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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING APPEAL BOARD

'89 MAR 20 P3:48

Before the Administrative Judges:

Alan S. Rosenthal, Chairman
Thomas S. Moore
Howard A. Wilber

OFFICE OF NEW ENGLAND
DOCKETING & SERVICE
BRANCH

In the Matter of)

PUBLIC SERVICE COMPANY)
OF NEW HAMPSHIRE, ET AL.)

(Seabrook Station, Units 1 and 2))

) Docket Nos. 50-443-OL
) 50-444-OL
) (Off-Site EP)

) March 16, 1989
)

MASSACHUSETTS ATTORNEY GENERAL'S MOTION FOR LEAVE
TO FILE AN APPEAL BRIEF IN EXCESS OF 70 PAGES

Pursuant to 10 C.F.R. §2.762(e), the Massachusetts Attorney General ("Mass AG") moves for leave to file an appeal brief in excess of the seventy-page limit in support of his appeal of the Licensing Board's December 30, 1988 partial initial decision on the adequacy of the NHRERP. LBP-88-32, 28 NRC ____.

Specifically, the Mass AG seeks leave to file a brief not in excess of 110 pages. In support of this motion and in response to the concerns set forth by this Board in its January 24, 1989 Order denying his earlier request for an unspecified extension of the page limitation, the Mass AG states as follows:

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1. The Mass AG has consulted in some detail with those remaining two Intervenor's whose briefs have not yet been filed on appeal of LBP-88-32, SAPL and NECNP. As a result of these discussions, the Intervenor's are confident that the briefing that is being prepared will not overlap issue areas. The Intervenor's have divided their labors and each remaining brief, for the most part, will take up different aspects of the lower Board's decision and the record of the proceeding below. Specifically, the appeal brief being prepared by the Mass AG will focus on three distinct issue areas not covered in detail by the other Intervenor's: 1) the legal standard utilized by the lower Board in judging the adequacy of the protective measures set forth in the NHRERP and the impact of that standard on both the lower Board's framing of the issues for decision and its evidentiary rulings; 2) issues involved in the Board's discussion of human behavior; and 3) issues touching upon the evacuation time estimates and the traffic management plan. These are the issues that the Mass AG litigated in depth and reflect the fundamental concerns of the Commonwealth as an "interested state" in this proceeding.

2. The Mass AG is unable to fully present his arguments on these three issues within the allotted 70 pages because of the complexity of the appellate issues involved in the first issue

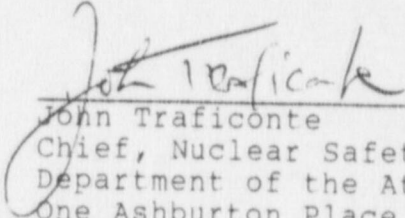
area set forth above. The issue of the legal standard to be employed in this case as understood by the Mass AG has the following component parts each of which has required extensive briefing: 1) the legislative and administrative history of the emergency planning regulations at issue; 2) the history of the Seabrook proceeding itself as it regards adequate emergency planning for the summer beach populations; 3) the substantive rulings made by the Board below on the contentions involving the adequacy of the available protective measures at Seabrook; and 4) critical evidentiary rulings below that both reflect the Board's interpretation of the applicable legal standard and put squarely at issue whether the Mass AG was prevented from presenting evidence material to the issues as the Board ultimately framed and ruled on them.

3. Although not complete, significant portions of this section of the Mass AG's appeal brief are in draft. It is clear that without the requested relief, the Mass AG will either have to abandon his appeal of other issues or present from his perspective insufficient briefing on the central issue in this proceeding. Although this Board has noted that "the number of pages contained in the appellate briefs does not bear any necessary relationship to the substance of the issues raised", 23 NRC 9, 11 (1986) (emphasis supplied), the Mass AG

does require this extension of the page limitation to brief adequately this critical issue as it is presented in different ways by the decision below.^{1/}

Respectfully submitted,

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DATED: March 16, 1989

^{1/} This request is not made so that the Mass AG may present "every assertion of error" or simply renew all "claims presented to, but rejected by, the trial tribunal". Id. Instead, the central issue requires extended briefing here. Moreover, no other Intervenor will seek an extension of the page limitation.

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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

CERTIFICATE OF SERVICE

I, John Traficante, hereby certify that on March 16, 1989, I made service of the within MASSACHUSETTS ATTORNEY GENERAL'S MOTION FOR LEAVE TO FILE AN APPEAL BRIEF IN EXCESS OF 70 PAGES by First Class Mail or by Telefax as indicated by [**] to:

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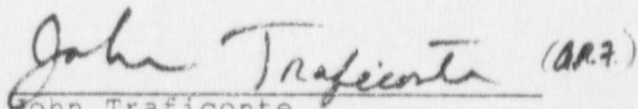
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Dated: March 16, 1989