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DOCKETED  
USNR July 2, 1998

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'98 JUL -6 P1:18

OFFICE OF SECRETARY  
RULEMAKING AND  
ADJUDICATIONS STAFF

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )

North Atlantic Energy Service Corporation )

Docket No. 50-443-LA

(Seabrook Station) )

NORTH ATLANTIC ENERGY SERVICE CORPORATION'S  
ANSWER TO SUPPLEMENTAL PETITION FOR HEARING

I. INTRODUCTION

In accordance with 10 C.F.R. § 2.714(c), North Atlantic Energy Service Corporation ("NAESCO"), licensee in the above-captioned matter, hereby files its answer to the "supplemental" request for hearing and petition to intervene filed on this docket, on June 18, 1998, by counsel on behalf of the Seacoast Anti-Pollution League ("SAPL") and the New England Coalition on Nuclear Pollution ("NECNP") (collectively, the "Petitioners").<sup>1/</sup> The Supplemental Petition responds to the Notice of Opportunity for Hearing and Proposed No Significant Hazards Consideration Determination ("Notice") published by the Nuclear Regulatory Commission ("NRC" or "Commission") in the *Federal Register* on May 6, 1998 (63 Fed. Reg. 25113).

NAESCO concludes that, to date, neither SAPL nor NECNP has satisfied the requirements for intervention established by 10 C.F.R. § 2.714. NAESCO recognizes that, by

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<sup>1/</sup> "Supplemental and Amended Petition for Institution of Proceeding and for Intervention Pursuant to 10 C.F.R. 2.714 on Behalf of Seacoast Anti-Pollution League and the New England Coalition on Nuclear Pollution," dated June 18, 1998 ("Supplemental Petition").

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**U.S. NUCLEAR REGULATORY COMMISSION  
RULEMAKINGS & ADJUDICATIONS STAFF  
OFFICE OF THE SECRETARY  
OF THE COMMISSION**

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Memorandum and Order of June 18, 1998, the Atomic Safety and Licensing Board ("Licensing Board") has established a schedule allowing the Petitioners more time to supplement their intervention petition, both with respect to standing issues and proposed contentions. NAESCO will respond to any additional filings by the Petitioners on the schedule established by the Licensing Board in the June 18th Memorandum and Order.

## II. BACKGROUND

The *Federal Register* Notice relates to NAESCO's license amendment application of April 8, 1998. As described in the Notice, the specific proposed change would:

... revise [Seabrook Station] Technical Specifications (TSs) 4.4.5.3, Steam Generators -- Inspection Frequencies, and 3.4.6.2.c, Reactor Coolant System (RCS) Leakage, and the associated bases to accommodate fuel cycles of up to 24 months with respect to the allowed time interval between steam generator inservice inspections.

63 Fed. Reg. 25113, at Col 1. This is a narrow approval focused on the frequency of steam generator inspections. It would also impose a more restrictive Limiting Condition for Operation for RCS leakage through steam generators. *Id.* It does not address other changes to Technical Specifications related to 24-month operating cycles.<sup>2/</sup>

In the *Federal Register* Notice for this particular amendment, for the reasons explained therein, the NRC Staff concluded that "... it appears that the three standards of [10 C.F.R. § 50.92(c)] are satisfied." The Staff proposed "to determine that the amendment request involves

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<sup>2/</sup> See License Amendment Request 98-03, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle Per Generic Letter 91-04, // Submittal No. 2," NYN-98053, dated April 8, 1998. As explained therein, the License Amendment Request is "the second submittal in a planned series of License Amendment Requests which propose changes to the Seabrook Station Technical Specifications to accommodate fuel cycles of up to 24 months."

no significant hazards consideration.” *Id.* at col. 3. Under 10 C.F.R. § 50.58(b)(5), if the Commission makes a final determination that an amendment involves no significant hazards consideration, it may issue an amendment and make it immediately effective notwithstanding a hearing request.

In accordance with the Notice, interested parties were to file a request for hearing and petition for leave to intervene under 10 C.F.R. § 2.714(a)(1). Such a petition must:

. . . set forth *with particularity* the interest of the petitioner in the proceeding, *how that interest may be affected by the results of the proceeding*, including the reasons why petitioner should be permitted to intervene, with particular reference to the factors in paragraph (d)(1) of this section, and the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene.

10.C.F.R. § 2.714(a)(2) (emphasis added). See also Georgia Institute of Technology (Georgia Tech Research Reactor), CLI-95-12, 42 NRC 111, 115 (1995).

The Supplemental Petition “supplemented and amended” a document filed on this docket on behalf of SAPL (not NECNP), dated June 5, 1998. The original letter timely responded to the Notice and primarily addressed the NRC Staff’s proposed “no significant hazards consideration” determination, a matter not properly before the Licensing Board (see 10 C.F.R. § 50.58(b)(6). At that time, it was not clear that SAPL was even requesting a formal hearing under 10 C.F.R. § 2.714. In any event, by its Memorandum and Order of June 18, 1998, the Licensing Board established a schedule for supplements. The Supplemental Petition apparently crossed the order in the mail, and did not reference the Licensing Board’s schedule. NAESCO declined to respond to the initial filing in light of the Supplemental Petition.

