

LILCO, June 17, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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 FOR SUMMARY
DISPOSITION OF SOC CONTENTION 9(c)
AND MOTION TO STRIKE PORTIONS
OF SOC TESTIMONY ON CONTENTION 9

Long Island Lighting Company (LILCO) hereby moves, for reasons stated below, to obtain summary disposition of SOC Contention 9(c),* relating to indication of bypassed or inoperable status for safety systems, and independently to strike certain portions of SOC's testimony on it. SOC Contention 9 contains three specific allegations, relating to (a) the manual operability of system inoperative alarms located in each of five spaces; (b) the adequacy of the system inoperative

* SOC Contention 9, as admitted, reads as follows:

As evidenced by the accident at Three Mile Island Unit 2, accident conditions can be aggravated by the operation of the plant while one or more safety systems are inoperable. At Three Mile Island, two auxiliary feedwater system valves were closed when they should have been open. As specified below, SOC contends that Shoreham does not contain an adequate system to inform the reactor operator when a safety system has been deliberately disabled because the plant does not meet the specifications of Regulatory Guide 1.47 or its equivalent. Therefore, it does not adequately (continued on next page)

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alarm for Safety Relief Valves (SRVs); and (c) the adequacy of indications, including bypass conditions, of systems and power sources at the remote shutdown panel. SOC has not chosen to proceed by cross-examination on this contention but rather by filing testimony on May 25; the testimony is limited, however, solely to part (c) of the contention. (SOC Testimony at 5.)

I. MOTION FOR SUMMARY DISPOSITION OF SOC CONTENTION 9(c)

LILCO moves, pursuant to 10 CFR § 2.749, for summary disposition of SOC Contention 9(c). Summary disposition is appropriate where the papers filed on a given issue reveal "that there is no genuine issue as to any material fact and that the moving party is entitled to a decision as a matter of law." 10 CFR § 2.749(d). In the case of SOC Contention 9, there are no

protect the public health and safety and does not comply with 10 CFR Part 50, Appendix A, Criteria 20, 21 and 22. Specifically, the plant does not meet Regulatory Guide 1.47 in the following respects:

- (a) the system inoperative alarms for the screenwall pumphouse vent system relay, the emergency switchgear room exhaust air system, the battery room vent system, the RBSWS chiller equipment room vent system and the diesel rooms emergency vent system cannot be manually activated in the control room;
- (b) the portion of the compressed air system serving the SRV's does not have a unique system inoperative alarm; and
- (c) there is inadequate indication of the status (including bypass conditions) of systems and power sources on the Remote Shutdown Panel.

disputes of material fact on matters covered by the testimony, and LILCO is entitled to summary disposition as a matter of law.

A. Bases for Indication of Inoperability of Bypass at Remote Shutdown Panel (Contention 9(c))

1. Reg. Guide 1.47 or its Equivalent

The only portion of Contention 9 on which SOC filed testimony relates to subpart (c), which alleges that automatic bypass and other system indications should be provided at the remote shutdown panel. While both the contention and the testimony list multiple regulatory section numbers or titles as bases,* the only basis substantively argued is Regulatory Guide 1.47. That document, however, cannot provide a basis for an argument relating to automatic indications of system inoperability at the remote shutdown panel. The reason is that Regulatory Guide 1.47 applies, by its own terms, only to automatic indications in the control room:

Automatic indication . . . should be provided in the control room for each bypass or deliberately induced inoperable status that meet all of the following conditions

Reg. Guide 1.47, paragraph C.3 (p. 2) (emphasis supplied).

* The introductory paragraph to the contention refers to: (1) Regulatory Guide 1.47, and (2) 10 CFR Part 50, Appendix A, General Design Criteria 20, 21 and 22. Regulatory Guide 1.47 presents itself as being an acceptable means of complying with (1) IEEE Std. 279-1971 and (2) 10 CFR Part 50, Appendix B, Criterion XIV (Reg. Guide 1.47, p. 1, col. 1). The testimony alleges (1) noncompliance with Regulatory Guide 1.47, and hence (2) noncompliance with 10 CFR Part 50, Appendix B, Criterion XIV and hence (3) noncompliance with General Design Criteria 20, 21 and 22 (Minor testimony at 2). The testimony also asserts, but does not argue, (4) noncompliance with General Design Criteria 13 and 19 (id.)

This conclusion is reinforced by the provisions of IEEE Std. 279-1971, Criteria for Nuclear Power Plant Protection Systems, which Regulatory Guide 1.47 is designed to implement. That standard states:

4.13. Indication of Bypasses. If the protective action of some part of the [protective] system has been bypassed or deliberately rendered inoperative for any purpose, this fact shall be continuously indicated in the control room.

IEEE Std. 279-1971, § 4.13 (emphasis supplied).

In short, Regulatory Guide 1.47 relates to the indication of bypass/system-inoperative indications in the control room, and makes no reference to the remote shutdown panel. It therefore cannot provide a basis for a contention that such indication must be provided at the remote shutdown panel.

It follows that the reference in the contention to meeting Regulatory Guide 1.47 "or its equivalent" does not apply to the remote shutdown panel, since the frame of reference of the Regulatory Guide, and hence of its "equivalent," is limited to control room displays.

