

March 4, 1986

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

'86 MAR -5 P12:05

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)	
)	
PUBLIC SERVICE COMPANY OF)	Docket Nos. 50-443 OL
NEW HAMPSHIRE, <u>et al.</u>)	50-444 OL
)	
(Seabrook Station, Units 1 and 2))	

NRC STAFF'S RESPONSE TO MOTIONS FILED BY
THE TOWN OF HAMPTON ON FEBRUARY 19, 1986

On February 21, 1986, the Town of Hampton filed two motions, entitled (a) "Motion to Extend Deadline for Filing Contentions on Evacuation Time Study," and (b) "Motion to Establish Hearing Location for Public Hearings." For the reasons set forth below, the NRC Staff believes that these motions are premature and, further, that the Town of Hampton has failed to demonstrate sufficient grounds to support its motions. Accordingly, the Staff opposes the Town's motions and recommends that they be denied.

DISCUSSION

A. Deadline for Filing ETS Contentions.

In its motion to extend the deadline for filing contentions on the Evacuation Time Study (ETS), the Town notes that the State of New Hampshire has arranged for a new evacuation time study to be prepared by its consultant ("KLD"), which is to be submitted as part of the State's radiological emergency response plan. The Town states that

8603060255 860304
PDR ADOCK 05000443
G PDR

DS07

"the latest draft" of the ETS has not yet been submitted to the Board and parties, and the Town requests that it be allowed to file contentions addressing the ETS within 30 days after it has received that document. ^{1/}

The Town of Hampton appears to be correct in stating that KLD is currently preparing an evacuation time study on behalf of the State of New Hampshire. Counsel for the Staff has been informed that KLD currently expects to submit the completed ETS to the State on or about March 7, 1986, and that State approval of the ETS could be rendered soon thereafter. Counsel for the Staff has also been informed that once the State has approved the ETS, it will be forwarded to the Board and parties as Volume 5 to the State's radiological emergency response plan and Appendix E to the New Hampshire town plans, which were not included in the Staff's submittal of offsite emergency plans on January 10, 1986. ^{2/}

^{1/} Alternatively, the Town requests that the Board should decline to consider any ETS subsequently filed by the State in reaching its 10 C.F.R. § 50.47 "reasonable assurance" finding, although no justification has been provided to support this request. The Staff opposes this request on the grounds that it would be inappropriate for the Board to decline to consider the ETS at this time, before it can be known whether that action would result in prejudice to the Applicants or to any other parties who may later seek to litigate the adequacy of the ETS.

^{2/} The Staff expresses no opinion at this time as to what effect the submission of the State's ETS may have upon litigation in this proceeding. As the Board is aware, the Applicants have submitted an evacuation time estimate as part of their onsite emergency plan, as required by 10 C.F.R. Part 50, Appendix E, and the adequacy of that document has already been litigated. In the event that the Applicants should adopt the State's ETS in lieu of their own ETE,

Based on the Staff's understanding of the current incomplete status of the State's ETS, the Staff agrees that contentions addressing that document should not be required to be filed at this time. ^{3/} Moreover, the Staff does not interpret the Licensing Board's Order of January 17, 1986 to have required that contentions addressing the ETS be filed along with other contentions by February 24, 1986. Rather, that Order governs the filing only of those contentions which address the emergency planning materials served by the Staff on January 10, 1986; contentions addressing other portions of the offsite plans, not yet served on the Board and parties, do not appear to be the subject of that Order. The question as to how much time should be afforded for the filing of ETS contentions, if not already governed by the Board's May 23, 1983 Order establishing time frames, should await the filing of the State's ETS. Accordingly, the Staff opposes the Town's motion and recommends that it be denied.

(FOOTNOTE CONTINUED FROM PREVIOUS PAGE)

the record in the prior litigation could, conceivably, be affected. Alternatively, if the Applicants do not adopt the State's ETS, and onsite and offsite officials plan to utilize different evacuation time estimates in arriving at protective action recommendations during an emergency, offsite emergency planning issues could arise for litigation before this Board.

^{3/} The Staff's views on this matter might be different if the Town and other parties had received an earlier draft of the ETS, which was indicated to be in near-final form, and as to which meaningful contentions could therefore have been drafted before February 24, 1986. To the best of the Staff's knowledge, however, no such earlier, near-final version of the ETS has been received by the Board and parties, and the Staff is not aware of any reason why the parties might have been required to file ETS contentions by that date.

B. The Establishment of A Hearing Location.

The Town's motion to establish a hearing location urges the Board to select the Town of Hampton as the site for evidentiary hearings on all of the State and local emergency response plans in this proceeding. In support of this request, the Town notes that it has "the largest mean peak population of all towns within ten miles of the Seabrook Station," that the Town is centrally located to the Seabrook site and all towns within ten miles of the plant, and that hearings in the Town of Hampton would provide the greatest opportunity for public participation in the hearings. ^{4/}

While the Town has set forth important facts supporting its selection as the site for public hearings in this proceeding, the Town has failed to address other factors -- such as the availability of adequate hearing rooms, lodging accommodations, photocopying machines, and telephone facilities. Moreover, at the present time, before any ruling has been issued on the admissibility of contentions or on summary disposition of admitted issues, no decision as to the location of evidentiary hearings is required. Accordingly, the Staff opposes the Town's motion and recommends that it be denied.

