

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
before the
ATOMIC SAFETY AND LICENSING BOARD

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
"NECNP MOTION TO EXTEND EMERGENCY
PLANNING DISCOVERY DEADLINE"

The Applicants submit that the showing made by NECNP is inadequate to demonstrate any entitlement to the relief requested by this motion. Nevertheless, the Applicants would interpose no objection to a reasonably short enlargement of the discovery period relating to the November 17, 1982-admitted contentions.

1. The centerpiece of the motion is the impairment perceived by NECNP of its right to engage in a "second

round" of discovery relating to the contentions admitted by the Order of November 17, 1982 (the "Category III Contentions"). Prescinding, however, from the absence of anything in the Rules of Practice conferring an expectation of "second round" discovery, NECNP's present predicament derives primarily from its own lack of diligence. NECNP's contentions were admitted on November 17, 1982; it did not serve its Category III Contention interrogatories until February 4, 1983 -- some 79 calendar days later. The Applicants served their answers to these interrogatories on February 25, 1983.*

NECNP made its first request for the documents identified by the Applicants in their answers to

*It is mildly disingenuous of NECNP to compare, as it does on page 1 of its motion, the date on which it served a document calling for response and the date on which it received the response. It is relatively immaterial whether the Applicants' performance is measured from "receipt" to "receipt" or from "service" to "service," but whichever is chosen, the standard for measurement ought to be consistent.

NECNP's interrogatories on March 10, 1983. A date for the production was selected to meet the convenience of counsel for the Commonwealth of Massachusetts (who, by arrangement with NECNP, was the person who was going to be reviewing the documents); the date selected by counsel for the Commonwealth was Monday, March 21, 1983. A request was made that, in lieu of producing the documents, the Applicants simply furnish copies to NECNP (via the Commonwealth) (at Massachusetts' expense), in which request the Applicants acquiesced. It was requested that NECNP (via the Commonwealth) prepare a list of the specific documents of which production was requested; that list was received on Tuesday, March 15, 1983. On Friday, March 18, 1983, counsel for the Applicants advised counsel for NECNP (via counsel for the Commonwealth) that, contrary to her assumption, the documents on the list were approximately one foot in volume or more and inquired if counsel still wished to be provided with copies of the documents "sight unseen;" counsel for the Commonwealth responded in the negative and requested a new date for production of Thursday, March 31, 1983 (in

which the Applicants acquiesced). A notice of the production was issued to all parties on March 18, 1983.

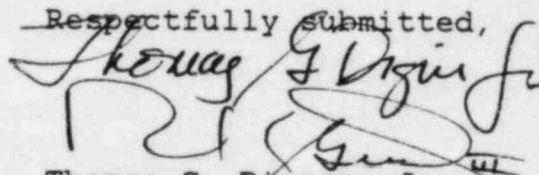
In short, the Applicants' response to NECNP's requests has been at all times prompt and timely. Any suggestion in NECNP's motion that the Applicants have been the cause of NECNP's perceived predicament is unfounded.

2. The period of discovery established by the Board for the originally admitted contentions, as later enlarged, ran from September 13, 1982 through January 7, 1983, a period of 116 days. While the Board did not formally establish a "close of discovery" date with respect to the Category III Contentions admitted on November 17, 1982, any assumption that NECNP might have made that the discovery period with respect to the Category III Contentions would differ materially from the discovery from the originally-admitted contentions, and any reliance NECNP may have placed on any such assumption, were unreasonable. The discovery period ordered with respect to the Category III Contentions (i.e., from November 17, 1982 through March 17, 1983, or 120 days) was fully consistent with the discovery

period ordered in respect of the originally-admitted contentions.

3. For the foregoing reasons, the Applicants submit that NECNP has offered no explanation for having waited for over two months to file Category III Contention interrogatories. NECNP has, therefore, failed to demonstrate a sufficient basis for the relief requested by its motion, and failed to demonstrate any harm to it attributable to actions of the Board or to actions of the Applicants. Nevertheless, the Applicants interpose no objection to an enlargement of the discovery period relating to the Category III Contentions for NECNP through Monday, April 4, 1983.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Robert K. Gad III, one of the attorneys for the Applicants herein, hereby certify that on March 24, 1983, I made service of the within Applicants' Response to "NECNP Motion to Extend Emergency Planning Discovery Deadline" by mailing copies thereof, postage prepaid, to:

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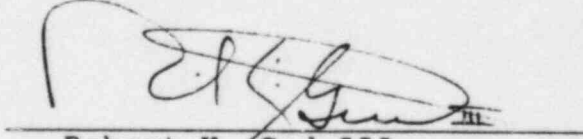
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