2. Other Asserted Bases for Contention 9(c)*

No basis for Contention 9(c) other than Regulatory Guide 1.47 is supported by testimony. None of them, in

* The SOC testimony recites, without supporting, three additional categorical bases for Contention 9: General Design Criteria 13 and 19; Criterion XIV of 10 CFR, Appendix B; and 10 CFR § 50.55a(h). Since none of these is referred to in the contention, they are addressed only in the Motion to Strike as being beyond the scope of the contention.

any event, requires the installation of bypass/system-inoperative indications at a remote shutdown panel. General Design Criteria 20, 21 and 22 are listed in the contention and testimony but their applicability is not argued. They relate, individually, to the functions, reliability and testability, and independence of reactor protection systems. These criteria set forth a variety of design requirements for the performance of the reactor protection systems. They simply do not relate to the question of whether an automatic indication of a deliberate bypassing of any of these systems or rendering it inoperable must be provided, at the remote shutdown panel or elsewhere.

B. Summary Disposition is Warranted on SOC
Contention 9(c)

The Commission's Rules of Practice, 10 CFR § 2.749(d), provide for summary disposition of issues if (1) there are no material issues of fact, and (2) the moving party is entitled to a decision as a matter of law.

Thus material facts relevant to this motion are two:

1. The only basis actually argued in the testimony for the proposition that automatic bypass/inoperability indications should be provided at the remote shutdown panel is Regulatory Guide 1.47.

2. Since other potential bases are at least mentioned in the contention, LILCO could not have known, prior to the filing of SOC's testimony, that these other bases were not going to be asserted substantively in the testimony.

There can be no dispute as to these facts.

As a matter of law, Regulatory Guide 1.47 does not apply to the remote shutdown panel and it therefore cannot be used as a basis to support SOC Contention 9(c). Also as a matter of law, by failing to support its other asserted bases for Contention 9(c), SOC has waived them as a matter of its affirmative case.

For the above reasons, LILCO respectfully moves for summary disposition of SOC Contention 9(c).

II. MOTION TO STRIKE

LILCO moves that portions of SOC's prefiled testimony on SOC Contention 9, in addition to that portion struck on June 17, 1982,* be stricken from the testimony as being beyond the scope of SOC Contention 9.

This contention asserts, in subpart (c), that because there are no system bypass/inoperability indications at the remote shutdown panel, LILCO does not comply with General Design Criteria 20, 21 and 22. SOC's testimony goes beyond these three General Design Criteria, in the following statements:

1. "Therefore, LILCO also has not demonstrated that Shoreham complies with GDC 13, 19, 20, 21 and 22." (Testimony at page 2);

* LILCO fully supported "NRC Staff Motion to Strike Portions of The Testimony of Gregory C. Minor on SOC Contention 9." As a result of that Motion being granted on June 17, 1982, the testimony and its attachments are limited to the question of whether bypass/inoperability indication should be provided on the remote shutdown panel.

2. "The purpose is to show that LILCO has failed to apply the requirements of GDC 13, 19, 20, 21 and 22 to the Remote Shutdown Panel (RSP) either by implementing Reg. Guide 1.47 or its equivalent." (Testimony at page 2); and
3. "Further, it is my opinion that LILCO has not demonstrated compliance with 10 CFR 50.55(h)* and 10 CFR 50 Appendix B, Criterion XIV and the applicable GDC." (Testimony at page 5.)

These sentences, in their references to (1) GDC 13 and 19, (2) 10 CFR § 50.55(h), and (3) 10 CFR Part 50, Appendix B, Criterion XIV, contain material totally beyond the scope of the contention.

The contention did not allege and, therefore, did not put LILCO and the other parties on notice that LILCO's compliance with General Design Criteria 13 and 19, with 10 CFR § 50.55a(h) or with 10 CFR Part 50, Appendix B, Criterion XIV, was at issue. Accordingly, the issue is not relevant to the contention and, therefore, such references should be struck from the testimony. 10 CFR § 2.743(c).

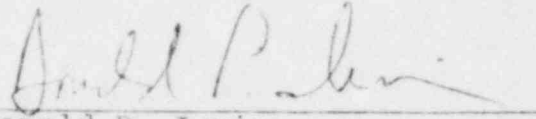
Accordingly, LILCO moves that:

1. the words "13, 19" be stricken from statement 1 above;
2. the words "13, 19" be stricken from statement 2 above; and
3. the words "10 CFR 50.55(h) and 10 CFR 50 Appendix B, Criterion XIV and" be stricken from statement 3 above.

* 10 CFR § 50.55(h) is nonexistent. The testimony probably intends to refer to 10 CFR § 50.55a(h).

Respectfully submitted,

LONG ISLAND LIGHTING COMPANY

A handwritten signature in dark ink, appearing to read "Donald P. Irwin", written over a horizontal line.

Donald P. Irwin
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DATED: June 17, 1982

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I hereby certify that copies of "LILCO's Motion for Summary Disposition of SOC Contention 9(c) and Motion to Strike Portions of SOC Testimony on Contention 9" were served upon the following by first-class mail, postage prepaid, on June 17, 1982, or by hand on June 17, 1982 (as indicated by an asterisk), on:

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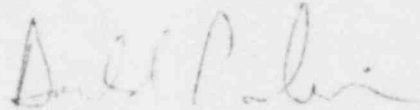
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