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GERALD CHARNOFF, P.C.

NRC Operating License No. NPF-86  
Docket No. 50-443  
NYN-96031

October 18, 1996

United States Nuclear Regulatory Commission  
Attention: Department Control Desk  
Washington, D. C. 20555

**Re: Seabrook Station, Unit No. 1  
Request for Commission Consent to the Indirect  
Transfer of Control of Great Bay Power Corporation's  
("Great Bay") Interest in the Operating License**

Gentlemen:

I am enclosing supplemental information in support of the request filed May 8, 1996, for the NRC's consent under 10 C.F.R. § 50.80 for the indirect transfer of control of Great Bay Power Corporation ("Great Bay") with respect to the Seabrook Operating License. Great Bay owns an undivided 12.13240% ownership interest in the Seabrook station (equivalent to approximately 140 megawatts of capacity).

Great Bay proposes to undergo a corporate restructuring under which it would become the wholly-owned subsidiary of a new holding company. Under the proposed restructuring, the present equity owners of Great Bay would become the equity owners of the new holding company. As a result, Great Bay would become indirectly, rather than directly, owned by its present equity owners. That is the sole consequential change of the corporate restructuring.<sup>1/</sup>

This letter sets forth three reasons why the NRC should conclude that Great Bay remains financially qualified to hold a 12.13240% ownership interest in Seabrook following the proposed corporate restructuring. These reasons are:

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<sup>1/</sup> Further details concerning the proposed restructuring are set forth in the May 8, 1996 request for Commission consent under 10 C.F.R. § 50.80 and the proxy statement and prospectus attached to the May 8 request.

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1. The proposed corporate restructuring will not reduce funds available or otherwise adversely affect Great Bay's financial capability to meet its financial obligations under the Seabrook Operating License.
2. Great Bay is, and will remain, an electric utility under the NRC's regulations after the proposed restructuring.
3. Great Bay currently has, and the attached projections show that it will continue to have, sufficient resources to meet its financial obligations associated with its ownership interest in the Seabrook plant, including decommissioning costs.

The financial information supplied by Great Bay in support of the third point contains sensitive commercial and financial information which Great Bay requests the Commission to withhold from public disclosure under 10 C.F.R. § 2.790. Attachment A is the Affidavit of Frank W. Getman, Jr., Vice President and General Counsel of Great Bay, requesting the NRC to withhold this information from public disclosure. Attachment B is the internal financial and commercial information requested to be withheld. Attachment C is a sanitized version of Attachment B deleting the sensitive commercial and financial information which can be made publicly available together with this letter.

#### **The Proposed Restructuring Does Not Adversely Affect Great Bay's Financial Qualifications**

The proposed restructuring of Great Bay in no way alters the financial qualifications of Great Bay to own its 12.13240% of the Seabrook plant. Great Bay's financial qualifications to own a 12.13240% of Seabrook will remain the same after the restructuring as it is today. Accordingly, the NRC should not withhold its consent for the proposed restructuring based on financial qualification considerations.

Since the NRC first began to review the internal corporate restructuring of an existing licensee, it has recognized that the financial qualifications issue under 10 C.F.R. § 50.80 is whether the restructuring will "reduce funds available" for the existing licensee to meet its financial obligations under the NRC operating license.<sup>24</sup> That is the salient issue because in a restructuring, such as that proposed by Great Bay, the existing licensee remains the NRC licensee. The only change being approved under 10 C.F.R. § 50.80 is

<sup>24</sup> See Letter from Robert M. Bernero, NRC to Lee Liu, Iowa Electric Light and Power Company, June 30, 1986.

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the indirect change in ownership of the licensee. Thus, in such situations the NRC has consistently looked to whether the proposed restructuring would reduce available funds or otherwise adversely affect the financial qualifications of the existing licensee.<sup>3/</sup>

Here, the indirect change in ownership of Great Bay will not reduce or otherwise adversely affect the funds available to Great Bay to meet its obligations under the Seabrook Operating License. The revenues and expenses of Great Bay will be unaffected by the proposed restructuring. Great Bay will continue to receive the revenues from the sale of power from its 12.13240% ownership interest in the plant; those revenues will not be diverted to the holding company or any other entity. Further, Great Bay will continue to be responsible for the same expenses as before the restructuring. It will not undertake new financial obligations as a result of the restructuring.

