

before the
ATOMIC SAFETY AND LICENSING APPEAL BOARD

Docket Nos. 50-443
50-444

MOTION TO REOPEN RECORD ON FINANCIAL QUALIFICATIONS

NOW COMES the Seacoast Anti-Pollution League ("SAPL") and respectfully moves that the Appeal Board, as part of any remanded hearings regarding the construction permits for Seabrook, reconsider the issue of the financial qualifications of the lead applicant, Public Service Company of New Hampshire ("PSCO"), and in support hereof states the following:

1. In testimony before the Licensing Board, in May of 1975, PSCO Vice President Robert Harrison testified that PSCO could construct its 50% share of the proposed nuclear power plant without resort to construction work in progress ("CWIP") financing. (Tr. 1587)

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2. Notwithstanding the foregoing, Mr. Harrison subsequently testified before a House Committee of the New Hampshire Legislature, which at the time was considering a Bill to prohibit CWIP, that without CWIP, "Public Service would be unable 'to construct any base load additions to generating capacity including the Seabrook plant.'" (ALAB-422, 6 NRC 33 at 81, emphasis supplied.)

3. Notwithstanding Mr. Harrison's testimony, the New Hampshire Legislature, in the 1977 session, passed a Bill to prohibit the use of CWIP financing. This Bill was vetoed in June, 1977. The Legislature failed to override the veto.

4. On May 25, 1978 the New Hampshire Public Utilities Commission ("PUC") issued a Report and Order allowing the Company a 30 million dollar rate increase, including CWIP financing, which the Company had been collecting on an interim basis since December of 1977. The PUC Order, and particularly the CWIP component, have been appealed to the New Hampshire Supreme Court by one of the Intervenor, the Legislative Utility Consumer Council, which imposed the charges. The appeal is pending.

5. On November 7, 1978, Governor Meldrim Thomson, Jr. was defeated in a bid for reelection by the Democratic nominee. The chief issue in the election campaign, as agreed by all observers, was CWIP financing. The

election was described by the Democratic Nominee, now Governor-elect Hugh Gallen, as "a referendum on CWIP." The Governor-elect has announced that the first order of business in the new Legislature will be the introduction of legislation to prohibit the charging of CWIP, and that he will sign the bill into law.

6. On November 8, 1978, Public Service announced that it was "temporarily postponing," an offering of two million shares of common stock originally planned for November 14th to help raise funds to pay for the 2.33 billion facility. There is attached hereto, and made a part hereof, an excerpt from the Boston Globe of Thursday, November 9, 1978, entitled "Seabrook Minus Thomson: A New Look at Financing." The article indicates that "it is expected the Legislature will pass it [legislation prohibiting CWIP] again."

7. In its preliminary prospectus, dated October 18, 1978, for the proposed sale of 2 million shares of common, now "temporarily postponed," the Company stated as follows:

"The success of the Company's financing plan, which is essential to the construction of the Seabrook nuclear plant, is dependent upon a number of factors, including the Company's ability to obtain adequate and timely rate increases, conditions in the securities markets, economic conditions and the Company's level of sales. The principal factor, however, is the continued inclusion in the Company's rate base of expenditures for construction work in progress ("CWIP") associated with major generating facilities, or the generation of equivalent revenues in some other manner.The Company's financing plans assume that upon application of the Company the NHPUC will permit such inclusion of CWIP in the Company's rate base for periods subsequent to such test year, at least until the completion of Seabrook Unit No. 1 in 1982."

8. In a letter dated November 9th, counsel for Public Service Company advised the parties to this action, along with the Commissioners and the members of this Appeal Board that Mr. Gallen had been elected Governor of New Hampshire, and that he would oppose the inclusion of CWIP in the Public Service Company rate base. However, in said communication, counsel for PSCO did not disclose to this Commission PSCO's response to the election of Mr. Gallen, and the likely withdrawal of CWIP financing. Counsel for SAPL believes that the most recent statement by the Company on this subject occurred on November 28, 1978, after PSCO President William Tallman had met with Governor-elect Gallen. According to the press reports on this meeting, which was a private meeting, Mr. Tallman admitted that CWIP was probably "not a viable way" to finance construction of the \$2.3 billion Seabrook nuclear power station. There is attached hereto, and made a part hereof, an excerpt from the Boston Globe, of Wednesday, November 29, 1978, entitled "Utility Retreats on Seabrook Surcharge."

9. S A P L believes that the defeat of Governor Meldrim Thomson, Jr., who had single handedly assured the success of CWIP financing by vetoing a bill prohibiting such financing and the present admission by PSCO President William

Tallman that CWIP financing may not be a viable method of financing the plant warrants this Appeal Board reopening the record on financial qualifications, a safety related issue, to consider:

- a) The likelihood that Construction Work in Progress financing will not be available to PSCO.
- b) The question of whether or not, absent such financing, PSCO can presently be considered financially qualified to safely construct and operate the proposed nuclear plant within the meaning of the Commission's regulations.

Respectfully submitted,

SEACOAST ANTI-POLLUTION LEAGUE
By Their Attorneys,
O'NEILL BACKUS SPIELMAN

BY 

November 30, 1978

Utility retreats on Seabrook surcharge

Meeting with Gallen focuses on alternative to CWIP for N-plant

By Charles Kenney
Special to The Globe

CONCORD, N.H. — After a closed-door session with New Hampshire governor-elect Hugh J. Gallen, the president of the Public Service Co. of New Hampshire, the state's largest electric company, said yesterday that a controversial 9 percent electricity surcharge is probably "not a viable way" to finance construction of the \$2.3 billion Seabrook nuclear power station.

