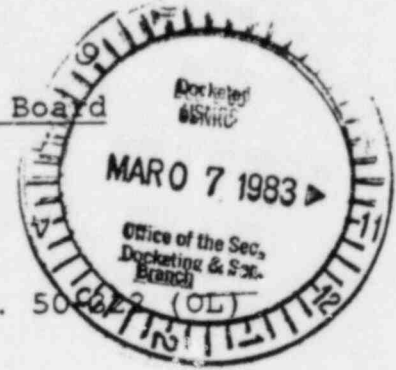


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board



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

Docket No. 50-622

LILCO'S RESPONSE TO THE TOWN
OF SOUTHAMPTON'S NOTICE OF INTENT
TO PARTICIPATE IN THIS PROCEEDING

On February 23, 1983, the Town of Southampton (Southampton) filed a "Notice of Intent to Participate as an Interested Municipality Pursuant to 10 C.F.R. § 2.715(c)." This pleading responds to Southampton's filing. (See Tr. 20238.)

Title 10 C.F.R. § 2.715(c) provides:

The presiding officer will afford representatives of an interested State, county, municipality, and/or agencies thereof, a reasonable opportunity to participate and to introduce evidence, interrogate witnesses, and advise the Commission without requiring the representative to take a position with respect to the issue. Such participants may also file proposed findings and exceptions pursuant to §§ 2.754 and 2.762 and petitions for review by the Commission pursuant to § 2.786. The presiding officer may require such representative to indicate with reasonable specificity, in advance of the hearing, the subject matters on which he desires to participate.

In extending this provision to governmental entities other than "an interested State," the Commission's purpose was "to improve

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coordination with States, counties, and municipalities." 43 Fed. Reg. 11798 (April 26, 1978). To that end, § 2.715(c) "[abrogates] some of the technical requirements applicable to other types of intervention," and has been construed to avoid limiting a municipality's access to a proceeding. Cincinnati Gas and Electric Co. (William H. Zimmer Nuclear Station), LBP-80-6, 11 NRC 148, 150 (1980), citing Exxon Nuclear Co. (Nuclear Fuel Recovery and Recycling Center), ALAB-447, 6 NRC 873 (1977); Project Management Corp. (Clinch River Breeder Reactor Plant), ALAB-354, 4 NRC 383, 392-94 (1976).

In connection with Southampton's petition to participate, however, two points bear noting. First, the petition states that

[t]he Town of Southampton's interest in this proceeding pertains specifically to matters involving off-site emergency planning for the Shoreham Nuclear Power Plant as well as matters pertaining to any low-power, interim or full-power license which may be sought by the Long Island Lighting Company for the Shoreham facility.^{1/}

But emergency planning has been an issue in this proceeding for almost seven years. The Town of Southampton has long had the opportunity to advise the Board regarding emergency planning, and should have evinced its interest in participating in the proceeding some time ago.

^{1/} Counsel for Southampton stated on the record that the reference to "matters pertaining to any low-power, interim or full-power license" relates to offsite emergency-planning matters and not to new subjects. Tr. 20,239-40.

Second, it appears that the Town of Southampton has known about and taken an interest in offsite emergency planning for Shoreham at least since March 24, 1982, when its Town Board adopted a resolution stating, in part:

IT IS HEREBY RESOLVED, that the NRC require a demonstrably effective evacuation plan for the 5 eastern towns and that emergency planning conducted at the county or state level or by LILCO include these towns in such planning.^{2/}

Counsel for Southampton stated on the record that Southampton now seeks to participate in this proceeding because

in the last few days, there have been some unprecedented developments on the question of off-site emergency planning, and I think that all parties would agree that the Town of Southampton, in view of its particular location and role as a governmental entity, has a unique, or has some unique considerations with regard to off-site emergency planning determinations.

I think that if the County's motion, as filed yesterday, is granted by the Commission our intervention will be brief, but in the event that motion is not granted there are some very critical questions concerning the rights of local governments which the Town of Southampton is interested in having protected in view of the recent developments.

Tr. 20238-39. But the Suffolk County Legislature's decision to reject its draft emergency plan does not appear in and of itself to create "unique considerations" sufficient to alter the level of interest in emergency planning already voiced by Southampton a year ago in its resolution.

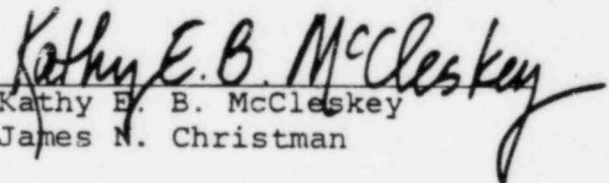
^{2/} This resolution, and a letter transmitting it to NRC Chairman Nunzio Palladino, are attached to this pleading.

