

of Millstone conducted on January 28-29, 1991, stated in pertinent part:

During this SALP period, a special inspection was conducted at Millstone 2 in July 1989 to address a series of allegations. This inspection concluded that, although there were no major safety significant issues in any of these allegations, there were weaknesses in the licensee's deficiency reporting methods and there appeared to be a reluctance on the part of some employees to use formal procedures and their line management for recording deficiencies.

. . .

However, despite the corrective actions described above, the licensee has not been totally effective in satisfactorily resolving some employee concerns. The shortfall appears to NRC to be due primarily to two broad reasons: First, instances have continued to exist where routine activities by both site and corporate organizations lack rigor and formality in conformance to established administrative controls. These instances form the basis of many concerns. Secondly, the licensee has not convinced all its employees that it would deal with their concerns completely and forthrightly, on a priority schedule commensurate with the significance of the concerns. The NRC is not confident that the root causes of these issues have been identified and resolved by the licensee.

7. The Consideration of Issuance of Amendment, page 2, states that:

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 C.F.R. 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability of consequences of an accident previously evaluated; or . . . (3) involve a significant reduction in a margin of safety.

8. Petitioner SAPL avers that, should a hearing determine that NU, or the proposed wholly-owned subsidiary, NAEC, have engaged in a course of conduct of suppressing employees attempting to bring to the attention of the NRC, or the public, safety concerns, this would constitute a material increase in the hazard of the operation of the Seabrook plant, and would indicate that NU should not be granted permission to become the licensed operator of the Seabrook Nuclear Power Plant.

Respectfully submitted,

Seacoast Anti-Pollution League
By its Attorneys,


BACKUS, MEYER & SOLOMON

By: 

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Dated: April 4, 1991

I hereby certify that copies of the within petition of SAPL have been forwarded to; Secretary of Commission, Docketing and Services Branch, U.S. NRC, Washington, DC 20555; Office of General Counsel, U.S. NRC, Washington, DC 20555; and John A. Ritscher, Esquire, Ropes and Gray, One International Place, Boston, MA 02110, by first-class mail, postage prepaid.


Robert A. Backus, Esquire

DOCKETED
USNRC

April 11 1991
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UNITED STATES OF AMERICA
before the
NUCLEAR REGULATORY COMMISSION

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

In the Matter of

PUBLIC SERVICE COMPANY
OF NEW HAMPSHIRE, et al.

(Seabrook Station, Units 1
and 2)

Docket No. 50-443-OLA

(Transfer of Ownership
Interest to NAEC)

LICENSEES' ANSWER TO THE PETITION FOR LEAVE
TO INTERVENE IN THE TRANSFER OF PUBLIC SERVICE
COMPANY OF NEW HAMPSHIRE'S OWNERSHIP INTEREST
IN SEABROOK STATION TO NORTHEAST UTILITIES FILED
BY THE SEACOAST¹ ANTI-POLLUTION LEAGUE

BACKGROUND

The above-captioned matter involves the application filed by the Licensees of Seabrook Station (Seabrook) for an operating license amendment which would permit the transfer of the ownership interest in Seabrook now held by Public Service Company of New Hampshire (PSCO) to North Atlantic Energy Corporation (NAEC), a wholly-owned subsidiary of Northeast Utilities (NU).²

¹We assume the reference in the opening paragraph to "Seabrook Anti-Pollution League" was an inadvertence. The signature page recites "Seacoast."

²Notice of Opportunity for Hearing, 56 Fed. Reg. 8373 (Feb. 28, 1991).

Under date of April 1, 1991, the Seacoast Anti-Pollution League (SAPL) filed a petition for leave to intervene ("Petition"). In the Petition SAPL alleges that NU, the parent of NAEC, is under investigation for allegedly unfair conduct towards employees located at "the Millstone Nuclear Power Plant" of which "NU is the principal owner and operator."³ The relief which SAPL seeks by bringing the Petition is set forth in ¶ 8 of the Petition, as follows:

"Petitioner SAPL avers that, should a hearing determine that NU, or the proposed wholly-owned subsidiary, NAEC, have engaged in a course of conduct of suppressing employees attempting to bring to the attention of the NRC, or the public, safety concerns, this would constitute a material increase in the hazard of the operation of the Seabrook plant, and would indicate that NU should not be granted permission to become the licensed operator of the Seabrook Nuclear Power Plant."⁴

SAPL describes itself as "a citizens' organization . . . representing the interests of the seacoast area of New Hampshire, and northeastern Massachusetts, most of whom are within the ten-mile emergency planning zone for the Seabrook Nuclear Power Plant." However, the Petition does not set out the name of any individual member of SAPL.

³Petition at 2, ¶ 3.

⁴Petition at 4, ¶ 8 (emphasis added).

ARGUMENT

I. THE INTEREST WHICH SAPL SEEKS TO PROTECT AND THE RELIEF IT SEEKS ARE NOT WITHIN THE SCOPE OF THE PROCEEDING.

As noted above, SAPL, as stated in the Petition, seeks to raise matters which SAPL believes will demonstrate that NAEC should not be the licensed "operator" of Seabrook. The Licensees do not seek, by the application for an operating license amendment at bar, to make NAEC the operator of Seabrook. Indeed, in an entirely separate proceeding, arising out of an entirely separate application, the Licensees seek to make a different NU subsidiary, North Atlantic Energy Service Company (NAESCO), the operator of Seabrook.⁵ And as noted in the Notice published in connection with that application:

"... the licensees contemplate that this transition will be initially accomplished by transferring to NAESCO the existing staff of [New Hampshire Yankee Division of PSCO, the present operator]."⁶

It is basic to NRC adjudicatory procedures that the scope of any adjudicatory proceeding, and thus the scope of the issues which can be addressed, the interests that can be affected, the rights that can be vindicated, and the relief that can be granted, is set by the Notice of Opportunity for Hearing

⁵Notice of Proposed Amendment, 56 Fed. Reg. 9384 (March 6, 1991).

⁶Id.

published by the Commission.⁷ Here the scope of the proceeding is the ownership of the plant; the issue of changing the operator is the subject of a separate and distinct proceeding and Notice issued by this Commission.

II. SAPL HAS FAILED TO MEET THE FORMAL
REQUIREMENTS FOR A PETITION TO INTERVENE
BY AN ORGANIZATION.

As noted above, the Petition is bereft of any reference to any individual whose interest is being represented by SAPL. Any organization seeking to intervene in NRC proceedings must identify by name and address at least one member who wishes to be represented by the organization and who has the necessary interest.⁸

⁷See, e.g., Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Units 1 and 2), ALAB-739, 18 NRC 335, 339 (1983); Public Service Company of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-316, 3 NRC 167 (1976); Commonwealth Edison Co. (Zion Station, Units 1 and 2), ALAB-616, 12 NRC 419, 426 (1980).

⁸Virginia Electric & Power Co. (North Anna Nuclear Power Station, Units 1 and 2), ALAB-536, 9 NRC 402, 404 (1979). See also, Houston Lighting & Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-535, 9 NRC 377, 389-400 (1979).

CONCLUSION

For each and all of the foregoing reasons, the Petition to Intervene should be denied.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be "Tom Dignan", written over a horizontal line.

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COLLECTED
USNRC

CERTIFICATE OF SERVICE

'91 APR 15 P1:31

I, Thomas G. Dignan, Jr., one of the attorneys for the Licensees herein, hereby certify that on April 11, 1991, I made service of the within document by mailing copies thereof, postage prepaid, to:

Kenneth M. Carr, Chairman
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James R. Curtiss, Commissioner
U.S. Nuclear Regulatory
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