

20992

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

'99 NOV 19 A10:05

COMMISSIONERS:

Richard A. Meserve, Chairman  
Greta Joy Dicus  
Nils J. Diaz  
Edward McGaffigan, Jr.  
Jeffrey S. Merrifield

OFFICE OF THE  
ADJUTANT GENERAL

SERVED NOV 19 1999

In the Matters of )  
 )  
NORTH ATLANTIC ENERGY SERVICE CORP. )  
 )  
(Seabrook Station, Unit 1) )  
 )  
and )  
 )  
NORTHEAST NUCLEAR ENERGY CO. )  
 )  
(Millstone Station, Unit 3) )  
 )

Docket Nos. 50-443-LT-2  
and 50-423-LT (consolidated)

CLI-99-28

MEMORANDUM AND ORDER

This proceeding involves an application by the New England Power Company ("NEP") seeking authorization for the indirect transfers of its partial ownership interests in both the Seabrook Station (Unit 1) and the Millstone Station (Unit 3) nuclear power plants. Specifically, NEP seeks the Commission's approval of these indirect license transfers to the extent that they will be effected by a transaction under which the New England Electric System ("NEES," of which NEP is a wholly-owned subsidiary) would itself become a wholly-owned subsidiary of The National Grid Group plc, a foreign company. NEP would remain a co-licensee of both plants with its rights and obligations unaltered, and with the only change being in its upstream ownership.

PDR AD0C1C

DS02

Three co-owners filed petitions to intervene and requests for hearing, seeking to oppose NEP's application. The NRC staff did not seek to become a party to the adjudication. On October 21, 1999, the Commission concluded that the co-owners had demonstrated standing and had raised two admissible issues (regarding foreign ownership and financial qualifications). We therefore set the case for hearing and established a procedural schedule. CLI-99-27, 50 NRC \_\_.

On November 4, 1999, the co-owners filed a notice of withdrawal of their petitions to intervene, and all parties jointly moved for termination of the proceeding on the ground that they had settled their differences.<sup>1</sup> More specifically, the parties informed the Commission that "NEP has provided additional information to demonstrate to the Intervenors' satisfaction that [NEP] will be capable of meeting its financial obligations with respect to Millstone 3 and Seabrook" and further that "NEP has strengthened and clarified its negation action plan<sup>[2]</sup> to ensure that NEP will not be foreign controlled or dominated following the National Grid acquisition of NEES."<sup>3</sup> NEP also commits to provide the NRC staff with "supplemental information as needed ... to ensure that the clarifications contained in [the] Notice of Withdrawal are adequately described in order to assist the NRC Staff in its ongoing review of the Application." *Id.* at 4.

We have reviewed the motion to terminate this adjudication, together with the remainder of the record, and we conclude that termination would serve the public interest. See generally

---

<sup>1</sup> Also on November 4, 1999, the parties submitted a Joint Motion to Hold Proceedings in Abeyance. The Commission granted that motion on November 10<sup>th</sup>.

<sup>2</sup> A "negation action plan" is a document that a license transfer applicant submits to the Commission setting forth "positive measures to assure that a foreign ownership interest is denied control or domination over licensee decisions." Final Standard Review Plan on Foreign Ownership, Control, or Domination," 64 Fed. Reg. 52,355, 52,359 (Sept. 28, 1999).

<sup>3</sup> Notice of Withdrawal of Petitions for Leave to Intervene and for Hearing and Joint Motion to Terminate Proceeding, dated Nov. 4, 1999, at 3. For details of the assurances regarding financial qualifications see *id.* at 5-8. For details of the assurances regarding foreign ownership, see *id.* at 8-12.

Sequoyah Fuels Corp. and General Atomics (Gore, Oklahoma Site), CLI-97-13, 46 NRC 195 (1997). It has long been the Commission's policy to encourage settlements, in significant part because they save time and resources of all parties and this agency. As the parties have settled in this case, we will dismiss this proceeding. Although we have terminated this proceeding, it should be recognized that the staff examines financial qualification and foreign ownership issues during its review of transfer applications. In the course of its ongoing review of this license transfer application, the staff should consider the concerns relating to those matters that were raised in CLI-99-27.

