

LILCO, May 13, 1982

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF THE SECRETARY
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Before the Atomic Safety and Licensing Board

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

LILCO'S MOTION TO STRIKE THE TESTIMONY OF
GREGORY C. MINOR ON SUFFOLK COUNTY
CONTENTION 28(a)(iii) AND SOC CONTENTION 7A(3)

I.

On May 4, 1982, Suffolk County filed testimony on
Suffolk County Contention 28(a)(iii) and SOC Contention 7A(3).
The contentions are essentially identical. SC 28(a)(iii) reads
as follows:

Suffolk County contends that the NRC Staff has not
adequately assessed and LILCO has not adequately resolved,
both singularly and cumulatively, the generic unresolved
issues applicable to a BWR of the Shoreham design. As a
result, the Staff has not required the Shoreham struc-
tures, systems, and components to be backfit to current
regulatory practices as required by 10 CFR 50.55(a),
50.57, and 50.109, with regard to the following:

- (a) LILCO has failed to resolve adequately certain gen-
eric safety items identified as a result of the
TMI-2 accident and contained in NUREG-0737,
"Clarification of TMI Action Plan Requirements"
(1980).
- (iii) The monitoring of iodine releases in the TMI-2
accident was both untimely and complicated by
the iodine sampling and measuring techniques

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used. The equipment needed for continuous on-line iodine gaseous effluent monitoring is not presently available at Shoreham. NUREG-0737, Item II.B.11/ allows the alternative of vent release sampling, provided it is powered by vital bus power and is accessible during an accident. The Shoreham design does not satisfy either of these alternatives. LILCO proposes instead to measure two other streams, those from the turbine building and radwaste building, while assuming the reactor building ventilation contribution is zero. These two sampling instruments are not powered by vital bus power. Thus, LILCO's iodine measurement system cannot account for leakage, incomplete isolation, or system misoperation and thus may not be capable of accurately assessing the quantity of iodine released in the station vent. The design is, therefore, not in compliance with 10 CFR Part 50, Appendix A, Criteria 13 and 64.

For the reasons stated below, the testimony submitted by Suffolk County is unrelated to any issue fairly raised in the contentions. Under the NRC's rules of practice, testimony must be relevant to issues in contention. 10 CFR § 2.743(c). And irrelevant testimony is the proper subject of a motion to strike. See 10 CFR Part 2, Appendix A, V(d)(7). Accordingly, LILCO moves to strike Mr. Minor's testimony on SC 28(a)(iii)/SOC 7A(3). The NRC Staff has reviewed this motion and supports it.

1/ As the text of SC's testimony indicates, the applicable NUREG-0737 reference is item II.F.1.

II.

The Suffolk County testimony submitted on SC Contention 28(a)(iii) and SOC Contention 7A(3) deals with issues not within the scope of the contentions. Both contentions are explicit about the matters in controversy. First, they question the propriety of relying on a summation of the iodine measurements from the Turbine Building and Radwaste Building when the Reactor Building is inaccessible. And second, they challenge the adequacy of the power supplies for the iodine monitors to be used.

Only one sentence of SC's testimony clearly addresses either of these issues. On page 3, Mr. Minor states that "LILCO has apparently corrected one of the deficiencies by locating a monitor (RE-126) for the main station vent in a location which it judges to be accessible" (footnote omitted). The remainder of the testimony is devoted to discussion of possible inaccuracies in the sampling equipment used by LILCO for iodine and particulates.

To the extent the testimony addresses measurement of particulates,^{2/} it should be struck. There is no reference in the contention to any concern about the measurement of particulates.

^{2/} E.g., page 3, line 17; page 4, line 29, page 5, line 11, page 6, line 5.

More important, the discussion in the testimony about possible inaccuracies in the iodine monitoring system^{3/} is an untimely attempt to raise a new issue. The contentions mention accuracy in a very limited context:

LILCO proposes instead to measure two other streams, those from the turbine building and radwaste building, while assuming the reactor building ventilation contribution is zero. . . . Thus, LILCO's iodine measurement system cannot account for leakage, incomplete isolation, or system misoperation and thus may not be capable of accurately assessing the quantity of iodine released in the station vent.

Thus, the only allegation of inaccuracy stems from the possibility of leakage into the station vent from the isolated Reactor Building. The basic concern is the lack of an accessible post-accident monitor that will sample directly from the station vent. This is distinct from, and unrelated to, any concern about the accuracy of the iodine monitors themselves. If the County did intend to question the design and operation of the monitors in addition to challenging their location, it should have done so when the contention was submitted. The County may not now expand the scope of this proceeding merely by filing testimony on whatever it pleases. If SC wants to raise a new issue, it must seek its admission under 10 CFR § 2.714. It has not done so.

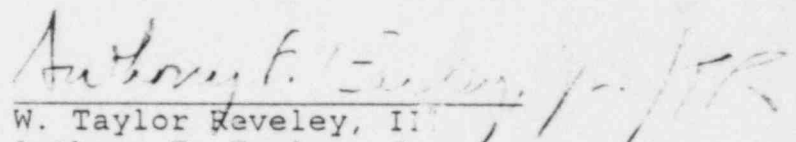
^{3/} Page 3, line 10 through page 6, last line.

III.

As explained above, SC's testimony on SC Contention 28(a)(iii) and SOC Contention 7A(3) deals with issues beyond the scope of these contentions. Although there is relevant background material and at least one relevant sentence of substance included, the general thrust and conclusions of the testimony do not bear on any matter fairly raised in the contention. Consequently, it should be struck.

Respectfully submitted,

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