September 6, 1983

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY & LICENSING BOARD

DOCKETED USNRC

'83 SEP -8 P2:36

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

Public Service Company of New Hampshire, et al. (Seabrook Station, Units 1 & 2)	Docket Nos. 50-443 OL 50-444 OL

JOHN F. DOHERTY'S PETITION FOR LEAVE TO INTERVENE

SERVED SEP 8 1983

John F. Doherty, of 318 Summit Ave., Apt. #3, Brighton, Mass. 02135 (a section of Boston), (617) 232-3853, now files this Petition for Leave to Intervene in the above styled operating licenses proceeding under Section 2.714 of Part 10 of the Code of Federal Regulations, and 42 United States Code, Sec. 2201, the Atomic Energy Act. Petitioner has resided at the above address since June 22, 1983, and this address is his permanent address. From August 20, 1977, until June 1, 1983, Petitioner resided in Texas.

Standing

Petitioner resides approximately 40 miles from the site of the Seabrook Station, Units 1 & 2. Petitioner is within the zone of effects of pathways of radiation exposure as expressed in Sec. 5.9.3.1, (P. 5-22) of the Final Environmental Impact Statement for this facility, NUREG-0895, of December, 1982, and thus will be injured in fact by operation of the Seabrook Stations, subject of these proceedings. Moreover, Petitioner has used the Seabrook and Hampton Beach areas for recreational purposes and will continue to do so. Petitioner has also frequently travelled on Route 95 to Maine where his family members have frequently resided and will continue to do so. This highway is approximately 3 miles from the site of the Seabrook reactors. Petitioner frecuently eats seafood, some of which is almost certainly fished or otherwise detained within 50 miles of the Seabrook site. Such marine animals are effected by liquid effluent from the subject reactors in that radioactive materials from the effluent are concentrated by marine animal physiological processes in the edible flesh which in turn

DS03

may be consumed by Petitioner.

In his residence and in travel or recreation, Petitioner is effected by radioactive emissions in gaseous effluents such as those listed in Table D.1 (P. D-4) of NUREG-0895.

In the event of serious accidents, exposure of Petitioner to radioactivity from the Seabrook reactors in his residence or closer to the site will be greater, which is yet another way Petitioner is effected by the licensing in these two dockets which are the responsiblity of the Atomic Safety & Licensing Board.

Petitioner is a rate payer of the Boston Edison utility. This utility purchases power from the Massachusetts Municipal Wholesale Electric Company, which is one of the Applicants in this proceeding (48 Fed. Reg. 32,417). Hence Petitioner has an economic interest in the two licensings as well.

For the above reasons, Petitioner has standing to intervene in the above matter, because his health and safety interest, specifically to be free as possible from radiation in his environment will be effected by the determination by the Board of the conditions of operation for the two Seabrook reactors. Petitioner desires to participate as a party. Petitioner, as a rate payer in Massachusetts also has an economic interest in the two licensings.

Doherty Contention 1

Public Service Company of New Hampshire's Application for an Operating License for Seabrook Station, Unit 2, is premature because the unit is but 22% complete and many more than four years are likely to remain before the unit is substantially completed in conformance with N.R.C. rules and regulations. Application for an operating license for this unit now, violates 10 CFR 50.57(a)(1) and granting the operating license with the unit but 22% completed or not substantially completed threatens those health, safety, and economic interests of Petitioner set forth above. The Board should deny the operating license for Unit 2 until the Applicant has substantially completed it.

Supporting Statement for the Contention

That Seabrook Unit 2 is but 22% complete is shown clearly by a photo (Exhibit A) of the plant site in the Boston Globe of August 21, 1983, and a statement attributed to a Public Service Company employee, Nicholas Ashooh, on that same page. That the Seabrook Unit 2 is unlikely to be completed for many years more than its planned completion date of July 1987, (Seabrook Unit 1, July, 1984) is evidenced by a long history of delay of construction. Nuclear Safety, Vol. 23, No. 6, Nov-Dec 1982, gave the completion date for Seabrook, Unit 2, as 1984; Nuclear News in its August 1979 edition, page 82, notes the estimated date of start-up at the time the reactor was ordered was August, 1981, which is two years ago. Thus, Seabrook Unit 2 is two years plus 78% behind schedule. Conservatively subtracting one year because of the Environmental Protection Agency objections to the original project cooling systems, it has still taken six years and two months for 22% of the construction for Unit 2. Carried forward, without any speed up, it would require approximately 20 years more to complete Unit 2.

