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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

'87 FEB 26 P3:35

Before Administrative Judges:
Helen F. Hoyt, Chairperson
Gustave A. Linenberger, Jr.
Jerry Harbour

OFFICE OF SECRETARY
DOCKETING & RECORDS
BRANCH

In the Matter of)	Docket Nos. 50-443-OL
)	50-444-OL
PUBLIC SERVICE COMPANY)	(ASLBP No. 82-471-02-OL)
OF NEW HAMPSHIRE <u>et al.</u>)	(Offsite Emergency Planning)
)	
(Seabrook Station, Units 1 and 2))	

INTERVENORS' JOINT MOTION TO
EXTEND HEARING SCHEDULE

Now come the Town of Hampton, Seacoast Anti-Pollution League, New England Coalition on Nuclear Pollution, and the Commonwealth of Massachusetts (hereinafter Intervenor) and request this Board to extend by four months the discovery period, and all further events on the hearing schedule, previously established by Memorandum And Order dated January 9, 1987. In support of this Motion, Intervenor state:

1. By Order dated January 9, 1987, this Board amended its December 4, 1986 Order and established new dates for a schedule of events leading to hearings on offsite emergency plans for Seabrook Station.
2. The January 9 Order provided that this Board would rule on contentions, and discovery would commence on those contentions

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admitted, on February 13, 1987. The Board Order provided twenty-one days for submission of discovery requests, or until March 6, 1987, and an additional thirteen days for filing answers to interrogatories, by March 19.

3. On February 18, 1987, six days beyond the date previously set for ruling on the admissibility of contentions, this Board issued its Contention Order.¹

4. By its Contention Order, for the first time this Board apprised Intervenors that those contentions addressing the substantial deficiencies in the KLD evacuation time estimate study, NHRERP Vol. 6, would be admitted for litigation.² The KLD ETE contentions are among the most comprehensive filed by Intervenors; summarize the faulty population estimates, unrealistic vehicle counts, inadequate traffic management plan, and dangers of excessive radiation dosage to the public; pervasive in the NHRERP. All Intervenors intend to seek discovery on the KLD ETE, and to present evidence on these contentions at the final hearing before this Board.

¹ Intervenors Town of Hampton and New England Coalition obtained copies of the Board Order on February 18. SAPL and the Commonwealth of Massachusetts were not served with this Order until February 23. Intervenors thereby lost a minimum of six days for preparation and filing of discovery requests, from an already severely limited discovery period. On these facts alone, Intervenors are entitled to an equivalent extension of the hearing schedule.

² See Revised Hampton Contention III; SAPL Contention 31.

5. Intervenors could not reasonably be expected to have made substantial expenditures for expert consultations and assistance in framing discovery requests on the KLD ETE contentions until this Board admitted those contentions for litigation by its February 18 ORDER.³

6. As set forth the affidavit of Dr. Thomas J. Adler, attached hereto and incorporated by reference, Intervenors will require a minimum of two months from the date of receipt of certain discovery materials from Applicant, the State of New Hampshire, or other sources, before Dr. Adler can issue even preliminary findings of his technical analysis on the KLD ETE. Intervenors therefore will not be able to make even a preliminary response to discovery requests on the ETE contentions until that date, or May 19, 1987.

7. Dr. Adler's affidavit further provides that an additional two months, or a total of four months from the date of receipt of the discovery materials referenced in the affidavit, will be required before he can make a reasonably adequate technical review and assessment of the KLD ETE. Until that date, or until July 19, 1987, therefor, Intervenors will not be able to provide reasonably complete answers to discovery requests, respond to summary disposition motions, or prepare prefiled testimony in anticipation of a final hearing.⁴

³ While estimates at this time are preliminary, witness fees for Intervenors' experts on the KLD ETE contentions alone may run into the thousands, even tens of thousands of dollars.

⁴ Intervenors are actively engaged in seeking the requisite ETE materials from FEMA and in preparing appropriate discovery requests for Applicant and others, in consultation with Dr. Adler.

