

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE  
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED  
USNRC

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OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

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PUBLIC SERVICE COMPANY OF )	DOCKET NOS.
NEW HAMPSHIRE, ET AL. )	50-443 OL
_____ )	50-444 OL
(SEABROOK STATION, UNITS 1 AND 2 )	
_____ )	

ATTORNEY GENERAL OF MASSACHUSETTS  
CONTENTION CONCERNING THE FINANCIAL  
QUALIFICATIONS TO OPERATE AND  
DECOMMISSION THE SEABROOK NUCLEAR PLANT

INTRODUCTION

On February 7, 1984, the United States District Court of Appeals for the District of Columbia Circuit set aside the Nuclear Regulatory Commission's financial qualifications rule as set forth in 47 Fed. Reg. 13,750, March 31, 1982.<sup>1/</sup>

New England Coalition on Nuclear Pollution v. Nuclear Regulatory Commission, No. 82-1581 (February 7, 1984). This rule had exempted electric utility applicants from the requirements of the Commission's financial qualifications regulations. Prior to the rule, the Commission's regulations

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<sup>1/</sup> This rule was entitled Elimination of Review of Financial Qualifications of Electric Utilities in Licensing Hearings for Nuclear Power Plants.

DS03

required that applicants for licenses to operate nuclear power plants provide the following information:

Information sufficient to demonstrate to the Commission the financial qualifications of the applicant to carry out, in accordance with the regulations in this chapter, the activities for which the permit or license is sought. If the application is for a construction permit, such information shall show that the applicant possesses the funds necessary to cover estimated construction costs and related fuel cycle costs or that the applicant has reasonable assurance of obtaining the necessary funds, or a combination of the two. If the application is for an operating license, such information shall show that the applicant possesses the funds necessary to cover estimated operating costs or that the applicant has reasonable assurance of obtaining the necessary funds, or a combination of the two. With respect to any production or utilization facility of a type described in §50.21(b) or §50.22 [facilities for industrial or commercial purposes], or a testing facility, the following specific requirements shall apply:

If the application is for an operating license, such information shall show that the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover the estimate costs of operation for the period of the license or for 5 years, whichever is greater, plus the estimated cost of permanently shutting the facility down and maintaining it in a safe condition.

10 C.F.R. §50.33(f) (1982).

The NRC Staff informed all parties to this proceeding that the mandate was to issue on the D.C. Circuit decision on March 23, 1984. While the Commission issued a policy statement indicating that it would be enacting a new rule by that date again eliminating the financial qualifications requirement, it

has not in fact done so. That being the case, a detailed consideration of Public Service of New Hampshire's financial ability to operate the Seabrook project is now appropriate. There is simply no lawful basis for rejection of a contention challenging Public Service's compliance with §50.33(f) at this time.

#### CONTENTION

The Applicants have not demonstrated that they are financially qualified to operate and decommission the Seabrook Nuclear Power Station in compliance with 10 C.F.R. §§50.33(f), 50.40(b), 50.57(a)(4) and Appendix C to Part 50.

#### FACTUAL BASIS OF CONTENTION

The Seabrook Nuclear Construction Project has suffered a series of cost overruns and in service delays virtually since its inception. The latest of these escalating estimates shows a total cost of the Seabrook project in excess of \$10 billion for both units. (See Appendix A entitled Seabrook Joint Owner's Meeting Presentation Baseline Cost Estimate and Schedule Evaluation.)

The cost increases and delays were cited by Moody's Investor Service, Inc. in a recent announcement that it lowered the ratings on several securities of PSNH. The debt rating service expressed its concerns about the ability of PSNH to finance the project in view of the additional costs and delays. Explaining the PSNH downgrading, Moody's said:

The cost increases and delays at Seabrook Nuclear Plant placed an added burden on PSNH and the company's ability to finance both Seabrook units is being severely tested.

Recent cost estimate increases for Seabrook were much larger than expected. Project costs however, remain uncertain, since PSNH is disputing the estimate. For project participants and their ratepayers, this may mean shouldering a larger share of Seabrook costs, perhaps over the long term.

Moody's Bond Survey  
March 19, 1984,  
Vol. 76, No. 12, at 4448.

Moody's also noted that the Company's financial condition is abysmal. As stated in Moody's:

Company financial measurements remain at depressed levels. Internal cash generation which was negative in 1983, is not projected to improve until completion of Unit 1. The interest coverage ratio excluding AFUDC at 1.2 times in 1983 was also below desired levels. The Company's \$1.1 billion investment in the Seabrook project at year-end 1983 represents over 150% of total common equity, obviously a large concentration of assets.

Id.

The debt rating agency cut its ratings on PSNH debentures and Eurobond-guaranteed notes to Single B-1 from Ba-3. It also reduced the rating on the utility's preferred stock to Single B-1 from Ba-3.

The Company's financial condition is so precarious that bankruptcy has been suggested. As the Wall Street Journal recently reported:

Public Service Company of New Hampshire, lead owner of the Seabrook nuclear project, reported that its independent auditors said the utility may be forced to seek protection of the bankruptcy court if it doesn't find back-up sources credit within three weeks.

