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THE STATE OF NEW HAMPSHIRE

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October 11, 1979



Samuel J. Chilk, Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Re. Public Service Company of New Hampshire, et al.  
Seabrook Station, Units 1 and 2 Dockets Nos. 50-443, 50-444

Dear Mr. Chilk:

Enclosed is a copy of the position the Attorney General's Office has submitted in connection with a Request for Show Cause Order filed by the Seacoast Anti-Pollution League. It is being submitted to Mr. Denton's office inasmuch as the Nuclear Regulatory Commission is treating the matter under 10 CFR 2.206, but it is also appropriate to submit it to you in connection with the Advance Notice of Proposed Rulemaking concerning the "Adequacy and Acceptance of Emergency Planning Around Nuclear Facilities" described in 44 FR 41483 (July 17, 1979). Although the position concentrates on the matter of evacuation and does not exhaustively detail all the necessary elements of emergency planning, it is relevant to the request for comments contained in the Advance Notice.

Sincerely yours,

*Edward N. Damon*

Edward N. Damon  
Assistant Attorney General  
Environmental Protection Division

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enc.

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

TO: DIRECTOR OF NUCLEAR REACTOR REGULATION  
RE: CONSTRUCTION PERMITS CPPR-135  
CPPR-136



In the Matter of )  
 )  
PUBLIC SERVICE COMPANY OF )  
NEW HAMPSHIRE, et al. )  
 )  
(Seabrook Station, Units 1 and 2) )  
 )

Dockets Nos. 50-443  
50-444

STATEMENT OF POSITION WITH RESPECT TO THE  
SEACOAST ANTI-POLLUTION LEAGUE'S REQUEST  
FOR SHOW CAUSE ORDER DATED MAY 2, 1979

1. The Office of the Attorney General of the State of New Hampshire has participated in past NRC Licensing Board and Appeals Board proceedings respecting the issue of evacuation and emergency planning which the Seacoast Anti-Pollution League (SAPL) raises in support of its "Request for an Order to Show Cause Why Construction Permits for the Proposed Nuclear Power Plant at Seabrook Should Not Be Suspended or Revoked," dated May 2, 1979. The Office continues to be very much concerned about the issue because the matter of evacuation, and emergency planning in general, respecting the Seabrook nuclear power plant site is as important and serious now as it was during the hearings respecting the applications for construction permits. Recent events, such as the Lewis critique of the Rasmussen findings on reactor safety and the accident at Three Mile Island, under-

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score the point that emergency planning for both onsite and offsite areas can never be treated as windowdressing for the degree of protection of public health and safety which is afforded by engineered safeguards.

2. Consequently, firm and effective emergency plans, including sufficiently detailed evacuation plans, for responding to nuclear accidents at Seabrook must be prepared and tested by the applicant and State and local governmental authorities before the Seabrook units are placed in operation. Because such plans do not presently exist and because preparation of such plans is a large undertaking in any case, but perhaps especially so at Seabrook because of the particular characteristics of the site's environs, this matter deserves immediate attention.
3. Before effective emergency plans can be drafted, certain decisions have to be made concerning the standards to be achieved. Under present practice, the Nuclear Regulatory Commission (NRC) has established a checklist of necessary elements of State emergency plans (see NUREG 75/111) against which the NRC judges whether specific emergency plans qualify for NRC "concurrence." In addition, however, the NRC, under the proposed amendment to Appendix E to 10 CFR Part 50 (see 43 FR 37475 (August 23, 1978)), must determine: (a) the "emergency protective action criteria" it intends to apply with respect to a particular site, (b) the features of emergency planning measures considered necessary, and (c) the area for which emergency planning measures, including evacuation must be considered. In the case of the Seabrook nuclear power plant, determination of these particular matters at the earliest possible date is necessary for all parties and

particularly, for the State, both in the context of the licensing process and in the governmental efforts to prepare emergency plans.

