

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Before the Atomic Safety and Licensing Board

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In the Matter of)

LONG ISLAND LIGHTING COMPANY)

(Shoreham Nuclear Power Station,
Unit 1))

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Docket No. 50-322 O.L.

SUFFOLK COUNTY RESPONSE TO BOARD REQUEST FOR
PARTIES' VIEWS ON SCHEDULING MATTERS

Pursuant to the Board's request, Suffolk County, in advance of the procedural discussion scheduled for 8:30 a.m. on November 2, 1982, provides the Board and other parties with its views concerning the time required for completion of hearings on currently scheduled health and safety issues: QA/QC (SC Contentions 12-15), inadequate core cooling ("ICC," SC Contention 3/SOC Contention 8), and remote shutdown panel ("RSP," SC Contention 1).^{1/} The County also proposes a schedule for motions to strike and for submission of cross-examination plans on Phase I emergency planning issues.

I. Hearings on QA/QC and ICC

Any consideration of a hearing schedule for completion of QA/QC matters must come to grips with a critical matter: how

^{1/} No estimate is provided concerning remaining health and safety issues which were deferred pending completion of Staff review. (SC 8/SOC 19(h), environmental qualification; SOC 19(i), seismic qualification; SC 23, containment isolation; SC 32/SOC 19(f), electrical penetrations). The parties will report to the Board by November 16 on the status of these issues.

the results of the Torrey Pines and Teledyne inspection efforts will be included in the QA/QC hearing process. The relevance of these efforts to QA/QC matters concerning Shoreham is obvious. Thus, the Torrey Pines effort as of mid-September had already identified three "Findings" which, by definition, indicate the existence of discrepancies which could result in a substantial safety hazard. There are many other Potential Findings that also were under review as of mid-September, any of which could be determined to be Findings.^{2/} The Teledyne design review effort involves a similar process of identifying "Findings," which are matters having "an impact on design adequacy"^{3/} No information is yet available concerning the results of the Teledyne effort, except that as of the July 9, 1982 Initial Status Report, there were 19 "Open Items," which constitute "item[s] requiring further review or information before a decision can be reached."^{4/}

The County does not believe that the Torrey Pines and Teledyne efforts are either fully independent of LILCO or necessarily proper in scope. However, the County is cognizant that

^{2/} As of the September 16 Torrey Pines status report, there were three Findings, one of which apparently was of relatively minor concern. The LILCO witnesses were unaware of the significance of the other two Findings. Ninety Potential Findings were still under review. Tr. 12,311.

^{3/} SNRC-708, May 26, 1982, Attachment, p. 8.

^{4/} July 9 Initial Status Report, pp. 8-9.

substantial inspection has been conducted and that this effort, as a practical matter, will provide important data relevant to resolution of the QA/QC contentions. Indeed, the fundamental purpose of the Torrey Pines and Teledyne efforts is to assess whether the Shoreham QA/QC programs for design and construction were implemented in a manner which properly controlled the design and construction processes. Accordingly, the County believes it is essential that the Board have before it all relevant aspects of the Torrey Pines and Teledyne efforts. Any other course would be to ignore pertinent data essential to reasoned decision making.

The means to include the Torrey Pines and Teledyne data in the hearing process have been complicated by the delay of those reports and the failure of LILCO to provide the County with interim information on the Torrey Pines report, in violation of a subpoena. The Torrey Pines report originally was due to be completed in September, 1982, and the Teledyne report was due to be completed in August, 1982. Under those schedules, the results would certainly have been available for examination with the LILCO panel and the Staff panel would have had an opportunity to review the reports prior to cross-examination.^{5/} Under present schedules, however, the Torrey Pines report will likely not be available until mid-November and the Teledyne report likely will not be available until mid-December.

^{5/} If Torrey Pines data had been supplied pursuant to the County's subpoena request, it might similarly have been possible to examine such data at this time.

The Board tentatively ruled on October 28 that if the Torrey Pines report becomes available in mid-November, the County would be required to review that report and conduct a 1-2 day deposition on pre-designated aspects within an extremely short time frame -- possibly as little as one week. Tr. 12,302-05. Recognizing that this was only a tentative schedule (depending, inter alia, on the actual date the Torrey Pines report becomes available and the size and completeness of that report), the County must and hereby does object to any schedule that is not set with the first and foremost objective being full understanding of all relevant facts derived from the Torrey Pines and Teledyne reports. The schedule tentatively set by the Board would not, in the County's view, be consistent with that objective:

- The parties would have only a week to review the Torrey Pines report, a study that will involve hundreds of discrepancy reports and more than 100 Potential Findings, all of which are directly relevant to QA/QC matters.
- The foregoing review would have to be undertaken while County attorneys and experts are involved in the ongoing QA/QC hearing -- most likely pertaining to examination of the NRC Staff. Thus, there would, as a practical matter, be no meaningful opportunity for detailed review of the important Torrey Pines data.

The County also vigorously objects to the Board's tentative proposal requiring the use of depositions as a partial substitute for an adjudicatory hearing before the Licensing Board as a means to address the details of the Torrey Pines report. Depositions are useful for discovery, but they are not an appropriate alternative to actual examination of witnesses before the adjudicatory panel which has been delegated authority by the NRC to conduct the hearing process, and it is improper and inconsistent with legal requirements to substitute depositions for an actual public hearing before the Board. See Atomic Energy Act of 1954, § 189. Thus, the County objects to any schedule or procedure related to taking evidence on the Torrey Pines or Teledyne matters which would result in elimination of an opportunity for a full public ASLB hearing on the matters.