#### Great Bay Will Remain An Electric Utility

Great Bay is, and will remain after the proposed restructuring, an electric utility under the NRC's regulations. The NRC's regulations define an electric utility to mean:

any entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority. Investor-owned utilities, including generation or distribution subsidiaries, public utility districts, municipalities, rural electric cooperatives, and State and Federal Agencies, including associations of any of the foregoing, are included within the meaning of "electric utility."

10 C.F.R. § 50.2 (emphasis added). Great Bay falls within this definition. It is, and will remain, an investor owned public utility under New Hampshire law, that distributes electricity. See N.H.R.S.A. 362:2. Further, Great Bay is subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC"). See 16 U.S.C. § 824. All of the rates Great Bay charges its customers for both long term and spot market sales are filed with

<sup>3/</sup> See, e.g., Safety Evaluation for Proposed Organizational and Financial Restructuring of Detroit Edison Company, Fermi 1 and 2, page 4, August 30, 1995 ("the proposed corporate restructuring . . . will not reduce funds available" to Detroit Edison and "will not affect the financial qualifications" of Detroit Edison); Safety Evaluation for Proposed Organizational and Financial Restructuring of MidAmerican Energy Company, Quad Cities Units 1 and 2, page 3, July 29, 1996 ("the proposed corporate restructuring . . . will not reduce funds available" to MidAmerican Energy Company ("MEC") and "will not affect the financial qualifications" of MEC).

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FERC. As an electric utility, Great Bay is exempt from having to demonstrate financial qualifications under 10 C.F.R. § 50.33(f).

**Great Bay Is Financially Capable To  
Meet Its Seabrook Obligations**

In addition to the foregoing, Great Bay's net income and cash flow statements demonstrate that Great Bay has the financial wherewithal to meet the financial obligations attendant to its ownership interest in Seabrook. Included in Attachment B are net income and cash flow statements showing Great Bay's actual and forecasted net income and cash flow for 1995 through 1998. The cash flow forecast projects that Great Bay's cash on hand will increase significantly from the end of 1995 to the end of 1998. This growth in cash assets occurs after providing funds for additions to utility plant and nuclear fuel and for payments to Great Bay's decommissioning fund for the Seabrook plant.

We understand that the NRC is primarily concerned about Great Bay meeting its decommissioning obligations. Great Bay's estimated liability for decommissioning associated with its 12.13240% ownership interest of Seabrook was approximately \$51.3 million in current year dollars as of June 30, 1996. To date, Great Bay has paid approximately \$6 million into its decommissioning fund for its share of the Seabrook decommissioning costs. Further, Eastern Utilities Associates, the former parent of Great Bay, has guaranteed up to \$10 million of Great Bay's future decommissioning costs associated with its ownership interest in Seabrook in the event Great Bay is unable to pay its share of such decommissioning costs. Accordingly, Great Bay arguably needs an additional \$35 million for decommissioning. The attached financial statements show that Great Bay almost has that amount in cash currently.

Thus, Great Bay's financial assets and forecasts show that Great Bay will continue to have sufficient monies to cover its financial obligations for Seabrook, including its share of decommissioning costs.

In sum, the proposed restructuring does not change the status quo or alter Great Bay's ability to meet its financial obligations under the Seabrook Operating License. Further, Great Bay is, and will remain, an electric utility. Finally, the enclosed financial information more than adequately demonstrates that Great Bay is, and will remain, financially qualified to own its 12.13240% interest in Seabrook.