The recent financial picture and partner conduct of the sixteen Seabrook Station owners points to further delay for construction of Unit 2. Partners in Seabrook Unit 2, United Illuminating Company of New Haven (17.5%) and Northeast Utilities of Connecticut Light and Power (4.0%) have been ordered by the Connecticut Department of Public Utility Control, "to make every effort to disengage" from Seabrook Unit 2. The utilities announced they will not appeal this order. In March, 1983, New England Power (10%) announced it wanted to sell its share of Seabrook Unit 2. The Staff of the New Hampshire Public Utility Commission recommended cancellation of Seabrook Unit 2 in April, 1983. This agency regulates the managing partner for Seabrook Station, Units 1 & 2, Public Service Company of New Hampshire (35%). Thus, with equity holder and regulatory agency resistance growing it is likely Seabrook Unit 2 will be substantially delayed.

The central point of the contention is that Petitioner's health, safety, and economic interests are injured by premitting an operating license for a 22% completed plant. The basis for this is that

with 78% of the plant on paper the Board cannot adequately control the outcome of the plant's systems and hence operation sufficiently to protect Petitioner's interests. In particular, the following systems are not completed or even installed in part: High Pressure Core Injection, High Pressure Core Spray, Low Pressure Core Injection, Low Pressure Core Spray, Pressurizer, Standby Liquid Control System, Containment Spray, Residual Heat Removal System, Reactor Coolant Leak Detection, ESF Sequencer and Make-Up System (CVCS).

The Code of Federal Regulations provision, 10 CFR 50.57(a)(1) requires construction substantially completed for an operating license to be granted. An operating license hearing has never been held when there was a single plant to be licensed less than or equal to 22% constructed. Yet, Seabrook Unit 2 must obtain an operating license for itself alone, a single license is not granted for two reactors.

The code provision must be granted respect. It states, "construction" of the facility must be substantially completed before an operating license may be issued. Significantly it is is in a section, "issuance of an operating license". The fact another plant on the same site may be substantially constructed may not enter into this determination in a quantitative way.

The word "substantial" in 10 C.F.R. 50.57(a)(1) means here some measure of real value toward construction of the plant. Construction means the actual final hardware of the plant established in systems as they will be when the plant operates at maximum rated power. The Board's ultimate determination is whether or not the Seabrook Unit 2, with its construction substantially completed may be operated without undue risk to the public health and safety. The Applicants urge that with 22% of the plant completed the rest must follow exactly as planned so that the Board can ignore the possiblity of any changes due to regulations, construction error not corrected for any reason, or unavailability of materials. To do as Applicants urge would be to deprive this Petitioner of the benefits of the Code provision which is to insure his health, safety, and economic interests.

Justification for late filing of this Contention under 10 CFR 2.714(a)(1)(i) - (v).

As this Petition is filed after the period for filing Petitions for Leave to Intervene, Petitioner offers the following information as an explaination for the late date of the Petition; following the sequence of factors in 10 CFR 2.714(a)(1

(i) Good cause for failure to file on time.

This Petitioner possessed no standing to Petition for Intervention prior to June 23, 1983, the date he moved his belongings into his current residence. For three weeks prior to this address he had no fixed abode, and prior to June 1, 1983, he lived 1,800 miles from his now permanent address. On August 26, 1983, Petitioner presented a limited appearance statement under 10 CFR 2.715(a) at Dover, New Hampshire, before a majority of the Board, presenting this issue, requesting Board action. The Board took none, evidently not being empowered to do so. At the beginning of the period between June 23, 1983, and August 26, 1983, this Petitioner had believed that due to decreased demand and lack of construction, Seabrook Unit 2 would not be nominated for a license to operate soon. Indeed, when the July 15, 1983 Federal Register notice of hearing was found on approximately July 29, 1983, this Petitioner was surprised simply because a plant substantially uncompleted did not seem likely to be up for licensing at this time because of 10 CFR 50.57 (a)(1) which Petitioner knew. While this Petitioner knew Nuclear Safety had given a pletion date of 1984 for Seabrook Unit 2 in its Vol. 22, No. 5 at pg. 689 and Vol. 23, No. 6, at pg. 764, this date appeared outdated. Dates given for the South Texas Nuclear Project for completion were clearly outdated in the aforementioned volumes which Petitioner knew for certain since the STNP was relevant to the Allens Creek proceeding in which Petitioner was a party. Also, the dates in Nuclear Safety were in conflict with those in an Atomic Industrial Forum News Release published in the Fall 1981,

