presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 10, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina, 27605.

Dated at Rockville, Maryland, this 28th day of January 1997.

For the Nuclear Regulatory Commission.

Ngoc B. Le,

Project Manager, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–2689 Filed 2–4–97; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–443 (License No. NPF–86)]

North Atlantic Energy Service Corporation and Great Bay Power Corporation, (Seabrook Station, Unit 1); Order Approving Application Regarding the Corporate Restructuring of Great Bay Power Corporation by Establishment of a Holding Company

I

Great Bay Power Corporation (Great Bay) is the holder of a 12.1324-percent ownership share in Seabrook Station, Unit No. 1. Its interest in Seabrook Station, Unit 1, is governed by License No. NPF–86 issued by the U.S. Nuclear Regulatory Commission (NRC), pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR Part 50), on March 15, 1990, in Docket No. 50–443. Under this license, only North Atlantic Energy Service Corporation (North Atlantic), acting as agent and representative of 11 joint owners listed in the license, has the authority to operate Seabrook Station, Unit 1. Seabrook Station, Unit 1, is located in Rockingham County, New Hampshire.

II

By letter dated May 8, 1996, North Atlantic informed the Commission that Great Bay was in the process of implementing a corporate restructuring that will result in the creation of a holding company under the name ''Great Bay Holdings Corporation,'' of which Great Bay would become a subsidiary. Under the restructuring, the holders of Great Bay common stock will become holders of common stock of Great Bay Holdings Corporation. North Atlantic requested the Commission's approval of the corporate restructuring pursuant to 10 CFR 50.80. Notice of this application for approval was published in the Federal Register on November 26, 1996 (61 FR 60121), and an Environmental Assessment and Finding of No Significant Impact was published in the Federal Register on January 22, 1997 (62 FR 3317). Additional information related to this proposed restructuring was submitted by Great Bay through its counsel Shaw, Pittman, Potts & Trowbridge, by letters dated October 18 and December 9, 1996.

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information submitted in the letters of May 8 and October 18, 1996, and other information before the Commission, the NRC staff has determined that the restructuring of Great Bay will not affect the qualifications of Great Bay as a holder of the license, and that the transfer of control of the Seabrook license, to the extent effected by the restructuring of Great Bay, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a Safety Evaluation dated January 22, 1997.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended; 42 U.S.C. 2201(b), 2201(i), 2201(o) and 2234; and 10 CFR 50.80, it is hereby ordered that the Commission approves the application regarding the restructuring of Great Bay subject to the following: (1) Great Bay shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Great Bay to its proposed parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Great Bay's consolidated net utility plant, as recorded on Great Bay's books of account; and (2) should the restructuring of Great Bay not be completed by June 30, 1997, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

This order is effective upon issuance.

IV

By February 21, 1997, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how that interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an Order designating the time and place of such hearing.

The issue to be considered at any such hearing shall be whether this Order should be sustained.

Any request for a hearing must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Services Branch, or may be delivered to 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. Federal workdays, by the above date. Copies should be also sent to the Office of the General Counsel, and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Lillian M. Cuoco, Esquire, Northeast Utilities Service Company, Post Office Box 270, Hartford CT 06141–0270, attorney for the licensee.

For further details with respect to this Order, see the application for approval of the corporate restructuring dated May 8, 1996, and supplement dated October 18, 1996, and December 9, 1996, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at Exeter Public Library, Founders Park, Exeter, NH 03833.

Dated at Rockville, Maryland, this 22nd day of January 1997.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–2813 Filed 2–4–97; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–443 (License No. NPF–86)]

North Atlantic Energy Service Corporation and Great Bay Power Corporation (Seabrook Station, Unit No. 1); Exemption

I

North Atlantic Energy Service Corporation (North Atlantic or the

licensee) is a holder of Facility Operating License No. NPF–86, which authorizes operation of Seabrook Station, Unit No. 1 (the facility or Seabrook), at a steady-state reactor power level not in excess of 3411 megawatts thermal. The facility is a pressurized water reactor located at the licensee's site in Rockingham County, New Hampshire. The license provides among other things, that it is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II

Great Bay Power Corporation (Great Bay) was established in 1994 as a successor to EUA Power Corporation, which had filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code. Great Bay is a non-operating, 12.1324 percent co-owner of Seabrook and sells its proportionate share of power from Seabrook on the wholesale electricity market. Great Bay is an exempt wholesale generator as defined in the Energy Policy Act of 1992.