Accordingly, we request the NRC to provide its consent under 10 C.F.R. § 50.80 to the indirect transfer of control of Great Bay from its present equity owners to the

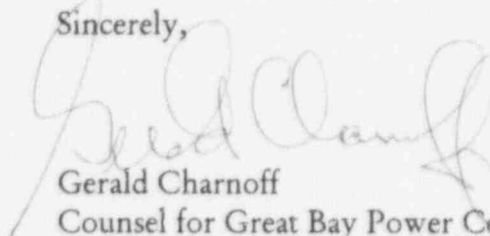
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proposed holding company, which in turn will be owned by Great Bay's present equity owners.

Sincerely,



Gerald Charnoff

Counsel for Great Bay Power Corporation

Enclosures

cc: Mr. Hubert J. Miller  
Regional Administrator, NRC Region I

Mr. Albert W. DeAgazio  
Senior NRC Project Manager

Mr. John B. MacDonald  
Senior NRC Resident Inspector

Mr. Steven R. Hom  
NRC Office of General Counsel

Mr. Robert S. Wood  
NRC Office of Nuclear Reactor Regulation

**ATTACHMENT A**



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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In the Matter of )  
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North Atlantic Energy Service Corporation )  
et al. )

Docket No. 50-443  
NYN-96031  
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(Seabrook Station, Unit 1)  
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**Affidavit of Frank W. Getman Jr.**  
**Pursuant to 10 C.F.R. § 2.790**

CITY OF DOVER )

) SS:

STATE OF NEW HAMPSHIRE )

Frank W. Getman Jr., being duly sworn, states as follows:

1. I am Vice President and General Counsel for Great Bay Power Corporation ("Great Bay") located in Dover, New Hampshire. In that capacity, I am responsible for various legal, regulatory and general business matters of Great Bay.

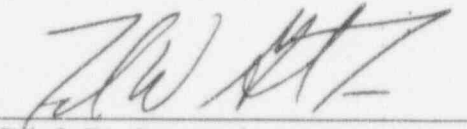
2. Great Bay is filing with the NRC additional information through its attorneys, Shaw, Pittman, Potts & Trowbridge, in support of its request for NRC consent under 10 C.F.R. § 50.80 for the indirect transfer of control of Great Bay to a newly formed holding company. Some of this information is sensitive confidential commercial and financial information that could cause great harm to Great Bay if it were made publicly available. Accordingly, Great Bay requests the NRC to withhold this information pursuant to 10 C.F.R. § 2.790 of its regulations. This affidavit supplies the reasons why this information should be withheld from public disclosure as required by the regulation.

3. The specific information that Great Bay requests the Commission to treat as proprietary and to withhold from public disclosure is the commercial and financial

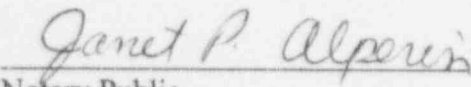
information enclosed as Attachment B to the accompanying letter of Gerald Charnoff to be dated October 18, 1996. I am familiar with this information and am authorized to speak to Great Bay's practice of maintaining such information confidential and the harm that would befall Great Bay if it were publicly disclosed.

4. Enclosed in Attachment B are actual and projected net income and cash flow statements for Great Bay for the years 1995 through 1998, as well as the average sales price for short term and spot sales and the capacity factors for Seabrook on which the net income and cash flow information is based. Great Bay holds in confidence net income and cash flow projections as well as projected sales price information. Great Bay does not disclose this type of information to the public and it is not available from public sources. This information is commercially sensitive to the conduct of Great Bay's sale of power. If the information became available to Great Bay's competitors or customers (both current and potential), those parties would learn sensitive pricing and cost information which could be used against Great Bay in the negotiation of current and future power sales. Such a result would place Great Bay at a significant competitive disadvantage in the negotiations of current and future power sales and cause it substantial commercial harm.

5. Accordingly, the information included in Attachment B to the letter of Gerald Charnoff to be dated October 18, 1996 is being submitted to the Commission in confidence under the provisions of 10 C.F.R. § 2.790 with the understanding that it is to be received in confidence by the Commission. Attachment C to Mr. Charnoff's letter is a sanitized version of the documents in Attachment B deleting the sensitive commercial and financial information. Attachment C can be made publicly available, without competitive harm to Great Bay, together with Mr. Charnoff's letter.