Wall Street Journal, April 3, 1984  
Page 7

All of these problems, i.e., the cost overruns, the project delays, and the "depressed" financial condition represent a significant change in circumstances since the case was originally filed before the Licensing Board. The Attorney General submits that PSNH's filing is out of date and provides no indication of current financial condition or ability to construct the Seabrook project.<sup>2/</sup> The changes in the Seabrook project and in the financial health of PSNH, as set forth herein, cannot be ignored. Consequently, it is imperative that the NRC consider, in view of the recent cost increases and delays in the Seabrook project and in view of

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<sup>2/</sup> The filing of PSNH in this case contains no information of financial qualifications beyond 1981. See Vol. 1, General & Financial Information, Seabrook Station, \$1, p.5.

the questions raised by Moody's, and by the financial community, whether PSNH "possesses or has reasonable assurance of obtaining the funds" necessary to operate Seabrook I and II as required by NRC regulations.<sup>3/</sup> It is respectfully requested that the Licensing Board allow this contention and require an examination into the financial qualifications of PSNH and the other joint owners to operate Seabrook.

THE COMMISSION'S LATE FILED  
REQUIREMENTS HAVE BEEN SATISFIED

The Attorney General meets the requirements specified in 10 C.F.R. §§2.714(b) and 2.714(a)(1) for admission of this late-filed contention.

1. The Attorney General has good cause for filing this contention after the expiration of the original time period for submission of contentions. The Commission removed the financial qualifications requirement in March of 1982, a month before the Attorney General was required to file its first set of contentions in this case. On February 7, 1984, the U.S. Court of Appeals for the District of Columbia held the Commission's action to be invalid in NECNP v. NRC, No. 82-1581.

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<sup>3/</sup> PSNH's financial shortcomings were further described in NECNP Contention VII: Financial Qualifications of Public Service Company of New Hampshire to Operate and Decommission the Seabrook Nuclear Power Plant. The Attorney General of Massachusetts hereby adopts and incorporates by reference the financial information set forth therein concerning bond ratings the Dean Witter Study. NECNP Contention VII, at 8-9.



We were advised by the NRC Staff that the mandate would not issue invalidating the Commission's removal of the financial qualifications requirement until March 23, 1984. This is therefore the first opportunity that the Attorney General has had to raise the financial qualifications issues.

2. There is no other means by which the Attorney General's interest can be protected. The Licensing Board is the only tribunal empowered to consider the question of whether the Applicants are financially qualified to operate the Seabrook plant with a reasonable assurance of safety and in compliance with NRC regulations.

3. The Attorney General can be expected to assist in developing a sound record in this issue, as he had done in the area of emergency planning. The Utilities Division of the Department of the Attorney General consists of lawyers, economists and financial analysts with experience in all facets of utilities law including financial qualifications. The Utilities Division appears regularly before the state Department of Public Utilities and the Federal Energy Regulatory Commission. The Division as part of its representation of Massachusetts ratepayers employs expert witnesses and expects to do so in this case. The testimony will indicate how PSNH has not shown its ability to finance, operate and decommission the Seabrook Project at present cost levels.

4. The Attorney General's interest in this issue is not represented by any other party, since the Board has not accepted contentions on financial qualifications by any other party.

5. The Attorney General's litigation of the financial qualifications issue will broaden the scope of the proceeding into a new field. That field, however, has limited scope, and will not lead to further broadening of the issues.

The litigation of financial qualifications cannot be expected to substantially delay the licensing proceeding. The litigation of off-site emergency planning is still the greatest limiting factor in the timing of the Seabrook hearings. These hearings have not yet been scheduled, and the emergency plans for Massachusetts are not yet ready for submission to the Board and parties. Therefore, the submission at this time of a contention on financial qualifications cannot be expected to delay the conclusion of the hearing past the date when off-site emergency planning issues will be litigated.

Although the Attorney General satisfies the NRC's standards for late-filed contentions, we contend that under the circumstances this standard cannot be used to bar litigation of a contention that satisfies the requirements of 10 C.F.R. §2.7.4(b) for timely filed contentions. The only reason that the Attorney General did not challenge the Applicants' financial qualifications in April of 1982 was that he was illegally barred from doing so by the Commission's amendment to



the financial qualifications rule. The Court of Appeals has now restored the right that was illegally withheld. The Attorney General cannot legally be penalized now for such factors as broadening or delaying the proceeding, when those problems arose simply as a result of the Commission's own illegal actions.

If the Licensing Board is entitled to consider any factor that could affect the Attorney General's right to litigate this contention, it is the question of whether the litigation could have a substantial effect on the outcome of the case. We have submitted sufficient information here to conclude that the Applicants' severe financial problems could disqualify them from receiving an operating license; or at the least, that license issuance must be accompanied by strict conditions regarding financial reporting to the Commission. The contention should be accepted.