4. The emergency planning area at Seabrook for evacuation purposes should have a radius of at least ten (10) miles unless it is determined that a greater distance is warranted. This radius is consistent with Governor Callen's request that the State Civil Defense Agency assist local communities within a ten-mile radius of the Seabrook site in updating their emergency plans and developing plans for evacuation in the event of an accident at Seabrook and is consistent with the recommendations in NUREG 0396, "Planning Bases for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants."
5. In view of the results of the past administrative and judicial proceedings and decisions in the Seabrook case regarding the site suitability question, we do not see, in general, that determination of these matters raise any questions concerning the validity of the construction permits. However, it is important to provide a forum for consideration and determination of these matters. If such determinations can be made within a reasonable time by addressing them immediately upon the applicant's filing of an application for an operating license, then the operating permit proceedings are the proper forum. If not, then the NRC should provide an alternative forum.
6. Although Appendix E to Part 50 in its present form does not require the applicant for an operating permit to include as part of the Final Safety Analysis Report (FSAR) the "details" of the

emergency plans and their implementation, the applicant must, of course, submit sufficient information "to demonstrate that the plans provide reasonable assurance that appropriate measures can and will be taken in the event of an emergency to protect public health and safety and prevent damage to property," including agreements reached with governmental agencies for early warning of the public and protective measures such as evacuation. See 10 CFR Part 50, Appendix E, III, IV-D. For this standard to be satisfied in the case of Seabrook, NRC "concurrence" in the State emergency plan should at least be obtained and the applicant should at least be required to demonstrate a method of evacuation of the area within the 10 mile radius suggested above which will most effectively minimize the potential radiation exposures from an accident and ensure that such exposures are within acceptable protective action criteria should evacuation become necessary.

7. If the NRC does not agree that under present regulations Appendix E to Part 50 establishes such a standard, such regulations as would establish such a standard for Seabrook should be made in accordance with the Advance Notice of Proposed Rulemaking concerning the "Adequacy and Acceptance of Emergency Planning Around Nuclear Facilities" described in 44 FR 41483 (July 17, 1979). Although the applicant has already presented in connection with its application for construction permits a "Roadway Network and Evacuation Study" dated December 6, 1974 and prepared by Wilbur Smith & Associates (Applicant's Ex. #8, Licensing Board Transcript, June 5, 1975, pp. 2488-89) dealing with evacuation within a five-mile radius of the Seabrook site, we believe that additional analysis of evacuation methods beyond the five-mile area, and a detailed



description of the assumptions on which the study is based, is necessary for an operating permit to be granted. Not only would such further analysis seem to be a benefit to the applicant, but also the results of such further analysis will provide important assistance to State and local emergency planners engaged in an effort which, although independent in some respects of the applicant's responsibilities in the licensing process under current regulation, is essential if the government's emergency plans and the applicant's FSAR, taken together, are to provide the degree of assurance that Appendix E demands.

8. In summary, this Office requests that the NRC:
- A. Make the determinations required under the proposed amendment to Appendix E, 10 CFR Part 50 (see 43 Federal Register 37475 (August 23, 1978)) as described in Paragraphs 2, 3 and 4 above, as soon as possible;
  - B. Require the preparation and testing of emergency plans, including evacuation plans, for both onsite and offsite areas at Seabrook as more fully described in Paragraphs 2, 6 and 7 hereof, before either of the Seabrook units are placed in operation; and
  - C. Make such other orders as may be appropriate to fulfill the NRC's responsibility of protecting the health and safety of the public against radiation hazards (42 USC 2012; 2021).

Respectfully submitted,

STATE OF NEW HAMPSHIRE

Thomas D. Rath, Attorney General

Date: October 11, 1979

By: Edward N. Damon

Edward N. Damon  
Assistant Attorney General  
Environmental Protection Division

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Statement of Position with Respect to the Seacoast Anti-Pollution League's Request for Show Cause Order Dated May 2, 1979, was mailed on October 12, 1979, postage prepaid, first class, to the following:

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Washington, D. C. 20555

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