William Tallman, president of the Public Service Co., said the "possibility" of the Construction Work in Progress (CWIP) surcharge "is still there," but he

said the meeting with Gallen "focused on alternatives to CWIP."

Since CWIP charges were instituted a year ago, they have cost the company's retail electric customers nearly \$18 million.

The company has asked the Federal Energy Regulatory Commission in Washington for permission to charge wholesale customers for CWIP as well. Wholesale CWIP charges would amount to about \$7.5 million annually, according to a company spokesman.

However, Tallman said yesterday that it is "possible" the company might drop its request to the regulatory commission for wholesale CWIP charges.

During the recent gubernatorial campaign, Gallen denounced CWIP as a "ripoff" and many observers attribute his victory over Gov. Meldrim Thomson Jr. to the CWIP issue. Thomson supported CWIP.

At a meeting with reporters after yesterday's session with Tallman, Gallen reiterated his opposition to CWIP.

"My position is as strong as ever," Gallen said. "I do not wish the ratepayers of the state of New Hampshire to be subjected to CWIP charges."

Gallen said that if a bill outlawing CWIP is passed by the Legislature, as is expected, he will sign it.

If such a bill becomes law, the Public Service Co. would have to find an alternative funding source to CWIP.

Tallman said the Public Service Co. position "all along" has been that "we could not build Seabrook without CWIP or some equivalent alternative."

Tallman said "there are viable alternatives" to CWIP, but he declined to discuss specifics.

A company spokesman has said repeatedly in the past that if CWIP were outlawed the company would be forced to sell part of its 50 percent ownership in the plant, and that such a move would result in a construction delay at Seabrook of "at least a year."

However, Tallman said yesterday that the company has no plans to sell off part of its ownership in the plant. He said if such a move were made, a year-long construction delay would be possible.

Before his meeting with Tallman, Gallen discussed CWIP with Michael Love of the Legislative Utility Consumers' Council.

Love suggested to Gallen that the company sell its full 50 percent share of Seabrook Station, then lease back a portion of the project from the new owners. Love has long been a critic of CWIP.

Gallen said yesterday that he intends to hold future meetings with Tallman to discuss CWIP.

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\$2.33 stock offer postponed Seabrook minus Thomson: a new look at financing

By James Worsham
Globe Staff

The defeat of New Hampshire Gov. Meldrim Thomson in Tuesday's election has prompted the Public Service Co. of New Hampshire to begin a review of its plans for financing the controversial Seabrook nuclear power plant.

As a first step, the company yesterday announced it was "temporarily postponing" the offering of two million shares of common stock originally planned for Nov. 14 to help raise funds to pay for the \$2.33 billion facility.

Thomson supported the company's 9 percent surcharge to customers for construction work in progress (CWIP). The \$17.8 million a year raised through the surcharge covers interest charges on money borrowed to pay on-going construction costs.

Thomson's victorious opponent, Hugh Gallen, opposed the CWIP charges and made them the major campaign issue, pledging to stop them if elected. He defeated Thomson 50 percent to 46 percent.

A company statement yesterday said that the financing strategy for its construction program, particularly Seabrook, had been based on the assumption it would be allowed to collect CWIP charges through at least 1982.

The New Hampshire Legislature last year passed a bill to bar the CWIP charges, but Thomson vetoed it. Gallen promised to sign a similar measure when he becomes governor and it is expected the legislature will pass it again.

Company spokesman Gordon McKenney declined to elaborate on yesterday's announcement, but has said previously that CWIP was "absolutely necessary" if the company was to build Seabrook and still maintain 50 percent ownership.

He said then that if CWIP charges were outlawed,

the company would be forced to sell some of its stock in Seabrook, forcing a delay in construction and driving up prices for electricity. Seabrook is scheduled to open in 1982.

The company already has asked the Federal Energy Regulatory Commission for permission to charge its wholesale power customers for CWIP. A hearing on the issue will be held in Nashua on Nov. 21.

During the campaign, Gallen labeled the CWIP charge "Thomson's sales tax" and called it a "rip-off." He said he favored the Seabrook plant, but said it would be built without CWIP.

Thomson argued the CWIP charges were necessary to build the plant, but later worked to win an exemption from CWIP for the elderly.

In the New Hampshire case, CWIP only includes ~~costs~~ the company pays for borrowing, but in other states it sometimes includes labor and material costs of building plants.

In Massachusetts, Boston Edison Co. has sounded out state officials on the possibility of seeking CWIP charges to help finance the Pilgrim 2 nuclear facility at Plymouth. But they say any decision on a request to the Dept. of Public Utilities will not be made until February at the earliest.

During the campaign, Democratic gubernatorial candidate Edward J. King said he supported CWIP charges if they were "the only way" to build Pilgrim 2, but later modified his stand to say he "did not endorse" the charges. GOP contender Francis W. Hatch Jr. opposed CWIP charges.

The DPU commissioners King will appoint to take over in January will rule on any Edison request. In the past the DPU has refused requests for CWIP charges.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that the enclosed was mailed first class or air mail, postage prepaid to the following on this 30th day of November, 1978.

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