Respectfully submitted,

*Margaret A. Zaleski*

Margaret A. Zaleski  
Assistant Attorney General  
Public Protection Bureau  
Dept. of the Attorney General  
One Ashburton Place  
Boston, Massachusetts 02108

*Richard A. Kanoff*

Richard A. Kanoff  
Assistant Attorney General  
Utilities Division  
One Ashburton Place  
Boston, Massachusetts 02108

Dated:

ATTACHMENT A

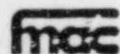
SEABROOK  
JOINT OWNERS MEETING PRESENTATION  
BASELINE COST ESTIMATE AND  
SCHEDULE EVALUATION

March 1, 1984

Prepared By

Management Analysis Company  
11095 Torreyana Road  
San Diego, California 92121

Project Number: MAC-83-I074



AGENDA

1. BASELINE DOCUMENTS
2. PROBABILISTIC COST/SCHEDULE EVALUATION (PCE)
3. CONCLUSIONS
4. CONCERNS
5. RECOMMENDATIONS

BASELINE DOCUMENTSSCHEDULE

- #1 JANUARY 16, 1984
- #2 JANUARY 24, 1984
- #3 JANUARY 31, 1984 \*
- #4 FEBRUARY 17, 1984 - FEBRUARY 23, 1984
- #5 FEBRUARY 28, 1984

COST

- #1 JANUARY 31, 1984 \*
- #2 FEBRUARY 28, 1984

\* BASELINE

BASELINE DOCUMENTSBASELINE SCHEDULE AND COST EVALUATED

RUN DATE:	JANUARY 31, 1984
PROGRESS STATUS DATE:	JANUARY 23, 1984
UNIT 1 FUEL LOAD DATE:	SEPTEMBER 18, 1986
COMMERCIAL OPERATION DATE:	APRIL 17, 1987
UNIT 1 ESTIMATED COST:	\$5.07 BILLION (\$10.1 BILLION TOTAL PROJECT)



BASELINE PRODUCTS EVALUATEDSCHEDULE

- ASSUMPTIONS
- PERCENT COMPLETE CURVES
- MANPOWER CURVES
- COMMODITY CURVES
- LOGIC DIAGRAMS
- CPM CRITICAL PATHS
- CPM BARCHARTS

BASELINE PRODUCTS EVALUATEDCOST ESTIMATE

- ASSUMPTIONS
- ALLOWANCES
- UNIT RATES
- QUANTITIES
- CRAFT MAN-HOURS
- NON-MANUAL MAN-HOURS
- OWNER'S COST
- AFUDC
- ESCALATION
- CONTINGENCY