On May 8, 1996, North Atlantic submitted to the NRC a request on behalf of Great Bay for Commission consent to the indirect transfer of control of Great Bay Power's interest in the Operating License. Additional information relating to this request was submitted on October 18 and December 9, 1996. Approval of the indirect transfer of control of Great Bay would allow Great Bay, through the formation of several subsidiaries and a merger, to become a wholly owned subsidiary of a new holding company, Great Bay Holdings Corporation. The indirect transfer of control of Great Bay's share of Seabrook is subject to NRC approval pursuant to 10 CFR 50.80.

In its May 8, 1996, submittal, North Atlantic indicated that, after the indirect transfer of control to the new holding company, Great Bay would remain an electric utility as defined by the NRC in 10 CFR 50.2. This conclusion is based on Great Bay's intended approach to market its share of power from Seabrook (approximately 140 MWe) through the implementation of long-term contracts. Great Bay believes that the Federal Energy Regulatory Commission (FERC) would have the ultimate regulatory authority to review rates for these contracts and, thus, Great Bay would meet the definition of ''electric utility.''

When the NRC staff approved the plan for Great Bay's emergence from bankruptcy in 1993, it did not explicitly address the issue of whether Great Bay met the definition of ''electric utility.'' The staff believed, however, that Great Bay would continue to be an electric utility based upon its status as such prior to bankruptcy and upon the expectation that the reorganized entity would be successful with obtaining long-term contracts for the sale of most of its share of power from Seabrook.

Notwithstanding the staff's earlier actions with respect to Great Bay's emergence from bankruptcy, the staff now believes that Great Bay does not meet the definition of ''electric utility.'' Great Bay has successfully entered only one long-term contract, which is for 10 MWe. Great Bay sells its remaining 130 MWe share of Seabrook power on the spot wholesale market, which by definition is subject to market-set rates. The staff believes that, although FERC may exercise general regulatory oversight over spot market rates, such rates cannot be considered to be ''rates *established* by * * * a separate regulatory authority'' (emphasis added).

If Great Bay is no longer an electric utility, Great Bay is required to meet the existing financial qualifications review requirements of 10 CFR 50.33(f)(2). This section requires that ''the applicant shall submit estimates for the first five years of operation of the facility. The applicant shall also indicate the source(s) of funds to cover these costs.'' Seabrook has an established operating history and associated costs that are now a matter of record. Based on a review of Great Bay's current financial statements submitted with its May 8, 1996, submittal, and supplemental projections submitted on October 18, 1996, the staff has concluded that Great Bay has complied with the essential requirement of the existing standard, which is to demonstrate reasonable assurance of obtaining its share of Seabrook operating costs. Great Bay has projected operating income and cash flow based on what appear to be reasonable projections of the spot market price of and demand for power from Seabrook for the foreseeable future. Great Bay indicates that these projections would be the same with or without formation of the proposed holding company. Thus, Great Bay has demonstrated that it possesses or has reasonable assurance of obtaining the funds necessary to cover estimated operation costs for the period of the license as required by 10 CFR 50.33(f)(2).

The requirements for indicating to the NRC how reasonable assurance will be provided that funds will be available for decommissioning are identified in 10 CFR 50.75, ''Reporting and recordkeeping requirements for decommissioning planning.'' Acceptable methods for providing this assurance are described at 10 CFR 50.75(e)(1) and the methods that may be used by non-electric utilities are identified at 10 CFR 50.75(e)(2). If Great Bay is no longer an electric utility, it does not meet the requirements of 10 CFR 50.75(e)(2) in that it does not have a surety bond or other surety method in place to provide additional assurance for decommissioning funding. Great Bay, however, does contribute to an external sinking fund, which alone would satisfy the requirements of 10 CFR 50.75 if Great Bay in fact were an electric utility, as it asserts. Great Bay has stated that the current value of Great Bay's share of the decommissioning liability in 1995 dollars is approximately $50.2 million. As of December 31, 1995, its accumulated decommissioning reserve was approximately $5.1 million. Great Bay also has in place $10 million in decommissioning costs guaranteed by Eastern Utility Associates, Great Bay's former corporate parent. However, Great Bay has not provided assurance as required under 10 CFR 50.75(e)(2). In its October 18, 1996, submittal, Great Bay indicated that the projected cash on hand at the end of the current fiscal year would be sufficient to cover most of the $50.2 million that is not otherwise offset by the $5.1 million reserve and the $10 million guarantee.

III

Great Bay currently is a stand-alone entity; that is, it is not itself a subsidiary of another organization and it has no subsidiary organizations (other than those recently formed to effect the proposed corporate reorganization). Great Bay has requested Commission approval of the indirect transfer of control of its interest in the Seabrook Operating License. This approval would permit Great Bay to become a wholly owned subsidiary of a new entity, Great Bay Holdings Corporation. The current owners of Great Bay would exchange their equity interest in Great Bay for equity interest in the holding corporation; thus, the current owners would own Great Bay indirectly rather than directly. The Great Bay interest in the Seabrook Operating License would remain directly with Great Bay. Great Bay indicated that the proposed restructuring would protect Great Bay's status as a wholesale electric generator and allow management to develop opportunities in additional electricity markets through the holding company, thus, potentially improving Great Bay's financial position.