The Energy Directory, Published by EIC, on p. 139. (Exhibit B) This was obtained from a library reference area at the University of Houston, but Petitioner has not located it in the Boston area. This Petitioner did not form a plan to return to Boston, where he had resided from 1960 to 1977, until April of 1983. Petitioner urges there was good cause for this Petitioner to believe a largely incomplete plant would not be seeking an operating license in August of 1983. The August, 1979 Nuclear News (p. 82) stated Seabrook Unit 2 was 3% complete. Thus, the ambiguity of the completion dates, plus the wording of 10 CFR 50.57(a)(1) combined to dis-alert this Petitioner, and Petitioner would submit this justifies an approximate two month delay in filing this Petition for Leave to Intervene.

(ii) Availability of other means to protect Petitioner's interest

Commission rule permit petitions for hearings on amendments to operating licenses. However, this is not sufficient to protect the interests of Petitioner. Petitioner would be forced into a state of perpetual readiness; to be on constant lookout for amendment announcements for a period plausibly twenty years in length. This is a greater requirement than being alert to the announcement the Applicant's are now seeking and operating license. Amendments with hearing opportunities will not occur for every change in the plant, either planned or accidental. The threshold to have a hearing on an amendment is not that of a Contention in an Operating License hearing as it would have to be for there to be available other means to protect this Petitioner's interests under these rules. The hearing on amendments procedure does not permit a comprehensive examination of the plant as constructed, however, and it is this that Petitioner urges is needed to protect his interests. At least in part, this is because over the years a tradition of careful scrutiny has developed for Operating License Boards over the years.

(iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.

Petitioner participated in all phases of the Allens Creek

construction permit proceedings from 1978 to 1982. The issue here raised goes to the soundness of one of the two licensings under consideration. If the Seabrook Unit 2 license is granted, the record will be improved by a consideration by the Board of what effect, if any, licensing a plant 22% complete and faced with financial uncertainties likely to stretch total construction time, can have on the health, safety, and economic interests of the public. In view of the language of 10 CFR 50.57(a)(1), evidence taken on this contention would strengthen the record.

(iv) The extent to which the petitioner's interest will be represented by existing parties.

Petitioner is unaware the existing parties will present or otherwise raise this issue in the proceeding. It is not among the contention list [illegible] in the Board's Order following the pre-hearing conference(s).

(v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

Participation of any Petitioner broadens the issues and delays the proceedings, so the question must be, by how much will these occur. At stake is a single issue effecting one of the two licensings. It can be expected the Applicants will present a lengthy defense against the contention, but the Staff, much less, because the Staff's commitment is not normally to this type of issue. Indeed, Staff may conceivably side with Petitioner. However, the issue of compliance with the rules of the Commission is a vital aspect of the regulatory process, so the Board should hear the issue, and not refuse to hear it because it is unworthy of the time required, as it might with a low probability accident secuence, for example.

Conclusion

For the reasons above, Petitioner therefore prays the Board admit his Contention #1 to the proceeding with Petitioner as a party as per 10 C.F.R. 2.714(g).

John F. Doherty

CERTIFICATE OF SERVICE

Copies of "JOHN F. DOHERTY'S PETITION FOR LEAVE TO INTERVENE" were served on the parties below by First Class U. S. Postal Service, this September 6 1983, from Boston, Mass.

Helen F. Hoyt, Esq.	Administrative Judge
Dr. Jerry Harbour	Administrative Judge
Dr. Emmeth Luebke	Administrative Judge 1/
Roy F. Lessey, Esq.	Nuclear Regulatory Commission 2/
Thomas Dignan, Esq.	Applicants 3/
Docketing & Service	Nuclear Regulatory Commission
Robert A. Backus, Esq	Seacoast Anti-Pollution League
William S. Jordan, Esq.	New England Coalition on Nuclear Pollution

John F. Doherty

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1/ All members of the Board were served at "Atomic Safety & Licensing Board, U. S. N. R. C., Washington D. C. 20555"

2/ Attorney Lessey was served at the "Office of the Executive Legal Director, U. S. N. R. C., Washington D. C. 20555"

3/ Attorney Dignan was served at Ropes & Gray, 225 Franklin St., Boston, Mass. 02110.

EXHIBIT A

Skepticism voiced over Seabrook 2

■ SEABROOK
Continued from Page 65

does not directly regulate electric companies, but it represents the thinking of Gov. Joseph Brennan and likely will be reflected in deliberations by regulators.