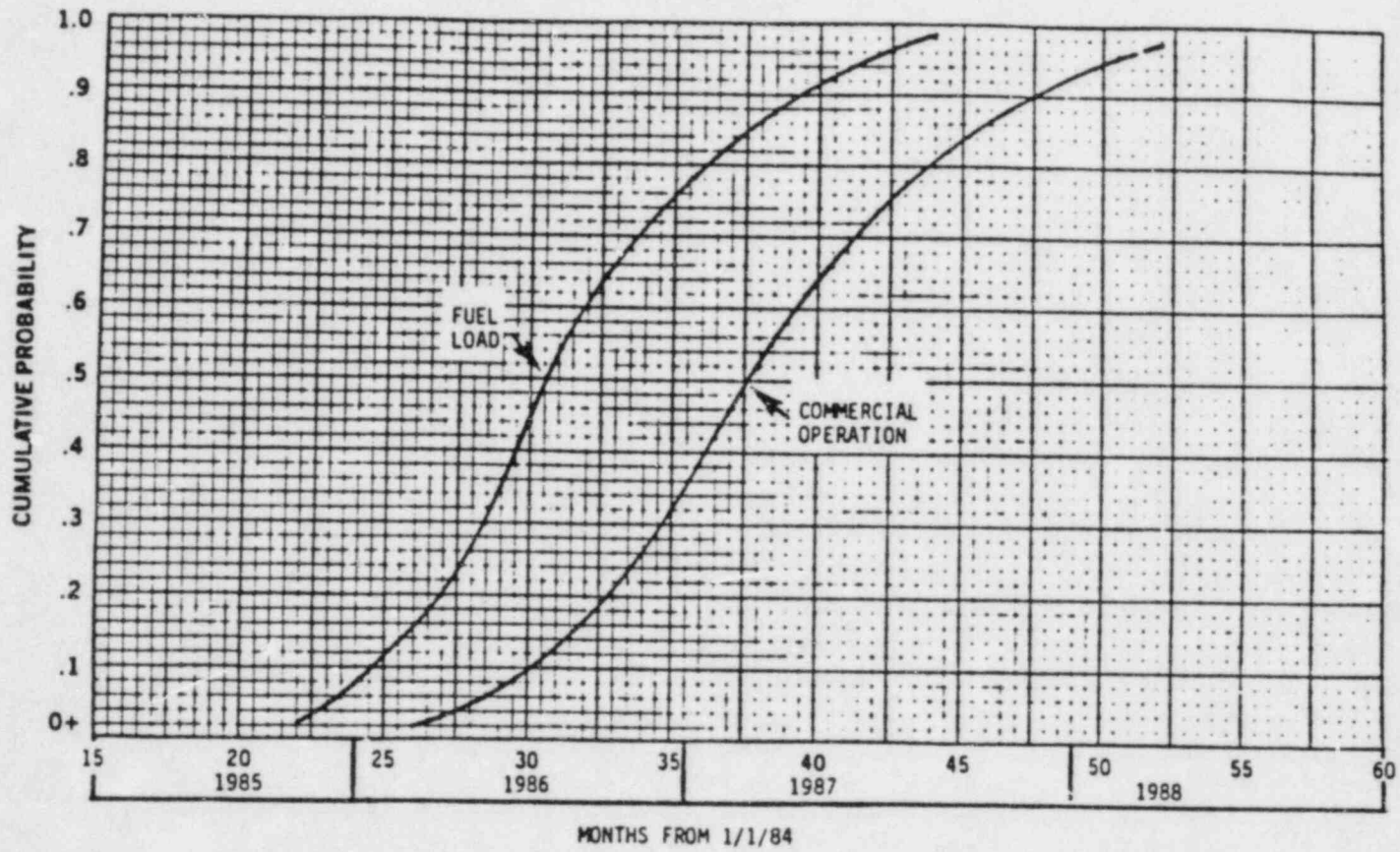
PROBABILISTIC COST/SCHEDULE EVALUATION (PCE) FOR  
SEABROOK UNIT 1 AND COMMON

APPROACH

- MAC TEAM ON-SITE TO GATHER INFORMATION AND REVIEW UE&C BASELINE SCHEDULE
- SUBJECTIVE PROBABILITY ASSESSMENTS OF DURATIONS OF VARIOUS SCHEDULE ELEMENTS
- PROBABILITY TREE CALCULATION OF SCHEDULE MILESTONES
- PREPARATION OF COMPUTERIZED COST MODEL
- SUBJECTIVE PROBABILITY ASSESSMENTS OF SIGNIFICANT COST CATEGORIES