The staff is, of course, particularly interested in Great Bay's longer-term

financial viability with respect to Great Bay's share of operation and decommissioning costs of Seabrook. The staff believes that Great Bay's financial viability will not be diminished but instead likely will be enhanced by the formation of the holding company. By approving the indirect transfer of control now, the staff believes that Great Bay could be in a stronger position to meet both the financial qualifications and decommissioning rules.

Thus, to allow the staff to act upon, without further delay, Great Bay's request for approval of indirect transfer of control of Great Bay, and at the same time afford Great Bay a reasonable opportunity to implement a suitable decommissioning funding assurance method required of a non-electric utility, the staff is granting Great Bay a 6-month exemption from compliance with the provisions 10 CFR 50.75(e)(2) pertaining to the additional surety arrangements for decommissioning funding assurance for non-electric utility licensees. If, within the effective period of this exemption, Great Bay has been unable to establish itself as an electric utility as defined in 10 CFR 50.2, Great Bay then must obtain a surety bond or other allowable decommissioning funding assurance mechanism for non-electric utility licensees meeting all of the requirements of 10 CFR 50.75(e)(2).

The Commission has determined that pursuant to 10 CFR 50.12(a)(1), this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further has determined that special circumstances as provided in 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(a)(2)(v) are present justifying the exemption. Under criterion (ii), special circumstances exist in that application of the regulation in this particular circumstance is not necessary, for the 6-month period, to achieve the underlying purpose of the rule, which is to ensure that funds are available for decommissioning at the end of the license term or in the event of premature shutdown. Here, Great Bay's projected 1996 cash position is nearly sufficient to cover the unfunded decommissioning costs, and its cash position is not likely to deteriorate substantially during the period of the exemption.

Further, under criterion (v), special circumstances exist because the exemption provides only temporary relief from the applicable regulation(s), and Great Bay has made a good faith effort to comply with 10 CFR 50.75 by making payment into an external sinking fund based on its good faith belief that it is an electric utility.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this Exemption will not have a significant impact on the environment (62 FR 3316).

This Exemption is effective upon issuance and shall expire 6 months from the date of issue.

Dated at Rockville, Maryland, this 22nd day of January 1997.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–2814 Filed 2–4–97; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–443 (License No. NPF–86)]

North Atlantic Energy Service Corporation and Great Bay Power Corporation (Seabrook Station, Unit 1); Order Modifying the Order Approving the Restructuring of Great Bay Power Corporation

I

On January 22, 1997, the NRC issued an Order approving the application submitted by Great Bay Power Corporation (Great Bay) regarding its proposed corporate restructuring involving the formation of a holding company named Great Bay Holdings Corporation. Great Bay is a minority non-operating owner of the Seabrook Station, Unit 1. On January 24, 1997, Great Bay, through its counsel, submitted a letter explaining that the State of New Hampshire informed Great Bay, subsequent to the filing of its application with the NRC, that the name ''Great Bay Holdings Corporation'' is already in use by another legal entity in New Hampshire and cannot be used in connection with Great Bay's proposed restructuring. Great Bay indicated that in view of the foregoing, the name of the new holding company has been changed to ''BayCorp Holdings, Ltd.'' and requested that the NRC issue an administrative addendum to the Order of January 22, 1997, to reflect the name change. Great Bay stated that its failure to notify the NRC previously of the name change was an oversight on its part.

On the basis of our review of the circumstances, the Order of January 22, 1997, is hereby modified to the extent that all references to ''Great Bay Holdings Corporation'' as the name of the proposed holding company of Great Bay are deemed to be references to ''BayCorp Holdings, Ltd.'' All other terms and conditions of the Order of January 22, 1997, are unchanged.

Dated at Rockville, Maryland, this 28th day of January 1997.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–2816 Filed 2–4–97; 8:45 am]

BILLING CODE 7590–01–P

NRC Enforcement Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is providing the public an opportunity to provide comments on the agency's Enforcement Policy (NUREG–1600, ''General Statement of Policy and Procedure for NRC Enforcement Actions''). This invitation is open to interested public interest groups, the regulated industry, states, and concerned citizens.

DATES: The comment period expires April 7, 1997. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Submit written comments to: David Meyer, Chief, Rules Review and Directives Branch, Office of Administration, Mail Stop: T6D59, U. S. Nuclear Regulatory Commission, Washington, DC 20555. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm, Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC. Copies of NUREG–1600 and NUREG–1525 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop SSOP, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. Copies are also available for inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 415–2741.