

April 29, 1983

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USNRC

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

DOCKETING & SERVICE
BRANCH

In the Matter of)

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

Docket Nos. 50-443
50-444

(Seabrook Station, Units 1)
and 2))

NECNP MOTION TO RECONSIDER LICENSING BOARD
MEMORANDUM AND ORDER OF APRIL 25, 1983

On April 28, NECNP received an order from the Licensing Board responding to NECNP's objection to the conference call of April 14, 1983. The order interprets NRC rules of practice at 10 C.F.R. § 2.749(a) to allow NECNP 10 days to respond to the Staff's affidavit on environmental qualification of electric valve operators, which the Board requested from the Staff during the conference call. The order states that "In accordance with 10 C.F.R. § 2.749(a), NECNP must file in hand to this Board, any response by May 2, 1983."

NECNP objects to the 10 day response period granted by the Board, and requests the Board to reconsider its order in light of the express language of rule 2.749(a), which specifically rejects any supplementation of answers to summary judgment motions. The rule provides for responses to summary disposition motions as follows:

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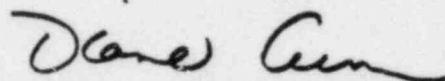
Any party to a proceeding may move, with or without supporting affidavits, for a decision by the presiding officer in that party's favor as to all or any part of the matters involved in the proceeding. . . . Any other party may serve an answer supporting or opposing the motion, with or without affidavits, within twenty (20) days after service of the motion. . . . The opposing party may within ten days after service respond in writing to new facts and arguments presented in any statement filed in support of the motion. No further supporting statements or responses thereto shall be entertained. (emphasis added)

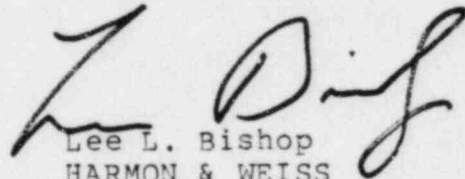
The rule clearly forbids the kind of "supplemental Staff response" to the Applicants' summary judgment motion which the Board requested from the Staff in this case. It thereby prevents the obvious unfairness of allowing parties an unlimited opportunity to add new information to their summary disposition motions, with only a curtailed opportunity for response and no firm prospect of resolution of the motions.

NECNP has made every effort to respond expeditiously to the Staff's affidavit. We consider, however, that pursuant to rule 2.749(a), we are entitled to treat the Staff's affidavit as a new summary disposition motion, which triggers a 20-day response period. Considering the complexity of the issue and the number of valve operators involved, this is a reasonable period for responding to the Staff's submittal. We therefore object to the Board's April 25 order and request

reconsideration of the Board's interpretation of 10 C.F.R.5
2.749(a) regarding the time period for responding to the
Staff's affidavit on environmental qualification of electric
valve operators.

Respectfully submitted,


Diane Curran


Lee L. Bishop
HARMON & WEISS
1725 I Street, N.W.
Suite 506
Washington, D.C. 20006
(202) 833-9070

Dated: April 29, 1983

CERTIFICATE OF SERVICE

I certify that on April 29, 1983, copies of NECNP MOTION TO RECONSIDER LICENSING BOARD MEMORANDUM AND ORDER OF APRIL 25, 1983 were served by first-class mail on the following or as otherwise indicated

*Helen Hoyt, Esq., Chairperson
Atomic Safety and Licensing Board
Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

*Dr. Emmeth A. Luebke
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

*Dr. Jerry Harbour
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing Board
Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing Appeal
Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Docketing and Service
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Maynard B. Pearson
Director of Civil Defense
Town Hall
Amesbury, MA 01913

Mr. Angie Machiros
Chairman
Board of Selectmen
Town of Newbury
Newbury, MA 09150

Rep. Roberta C. Pevear
Drinkwater Road
Hampton Falls, NH 03844

Phillip Ahrens, Esq.
Assistant Attorney General
State House, Station #6
Augusta, ME 04333

Robert A. Backus, Esq.
111 Lowell Street
Manchester, NH 03105

**Thomas G. Dignan, Esq.
R. K. Gad, III, Esq.
Ropes and Gray
225 Franklin Street
Boston, MA 02110

Dr. Mauray Tye, President
Sun Valley Asociation
209 Summer Street
Haverhill, MA 01830

Roy P. Lessy, Jr. Esq.
Robert G. Perlis, Esq.
Office of the Executive
Legal Director
U.S. Nuclear Regulatory
Commission
Washington, DC 20555

Anne Verge, Chair
Board of Selectman
Town Hall
South Hampton, NH 03842

Jo Ann Shotwell, Esq.
Assistant Attorney General
Department of the Attorney
General
1 Ashburton Place, 19th Floor
Boston, MA 02108

John B. Tanzer
Town of Hampton
5 Morningside Drive
Hampton, NH 03842

Edward F. Meany
Town of Rye
155 Washington Road
Rye, NH 03870

*Ruthanne G. Miller, Esq.
Law Clerk to the Board
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Richard E. Sullivan, Mayor
City Hall
Newburyport, Mass 01950

George Dana Bisbee, Esq.
Edward L. Cross, Jr., Esq.
Asst. Atty. Generals
State House Annex
Concord, NH 03301

Letty Hett, Selectman
Town of Brentwood
RFD Dalton Road
Brentwood, NH 03833

Sandra Gavutis
Town of Kensington
RFD 1
East Kensington, NH 03827

Diana P. Sidebotham
R.F.D.2
Putney, VT 05346


Diane Curran

- * Hand Delivery
- ** Express Mail