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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF GENERAL
DOCKETING & SERVICE
BRANCH

BEFORE THE COMMISSIONERS:

Kenneth M. Carr, Chairman
Thomas M. Roberts
Kenneth C. Rogers
James R. Curtiss

In the Matter of)
)
PUBLIC SERVICE COMPANY OF)
OF NEW HAMPSHIRE, et al.)
)
(Seabrook Station, Unit 1)
_____)

Docket No. 50-443/444 -0L
(Emergency Planning
and Safety Issues)

RESPONSE AND OBJECTION TO APPLICANTS' APPLICATION
FOR AN EXEMPTION FROM THE REQUIREMENT OF
10 CFR, PART 50, APPENDIX E, SECTION IV.F.1

NOW COMES the Seacoast Anti-Pollution League (SAPL) and
objects to the Applicants' Exemption Application filed under date
of August 11, 1989. SAPL respectfully urges the following:

- (1) that the Commission should not rule on the
exemption request or, alternatively,
- (2) that the exemption request should be denied.

BACKGROUND

The Exemption Request. The Seabrook Applicants once again
request an exemption from NRC regulations. (Previously, the
Applicants attempted to shrink the Seabrook plume EPZ from ten
miles to one mile. This was denied. LBP 87-12, 25 NRC 324.

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However, Applicants have been the beneficiary of numerous prior NRC rule changes and exemptions including the 1984 rule changes eliminating need for power hearings at operating license proceedings, and financial qualifications review, as well as the 1987 rule change regarding utility-sponsored emergency plans, and the 1988 rule change eliminating the requirement for a public alert and notification system for low power testing authorization.)

The present exemption request would permit the Applicants to eliminate the required on-site emergency plan exercise within one year of full power operation. The Applicants claim to have two bases for the exemption: (1) that the exercise is unnecessary because prior exercises have demonstrated that they have sufficient on-site emergency capability; and (2) that the exercise may generate litigation that might prevent them from obtaining a license within their desired time period; i.e., prior to the requirement for another full scale exercise, including off-site participation.

RESPONSE AND OBJECTION

1. The Commission should not rule on the exemption request.

The Commission should not interject itself into this licensing adjudication. The only reason suggested for it to do so is "because the issue presented hereby can ultimately only be resolved by the Commission itself." (Applicants' Exemption Application, page 2.)

This is a truism that can be applied to any licensing issue. It provides no warrant for the Commission to undertake exclusive control over matters properly and normally entrusted in the first instance to the licensing and appeal board panels assigned to this matter.

Moreover, in an ongoing adjudicatory proceeding, before a presently sitting licensing board, which has emergency planning issues sub judice, the Commission's rules plainly contemplate that any challenge to the application to one of its regulations will be made by means of a waiver petition pursuant to 10 CFR §2.758, which is required to be brought, in the first instance, to the licensing board in question. (This is the procedure these Applicants' themselves used in attempting to shrink the Seabrook EPZ.) Only if the licensing board determines that the petition for a waiver makes out a prima facie case does the Commission then make the ultimate decision on whether the extraordinary step of waiving a Commission regulation is appropriate. See LBP 87-12, supra.

2. The request should be denied.

The response of the Massachusetts Attorney General dated August 21, 1989 and the New England Coalition on Nuclear Pollution, thoroughly document the lack of proper basis for granting the exemption request; and SAPL joins in those responses.

In addition, SAPL is not impressed with the Applicants' claim that: "Over half of these members [Seabrook Station Emergency

Response Organization personnel] participated in one of the three graded exercises and about one quarter have participated in two." (Application, page 4.) Clearly, even on the Applicants' representations, something in the order of half of the ERO members have not participated in any graded exercise, and 75 percent have not participated in two. Moreover, as Mass AG and NECNP point out, the results of those exercises as establishing the qualification and capability of those who did participate is certainly disputed. In fact, these exercises presented solid ground for challenging the adequacy of their training, judgment, technical qualifications and performance.

The Massachusetts Attorney General further described problems in plant personnel performance during and following the Natural Circulation Test on June 22, 1989. SAPL would point also to Inspection Report No. 50-443/87-25 dated December 30, 1987 in which the performance during the partial participation exercise held on December 16, 1987 is described. At Section 3.1 of that report it is noted that the Shift Superintendent in the Simulator control room failed to classify the loss of both trains of the Radiation Monitoring System as an Unusual Event until prompted by the Lead Controller.

With regard to the Applicants' claim that their exemption application deserves favorable consideration because of the Applicants' financial circumstances, or the alleged need for power, SAPL would point out that in LBP 87-12, in which the

Seabrook Licensing Board denied the petition to shrink the emergency planning zone to one mile, the Board stated as follows:

The Board has no difficulty with accepting Applicants' theory that Seabrook is a valuable energy resource. But that does not relieve the Board of its responsibility to make its finding that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at this valuable energy resource. We also reject the argument that limiting a completed plant to low power operation is an unnecessary and unjustifiable economic burden. The regulations are quite clear--the plant must have an acceptable Radiological Emergency Response Plan (RERP) prior to going full power. (Slip Opinion at 8)

In short, the Applicants simply advance an inadmissible and unacceptable argument in attempting to influence the members of the Commission by reference to their claim of a need for power, or their own financial circumstances.