Counsel for Southamptor has responded in part regarding the timeliness of its petition by stating it is "fully aware" of the "take the record as you find it provisions in the regulations and the case law." Tr. 20240. See Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-600, 12 NRC 3, 8 (1980). The Board ruled that if Southamptor is permitted to participate, that limitation will apply. Tr. 20239-40.

Southampton's petition is grossly out of time. Therefore, LILCO requests, in keeping with the limitation already set by the Board, that the Board (1) require Southampton to articulate precisely the offsite issues on which it desires to participate, within ten days of any Board decision allowing the parties to begin litigating offsite emergency planning; and (2) limit Southampton's participation in any future discovery to receipt of those documents that have been generated since the close of the previous discovery period, given the massive document production that has already occurred.

Respectfully submitted,

LONG ISLAND LIGHTING COMPANY


Kathy E. B. McCleskey
James N. Christman

Hunton & Williams
P.O. Box 1535
Richmond, Virginia 23212

Dated: March 3, 1983

Town of
Southampton,



Southampton
Long Island, N. Y.

MARTIN LANG, SUPERVISOR

TOWN HALL - HAMPTON ROAD
SOUTHAMPTON, L. I., NEW YORK 11968
516 - 283-0924 OR 0976

DOCKET NUMBER 50-322
PROD. & UTIL. FAC.....

March 24, 1982

Nunzio Palladino
Chairman of the U.S. Nuclear
Regulatory Commission
Washington, D.C. 20555

Dear Chairman Palladino:

The enclosed resolution was adopted on March 23, 1982, by a vote of 5-0, by the Town Board of the Town of Southampton.

Your reply to this resolution in the near future would be greatly appreciated.

Sincerely,

MARTIN LANG
Supervisor

nm
Enclosure

cc: Peter F. Cohalan
Suffolk County Executive

William Richards
Presiding Officer
Suffolk County Legislature

Lawrence Brenner, Esq.
Administrative Judge



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KENNETH H. THOMMEN, TOWN CLERK

SOUTHAMPTON, NEW YORK 11968
(516) 283-6000 EXT. 214

OFFICE
BOOK

March 24, 1982

To Whom It May Concern:

Please be advised that the Town Board, at a meeting held on March 23, 1982, adopted the following resolution:

WHEREAS, certain official government studies (Reactor Safety Study - WASH - 1400) recommend that evacuation planning in the event of a nuclear accident be developed out to 25 miles from the nuclear power plant;

WHEREAS, earlier government studies (Brookhaven National Lab. - WASH - 740 revised) as yet unfulfilled, state that deaths from a catastrophic nuclear reactor accident could occur out to 150 kilometers (100 miles) from its line with severe thyroid damage occurring at 1000 kilometers;

WHEREAS, the Shoreham nuclear power plant due to come in line in 1983 will be within a 50 mile radius of most of the south and north forks of Eastern Long Island as well as Nassau County to the west;

WHEREAS, the east end of Long Island represents a transportation traffic "dead end" that essentially precludes any evacuation of the residents;

WHEREAS, the WASH - 740 revision states that sheltering of people during a nuclear emergency is virtually useless due to the rapid air turnover in most buildings;

IT IS HEREBY RESOLVED, that the NRC require a demonstrably effective evacuation plan for the 5 eastern towns and that emergency planning conducted at the county or state level or by LILCO include these towns in such planning.

Very truly yours,

Kenneth H. Thommen
Kenneth H. Thommen
Town Clerk

/sd

pc: Nunzio Palladino, Chairman
Lawrence Brenner, Esq.
Herbert Brown, Esq.
Hon. Peter Cohalan
William Richards, Presiding Officer

CERTIFICATE OF SERVICE

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

I hereby certify that copies of LILCO'S RESPONSE TO THE TOWN OF SOUTHAMPTON'S NOTICE OF INTENT TO PARTICIPATE IN THIS PROCEEDING were served this date upon the following by hand (as indicated by an asterisk) or by first-class mail, postage prepaid.

Lawrence Brenner, Esq.*
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Atomic Safety and Licensing
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U.S. Nuclear Regulatory
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Washington, D.C. 20555

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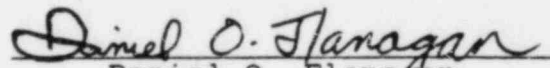
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DATED: March 4, 1982