- COMBINE SCHEDULE AND COST UNCERTAINTIES IN COST MODEL
- REVIEW AND SUMMARIZE RESULTS
- DOCUMENT METHOD, DATA AND RESULTS

PCE ASSUMPTIONS AND CONSTRAINTS

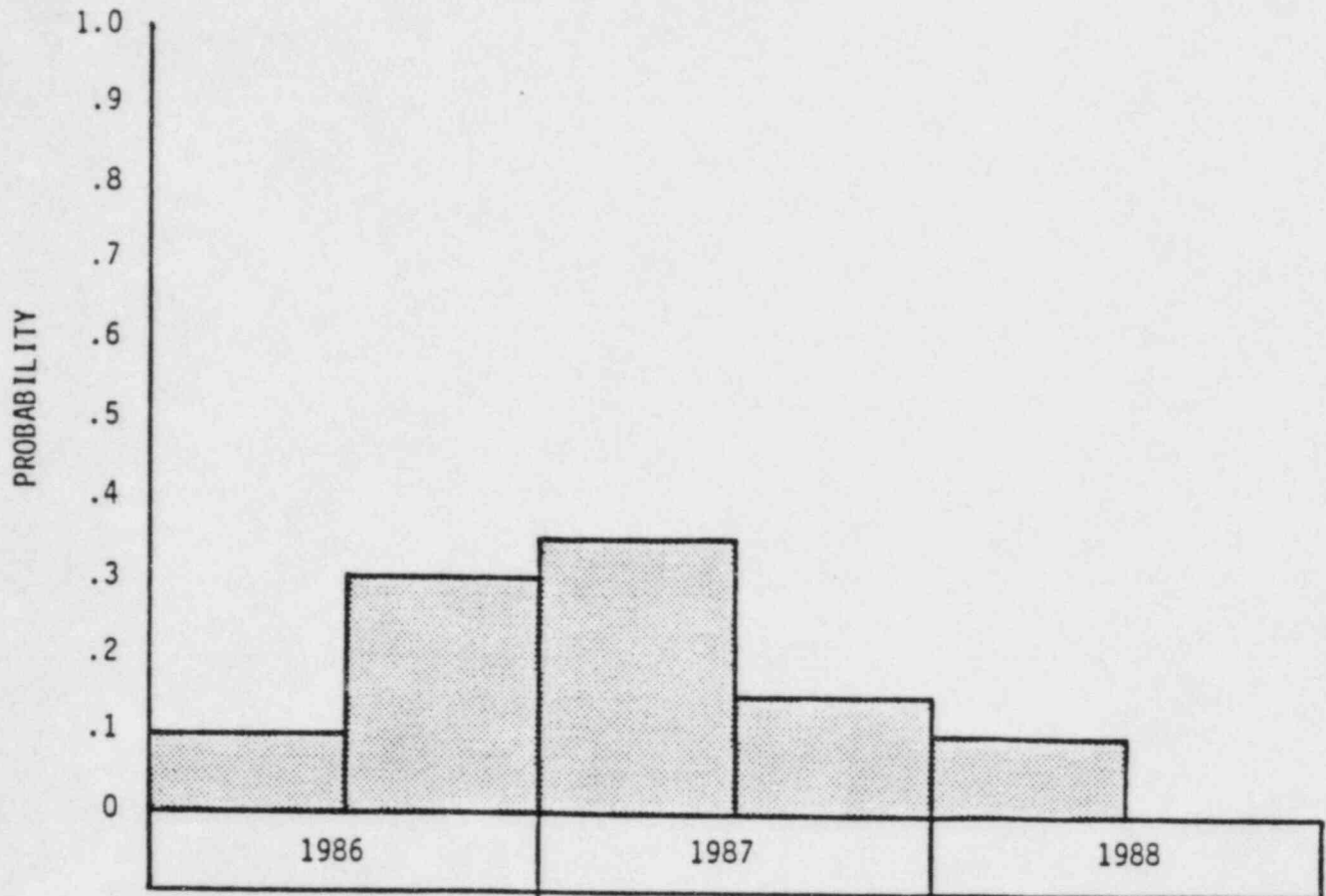
- NO CASH FLOW CONSTRAINTS
- NUCLEAR FUEL COSTS EXCLUDED
- NO QA/QC PROJECT DELAYS AS AT ZIMMER, MARBLE HILL, MIDLANDS, WPPSS
- LIMITED TIME AVAILABLE FOR PERFORMANCE OF PCE
- INFLATION RATE AND AFUDC RATE UNCERTAINTIES BASED ON RECENT MAC STUDIES