According to the latest tally, at least eight of Seabrook's 16 owners are seeking to delay the project, or sell off part of their holdings. In some cases, the utilities have taken those actions on their own, while in others they are under the order of utility commissioners. In neither case is there a market for Seabrook shares.

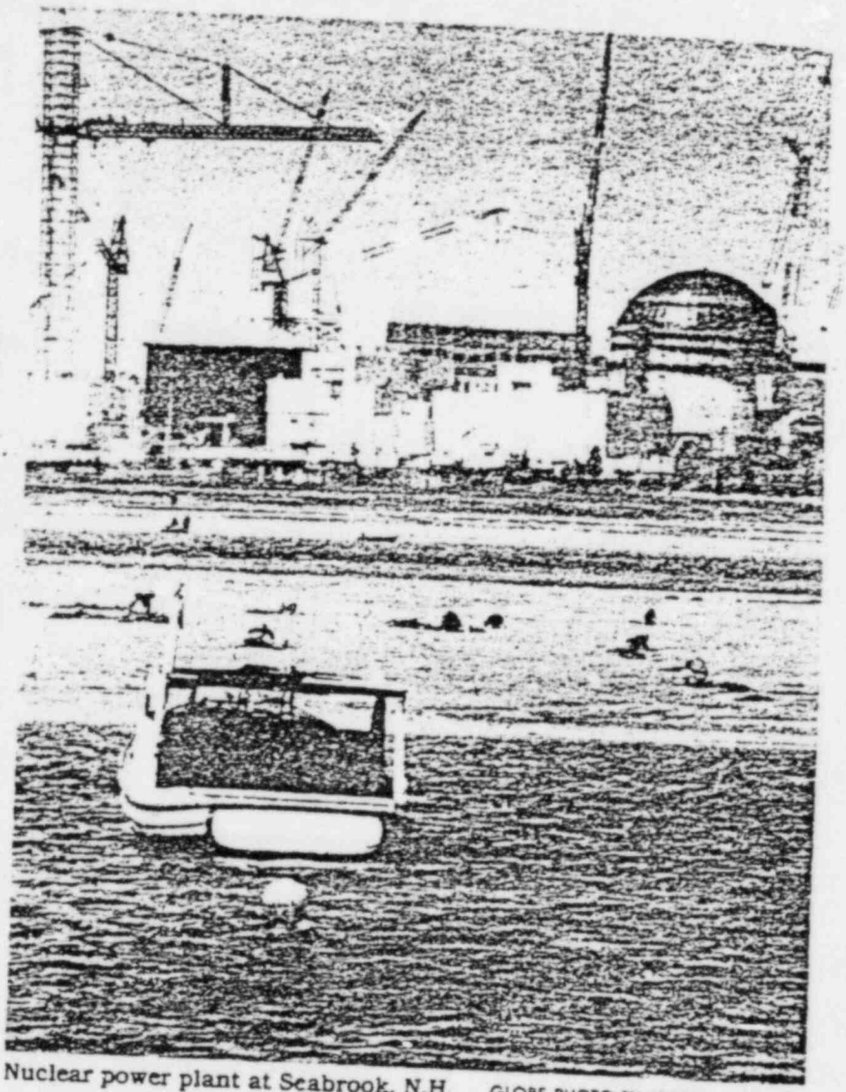
Regulation the bane of Seabrook

"These are not positive developments. They don't make things easier for us, but it doesn't change our belief customers will be better off if we can complete Seabrook 1 and 2 as soon as posible," Nicholas Ashooh, spokesman for Seabrook's major builder, Public Service Co. of New Hampshire responded in an interview. Unit 1, which even critics concede will probably be finished, is 79 percent built and the second reactor is 22.5 percent complete.

Ashooh acknowledges Seabrook 2 is taking its knocks in state regulatory circles. "Regulation has always been the bane of Seabrook, from day one . . ." he said. Earlier in the project, intervention came from the federal level, he said, "but now it seems we're seeing more activity on the regional level."

Still, federal scrutiny of Seabrook continues. Last week, the Nuclear Regulatory Commission's Atomic Safety and Licensing Board gathered in Dover and Exeter for the first round of hearings on whether Seabrook should be granted an operating license. It is a high-stakes proceeding. If the NRC should deny the license and the courts should uphold the denial, the owners of Seabrook would be out their investment, which totals $2.1 billion to date.

But Seabrook's backers can take comfort in the knowledge the NRC has never denied a plant an operating license. The decision is expected in about a year.