By an Order of June 22, 1998, the Licensing Board has already highlighted certain deficiencies in the Supplemental Petition. NAESCO will respond to any further filings Petitioners

wish to make to respond to this second order. However, to assure that all parties are on notice of NAESCO's position on the matter thus far, NAESCO herein responds to the Supplemental Petition.

### III. DISCUSSION

#### A. Organizational Standing Is Not Established

In its Order of June 22, 1998, the Licensing Board has already indicated that the Supplemental Petition is insufficient to establish organizational standing for either SAPL or NECNP. At a minimum, if Petitioners propose to base standing on the interests of individuals that it represents, Petitioners must each identify at least one member (by name and address) and provide some "concrete indication" that the member has authorized the organization to represent him or her in the proceeding. See, e.g., Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station), LBP-87-7, 25 NRC 116, 118 (1987). The "concrete indication" should be provided "preferably by affidavit." Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), LBP-92-27, 36 NRC 196, 199 (1992). NAESCO will address whatever Petitioners file in this regard in a response due no later than July 27, 1998.

#### B. Particularized Harm Is Not Yet Demonstrated

To date, neither SAPL nor NECNP has demonstrated "with particularity" the interest that might be affected by the results of the proceeding. If Petitioners file the information addressed above, they would presumably be attempting to rely upon the nearby residence of members and a presumption that this would confer standing in an NRC adjudicatory proceeding. However, in a license amendment proceeding such as this one, the Commission requires a particularized showing of harm or injury that might result from the amendment at issue. Where standing is based on nearby residence, the Commission has held that petitioners must allege a clear potential for offsite consequences resulting from that amendment. Florida Power & Light Co. (St. Lucie Nuclear Power

Plant, Units 1 and 2), CLI-89-21, 30 NRC 325, 329-30 (1989). NAESCO will reserve judgment on whether the Petitioners have established standing until Petitioners complete their filings.

NAESCO observes, however, that alleged harm should follow from the license amendment at issue in the Notice. Many of the issues raised in the Supplemental Petition are unrelated to the specific application addressed in the Notice. These asserted “bases” relate to matters outside the scope of this proceeding (e.g., “fuel barrier (cladding) degradation,” “increased on line maintenance,” and surveillance requirements for detection of mispositioned valves). The Notice does not address 24-month operating cycles generally, and should not give rise to a proceeding on all aspects of that issue.

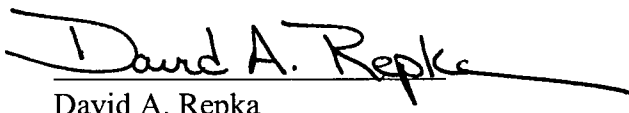
C. NECNP’s Petition to Intervene is Not Timely

In the Supplemental Petition, NECNP petitions to intervene. NECNP was not a party to the first document timely filed on this docket by SAPL in response to the Notice. As a result, NECNP’s request is not timely, as pointed out by the NRC Staff in its filing of June 24, 1998. As such, NECNP was required to address the factors of 10 C.F. R. § 2.714(a)(1) for a late-filed intervention petition. NAESCO recognizes that NECNP may be able to meet this burden, and that it has time under the Licensing Board’s schedule to do so. NAESCO, however, reserves the right to address this issue based upon the totality of the Petitioners’ filings. At this time, however, the burden is on NECNP to make an affirmative showing.

#### IV. CONCLUSION

For reasons set forth above, neither SAPL nor NECNP has established standing to intervene in this proceeding. In addition, NECNP has not established its basis to intervene as a late petitioner. NAESCO will respond to any further supplemental or amended petitions on the schedule directed by the Licensing Board's Memorandum and Order of June 18, 1998.

Respectfully submitted,

A handwritten signature in black ink that reads "David A. Repka". The signature is written in a cursive style with a long horizontal line extending to the right.

David A. Repka

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Dated in Washington, D.C.  
this 2nd day of July, 1998

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NORTH ATLANTIC ENERGY SERVICE CORPORATION'S ANSWER TO SUPPLEMENTAL PETITION FOR HEARING" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, this 2nd day of July, 1998. In addition, a courtesy copy has been sent by e-mail this same date to those parties designated by an asterisk (\*).

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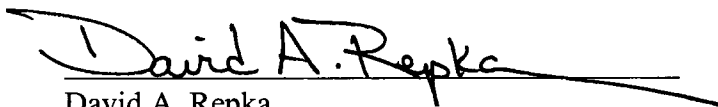
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A handwritten signature in black ink that reads "David A. Repka". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

David A. Repka  
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