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USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'86 OCT 17 P12:28

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)	
)	
PUBLIC SERVICE COMPANY OF)	Docket Nos. 50-443 OL
NEW HAMPSHIRE, <u>et al.</u>)	50-444 OL
)	
(Seabrook Station, Units 1 and 2))	Offsite Emergency Planning

NRC STAFF'S RESPONSE TO APPLICANTS' MOTION
FOR DECISION ON MOTIONS FOR SUMMARY DISPOSITION
ON FILE AND FOR HEARING SCHEDULE WITH RESPECT
TO NEW HAMPSHIRE EMERGENCY PLANNING ISSUES

On September 25, 1986, the Applicants filed a "Motion for Decision on Motions for Summary Disposition on File and for Hearing Schedule With Respect to New Hampshire Emergency Planning Issues" ("Motion"). Therein, the Applicants request that the Licensing Board (1) issue a decision with respect to the motions for summary disposition now pending before the Board, filed on May 20, 1986; ^{1/} (2) establish a deadline for the filing of contentions related to Revision 2 of the New Hampshire Radiological Emergency Response Plan (NHRERP), issued September 8, 1986; and (3) reschedule the evidentiary hearings on contentions related to the NHRERP.

1/ Currently pending before the Board are ten motions filed by the Applicants seeking summary disposition, in whole or in part, of 20 contentions admitted by the Board's Orders of April 1 and 29, 1986; and one motion filed by the State of New Hampshire seeking summary disposition of two such contentions.

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The NRC Staff does not oppose the Applicants' Motion, insofar as it requests that the Board (1) issue a decision with respect to the pending motions for summary disposition, and (2) establish a deadline for the filing of contentions related to Revision 2 of the NHRERP.^{2/} In this regard, we believe that no reason exists why the Board should not proceed at this time to issue its decision on the summary disposition motions, and establish a deadline for filing contentions on Revision 2 of the NHRERP.

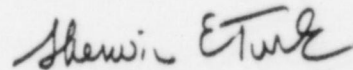
Similarly, the Staff does not oppose the Applicants' request that the Board should reschedule evidentiary hearings on the NHRERP. However, we believe that the Board should rule upon the pending motions for summary disposition before scheduling hearings on the outstanding contentions, in order to permit the parties to devote their attention to

^{2/} Certain dates for the filing of contentions addressing Revision 2 of the NHRERP have already been proposed by various participants in this proceeding, in their responses to Applicants' Motion. Thus, in its response of October 10, 1986, the Mass AG proposed a filing date of February 1987; and in their response of October 6, 1986, SAPL, Hampton, Hampton Falls, and South Hampton proposed a filing date of January 1, 1987. In addition, the Town of Hampton has filed a separate motion requesting a filing date of January 1, 1987 or, in the alternative, December 1, 1986. See "Town of Hampton Motion to Establish Hearing Schedule and for Additional Time to File Contentions and for Incorporation of Contentions" ("Hampton's Motion"), filed October 8, 1986.

The Staff will address these various proposed filing dates in its response to Hampton's Motion. However, we note that the Mass AG, in its response to Applicants' Motion, cited a statement by NRC Staff member Donald Perrotti, made before the ACRS, which the Mass AG interprets to mean that FEMA "will not complete its review of the New Hampshire plans until April, 1987" (Mass AG's Answer, at 3). In this regard, we note that FEMA has advised the Staff that its review of NHRERP Revision 2 will have progressed sufficiently this Fall to permit it to participate in litigation of that revision substantially before the April 1987 date referred to by Mr. Perrotti.

those contentions which remain to be litigated following the Board's ruling on summary disposition. Further, the Staff submits that the Board should request the parties' views as to whether the hearings should be expanded to consider other pending contentions filed on the NHRERP, ^{3/} upon which the Board has not yet ruled. ^{4/} Finally, the Staff submits that the parties' views should be requested as to whether the evidentiary hearings on previously admitted contentions should be deferred to permit the parties to withdraw, amend, supplement, or file additional motions for summary disposition of those contentions, based upon such new information as may be contained in Revision 2 of the NHRERP.

Respectfully submitted,



Sherwin E. Turk
Senior Supervisory Trial
Attorney

Dated at Bethesda, Maryland
this 15th day of October, 1986

^{3/} To our knowledge, no ruling has yet been issued with respect to the admissibility of two contentions concerning the KLD Associates' evacuation time estimate; these are SAPL's Contention 31 and Hampton's Revised Contention III. See "Seacoast Anti-Pollution League's Fourth Supplemental Petition for Leave to Intervene," filed May 15, 1986; and "Memorandum on 10 C.F.R. § 2.714(a)(1) and Revised Contention III of the Town of Hampton to Evacuation Time Estimate Report by KLD Associates, Inc.," filed May 23, 1986.

^{4/} The Staff notes that the Licensing Board has previously ruled that other admitted late-filed contentions could and should be "scheduled for litigation along with previously accepted contentions." See "Order (Modifying Schedule Set on January 17, 1986 and Scheduling Litigation of SAPL Contentions 8A and 15 and Town of Hampton IV, VI, and VIII)," issued June 3, 1986.

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In the Matter of)	
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PUBLIC SERVICE COMPANY OF)	Docket Nos. 50-443 OL
NEW HAMPSHIRE, <u>et al.</u>)	50-444 OL
)	Off-Site Emergency
(Seabrook Station, Units 1 and 2))	Planning Issues

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO APPLICANTS' MOTION FOR DECISION ON MOTIONS FOR SUMMARY DISPOSITION ON FILE AND FOR HEARING SCHEDULE WITH RESPECT TO NEW HAMPSHIRE EMERGENCY PLANNING ISSUES" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, by deposit in the Nuclear Regulatory Commission's internal mail system, this 15th day of October, 1986.

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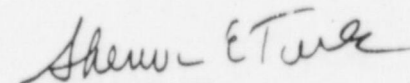
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