8. KLD commenced preparation of the evacuation time estimate study on August 21, 1985. See Evacuation Plan Update, Progress Report No. 1, by KLD Associates, Inc. No. 11 1985 at p. 5. More than one year later, on September 8, 1986, KLD submitted its updated and amended ETE as part of the NHRERP Rev. 2. It is only reasonable that intervenors be given four months to critically review the technical and computer based materials comprising the ETE, which originally took KLD more than one year to prepare.

9. Unless this Board extends the discovery period and hearing schedule as requested herein:

a. This Board will commit an abuse of discretion and intervenors will be denied their rights to due process to participate meaningfully in this licensing hearing. See Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-459, 7 NRC 179, 188(1978); Huston Lighting & Power Co. (South Texas Project, Units 1 and 2), ALAB-799, 21 NRC 360, 379(1985).

b. Intervenor will be denied the rights to a meaningful hearing as provided by the Atomic Energy Act, including 42 USC §2239, or otherwise by law.

c. Intervenor will be denied their rights to conduct preliminary review of discovery responses received from Applicant and the State of New Hampshire, identify those individuals and resources upon which the state relies to carry out the NHRERP,

and submit more specific discovery requests through follow up interrogatories or depositions, to which Intervenors are entitled in this case. Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), LBP-82-116, 16 NRC 1937, 1945(1982).

d. This Board's failure to amend an unduly restrictive hearing schedule will constitute legal error which will require a reopening of the hearing in this case. Northern Indiana Public Service Co. (Bailly Generating Station, Nuclear-1), ALAB-249, 8 AEC 980 (1974).

e. The public interest will be substantially and adversely affected, and the public will be denied a meaningful opportunity to participate and remain informed on issues of paramount public safety. See Potomac Electric Power Co. (Douglas Point Nuclear Generating Station, Units 1 and 2), ALAB-277, 1 NRC 539(1975).

Wherefore, the Town of Hampton respectfully requests this Board to ORDER that the hearing schedule be extended as follows:

<u>Date</u>	<u>Deadlines</u>
July 6, 1987	Discovery closed (last discovery request due).
July 19, 1987	Answers to last interrogatories due within 14 days after the close of discovery.
July 26, 1987	Deadline for motions for summary disposition on late-filed Rev. 2 Contentions admitted or for other

August 16, 1987

contentions as to which circumstances have changed such that summary disposition is now appropriate.

August 27, 1987

Response opposing or supporting motions due within 20 days.

September 11, 1987

Opposing parties may file responses to new facts and arguments presented in statements supporting motions for summary disposition.

September 21, 1987

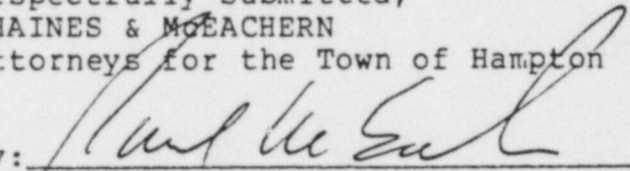
Board Order ruling on motions for summary disposition.

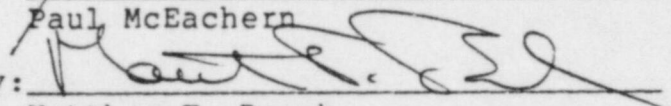
Prefiled testimony due 10 days after Board ruling on motions for summary disposition.

Hearings to commence as soon thereafter as scheduling permits.

DATED: February 25, 1987

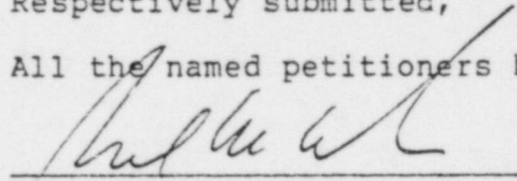
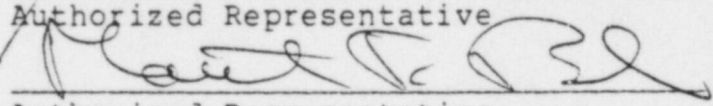
Respectfully submitted,
SHAINES & MCEACHERN
Attorneys for the Town of Hampton

By: 
Paul McEachern

By: 
Matthew T. Brock

The undersigned further say that they are authorized to submit this joint motion on behalf of all the named petitioners.

Respectively submitted,
All the named petitioners by,


Authorized Representative

Authorized Representative