Finally, even if the Commission were at liberty to accept this argument, which it plainly is not, the attempt to support it by reference to the declaration of James D. Watkins, Secretary of Energy, which was filed by the Commissioner in Commonwealth of Massachusetts v. NRC, DC Cir. Nos. 89-1306, et al.) is untenable since that affidavit contains material misstatements of fact, and therefore, should not be relied upon by the Commission. There is attached to this response and objection, a true copy of an article from the Manchester Union Leader of May 24, 1989, in which the Manager of Public Information for the New England Power Pool specifically took issue with certain statements made by the

Secretary of Energy in his declaration, and which have not been disputed.

CONCLUSION

For the reasons stated, the Commission should decline to rule on the Applicants' Application for an Exemption or, alternatively, should promptly deny the requested exemption.

Respectfully submitted,
Seacoast Anti-Pollution League
By its Attorneys,

BACKUS, MEYER & SOLOMON

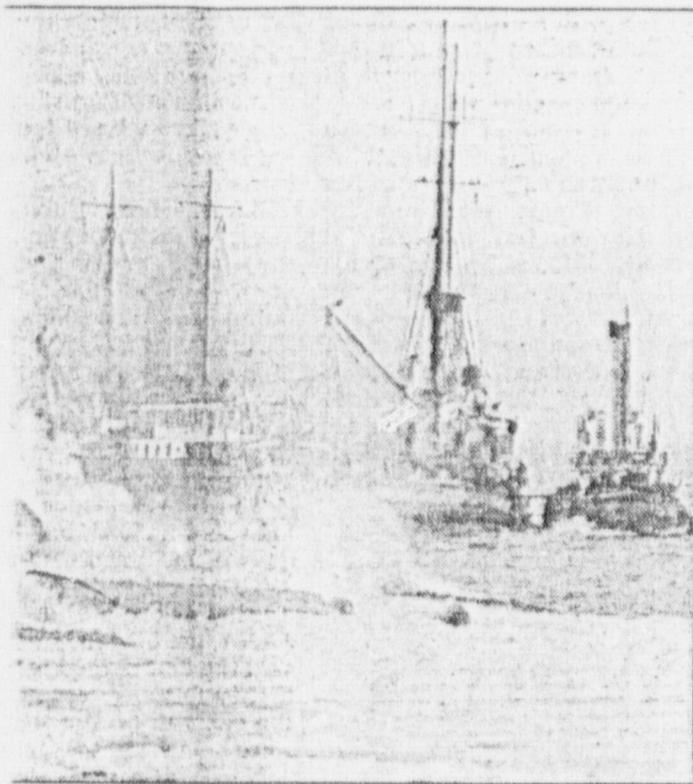
By: 

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August 21, 1989

I hereby certify that copies of the foregoing Response and Objection to Applicants' Application for an Exemption from the Requirement of 10 CFR, Part 50, Appendix E, Section IV.F.1 have been forwarded this day to all parties listed on the attached service list.


Robert A. Backus, Esquire



of the Squalus fails on June 13, 1939. The sub, to the surface then sank again a moment later. It was missioned. (AP File)

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very expensive executive staff and an excessively elaborate headquarters building."

Sales at each of Erin Food's 28 Burger Kings, 23 of them in New Hampshire, average \$1.4 million annually, 40 percent ahead of the national average of \$1 million each, the report states. Franchise sales totalled \$38.4 million in fiscal year 1988, and \$39.4 million in fiscal 1989.

Erin Food Services was forced into bankruptcy by seven insurance firms that claim they are owed \$67 million in principal, unpaid interest and franchise fees they had to pay to protect their investment.

U.S. Bankruptcy Court Judge Harold Lavien appointed Weingarten to take control of the company May 1, after nding the company's and Murray's finances were so intertwined that a quick reorgani- ation of the company was unlikely.

Power Pool: Blackouts Not Likely

Disagrees With Energy Secretary

By JOHN DiSTASO
Union Leader Staff

manager of public information for NEPOOL, told The Union Leader.

The New England Power Pool yesterday took issue with the U.S. secretary of energy's description in a sworn court-filed affidavit of key points about the region's power situation last year and outlook for this summer.

Secretary James D. Watkins, in an affidavit filed in federal court supporting low-power testing for the Seabrook nuclear power plant, contended that New England energy shortages last year were so severe that the region suffered repeated "rolling blackouts."

"I have to say, as a spokesman for the power pool, that's not true," William Sheperdson,

Rolling blackouts have "never happened in the history of the power pool."