Nuclear power plant at Seabrook, N.H. GLOBE PHOTO BY JOSEPH DENNEHY

During the hearings, Seabrook's sponsors are expected to defend their estimates that in a nuclear accident the seacoast around Seabrook could be evacuated in six hours and five minutes on a sunny summer weekend when the beach is crowded with tourists. The estimate jumps to 9 hours and 15 minutes in bad weather.

Estimates questioned

The New England Coalition on Nuclear Pollution, the Seacoast Anti-Pollution League and the state of Massachusetts all question the adequacy of Public Service Co.'s evacuation estimates. They are parties to the case, along with New Hampshire (which has doubts about notification of the state during an accident) and Maine, an interested observer. The borders of both Maine and Massachusetts are near Seabrook.

But the issues to be addressed in the NRC hearings, primarily emergency planning, are far from the concerns state regulators voiced last week. They worried about the increased cost of the plant, the strain it has put on the utilities trying and repeated delays in start-up times. In addition, some cited the recent stabilization in the price of oil, which makes new nuclear generation no bargain.

All those things, Paul Bell, chairman of the Massachusetts Public Utility Commission, said, add up to increasingly diminished support for Seabrook 2. "I think that everyone realizes the probability of completion is lower now than it was," he said.

Maine Utility Comr. Ralph Gelder added: "As events pass, more commissions have become more certain that Seabrook 2 is not for their companies . . . To the extent that adds up, it makes the likelihood of Seabrook 2's being completed more uncertain." He said that in Maine, commissioners' skepticism about Seabrook intensified about one year ago.

In New Hampshire, the state with the biggest stake in Seabrook's future, Comr. Vincent Iacopino was cautious about saying regulatory opinion has turned against Seabrook 2. "I don't know if it's a trend," he said of other commissions' [illegible]

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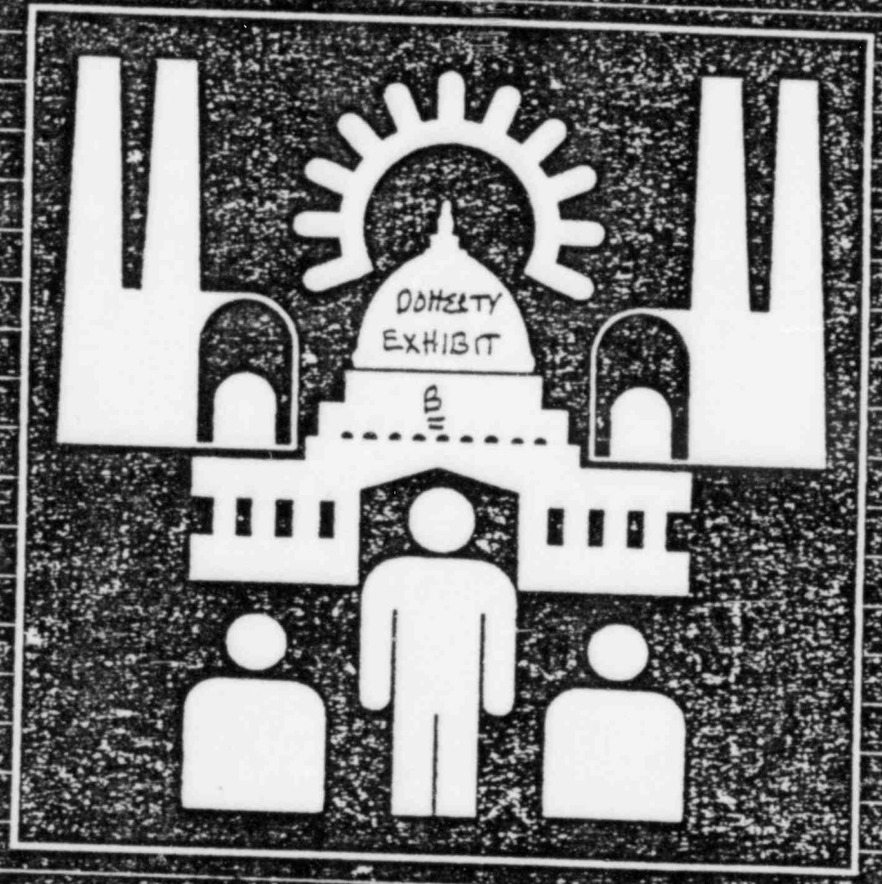

