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A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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June 4, 1997

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

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

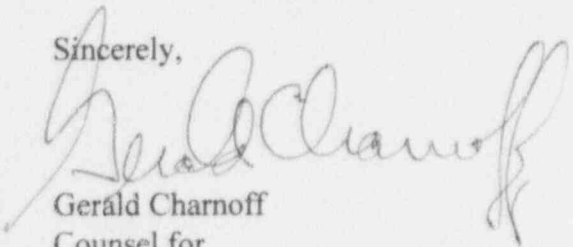
**Re: Seabrook Station, Unit No. 1
Supplement To Great Bay Power Corporation's
Petition For Partial Reconsideration Of Exemption Order
To Submit Requested Cost Data And To Request,
In The Alternative, A Further Exemption**

Ladies and Gentlemen:

I am enclosing a copy of Great Bay's "Supplement To Great Bay Power Corporation's Petition For Partial Reconsideration Of Exemption Order To Submit Requested Cost Data And To Request, In The Alternative, A Further Exemption" with an unredacted Exhibit 1, together with an Affidavit of Frank W. Getman, Jr. requesting that the NRC maintain Exhibit 1 confidential under 10 C.F.R. § 2.790. The unredacted version of Exhibit 1 contains sensitive commercial and financial information.

Separately, under a cover letter from Ted C. Feigenbaum, Executive Vice President and Chief Nuclear Officer for North Atlantic Energy Service Corp., we are filing today the "Supplement To Great Bay Power Corporation's Petition For Partial Reconsideration Of Exemption Order To Submit Requested Cost Data And To Request, In The Alternative, A Further Exemption" with a redacted version of Exhibit 1 (deleting the sensitive commercial and financial information and which can be made publicly available) and Exhibits 1 and 2.

Sincerely,


Gerald Charnoff
Counsel for
Great Bay Power Corporation

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United States Nuclear Regulatory Commission

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Enclosure

cc: Dr. Shirley Ann Jackson, Chairman
Office of the Chairman

Nils J. Diaz, Commissioner
Office of the Commissioners

Greta J. Dicus, Commissioner
Office of the Commissioners

Edward McGaffigan, Jr., Commissioner
Office of the Commissioners

Kenneth C. Rogers, Commissioner
Office of the Commissioners

Mr. Albert W. DeAgazio
Senior NRC Project Manager

Steven R. Hom, Esq.
NRC Office of General Counsel

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

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

In the Matter of)

North Atlantic Energy Service Corporation and)
Great Bay Power Corporation)

(Seabrook Station, Unit No. 1))

Docket No. 50-443
(License No. NPF-86)

**SUPPLEMENT TO
GREAT BAY POWER CORPORATION'S PETITION
FOR PARTIAL RECONSIDERATION OF EXEMPTION ORDER
TO SUBMIT REQUESTED COST DATA AND TO REQUEST,
IN THE ALTERNATIVE, A FURTHER EXEMPTION**

Great Bay Power Corporation ("Great Bay") hereby files this Supplement to its February 21, 1997, Petition (the "Petition") with the Nuclear Regulatory Commission's ("NRC") Office of Nuclear Reactor Regulation (hereinafter referred to as "Staff"). This Supplement is in response to the Staff's letter in the above-captioned matter,^{1/} which offered Great Bay an opportunity to submit additional information that would demonstrate its ability to recover its cost of generating electricity at Seabrook Station. It also requests a further exemption as an alternative to the Staff's reconsideration of its previous determination that Great Bay is not an "electric utility."

I. Great Bay Has The Ability To Recover Its Costs of Generating Electricity at Seabrook Station and Is An Electric Utility

Attached hereto as Exhibit 1 is a Cash Statement of Great Bay Power Corporation reflecting actual, budget and forecast revenues from the sale of electricity, and cash outlays for

^{1/} Letter dated May 15, 1997 from Mr. Albert W. De Agazio, Senior Project Manager in the Office of Nuclear Reactor Regulation to Mr. Ted C. Feigenbaum, Executive Vice President and Chief Nuclear Officer, North Atlantic Energy Service Corporation.

the cost of generating electricity, for the years 1996 through 2001.²¹ This exhibit conclusively demonstrates that Great Bay is and will be able to recover its cost of generating electricity at Seabrook Station.

As shown on page 1 of Exhibit 1, in 1996, Great Bay experienced cash revenues in excess of its total cost of generating electricity (including its required Decommissioning Trust Fund payment) in excess of \$900,000. The same page shows that Great Bay has budgeted and is projecting that its revenues from the sale of electricity will exceed its cash costs of generating that electricity during calendar years 1997 through 2001 by approximately \$25 million.

Page 4 of Exhibit 1 sets out the conservative average price assumptions for spot market sales and for Seabrook capacity factors for the relevant calendar years. The market price assumptions are conservative and are significantly below the market price projections offered by Richard LaCapra, the expert for the New Hampshire Public Utilities Commission, in the New Hampshire Statewide Electric Utility Restructuring proceeding, Docket No. 96-150.

Pages 2 and 3 of Exhibit 1 present relevant projections of BayCorp Holdings' (Great Bay's parent) Income Statement and Statement of Cash Flows.