SCHEDULE PROBABILITY - UNIT 1 AND COMMON



## SCHEDULE ASSESSMENT RESULTS

### UNIT #1 AND COMMON



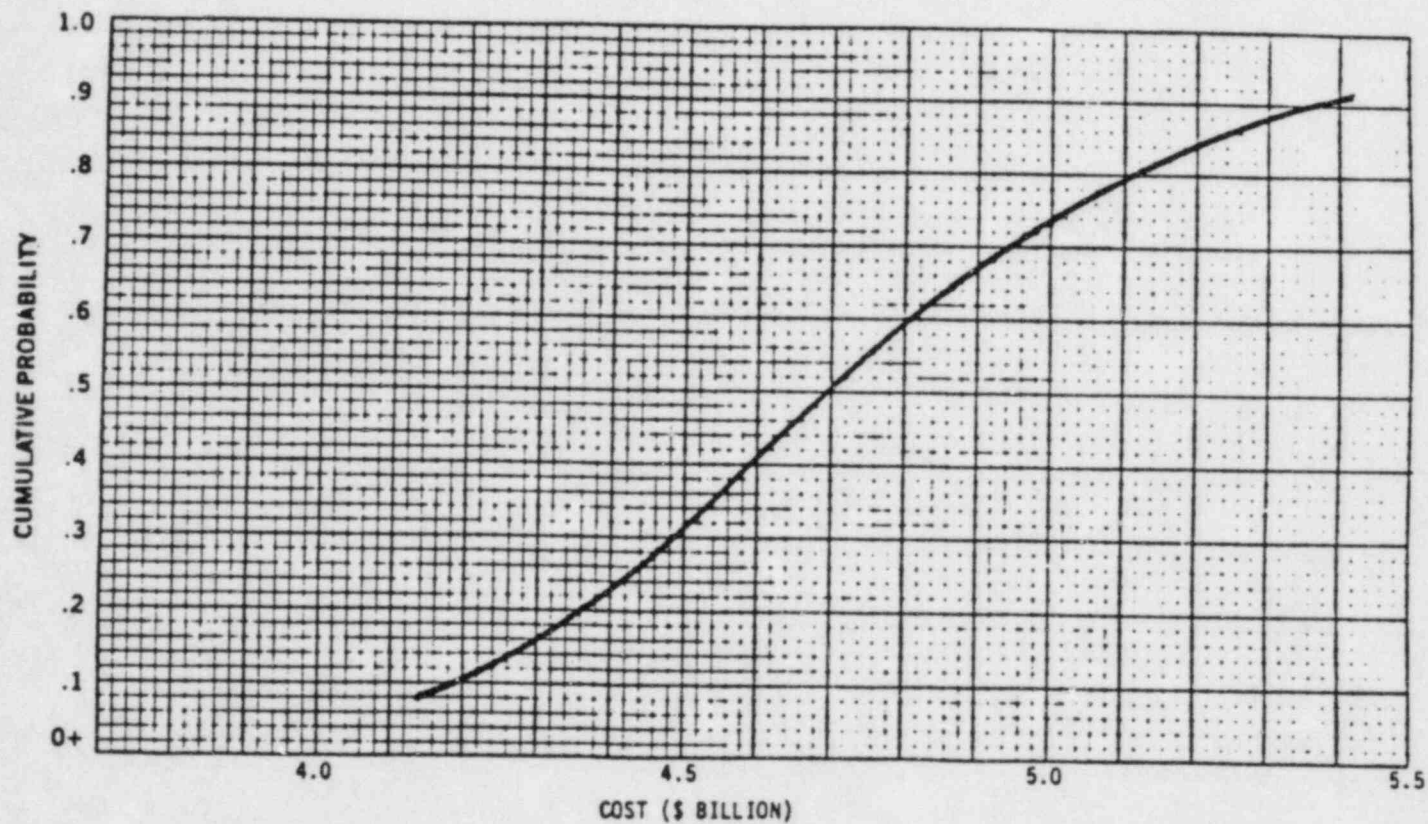
### COMMERCIAL OPERATION DATE

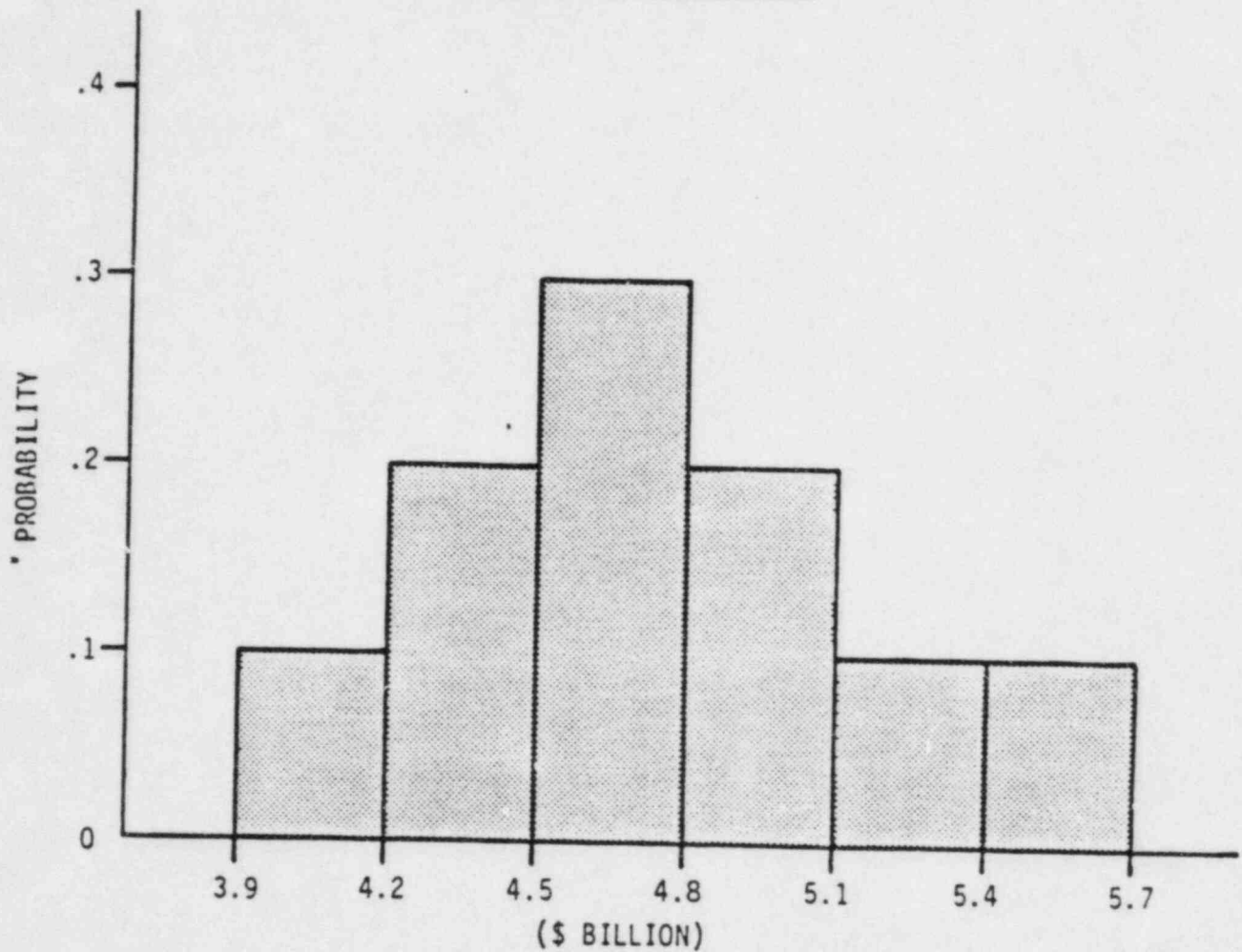
BEFORE JULY 1986  
JULY 1986 TO JANUARY 1987  
JANUARY 1987 TO JULY 1987  
JULY 1987 TO JANUARY 1988  
AFTER JANUARY 1988