USE ONLY THROUGH JANUARY

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State and Utility	Plant	Location	Net MWe	Type/Mfr.	Comm'l Operation
WISCONSIN					
Dairyland Power Coop.	LaCrosse	Genoa	50	BWR/AC	11/69
Wisconsin Electric Power Co.	Point Beach 1	Two Creeks	497	PWR/W	12/70
Wisconsin Electric Power Co.	Point Beach 2	Two Creeks	497	PWR/W	10/72
Wisconsin Public Service Corp. (Wisconsin Power and Light Co., Madison Gas and Electric Co.)	Kewaunee	Carlton Township	535	PWR/W	6/74

EXHIBIT B
(P.2)

OPERATING LICENSE ISSUED FIRST SIX MONTHS OF 1981

Plant	Location	Net MWe	Type/Mfr.	Utility
William McGuire 1*	Cowans Ford, NC	1,180	PWR/W	Duke Power Co.

*Received full-power operating license only.

Published Fall of '81

PROJECTS DELAYED FIRST SIX MONTHS OF 1981

Plant	Location	Net MWe	Type/Mfr.	Utility	Delayed From	Delayed To	Total Months
Allens Creek 1 (O)	Wallis, TX	1,200	BWR/GE	Houston Lighting & Power Co.	2/88	0/91	34
Black Fox 1 (LWA)	Inola, OK	1,150	BWR/GE	Public Service Co. of Oklahoma	7/85	7/91	72
Black Fox 2 (LWA)	Inola, OK	1,150	BWR/GE	Public Service Co. of Oklahoma	7/88	7/94	72
Callaway 2 (C)	Callaway County, MO	1,150	PWR/W	Union Electric Co.	4/88	4/90	24
Carroll County 1 (O)	Savanna, IL	1,120	PWR/W	Commonwealth Edison Co.	10/92	*	—
Carroll County 2 (O)	Savanna, IL	1,120	PWR/W	Commonwealth Edison Co.	10/93	*	—
Cherokee 1 (C)	Cherokee County, SC	1,280	PWR/CE	Duke Power Co.	1/90	*	—
Cherokee 2 (C)	Cherokee County, SC	1,280	PWR/CE	Duke Power Co.	1/92	*	—
LaSalle 1 (C)	Seneca, IL	1,078	BWR/GE	Commonwealth Edison Co.	6/81	4/82	10
LaSalle 2 (C)	Seneca, IL	1,078	BWR/GE	Commonwealth Edison Co.	6/82	12/82	6
Limerick 2 (C)	Limerick Township, PA	1,055	BWR/GE	Philadelphia Electric Co.	4/87	10/87	6
San Onofre 2 (C)	San Clemente, CA	1,100	PWR/CE	Southern California Edison Co.	12/81	6/82	6
San Onofre 3 (C)	San Clemente, CA	1,100	PWR/CE	Southern California Edison Co.	2/83	7/83	5
Seabrook 1 (C)	Seabrook, NH	1,150	PWR/W	Public Service Co. of New Hampshire	0/83	2/84	14
Seabrook 2 (C)	Seabrook, NH	1,150	PWR/W	Public Service Co. of New Hampshire	0/85	5/86	17
Virgil C. Summer 1 (C)	Parr, SC	900	PWR/W	South Carolina Electric & Gas Co.	6/81	6/82	12
Susquehanna 1 (C)	Berwick, PA	1,050	BWR/GE	Pennsylvania Power & Light Co.	5/82	5/83	12
Susquehanna 2 (C)	Berwick, PA	1,050	BWR/GE	Pennsylvania Power & Light Co.	5/83	5/84	12
Watts Bar 1 (C)	Spring City, TN	1,177	PWR/W	Tennessee Valley Authority	11/82	1/84	26
Watts Bar 2 (C)	Spring City, TN	1,177	PWR/W	Tennessee Valley Authority	8/83	10/84	14
WPPSS 1 (C)	Richland, WA	1,267	PWR/B&W	Washington Public Power Supply System	2/86	6/86	4
WPPSS 2 (C)	Richland, WA	1,093	BWR/GE	Washington Public Power Supply System	9/83	2/84	5
WPPSS 3 (C)	Satsop, WA	1,240	PWR/CE	Washington Public Power Supply System	9/86	12/86	3
WPPSS 4 (C)	Richland, WA	1,267	PWR/B&W	Washington Public Power Supply System	2/87	6/87	4
WPPSS 5 (C)	Satsop, WA	1,240	PWR/CE	Washington Public Power Supply System	9/87	12/87	3

Total: 25 reactors = 28,622 MWe