are whether additional parameter displays should appear on the Safety Parameter Display System (SPDS), whether the color coding of the Video Alarm System (VAS) should be made consistent with other control room CRT's prior to any operation, whether a preliminary evaluation of the control room environment ought to be accomplished prior to fuel loading and whether certain Human Engineering Discrepancies involving control room furnishings and

equipment storage should be evaluated and resolved prior to fuel loading. There is no dispute that these things need to be done to comply with TMI Action Plan items I.D. 1 and I.D. 2, as the NRC Staff is requiring that they be either accomplished or that sufficient justification for not taking action be provided prior to restart after the first refueling outage. (See Draft License NPF-56 at 5 and SER Supp. No. 4 at Section 18.) SAPL would seek summary disposition against the Applicants since there is no dispute that the requirements have not been met except for the fact that the time is now past for such a motion.

The importance of quick action with regard to control room design issues is highlighted in the "NRC Action Plan Developed as a Result of the TMI-2 Accident", NUREG-0660, Vol. 1 at 9:

Some people have suggested an additional reason to be more deliberate in our development of future changes; that is, the need to avoid counterproductive actions because of finite resources or, worse yet, changes that are unsafe because they were inadequately studied. It is acknowledged, however, that there are some items in the Action Plan (control room design being the best example) that need to be implemented as quickly as they can be done correctly. (emphasis added)

Indeed, in Appendix B of NUREG-0660, where the relative priorities of the TMI action items are rated, both items I.D. 1 and I.D. 2 get the maximum safety rating (see Table B.3).

Further, NUREG-0737, Supplement No. 1, makes the following statements with respect to the SPDS:


- "Installation of the SPDS should not be delayed by slower progress on other initiatives, and should not be contingent on completion of the control room design review." (p. 4)
- "Prompt implementation of an SPDS can provide an important contribution to plant safety." (p.8)
- "Prompt implementation of an SPDS is a design goal and of primary importance." (p. 9) (emphasis added).

The Applicants have known about the post-TMI requirements for years. SAPL believes there is no proper justification for allowing Seabrook Station to go forward to operate at any power level prior to completion of items needed to bring the facility into full compliance with the Commission's regulations. The Three Mile Island Unit 2 accident belies the presumption that the period of operation between the initial start up and the first refueling outage is any safer than other periods of operation.

Applicants have not met their burden of establishing that there are no genuine issues of material fact. The burden of showing the absence of any genuine issues of material fact rests upon the party moving for summary disposition and the record must be viewed in the light most favorable to the party opposing the motion. Cleveland Electric Illuminating Co., et al. (Perry Nuclear Power Plant, Units 1 & 2) ALAB-443, 6 NRC 741, 753-54 (1977). SAPL opposes Applicants' motion and is entitled to a fair hearing on the issues raised by SAPL Supplemental Contention 6.

Respectfully submitted,

SEACOAST ANTI-POLLUTION LEAGUE
By Their Attorney,



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I hereby certify that copies of the enclosed Motion have been sent to all parties on the enclosed service list.



Robert A. Backus

STATEMENT OF THE MATERIAL FACTS AS TO WHICH
SAPL CONTENDS THAT SAPL SUPPLEMENTAL CONTENTION 6
RAISES GENUINE ISSUES OF MATERIAL FACT

I. The following parameter displays should appear on the Safety Parameter Display System for Seabrook Unit 1.

- A) RHR flow
- B) Containment Isolation
- C) Containment Hydrogen Concentration
- D) Steam Generator Radiation
- E) Stack Monitor

II. The Draft License for Seabrook Unit 1, No. NPF-56, contains the following additional conditions as set forth at C.9:

Prior to restart following the first refueling outage, PSNH shall have operational a Safety Parameter Display System (SPDS) as described in PSNH's submittals dated January 6, 1986 and April 2, 1986, that shall include the following modifications:

- 1) Continuous display of the top level critical safety function summary at the assigned SPDS control room location,
- 2) Addition of, or satisfactory justification for, not adding RHR flow and hydrogen concentration parameters to appropriate SPDS screens,
- 3) Addition of a containment isolation status screen on SPDS, or improvement to the current containment isolation display to be satisfactorily recognizable from the assigned SPDS location in the control room,
- 4) Addition of radiation monitoring screen to display at least steam generator (or steam line) and stack radiation),
- 5) Improvement of the Heat Sink screenb for consistency in labeling, and the Subcriticality screen for mode dependency so as not to mislead operators, and
- 6) Addition of approved isolation devices between the Reactor Vessel Label Instrumentation System (RVLIS) and SPDS.

That these conditions of licensure have been attached indicates that the agency plainly recognizes that the requirements of NUREG-0737

I.D. 2 have not been met. These deficiencies should not be attached as conditions of licensing but should instead be fully resolved before any license issues.

III. The Video Alarm System (VAS) color coding scheme should be modified to be consistent with other control room CRT's prior to fuel load.

IV. A preliminary evaluation of control room environment ought to be accomplished prior to fuel load.

V. Control room furnishing HED's and operator protective equipment and emergency equipment storage HED's should be resolved prior to loading fuel as the Applicants committed to in SBN-839.

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*Federal Expressed