Based on the foregoing matters, the County, with respect to Torrey Pines and Teledyne, requests the Board to take the following action:

1. Defer consideration of a schedule to consider the Torrey Pines report until that report is in fact received. The same deferral should apply to Teledyne.

2. Once each report is received, the parties should have a reasonable opportunity to review the data and to advise the Board:

- (a) What aspect(s) of the report merit detailed inquiry;

- (b) What further data, if any, are required;^{6/}
and
- (c) The best means to present the evidence to the Board.

The Teledyne and Torrey Pines reports will not be prepared by persons on the present LILCO witness panel. To assess the significance of these reports, appropriate personnel from those companies should be required to testify and respond to questions regarding the details of the reports and their supporting data.

Matters Other Than Torrey Pines and Teledyne Reports

Cross examination by the County of the LILCO witnesses regarding design and construction QA/QC has proceeded under arbitrary time constraints imposed by the Board. While the Board has characterized these constraints as generous, the County believes that cross-examination should be governed by relevancy, probative value, and usefulness in bringing out information important to licensing standards, and not by imposition of time limits. The County's cross-examination covered numerous audits and other data significant to the issue of inadequate design and construction QA/QC. The County conducted its cross-examination in a non-repetitive manner, that responded to Board requests that the County group findings and take other steps to present the data in an expeditious manner. Yet lengthy answers by LILCO witnesses

^{6/} If the discrepancy, Potential Finding, and Finding reports are part of the final reports, no further data may be required.

of necessity had the effect of reducing the cross-examination time allotted to the County. The time limits imposed by the Board precluded the County from adequately cross-examining the LILCO witnesses on other matters in the QA/QC area and the County therefore objects to the Board's rulings regarding time restrictions.

Similarly, the Board's arbitrary time constraints have the effect of restricting cross-examination on the issue of operating QA/QC to only four days. In the County's view, this limit is likely to prove insufficient for cross-examination in this important area. Depending upon the length of answers by the LILCO witnesses, the County estimates that this cross-examination would, without arbitrary time limits, take eight to ten days.

Other estimates by the County are as follows:

LILCO Panel

4 days ^{7/}

Questions by Staff and Board of LILCO panel and redirect by LILCO counsel of LILCO panel. These 4 days also include County recross but the extent thereof is impossible to predict until the extent and nature of redirect becomes apparent.

NRC Staff Panel

8 days

County examination of Staff on Contentions 12, 14 and 15. Most time consuming elements likely will be review of CAT inspection and LILCO response thereto and NRC I&E reports cited in testimony.

^{7/} Per LILCO estimate at page 12, fn. 7 of LILCO "Schedule" filing dated October 29, 1982.

2 days County examination of Staff on OQA.

2 days ^{7/} Remaining examination of Staff panel.

County Panel

2 days ^{7/} All examination of County panel. [The County, naturally, is not in a position to assess whether this estimate is realistic.]

With respect to ICC, the County estimates that the entire hearing will likely take about one week. This estimate is subject to a fairly wide error band, however, primarily because attempts to narrow the focus have not yet taken place and because some of the new ICC reports recently provided by LILCO are extremely large. If the hearing were to be examined in detail, the hearing might exceed a week. The County expects that a more precise estimate will be possible later this month. RSP examination should take approximately two days.

II. Schedule for Phase I Emergency Planning Motions to Strike and Cross-Examination Plans

A recent memorandum provided by the Board to the County and other parties discussed a tentative schedule for the remaining issues to be heard in the Shoreham proceedings. In connection with onsite (Phase I) emergency planning issues, the memorandum stated that "[o]n-site emergency planning issues will be litigated in January and February 1983."^{8/} The County agrees that this

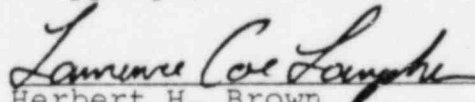
^{8/} Memorandum from David L. Prestemon, dated October 14, 1982 on the subject of "Tentative Scheduling for Remaining Shoreham Proceedings."

schedule appears realistic, particularly when one considers that the QA/LC, RSP, and ICC issues will likely be in hearing until Christmas. See Part I of this filing. In view of this likely schedule, the County proposes that motions to strike be filed on December 3, 1982, with written responses to be filed on December 10, 1982. Oral argument, if required, could be held immediately thereafter and a Board ruling is assumed by December 17. Cross plans should then be submitted in early January, 1983.

The County notes that LILCO has proposed a schedule calling for motions to strike and responses to be filed on November 15 and November 18, respectively. The County suggests that there is no need to have such an early date. In addition, LILCO's proposal allows only three days to respond to motions to strike. This exceedingly short period would not allow sufficient time for well-prepared responses. The County believes that a minimum of a week should be provided for responses.

Respectfully submitted,

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November 1, 1982

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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In the Matter of)
)
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LONG ISLAND LIGHTING COMPANY)

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CERTIFICATE OF SERVICE

I hereby certify that copies of SUFFOLK COUNTY RESPONSE TO BOARD REQUEST FOR PARTIES' VIEWS ON SCHEDULING MATTERS have been served on the following this 1st day of November, 1982 by U.S. Mail, first class, except as otherwise noted.

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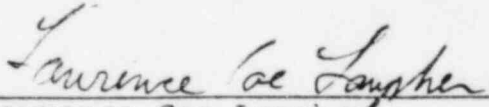
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DATE: November 1, 1982

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