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USNRC

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION NOV 30 P2:25

before the

ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
OF ENERGY & SERVICE  
WASHINGTON, D.C.

In the Matter of )

PUBLIC SERVICE COMPANY OF NEW )  
HAMPSHIRE, et al. )

(Seabrook Station, Units 1 & 2) )

Docket Nos. 50-443-OL  
50-444-OL

APPLICANTS' RESPONSE TO THE  
REQUEST OF THE PUBLIC ADVOCATE  
OF THE STATE OF MAINE TO PARTICIPATE

On November 17, 1981, the General Counsel to the Public Advocate of the Maine Public Utilities Commission (MPUC) filed a letter in which he requests on behalf of the "office of the Public Advocate"\* a reasonable opportunity to participate in the above-captioned matter. For the reasons set forth below, the applicants say that this request should be denied.\*\*

\* The Maine Statutes are bereft of any reference to an "Office of the Public Advocate"; the statute refers only to the "Public Advocate".

\*\* The reasons herein set forth are the relevant as of this time. Should the Board permit the present Public Advocate to participate, the applicants still reserve the right to raise further objections arising out of future happenings including, but not limited to, a change in the authority or person of the Public Advocate.

Section 715(c) of the Commission's Rules of Practice contemplates the participation of "representatives of an interested State, county, municipality and/or agencies thereof". If one is to "represent" a public entity, one must have authority to do so and the Public Advocate of the MPUC has no such authority. It is true that the statute creating the Public Advocate provides that his duties include:

"When deemed necessary by the Public Advocate, in the interest of the using and consuming public, or any particular group thereof, intervening and appearing on their behalf in any proceedings before the [MPUC], appeals from orders of the [MPUC], or proceedings before state and federal agencies and courts in which the subject matter of the action affects the customers of any utility doing business in [Maine] . . ." 35 MRSA § 1-A.2.J (emphasis added).

However, the statute also provides that:

"The duties of the Public Advocate are restricted to those relating to matters within the jurisdiction of the Public Utilities Commission." 35 MRSA § 1-A.12 (emphasis added).

The issuance of an operating license to a nuclear power plant by NRC has no relation to matters within the jurisdiction of the Maine PUC. Indeed, that agency only issues certificates of necessity for the construction of generating stations in the State of Maine, see 35 MRSA § 16, it has no such authority as

to out-of-state facilities. Thus, the Public Advocate is without the authority to carry out the role sought.

By their attorneys,

Thomas G. Dignan, Jr.

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CERTIFICATE OF SERVICE

I, Thomas G. Dignan, Jr., one of the attorneys for the applicants herein, hereby certify that on November 25, 1981, I made service of the within document by mailing copies thereof, postage prepaid, to:

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