

March 3, 1988

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UNITED STATES NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)

Public Service Company of)
New Hampshire, et al.)

(Seabrook Station, Units 1 & 2))

Docket No. 50-443 OL-1

ONSITE EMERGENCY
PLANNING & TECHNICAL
ISSUES

NEW ENGLAND COALITION ON NUCLEAR POLLUTION'S
MOTION FOR LEAVE TO REPLY TO APPLICANTS' RESPONSE
TO NECNP'S REQUEST FOR ENTRY UPON LAND

On February 19, 1988, the New England Coalition On Nuclear Pollution (NECNP) requested, pursuant to 10 C.F.R. § 741(a)(2), that the Applicants permit NECNP's counsel and experts to inspect and take notes, samples, and photographs at Seabrook Station. Applicants have objected to this request on the grounds that it is untimely.¹ NECNP hereby requests leave to reply to Applicants' response.

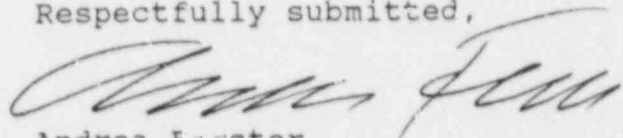
A reply brief should be permitted where the opposing party raises wholly new issues in its pleadings. See Puget Sound Power and Light Co. (Skagit/Hanford Nuclear Power Project, Units 1 and 2), 16 NRC 1329, 1332 (1982). In this case, Applicants' objection that NECNP's Request for Entry Upon Land is untimely is

¹ Applicants' Response to NECNP's Request For Entry Upon Land, dated February 26, 1988.

based on a novel interpretation of this Board's December 2, 1987 Scheduling Order that differs radically from past Licensing Board practice in this proceeding, and on which NECNP reasonably relied in construing this Board's Scheduling Order. Accordingly, NECNP should be permitted to present arguments in response to Applicants' novel interpretation of the Board's December 2, 1988 Scheduling Order.

Most importantly, where safety is at issue, special care must be exercised to allow all parties a full opportunity to be heard. Cincinnati Gas and Electric Co. (William H. Zimmer Nuclear Station), 12 NRC 231, 232 n.1 (1980) (ASLB considered untimely filed response because reluctant to take position which might preclude litigation of safety or environmental issues without giving every party an opportunity to be heard). Here, if NECNP's Request for Entry Upon Land is now denied as untimely as a result of Applicants' objection, NECNP will be foreclosed from taking important discovery on NECNP Contention IV, which could ultimately have the effect of denying NECNP a meaningful hearing on this contention. Accordingly, it is critical that NECNP be granted leave to reply to Applicants' objection to NECNP's Request for Entry Upon Land.

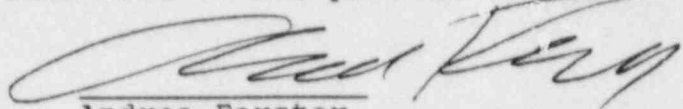
Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that on March 3, 1988, copies of the foregoing pleading were served by first-class mail on all parties listed on the attached service list.


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