### DIFFERENTIAL PROBABILITY

10%  
30%  
35%  
15%  
10%

ESTIMATED COST PROBABILITY - UNIT #1 AND COMMON



ESTIMATE ASSESSMENT RESULTSUNIT #1 AND COMMONUNIT #1 & COMMON ESTIMATED COSTSDIFFERENTIAL  
PROBABILITY

LESS THAN \$4.20 BILLION	10%
\$4.20 BILLION TO 4.50 BILLION	20%
\$4.50 BILLION TO 4.80 BILLION	30%
\$4.80 BILLION TO 5.10 BILLION	20%
\$5.10 BILLION TO 5.40 BILLION	10%
ABOVE \$5.40 BILLION	10%

TARGETS OF OPPORTUNITY

- IMPROVE PROJECT MANAGEMENT
- IMPROVE PROJECT PLANNING AND CONTROL
- REDUCE MANPOWER

ESTIMATE COMPARISONS

UE&C	BASELINE ESTIMATE AND SCHEDULE (4/17/87 C.O.)	=	5.07 BILLION
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MAC	PROJECTED COST WITH BASELINE SCHEDULE	=	4.84 BILLION
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MAC	PROJECTED COST WITH 50% PROBABILITY SCHEDULE (2/15/87 C.O.)	=	4.68 BILLION
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MAC	PROJECTED COST WITH 10% PROBABILITY SCHEDULE (7/1/86 C.O.)	=	4.19 BILLION
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	POTENTIAL NET SAVINGS	=	880 MILLION
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### CONCLUSIONS

- THE APRIL 1987 COMMERCIAL OPERATION BASELINE SCHEDULE DATE HAS A 60 - 65 PERCENT CUMULATIVE PROBABILITY OF BEING ACHIEVED.
- THE \$5.07 BILLION ESTIMATE ASSOCIATED WITH THE APRIL 1987 COMMERCIAL OPERATION DATE HAS APPROXIMATELY A 75 PERCENT CUMULATIVE PROBABILITY OF BEING ACHIEVED.
- THE JULY 1986 TARGETED COMMERCIAL OPERATION DATE HAS A 10 - 15 PERCENT CUMULATIVE PROBABILITY OF BEING ACHIEVED.
- THE \$4.4 BILLION ESTIMATE ASSOCIATED WITH THE JULY 1986 COMMERCIAL OPERATION DATE HAS A 20 - 25 PERCENT CUMULATIVE PROBABILITY OF BEING ACHIEVED.



CONCERNS

- THE IDENTIFICATION OF REMAINING SCOPE, INTERDISCIPLINE RELATIONSHIPS AND CONSISTENCY OF DETAIL IN THE SCHEDULE REQUIRES FURTHER IMPROVEMENT.
- REWORK FACTORS WERE NOT DETERMINED OR APPLIED TO SCHEDULE ACTIVITIES ON A DETAIL BASIS.
- WHILE MANPOWER LOADING IS MORE REALISTIC THAN THE 1982 SCHEDULE, HIGH MANPOWER DENSITIES ARE STILL REQUIRED IN THE RCB AND PAB.
- REPORTED STATUS OF CABLE AND HANGER INSTALLATION IS QUESTIONABLE.
- RATE OF START-UP TEST ACTIVITIES PER MONTH APPEARS AGGRESSIVE.
- DETAILED COST ESTIMATE WAS BASED ON MARCH 1986 FOR UNIT 1 AND DECEMBER 1989 FOR UNIT 2.
- THE COST SUMMARY PRESENTATION'S COMPILATION WAS DIFFICULT TO EVALUATE WITH ERRORS AND INCONSISTENCIES STILL UNRESOLVED.
- TOTAL CRAFT MAN-HOURS ARE HIGH.

CONCERNS (CONTINUED)

- RATIO OF INDIRECT AND NON-MANUAL TO DIRECT CRAFT ARE VERY HIGH.

	<u>TO DATE</u>	<u>TO GO</u>	<u>TOTAL</u>
INDIRECT CRAFT	64%	85%	69%
SITE NON-MANUAL	56%	105%	68%
ENGINEERING/HOME OFFICE	50%	65%	53%

- THE GROWTH OF NON-MANUAL, ENGINEERING AND HOME OFFICE MAN-HOURS IS DISPROPORTIONATE TO GROWTH OF TOTAL CRAFT MAN-HOURS.

