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

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In the Matter of

PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE, ET AL

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

(Seabrook Station, Units 1 and 2)

On-Site Issues

SEACOAST ANTI-POLLUTION LEAGUE'S CONTENTION AND MOTION
TO ADMIT LATE-FILED CONTENTION, REOPEN THE RECORD ON ON-SITE EMERGENCY
PLANNING, AND CONDITION THE ISSUANCE OF A LICENSE UP TO 5% OF RATED
POWER ON APPLICANTS' COMPLIANCE WITH 10 CFR §50.47(b)(5)

The Seacoast Anti-Pollution League submits herewith the following late-filed contention and moves pursuant to §2.734 that the Licensing Board reopen the record in the on-site emergency planning and safety phase of this proceeding to litigate this contention regarding compliance by Applicants' with the Commission's regulations at 10 CFR at §50.47(b)(5), specifically, whether Applicants have demonstrated that the means exist to provide adequate early notification and clear instruction to the populace within the plume exposure pathway EPZ. SAPL further moves that no decision that may authorize the issuance of an operating license up to 5% of rated power be issued until this contention is resolved in such a manner as to provide for adequate notification to the public as

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required by the regulations. Alternatively, SAPL moves that any issuance of a low power license condition the issuance of such license upon Applicants' compliance with 10 CFR 50.47(b)(5).

I. Satisfaction of the Five-Part Test for Admission of Late-Filed Contentions at §2.714(a)(1)

SAPL's contention No. 38 meets the five-part test set forth at §2.714(a)(1) of the Commission's regulations for the reasons set forth below.

A. Good cause, if any, for failure to file on time

SAPL did not file this contention earlier because, prior to the test of the East Kingston sirens on January 31, 1987, SAPL had no site specific empirical basis upon which to found the assertion that the siren system as a whole would not provide reasonable assurance of prompt notification and clear instruction to the populace.¹ SAPL was aware of the Superior Court's finding in regard to the legality of the installation of the poles, but SAPL had planned to await the outcome of the defendant's (PSNH's) Supreme Court appeal of the decision before acting to file a contention. It has now become clear that, even should the utility succeed in having the Superior Court decision overturned on appeal, the mere existence of the siren system in the EPZ does not ensure its adequate operability and compliance with the standards set forth in the Commission's

1. The Massachusetts Attorney General filed a contention on January 12, 1987 pertaining to a deficiency in the public alerting system for the Town of Merrimac, Massachusetts. SAPL agrees with the Massachusetts Attorney General that the absence of sirens is a serious matter.

regulations. Therefore, SAPL satisfies this standard since "no adequately based contention could have been filed earlier" which addressed the adequacy of the public alerting system as a whole. Philadelphia Electric Comapny, (Limerick Generating Station, Units 1 and 2), ALAB-806, 21 NRC 1183, 1190 (1985).

B. Availability of other means to protect petitioner's interest

No other party to this proceeding has filed such a broad-based contention including the issues of the reliability of operation of the siren system and its legality and there is therefore no other means of assuring that the public alert and notification system will be in place and be brought into compliance with the Commission's regulations in timely fashion other than through the filing of this contention.

C. Extent to which petitioner can contribute to development of a sound record

SAPL can bring as a witness Frederick H. Anderson, Jr. to testify to the facts set forth in his Affidavit attached hereto. SAPL is further looking into the possibility of securing an expert witness who could testify as to the issues pertaining to the audibility and intelligibility of public alerting systems.

D. Extent to which other parties will represent petitioner's interest

As stated above at B, no other party has raised as broad-based a contention dealing with both the reliability of operation of the siren system or its legality. NECNP had certain issues related to the power supply for the systems and its audibility, but all of NECNP's contentions related to the siren system have since been dismissed. Now that there is actual test evidence of the system's lack of reliability, audibility and intelligibility, it is of vital interest to SAPL to have these issues adjudicated. SAPL's interests will not be represented save through this contention.

E. Broadening and delay of proceedings

The admission of this contention at this time will necessarily result in broadening and delay of the proceedings since the record will have to be reopened. However, this effect is more than offset by the extraordinary public safety significance of the issues raised by this contention and the clear requirement that certain off-site elements of the Applicant's emergency plans, including compliance with §50.47(b)(5), be reviewed "prior to issuing an operating license authorizing low-power testing and fuel loading." 47 Fed.Reg. 30232, at 30234, Col. 1 (July 13, 1982).

Indeed, Applicant's Director of Emergency Preparedness has conceded that "Before low power testing can be done at a nuclear power plant, the federal government requires

that the plant have in place a prompt notification system for nearby areas." (See Attachment A, letter of Terry Harpster of June 27, 1987.)

II. Satisfaction of Criteria for Reopening Records in Formal Licensing Proceedings at §2.734.

A. Pursuant to §2.734 the following criteria are satisfied:

1) Timeliness

The filing of this contention is timely for the reasons set forth above in the discussion of the satisfaction of the §2.714(a)(1) requirement for a showing of good cause, if any, for failure to file on time. In the discussion of the final rule on the criteria for reopening records in licensing proceedings, the Commission noted that this timeliness requirement overlaps the first of the §2.714(a)(1) criteria. 51 Fed.Reg. 19535, at 19538, Col. 1 (May 30, 1986).