^{4/} Four New Hampshire State Representatives previously requested, on behalf of the Towns of Hampton and Hampton Falls, that hearings be convened in the seacoast vicinity. Letter to Licensing Board Chairperson Helen F. Hoyt, from Rockingham District #17 Representatives. Parr, Hollingworth, Walker and Pevear, dated January 23, 1986. That request was opposed by the Staff as premature. "NRC Staff's Response to Objections Filed By Towns of Rye, Hampton and Hampton Falls, and by [SAPL] and [NECNP]," dated February 11, 1986, at 6 n.9.

CONCLUSION

For the reasons set forth above, the Staff opposes the motions filed by the Town of Hampton and recommends that they be denied.

Respectfully submitted,

Richard J. Goddard/sgt

Richard J. Goddard
Counsel for NRC Staff

Sherwin E. Turk

Sherwin E. Turk

Deputy Assistant Chief
Hearing Counsel

Dated at Bethesda, Maryland
this 4th day of March, 1986

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

'86 MAR -5 PM 2:05

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF THE
DOCKETING & SERVICE
BRANCH

In the Matter of)	
)	
PUBLIC SERVICE COMPANY OF)	Docket Nos. 50-443 OL-2
NEW HAMPSHIRE, et al.)	50-444 OL-2
)	
(Seabrook Station, Units 1 and 2))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO MOTIONS FILED BY THE TOWN OF HAMPTON ON FEBRUARY 19, 1986" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 4th day of March, 1986.

Helen Hoyt, Esq., Chairman*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

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

Jo Ann Shotwell
Assistant Attorney General
Office of the Attorney General
One Ashburton Place, 19th Floor
Boston, MA 02108

Beverly Hollingworth
209 Winnacunnet Road
Hampton, NH 03842

Stephen E. Merrill
Attorney General
George Dana Bisbee
Assistant Attorney General
Office of the Attorney General
25 Capitol Street
Concord, NH 03301-6387

Sandra Gavutis, Chairman
Board of Selectmen
RFD 1 Box 1154
Kensington, NH 03827

Richard A. Hampe, Esq.
New Hampshire Civil Defense Agency
107 Pleasant Street
Concord, NH 03301

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

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

Mr. Robert J. Harrison
President and Chief Executive Officer
Public Service Co. of New Hampshire
P.O. Box 330
Manchester, NH 03105

Robert A. Backus, Esq.
Backus, Meyer & Solomon
116 Lowell Street
Manchester, NH 03106

Edward A. Thomas
Federal Emergency Management Agency
442 J.W. McCormack (POCB)
Boston, MA 02109

H.J. Flynn, Esq.
Assistant General Counsel
Federal Emergency Management Agency
500 C Street, S.W.
Washington, D.C. 20472

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

Atomic Safety and Licensing
Appeal Panel*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

Allen Lampert
Civil Defense Director
Town of Brentwood
20 Franklin Street
Exeter, NH 03833

Angie Machiros, Chairman
Board of Selectmen
25 High Road
Newbury, MA 01950

Jerard A. Croteau, Constable
82 Beach Road, P.O. Box 5501
Salisbury, MA 01950

Diane Curran, Esq.
Harmon & Weiss
2001 S Street, N.W.
Suite 430
Washington, D.C. 20009

Philip Ahrens, Esq.
Assistant Attorney General
Office of the Attorney General
State House Station, #6
Augusta, ME 04933

Thomas G. Dignan, Jr., Esq.
Ropes & Gray
225 Franklin Street
Boston, MA 02110

Atomic Safety and Licensing
Board*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Paul McEachern, Esq.
Matthew T. Brock, Esq.
Shaines & McEachern
25 Maplewood Avenue
P.O. Box 360
Portsmouth, NH 03801

William Armstrong
Civil Defense Director
Town of Exeter
10 Front Street
Exeter, NH 03833

Maynard L. Young, Chairman
Board of Selectmen
10 Central Road
Rye, NH 03870

Michael Santosuosso, Chairman
Board of Selectmen
South Hampton, NH 03827

Stanley W. Knowles, Chairman
Board of Selectmen
P.O. Box 710
North Hampton, NH 03862

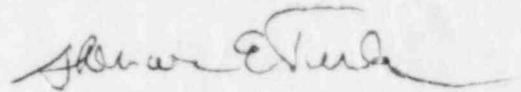
R. H. Gad III, Esq.
Ropes & Gray
225 Franklin Street
Boston, MA 02110

Peter J. Matthews, Mayor
City Hall
Newburyport, MA 09150

Office of the Town Manager
Town Hall - Friend Street
Amesbury, MA 01913

Mrs. Anne E. Goodman, Chairman
Board of Selectmen
13-15 Newmarket Road
Durham, NH 03824

Gary W. Holmes, Esq.
Holmes & Ellis
47 Winnacunnet Road
Hampton, NH 03842



Sherwin E. Turk
Deputy Assistant Chief
Hearing Counsel