  
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Frank W. Getman Jr.

Sworn to before me this 17th day of October 1996.

  
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Notary Public

JANET P. ALPERIN, Notary Public  
My Commission Expires June 5, 2001



**ATTACHMENT C**

# Great Bay Power Corporation

## Forecast

	1995 Full Year Actual (000's)	1996 Full Year Forecast (000's)	1997 Full Year Forecast (000's)	1998 Full Year Forecast (000's)
<b>OPERATING REVENUES</b>				
Sales	\$24,484			
Other	40			
<i>Total Revenues</i>	<u>24,524</u>			
<b>OPERATING EXPENSES</b>				
Production & Transmission	18,367			
Administration & General	6,532			
Depreciation & Amortization	3,339			
Taxes, Other than Income	4,143			
<i>Total Operating Expenses</i>	<u>32,381</u>			
<b>OPERATING INCOME (LOSS)</b>	(7,857)			
<b>OTHER INCOME (DEDUCTIONS)</b>				
Interest Charges	0			
Interest & Investment Income	1,546			
Decommissioning Cost Accretion	0			
Decommissioning Trust Fund Income	0			
Other Income / (Deductions)	198			
<i>Total Other Income (Deductions)</i>	<u>1,744</u>			
<b>INCOME BEFORE TAXES</b>	(6,113)			
Income Tax Expenses	(54)			
<b>NET INCOME (LOSS)</b>	<u>(\$6,059)</u>			

Great Bay Power Corporation  
Cash Flow Forecast

	1995 Year Actual (000's)	1996 Year Forecast (000's)	1997 Year Forecast (000's)	1998 Year Forecast (000's)
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>				
Net Income (Loss)	(6,059)			
Adjustments to reconcile Net Income to				
Net Cash provided by operating activities:				
Depreciation and Amortization	3,339			
Nuclear Fuel Amortization	4,520			
Deferred Taxes	(94)			
Asset Write Downs	758			
Decommissioning Trust Accretion				
Decommissioning Trust Interest				
Payment of Reorganization Expense	(2,653)			
Gain on Transfer of Assets	(193)			
Change in Assets & Liabilities:				
(Increase) Decrease in:				
Accounts Receivable	1,021			
Materials and Supplies	113			
Prepayments & Deferred Debits	1,718			
Increase (Decrease) in:				
Accounts Payable	(65)			
Taxes Accrued	126			
Other	183			
<i>Net Cash Provided From (Used in) Operating Activities</i>	<i>2,713</i>			
<b>CASH FLOWS FROM INVESTMENT ACTIVITIES:</b>				
Gross Additions to Utility Plant	(1,770)			
Gross Additions to Nuclear Fuel	(5,703)			
Decommissioning Fund Payments	(988)			
Proceeds from Sale of Fixed Assets				
Decrease (Increase) in Short-Term Investments	(3,911)			
<i>Net Cash Provided From (Used In) Investment Activities</i>	<i>(12,372)</i>			
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>				
Rescquired Capital Stock - Common	0			
Stock Issuance	0			
Warrants Issued	0			
<i>Net Cash Provided From (Used In) Financing Activities</i>	<i>\$0</i>			
<b>NET INCR (DECR) IN:</b>				
CASH AND EQUIVALENTS	(9,659)			
SHORT TERM INVESTMENTS	3,911			
TOTAL CASH & EQUIVALENTS and S/T INVESTMENTS	(5,748)			
TOTAL CASH AT BEG OF PERIOD	22,217			
TOTAL CASH AT END OF PERIOD	\$16,469			

**Spot and Short Term Market Sale Price and  
Capacity Factor Assumptions Underlying Great  
Bay Power Corporation Projected Net Income  
and Cash Flow Statements**

<u>Year</u>	<u>Average Price For Spot Market Sales</u>	<u>Seabrook Capacity Factor</u>
1995	\$22.01/MWh	83%
1996		
1997		
1998		