As the NRC is aware, Great Bay, through the end of calendar year 1996, had already accumulated \$6.2 million in the Seabrook Decommissioning Trust Fund. Together with interest, that amount, as of April 30, 1997, was \$6.7 million. Page 1 of Exhibit 1 shows that from 1997 through 2001, Great Bay will contribute an additional \$6.6 million, and interest income on those

²¹ A redacted version of the Exhibit is attached to this document deleting sensitive commercial and financial information. The unredacted version is being filed separately together with an affidavit of Frank W. Getman, Jr., Vice President and Chief Operating Officer for Great Bay, requesting that the NRC maintain the sensitive commercial and financial information contained in Exhibit 1 in confidence under 10 C.F.R. § 2.790.

amounts will total an additional \$2.5 million as of the end of 2001. Accordingly, by the end of 2001, Great Bay will have over \$15 million in the Decommissioning Trust Fund.^{3/} These amounts will continue to increase during the life of operation of the Seabrook unit, whose license expires in 2026.

The Great Bay Petition dated February 21, 1997, demonstrated that Great Bay's rates are "established by a separate regulatory authority," i.e., the Federal Energy Regulatory Commission. This Supplement to the Petition shows that, under the rates filed with FERC, Great Bay recovers the cost of the electricity it generates. For these reasons, Great Bay satisfies the NRC's definition of "electric utility" and again requests that the NRC reconsider its January 22, 1997, Exemption Order and determine that Great Bay is not subject to the decommissioning funding requirements of 10 CFR § 50.75 (e) 2.

In the unlikely event that the NRC staff declines to make the finding requested above by Great Bay, Great Bay again respectfully requests an opportunity to orally argue this matter before the NRC.

II. Great Bay's Response to NRC's Exemption Order

In response to the NRC's Exemption Order, dated January 22, 1997, Great Bay initiated an effort to determine the extent to which it could obtain a surety bond or other allowable decommissioning funding assurance mechanism. Great Bay asked Alexander and Alexander, a leading insurance brokerage service, and now owned by AON Risk Services ("AON"), to consider the development of such a surety bond or an alternative decommissioning funding

^{3/} The Commission is also aware that Great Bay possesses from Eastern Utilities Associates, the former parent of Great Bay, a guarantee in the amount of \$10 million for decommissioning the Seabrook Station.

assurance mechanism. In response, AON has initiated a program to try to obtain traditional and/or non-traditional insurance or surety products to fund Great Bay's decommissioning obligation. AON's underwriting specifications, which it has issued to the insurance marketplace, are set forth in Exhibit 2, attached hereto. Great Bay will keep the NRC informed of responses, if any, to the AON underwriting specifications. Of course, in the absence of a pool of utilities requiring such financial assurance mechanisms such as a surety, it is not unlikely that the cost of a single surety would be so high that it would unduly prejudice a single electricity generator in today's increasingly competitive marketplace.^{4/} This, of course, remains to be determined, and itself provides a basis for the exemption requested in the next section.

III. Request For Exemption

The current exemption granted by the NRC's Exemption Order issued on January 22, 1997, expires on July 22, 1997. Recognizing that the NRC might require additional time to (a) evaluate the Petition as supplemented by this submittal, (b) consider its ongoing proposed rulemaking to determine whether the decommissioning funding requirements for the electric utility industry should be modified in view of the ongoing restructuring and deregulation of the utility industry, and (c) evaluate the responses to the AON surety market survey, if any, Great Bay respectfully submits that an additional exemption would be appropriate as an alternative to reconsideration of the January 22, 1997 Exemption Order. An additional exemption, for a period of five years, as provided in 10 CFR § 50.12 (a) (1), would not present an undue risk to the

^{4/} Indeed, as shown on Exhibit 3, in November 1996, Alexander & Alexander advised Great Bay that there were "no economically feasible alternatives" then available.

public health and safety and would be consistent with the common defense and security,^{5/} and would allow time to implement the new requirements, if any, which would ensue from completion of the proposed rulemaking.

The "special circumstances" requirement of § 50.12 (a) (2) is satisfied in this case. A five-year exemption would be consistent with the data shown in Exhibit 1 which demonstrates that the Seabrook Station will generate sufficient funds to Great Bay to cover its share of operating costs including its payments into the decommissioning fund. Therefore, the underlying purpose of the decommissioning rule would not be affected by a five-year exemption (§ 50.12 (a) (2) (ii)). Moreover, any imposition of a specific surety obligation on Great Bay would only impose on Great Bay an additional cost. While the magnitude of that incremental cost has not yet been determined by the AON work, it surely would prejudice the ability of Great Bay to compete successfully in the competitive electricity sales market now prevailing in New England and the rest of the United States. This would subject Great Bay to costs significantly in excess of those incurred by other utilities owning interests in nuclear power plants (§ 50.12 (a) (2) (iii)). A five-year exemption would permit the NRC to complete its proposed decommissioning rule making and would provide Great Bay only temporary relief from the requirements of § 50.75 (e)(2). Finally, the AON activities in response to Great Bay's urging demonstrates Great Bay's good faith efforts to comply with § 50.75 (e) (2) (§ 50.12 (a) (2) (v)).

For these reasons, a five-year exemption under 10 CFR § 50.12 would be appropriate in this instance.

^{5/} In its Exemption, dated January 22, 1997, the NRC found that "Great Bay has demonstrated that it possesses or has reasonable assurance of obtaining the funds necessary to cover estimated operations costs for the period of the license as required by 10 CFR 50.33 (f)(2)." (pp. 3-4)

IV. Conclusion

In conclusion, Great Bay respectfully requests that the NRC find that:

- (a) Great Bay is an "electric utility" as defined in 10 CFR § 50.2; or that
- (b) in the alternative, a five-year exemption from the decommissioning funding requirements of 10 CFR § 50.75 (e) (2) should be granted to Great Bay.

Respectfully submitted,

GREAT BAY POWER CORPORATION

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June 4, 1997

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