2) Significant Safety or Environmental Issue

The issue of public notification and alerting is significant to public safety. Without appropriate warning to the public, there is no reasonable assurance that adequate protective measures can and will be taken pursuant to §50.47(a)(1). Applicants may try to argue that public alerting and notification is not a safety concern at power levels less than 5% of rated capacity. Such an argument is lacking merit because the Commission

has explicitly stated that this is a requirement for fuel loading and low power testing. 47 Fed.Reg. 30232, supra.

3) Materially different result

Had the empirical evidence of the lack of reliability and the issue of the legality of the siren system been brought earlier before this Board, SAPL believes that this Board would have been obligated to inquire further into these matters and could not have made its initial licensing determination in favor of the Applicants.

B) Affidavit

This motion is accompanied by the Affidavit of Frederick H. Anderson, Jr. Mr. Anderson is a competent individual with knowledge of the facts set forth in his affidavit.

SAPL Contention No. 38

Applicants have not complied with the provisions of 10 CFR §50.47(b)(5) and Appendix E, §IV, D.1 and 3 and Part 50 of the Commission's regulations and NUREG-0654 II.E.6 and Appendix 3 because the siren system for public alerting and instruction is unreliable, not properly audible, and does not convey properly intelligible messages and does not, therefore, ensure prompt alerting and notification of the public. Furthermore, the installation of the siren system has been found illegal by a New Hampshire Superior Court.

Basis

NRC regulations require that operating license applicants demonstrate that "means to provide early notification and clear instruction to the populace within the plume exposure pathway Emergency Planning Zone have been established." 10 CFR §50.47(b)(5). Further, the design objective of the notification system is "to have the capability to essentially complete the initial notification of the public within the plume exposure pathway EPZ within about 15 minutes." Appendix E §IV D.3. Additionally, the notification system must assure "direct coverage" of essentially 100% of the population within 5 miles of the site and assure 100% coverage within 45 minutes of the entire plume exposure EPZ. NUREG-0654 II.E.6 and Appendix 3.

A recent test of sirens in the Town of East Kingston, New Hampshire raises serious questions concerning the ability of the presently installed siren system in the Seabrook EPZ to effect timely and intelligible alerting and notification of the public. As described in the attached Affidavit of Frederick H. Anderson, Jr., an attempt to carry out a voice notification remotely from the Rockingham County Dispatch in Brentwood, N.H. failed. Secondly, the attempt to activate the sirens from the same location resulted in only one of the sirens working. The activation of the sirens from the East Kingston EOC that followed still was flawed by an inoperable siren. Further, the audibility of the sirens in terms of their ability to alert citizens in their homes was questioned by a local official. Though a New Hampshire Yankee maintenance crew was able to get the inoperable siren to go off, the succeeding voice

announcement from the local EOC was not heard at six monitoring locations and was scratchy and unintelligible at the two locations where heard.

The test raises the issues of 1) the reliability of the siren system; 2) the audibility of the siren system; and 3) the intelligibility of messages broadcast over the system. It is entirely possible that the existing winter weather conditions of ice and snow may have been a factor in the system failures. Indeed, two of the judges who served as members of the Board in the Indian Point Special Proceedings wrote to the Commission and expressed serious concerns about public alerting on winter nights with snow. (See Attachment B, letter of Dr. Oscar H. Paris and Frederick J. Shon, June 9, 1986.) They stated:

At the time we wrote those recommendations, we were unaware of the alerting rate estimated by NUREG/CR-2655, PNL-4226 for a snowy winter night at IP. Had we been made aware of that report before we made our findings in the IP proceeding, we would have recommended that the Commission require that a second, backup system for prompt alerting, such as tone alert radios, be provided in the Indian Point EPZ. We urge that the Commission consider such a requirement now. Id.

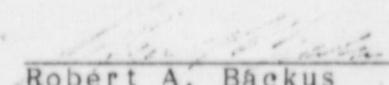
Whatever the reason, whether snow and ice were factors or not, the sirens are not reliable, are sometimes inaudible, and the messages broadcast over them are not clear enough to ensure that adequate public alerting and notification can be carried out.

Additionally, there is the issue of the legality of the siren system as presently installed in the Seabrook Station EPZ. A judge in Rockingham County Superior Court on January 22, 1987 found against Public Service Company of New Hampshire in a suit brought by the Town of Rye seeking removal of the siren poles. The Town of Hampton Falls was a co-plaintiff in the proceeding. PSNH was ordered to cause the

removal of the poles and siren/public address systems within 30 days of the date of the decision. Rockingham Superior Court, No. 86-E-34. (Copy of decision appended as Attachment C.)

For these reasons, the public alerting and notification requirements 10 CFR §50.47(b)(5) and Appendix E ¶IV, D1 and 3 are not met in the Seabrook Station plume exposure pathway EPZ. It follows that there is no reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at Seabrook as required by §50.47(a)(1).

Respectfully submitted,
SEACOAST ANTI-POLLUTION LEAGUE
By its attorney,
BACKUS, MEYER & SOLOMON



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DATE: February 6, 1987

I hereby certify that a copy of the within SEACOAST ANTI-POLLUTION LEAGUE'S CONTENTION AND MOTION TO ADMIT LATE-FILED CONTENTION, REOPEN THE RECORD ON ON-SITE EMERGENCY PLANNING, AND CONDITION THE ISSUANCE OF A LICENSE UP TO 5% OF RATED POWER ON APPLICANTS' COMPLIANCE WITH 10 CFR §50.47(b)(5), has been sent this date, first class, postage prepaid, to all parties on the attached service list.



Robert A. Backus