— William Sheperdson
NEPOOL

The power pool, which distributes electricity through all six New England states for about 100 utilities, in fact has never in its history been forced by an energy shortage to impose rolling blackouts — its most serious power emergency step —

said Sheperdson. NEPOOL describes rolling blackouts as an emergency procedure which would be instituted in a time of severe energy shortage. Its member utilities would be required to temporarily cut off service to groups of customers on a rotating basis so that no one group would be out BLACKOUTS Page 20

China Premier May Be Losing Power Struggle

By KATHY WILHELM
BEIJING (AP) — One million people in Beijing and tens of thousands in other cities marched yesterday to demand



in our continue thoughts and prayers. They are not forgotten."

by an old chief if things are bad, concentrate on only one thing," he recalled. "Keep

get me in here, why should I ask Him to get me out?" he told the chaplain.

BLACKOUTS

(Continued from Page One)

of electricity for a prolonged period.

They would be controlled blackouts, according to NEPOOL, as opposed to blackouts which occur as a result of a disturbances such as a transmission line failure or transformer fires.

Also known in the utility industry as load shedding, they would be used only to protect against a widespread failure of the entire New England system, said Sheperdson.

Energy Department spokesman Chris Balsbaugh said NEPOOL's definition "may be a different interpretation" than that of the department.

To support the secretary, she cited two Massachusetts blackouts last summer.

The first was on June 26, 1988, when 149,500 customers on Cape Cod lost power for 4½ hours after lightning struck a transmission line at a switching station.

The second was the loss of power by 6,000 customers in Boston on Aug. 13 and 14, 1988. A news article attributed the loss to overheated cables and utility-engineered voltage reductions.

Balsbaugh also cited two genuine rolling blackouts in the northeast — one in New York City and one in northwestern New York state. Neither area is served by the New England Power Pool nor would be directly served by Seabrook.

The Watkins affidavit was filed at the U.S. Circuit Court of Appeals in the District of Columbia, which is weighing Seabrook opponents' request for an emergency stay of the Nuclear Regulatory Commission's approval last week of low-power testing for Seabrook.

"During the past year, in fact," the secretary states, New England suffered repeated 'brownouts' and rolling 'blackouts,' and similar emergency procedures will probably again become necessary as soon as this summer."

"I don't know what he meant by that statement," said Sheperdson, "but if he meant load shedding," the industry-accept-

ed term for rolling blackouts, "it's not true."

Sheperdson agreed that the region's energy picture is tight. And he noted that NEPOOL has long supported commercial operation for Seabrook.

But, said Sheperdson, as for rolling blackouts, "It has never happened in the history of the power pool."

Watkins' use of the term 'brownouts' is also troublesome to the power pool, Sheperdson said.

"It's not a publicly accurate term because it makes you think your lights are going to get dimmer," said Sheperdson.

He said 10 times last year NEPOOL instituted 5 percent voltage reductions in specific areas of the region — though none was region-wide.

Sheperdson said that some people, particularly the media, call the voltage reductions "brownouts." His trouble with the term, he said, is that it implies an uncontrollable event, when in fact they were planned brownouts.

From the Energy Department data, it was clear that Watkins also used the colloquial term "brownouts" as a substitute for planned voltage reductions.

Voltage reductions are among eight specific actions NEPOOL institutes at times of high energy use to prevent emergency situations.

At least one of NEPOOL's eight "special operating procedures" were implemented 37 times during 1988 when energy demand was especially high.

Besides the 10 voltage reductions, NEPOOL called for the issuance of public appeals for conservation eight times, but never on a region-wide basis.

It also brought all available fossil-fuel (coal and oil) generators to maximum output 23 times, made emergency power purchases from systems outside of New England 29 times, requested voluntary cutbacks by large electricity users 18 times, and called on interruptible service contracts with large electricity users 15 times.

Rolling blackouts "would oc-

cur when we have already asked for all of these other procedures and we just know that if we lose a generating unit, we won't be able to cover it and it would bring down the whole system," Sheperdson said.

NEPOOL would then, for instance, ask Public Service Co. of New Hampshire to institute rolling blackouts in its service area. PSNH would presumably respond by shutting off certain blocks of its customer area for relatively short periods of time — perhaps an hour — and then rotating the blackout to another area.

At the same time, a utility in Massachusetts, or Connecticut, or both, would be doing the same thing.

Although Watkins said similar emergency procedures will probably become necessary this summer, Sheperdson said, "Believe it or not the outlook for this summer is somewhat better than last summer."

"We are still a very tight power system. But it looks somewhat better than the past two summers."

Sheperdson said the system "has been maintained and prepared for optimum performance."

He said that this summer planned outages will only take 80 to 100 megawatts of New England's 24,000-megawatt capacity out of action, a figure lower than in past years.

"Right now," Sheperdson said, "as we plan for the summer, we don't expect to go into voltage reduction. Of course, it could happen if the weather is extraordinarily hot or if we have an unexpected outage of a power plant."

Cheshire Board Sets Building Dedication

KEENE — The Cheshire County Commissioners have scheduled an open house to dedicate the new County Administration Building at 33 West St., Keene, for Sunday, June 4, from 11:30 a.m. to 3 p.m.

The public is invited to attend the ceremony and reception.

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