TOTAL CRAFT	27%
SITE NON-MANUAL	64%
ENGINEERING/HOME OFFICE	67%

### RECOMMENDATIONS

- DETERMINE AN APPROPRIATE CONTINGENCY AND MANAGEMENT RESERVE FOR THE TARGET SCHEDULE AND ESTIMATE FOR FINANCIAL PLANNING PURPOSES.
- MAKE SUBSTANTIAL IMPROVEMENTS IN THE PROJECT ORGANIZATION.
- DEVELOP A MORE CONSISTENT AND DETAILED SCOPE OF REMAINING WORK AND PLAN TO REACH UNIT 1 TARGET MILESTONES. CONSIDER MILESTONES SUCH AS:
  - ECCS FLOW TEST
  - REACTOR COOLANT COLD HYDRO
  - HOT FUNCTIONAL TEST
  - INTEGRATED LEAK RATE TEST
  - DOCUMENTATION REVIEW AND TURNOVER TO OPERATIONS
  - BUILDING/AREA TURNOVER TO OPERATIONS
  - FUEL LOAD
  - COMMERCIAL OPERATION
- DEVELOP A DETAILED ESTIMATE REFLECTING THE TARGET SCHEDULE AND SIGNIFICANT IMPROVEMENT IN MANPOWER UTILIZATION AND EFFICIENCY.
- EVALUATE CURRENT OPERATIONS TO MAKE SIGNIFICANT MANPOWER REDUCTIONS OVER CURRENTLY PLANNED OPERATIONS.
- DEVELOP A MORE STRUCTURED SCHEDULE AND COST CONTROL PROCESS.
- DEVELOP A SPECIFIC DETAILED PLAN AND ESTIMATE FOR UNIT 2.

CERTIFICATE OF SERVICE

I, Margaret A. Zaleski, Esquire, counsel for Massachusetts Attorney General Francis X. Bellotti, hereby certify that on April 5, 1984, I made service of Attorney General of Massachusetts Contention Concerning the Financial Qualifications to Operate and Decommission the Seabrook Nuclear Plant by mailing copies thereof, postage prepaid, to the parties named below:

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

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

Dr. Jerry Harbour  
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, D C 20555

Rep. Beverly Hollingworth  
Coastal Chamber of Commerce  
209 Winnacunnet Road  
Hampton, NH 03842

William S. Jordan, III, Esquire  
Diane Curran  
Harmon & Weiss  
2001 S Street, N.W.  
Suite 430  
Washington, DC 20009

Edward L. Cross, Jr., Esquire  
Assistant Attorney General  
Dana Bisbee, Esquire  
Assistant Attorney General  
Office of the Attorney General  
208 State House Annex  
Concord, NH 03301

Roy P. Lessy  
Deputy Assistant Chief  
Hearing Counsel  
U.S.N.R.C.  
Washington, DC 20555

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

Philip Ahrens, Esquire  
Assistant Attorney General  
Department of the Attorney  
General  
Augusta, ME 04333

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

Charles Cross, Esquire  
Shaines, Madrigan, & McEachern  
25 Maplewood Avenue  
P.O. Box 366  
Portsmouth, NH 03801

Roberta C. Pevear  
Designated Representative of  
the Town of Hampton Falls  
Drinkwater Road  
Hampton Falls, NH 03844

Mrs. Sandra Gavutis  
Designated Representative of  
the Town of Kensington  
RFD 1  
East Kingston, NH 03827

Richard E. Sullivan  
Town Hall  
Newburyport, MA 01950

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

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

Thomas G. Dignan, Jr., Esquire  
Robert K. Gad, III, Esquire  
Ropes & Gray  
225 Franklin Street  
Boston, MA 02110

Ms. Olive L. Tash  
Designated Representative of  
the Town of Brentwood  
R.F.D. 1, Dalton Road  
Brentwood, NH 03833

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

Calvin A. Canney  
City Manager  
City Hall  
126 Daniel Street  
Portsmouth, NH 03801

Jane Doughty  
Field Director  
Seacoast Anti-Pollution League  
5 Market Street  
Portsmouth, NH 03801

Docketing and Service Section  
Office of the Secretary  
U.S. Nuclear Regulatory  
Commission  
Washington, DC 20555



Brian P. Cassidy  
Regional Counsel  
FEMA Region 1  
John W. McCormack Post Office  
& Courthouse  
Boston, MA 02109

Mr. Angie Machiros, Chairman  
Newbury Board of Selectmen  
Town of Newbury, MA 01950

Patrick J. McKeon  
Chairman of Selectmen, Rye,  
New Hampshire  
10 Central Road  
Rye, NH 03870

Donald E. Chick  
Town Manager  
Town of Exeter  
10 Front Street  
New Hampshire 03833

Selectmen of North Hampton  
Town of North Hampton  
New Hampshire 03862

Senator Gordon J. Humphrey  
1 Pillsbury Street  
Concord, NH 03302  
(Attn: Herb Boynton)

Representative Nicholas J. Costello  
1st Essex District  
Whitehall Road  
Amesbury, MA 01913

Diana P. Randall  
70 Collins Street  
Seabrook, NH 03874

Anne Verge, Chairperson  
Board of Selectmen  
Town Hall  
South Hampton, NH 03842

Maynard B. Pearson  
Board of Selectmen  
40 Monroe Street  
Amesbury, MA 01913

Mr. Daniel Girard  
Civil Defense Director  
25 Washington Street  
Salisbury, MA 01930

Senator Gordon J. Humphrey  
U.S. Senate  
Washington, D.C. 20510  
(Attn: Tom Burack)

Signed under the pains and penalties of perjury, this 5th day of  
April, 1984.

*Margaret A. Zaleski*

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Margaret A. Zaleski  
Assistant Attorney General  
Public Protection Bureau  
One Ashburton Place  
Boston, MA 02108