

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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before the  
ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )

PUBLIC SERVICE COMPANY OF )  
NEW HAMPSHIRE, et al )

(Seabrook Station, Units 1 and 2) )

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

APPLICANTS' REPLY TO NECNP REQUEST  
FOR CLARIFICATION OF SCHEDULE FOR FILING  
CONTENTIONS OR FOR AN EXTENSION OF TIME



The notice of opportunity for hearing in the above captioned matter was published in the Federal Register on October 19, 1981. 46 Fed. Reg. 51330 et. seq. That notice provided for the filing of petitions to intervene by November 18, 1981. Id. at 51331. On November 18, 1981, the New England Coalition on Nuclear Pollution (NECNP) filed a petition for leave to intervene. On November 25, 1981, the applicants filed an answer to that petition, admitting NECNP's interest but pointing out that New Hampshire still had to comply with the "one good contention" requirement, 10 CFR § 2.714(b), before NECNP could be admitted as a party. On December 3, 1981, the Staff filed a response taking the same position.

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On March 12, 1982 this Board issued a Memorandum and Order Setting Special Prehearing Conference (hereinafter "Order"). Inter alia, the order directed that any amended petition to intervene must be filed not later than 30 days prior to the contemplated Special Prehearing Conference. This would make the filing due on April 6, 1982. On April 2, 1982, NECNP filed the request at bar entitled "NECNP Request for Clarification of Schedule for Filing Contentions or For an Extension of Time" (hereinafter "Request"). The Request seeks apparently relief in the alternative of either a declaration that NECNP need not file any contentions prior to the contemplated Special Prehearing Conference or the granting of an extension to NECNP which would permit NECNP to file its contentions on or before April 21, 1982.

As grounds for the request NECNP argues that it interpreted the Order not to require the filing of contentions.

#### ARGUMENT

The NECNP argument rings hollow. The Order quoted in haec verba 10 CFR § 2.751a. That regulation specifically lists as the first stated purpose of Special Prehearing Conferences the ". . . identification of the key issues in the proceeding." 10 CFR § 2.751a(a)(1). Since in NRC operating license proceedings issues arise only out of contentions, it is difficult to see how the order could have been read as not calling for contentions to be filed. Certainly New Hampshire did not so

interpret it. See New Hampshire's "Motion for Filing Supplement to Petition to Intervene." ¶ 6.<sup>1/</sup>

NECNP's suggestion that the provision of 10 CFR § 2.714(b) which allows contentions to be filed up to 15 days before the special prehearing conference supports its position is without merit. The Board is authorized by the regulations to vary deadlines of this nature especially when the deadline is phrased as "not later than". See 10 CFR §§ 2.713(e) and (1)

#### CONCLUSION

The request should be denied in all respects.

Respectfully submitted,

s/ Thomas G. Dignan, Jr.  
s/ R. K. Gad III  
s/ Ropes & Gray

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April 6, 1982

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<sup>1/</sup> "This Order requires the State and the Attorney General to file their contentions thirty (30) days prior to the May 6, 1982 hearing, which filing deadline is April 6, 1982. This allows the State and Attorney General only twenty (20) days' notice of the time for filing contentions." (emphases added)

CERTIFICATE OF SERVICE

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I, Thomas G. Dignan, Jr., one of the attorneys for the applicants herein, hereby certify that on April 6, 1982 I made service of the within document by mailing copies thereof, postage prepaid, to:

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