The proceeding is terminated.

IT IS SO ORDERED.



For the Commission<sup>4</sup>

A handwritten signature in black ink, appearing to read "Annette Vietti-Cook".

Annette L. Vietti-Cook  
Secretary of the Commission

Dated at Rockville, Maryland,  
this 19<sup>th</sup> day of November, 1999.

---

<sup>4</sup> Commissioners Dicus and Diaz were not available for affirmation of this Memorandum and Order. Had they been present, they would have affirmed the Memorandum and Order.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matters of )  
 )  
NORTH ATLANTIC ENERGY SERVICE CORP. ) Docket Nos. 50-443-LT-2 and  
 ) 50-423-LT (consolidated)  
(Seabrook Station, Unit 1) )  
 )  
and )  
 )  
NORTHEAST NUCLEAR ENERGY CO. )  
 )  
(Millstone Station, Unit 3) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMISSION MEMORANDUM AND ORDER (CLI-99-28) have been served upon the following persons by U.S. mail, first class, as indicated by an asterisk (\*) or through deposit in the Nuclear Regulatory Commission's internal mail system as indicated by double asterisks (\*\*), with copies by electronic mail as indicated.

Office of Commission Appellate  
Adjudication\*\*  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Jay M. Gutierrez, Esq.\*  
William E. Baer, Jr., Esq.\*  
Goran P. Stojkovich, Esq.\*  
Morgan, Lewis & Bockius LLP  
1800 M Street, NW  
Washington, DC 20036  
(E-mail: [guti7466@mlb.com](mailto:guti7466@mlb.com)):  
[baer7454@mlb.com](mailto:baer7454@mlb.com); [stoj7684@mlb.com](mailto:stoj7684@mlb.com))

Lillian M. Cuoco, Esq.\*  
Senior Nuclear Counsel  
Northeast Utilities Service Company  
107 Selden Street  
Berlin, CT 06037  
(E-mail: [cuocolm@nu.com](mailto:cuocolm@nu.com))

Samuel Behrends IV, Esq.\*  
Mary A. Murphy, Esq.\*  
LeBoeuf, Lamb, Greene & MacRae, L.L.P.  
1875 Connecticut Avenue, NW, Suite 1200  
Washington, DC 20009  
(E-mail: [sbehrend@llgm.com](mailto:sbehrend@llgm.com)):  
[mmurphy@llgm.com](mailto:mmurphy@llgm.com))

Docket Nos. 50-443-LT-2 and  
50-423-LT (consolidated)  
COMMISSION MEMORANDUM  
AND ORDER (CLI-99-28)

Edward Berlin, Esq.\*  
Scott P. Klurfeld, Esq.\*  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, NW, Suite 300  
Washington, DC 20007-5116  
(E-mail: [eberlin@swidlaw.com](mailto:eberlin@swidlaw.com);  
[spklurfeld@swidlaw.com](mailto:spklurfeld@swidlaw.com))

Thomas G. Robinson, Esq.\*  
New England Power Company  
25 Research Drive  
Westborough, MA 01582

Perry D. Robinson, Esq.\*  
Daniel F. Stenger, Esq.\*  
Hopkins & Sutter  
888 Sixteenth Street, NW  
Washington, DC 20006-4103  
(E-mail: [probinson@hopsut.com](mailto:probinson@hopsut.com);  
[dstenger@hopsut.com](mailto:dstenger@hopsut.com))

Paul K. Connolly, Jr., Esq.\*  
LeBoeuf, Lamb, Greene & MacRae, L.L.P.  
259 Franklin Street  
Boston, MA 02110  
(E-mail: [connolly@llgm.com](mailto:connolly@llgm.com))

Office of the General Counsel\*\*  
Mail Stop - O-15 D21  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555  
(E-mail: [ogclt@nrc.gov](mailto:ogclt@nrc.gov))

  
Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 19<sup>th</sup> day of November 1999