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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
LONG ISLAND LIGHTING COMPANY) Docket No. 50-322
)
(Shoreham Nuclear Power Station,)
Unit 1))

RESPONSE OF SHOREHAM OPPONENTS
COALITION TO APPLICANT'S MOTION
THAT A HEARING SCHEDULE BE SET

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RESPONSE OF SHOREHAM OPPONENTS
COALITION TO APPLICANT'S MOTION
THAT A HEARING SCHEDULE BE SET

On October 6, 1981, Applicant submitted a Motion to set a hearing schedule for the Shoreham OL proceedings. Applicant's schedule calls for the parties to file their final "positions" on contentions by November 4, 1981 and after a series of pre-hearing matters, Applicant asks that hearings be scheduled to begin on February 23, 1982. For the reasons set forth below, SOC believes that Applicant's schedule is significantly unrealistic, particularly with regard to the suggested commencement of the formal pre-hearing schedule (i.e., the November 4, 1981 date).

A critical factor which will determine the nature, scope and length of the OL proceedings is the proposed "Sixth Stipulation" between Applicant and Suffolk County. If the stipulation is approved by Applicant's Board of Directors and the Suffolk County Legislature, the County proposes to drop all but three of its contentions which have either been admitted to the proceeding or admitted subject to further particularization.

Final approval (or disapproval) by the County and Applicant is essential before the parties, particularly SOC, can reasonably define their final contentions for

submission and decision by the Board. Obviously, if the County/LILCO settlement is not approved, the County will have a large number of contentions to particularize. According to SOC's understanding of the present schedule, the earliest that action is contemplated by the legislature is November 10, 1981 with action by LILCO's Board of Directors to follow shortly thereafter.

Should the settlement be approved, the terms of that settlement could have a significant effect on the scope and nature of the final contentions submitted by SOC. For example, a number of issues contained in SOC's proposed TMI Contention (which is currently being reviewed by the Applicant) may be effectively resolved by the County/LILCO settlement and some admitted SOC contentions (such as SOC Contention 6(a) i on QA/QC) may be similarly affected. Neither SOC, the County or LILCO will know the precise nature of the settlement until after it has been reviewed and voted on by the legislature.

Should the Sixth Stipulation be approved by the County and Applicant, its ultimate effect is subject to approval by the Board after review and comment by the parties. In view of the large number of contentions which the County proposes to drop from the proceeding, the nature of the actions which Applicant proposes to

undertake in exchange for the County dropping those contentions, and the effect and reviewability of those actions by the Board and the parties to this proceeding, SOC will undoubtedly comment in detail upon the Sixth Stipulation before it is ruled upon by the Board. As a consequence, any "final" list of contentions to be submitted to the Board must in fact await the Board's decision on the Sixth Stipulation. To do otherwise will hopelessly fragment the Board's decisions on the contentions of the various parties and would likely render futile any attempt to have a "final" pre-hearing schedule. Obviously, the Applicant's proposal to begin that phase one week before the earliest contemplated legislative action is unrealistic.

Aside from the major impact of the County/LILCO settlement on the Shoreham OL proceeding, a great deal of progress can and undoubtedly will be made during the next 2-4 weeks. SOC and Applicant are near agreement on defining and particularizing SOC's contentions on all issues with the exception of TMI issues. During the next 2-3 weeks, SOC expects that a Stipulation will be submitted to the Board covering at least the non-TMI contentions in a manner consistent with the objectives set forth in the Applicant's November 4 deadline in its October 6 Motion. SOC also hopes that the TMI issues

can be largely resolved within that timeframe, subject to the ultimate impact of the Sixth Stipulation. Thus, much progress can and will be made short of starting the clock running on the final pre-hearing phase.

Applicant has frequently issued the warning that unless a prompt hearing schedule (such as that contained in its October 6 Motion) is set by the Board, there is a likelihood (or at least risk) that the plant will be ready for fuel load before a Board decision can be rendered. Applicant's "official" fuel load date currently stands as September, 1982, but SOC believes even a cursory examination by the parties and the Board of the status of construction at Shoreham will reveal that the plant is nowhere close to eleven months from fuel load.*

It is not surprising that LILCO has not recently revised the September 1982 date since any such revision may affect LILCO's hard fought priority in the NRC licensing review process as well as its projected plant cost and need for rate relief. However, the Company's unrealistic fuel load date should not inspire the Board

*LILCO produces monthly status reports for the Shoreham project which set forth the nature of the delays and remaining work to be accomplished which suggest that a delay of several months beyond the September 1982 date is likely.

to set an unnecessary and overly expedited hearing schedule.

It is therefore SOC's position that no final schedule of the sort suggested in Applicant's October 6 Motion should be set until the Board has ruled on the Sixth Stipulation. The parties should be given a minimum of three weeks after that ruling to file their final position on contentions. SOC proposes that the Board's ruling on those contentions coincide with a prehearing conference at which the balance of the prehearing schedule will be established.

SOC has also reviewed Applicant's proposed timing of final discovery, particularization and pre-filing of testimony. Without trying to suggest to the Board a precise alternative, we note the following:

a) A minimum of three weeks (rather than the one allowed by Applicant) is needed for receipt of the Board's Order on Contentions, discussion between consultants and attorneys on discovery, preparation and filing of final discovery requests.

b) A minimum of 30 days will be required to analyze and answer discovery requests. A longer period may be needed if the number of contentions is large and the discovery requests are lengthy;

c) We assume that Applicant intends to review the discovery produced before it submits any Summary Disposition Motions;

d) 30 days for the pre-filing of testimony will not be adequate if the number of contentions is large;

e) A minimum of 30 days will be needed to prepare cross-examination.

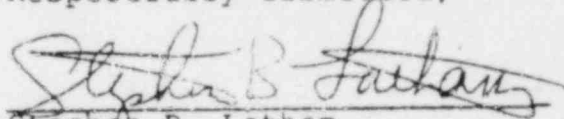
As a final note, SOC notes that Applicant has cited a Commission "policy" of having Boards complete, where possible, their initial decisions within 300 days of the issuance of the final SER supplement. Shoreham may well be a case where that policy objective, to the extent it even applies to the Shoreham proceeding, cannot be met. The Board should consider that to the extent "delays" beyond Applicant's proposed November 4 date are incurred due to the County/LILCO settlement, that settlement should lead to substantial savings in the overall hearing schedule.

SOC further disagrees with Applicant that Shoreham's SER Supplement No. 1 triggered any deadlines. That supplement still contains 19 open items which is about on a par with the number contained in initial SER's. SOC would expect that at least one further supplement will be issued by Staff prior to the OL proceedings.

CONCLUSION

For the reasons set forth above, SOC urges the Board to deny the prehearing schedule advocated by Applicant in its October 6 Motion and to adopt the prehearing procedures set forth by SOC in this reply.

Respectfully submitted,


Stephen B. Latham

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Dated: October 21, 1981

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
LONG ISLAND LIGHTING COMPANY)
)
(Shoreham Nuclear Power Station,))
Unit 1))

DOCKETED
USNRC

Docket # 81-001-272 P2:54

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Response of Shoreham Opponents Coalition to Applicant's Motion That A Hearing Schedule Be Set", dated October 21, 1981, submitted by the Shoreham Opponents Coalition, in the above captioned proceeding, have been served on the following, by deposit in the United States mail, first class, this 21st day of October, 1981:

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