

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
and
50-444

January 7, 1983

THE STATE OF NEW HAMPSHIRE'S OBJECTION
TO THE LICENSING BOARD'S ORDER DENYING
THE STATE'S REQUEST FOR AN EXTENSION OF TIME FOR DISCOVERY

NOW COMES the State of New Hampshire and objects to the Licensing Board's (hereinafter "Board") Order communicated orally to the parties during a conference call on December 22, 1982.

1. On December 22, 1982, the Board and the parties conducted a conference call to deal with a number of motions filed by the Intervenor's requesting additional time within which to conduct discovery on the admitted contentions in this matter.

2. New Hampshire filed a motion on December 13, 1982 in which it requested an extension of time for discovery until March 15, 1983 and stated the grounds upon which it based a

request for an extension of time. Intervenor NECNP also filed a motion requesting an extension to March 15, 1983. Other Intervenor also requested extensions of time for discovery.

3. During the conference call, there was no challenge to the State of New Hampshire's reasons which were presented as a basis for extending discovery, although the Applicant and Staff both objected to the extension.

4. The discussion during the conference call focused, in large part, on the schedule set for the Seabrook proceeding in the so-called "Bevill Report" rather than on the issue of whether the discovery schedule being set by the Board provided a fair and reasonable amount of time for the Intervenor to conduct discovery on the admitted contentions. Prior to the conference call, all parties had been notified that the Applicant had adjusted its projected fuel date to September of 1984, a delay of approximately 10 months over previously projected fuel load dates. It is the State of New Hampshire's position that this delay logically provided the Board with an opportunity to give the Intervenor some relief from an overly stringent discovery schedule which had been set after the initial prehearing conference. However, the Board rejected this argument and apparently chose to rely on the Staff's presentation that the Bevill Report had incorporated the lion's share of that 10-month delay into the NRC's review process and that, in effect, little if any of the 10-month delay would be available for extending the Intervenor's discovery.

5. The State of New Hampshire strenuously objects to the Board setting the schedule for this proceeding based on arbitrary dates reflected in the Bevill Report which give absolutely no regard to the due process rights of the parties before this Board. The factors which have resulted in the Bevill schedule have not been presented to the Board in the record of this proceeding and the State of New Hampshire has had no opportunity to review those factors and comment on them. It is extremely prejudicial to the State of New Hampshire to have its rights of due process and fair hearing impinged upon by factors which are totally outside the record of this proceeding.

6. The record of this proceeding reflects that the Applicant has required an extension of time for completion of the construction of the Seabrook Nuclear Plant (the recent 10-month delay referred to above), and the Staff has required an extension of time within which to complete its Safety Evaluation Report (hereinafter "SER") (the Staff originally predicted the SER would be available in November whereas, as of the date of this pleading, the SER is still not available). The Board itself and the NRC Staff have required extensions of time within which to accomplish its responsibilities in this proceeding (e.g., the Board's Order after the first prehearing conference was delayed and apparently the NRC Staff may require additional time for its part in these proceedings according to

the new Bevill schedule). Indeed, all parties, including the Intervenor, have had difficulty meeting various discovery deadlines throughout the brief discovery period. The State has not objected to any of these extensions and accepts that they are a necessary part of the licensing process. What we do object to is the apparent position of the Applicant, Staff, and Board that while there may be "necessary extensions" for them, there can be no such extensions for Intervenor.

7. The State recognizes that the Board granted an extension of discovery until January 7, 1983, i.e., an extension of 3 weeks. As indicated by the State during the conference call, this extension is essentially meaningless to the State of New Hampshire. The extension does not resolve the problems set forth in the State's Motion for an extension of time. While the State will file additional Interrogatories on January 7, 1983, the extension has by no means permitted the State to complete its discovery on the admitted contentions.

WHEREFORE, the State of New Hampshire respectfully objects to the Board's denial of its request for an extension of time for discovery until March 15, 1983 in that such denial is prejudicial to the State of New Hampshire, violative of its due process and fair hearing rights, and based upon factors which

are outside of the record of this proceeding and upon which the State of New Hampshire has had no notice or opportunity to be heard.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

GREGORY H. SMITH
ATTORNEY GENERAL

By E. Tupper Kinder
E. Tupper Kinder
Assistant Attorney General
Environmental Protection Division

George Dana Bisbee
George Dana Bisbee
Attorney
Environmental Protection Division
Office of Attorney General
State House Annex
Concord, New Hampshire 03301
603/271-3679

Dated: January 7, 1983

CERTIFICATE OF SERVICE

I, E. Tupper Kinder, Esquire, do hereby certify that a copy of the foregoing State of New Hampshire's Objection to the Licensing Board's Order Denying the State's Request for an Extension of Time for Discovery has been mailed this 7th day of January, 1983, by first class mail, postage prepaid, to:

Helen F. Hoyt, Chm.
Administrative Judge
Atomic Safety and Licensing
Board Panel
U.S. NRC
Washington, D.C. 20555

Dr. Emmeth A. Luebke
Administrative Judge
Atomic Safety and Licensing
Board Panel
U.S. NRC
Washington, D.C. 20555

Dr. Jerry Harbor
Administrative Judge
Atomic Safety and Licensing
Board Panel
U.S. NRC
Washington, D.C. 20555

Roy P. Lessy, Jr., Esquire
Robert Perliss, Esquire
Office of Executive Legal Dir.
U.S. NRC
Washington, D.C. 20555

Robert A. Backus, Esquire
116 Lowell Street
P.O. Box 516
Manchester, N.H. 03105

Phillip Ahrens, Esquire
Assistant Attorney General
State House, Station #6
Augusta, Maine 04333

Robert K. Gad, Esquire
Thomas G. Dignan, Jr., Esquire
Ropes and Gray
225 Franklin Street
Boston, Massachusetts 02110

Jo Ann Shotwell, Asst. AG
Office of the Attorney General
One Ashburton Place, 19th Floor
Boston, MA 02108

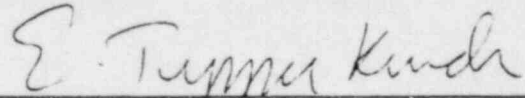
Mrs. Beverly Hollingsworth
822 Lafayette Road
P.O. Box 596
Hampton, New Hampshire 03842

William S. Jordan, II, Esquire
Ellyn R. Weiss, Esquire
Harmon and Weiss
1725 I Street, N.W.
Suite 506
Washington, D.C. 20006

Edward J. McDermott, Esquire
Sanders and McDermott
408 Lafayette Road
Hampton, N.H. 03842

Atomic Safety and Licensing
Board Panel
U.S. NRC
Washington, D.C. 20555

David R. Lewis, Esquire
Atomic Safety and Licensing
Board
U.S. NRC - Room E/W - 439
Washington, D.C. 20555



E. Tupper Kinder

Dated: January 7, 1983