

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. 50-322 (OL)

PETITION OF SUFFOLK COUNTY
FOR LEAVE TO FILE A BRIEF IN REPLY

Pursuant to Section 2.730(c) of the Commission's Rules of Practice, Suffolk County petitions for leave to file a Brief in Reply to LILCO's brief of March 19, 1983, and to the NRC Staff's brief of March 25, 1983, both of which were filed in response to the County's Motion to Terminate the Shoreham Operating License Proceeding and the County's Supplemental Brief in support of that motion. A copy of Suffolk County's Brief in Reply accompanies this Petition.

The County's Motion to Terminate raises important issues of first impression for this Board and/or the Commission to resolve. See Suffolk County Motion For Certification. The County submits that the County's reply to several of the arguments raised in the briefs of LILCO and the Staff will provide assistance to the Board and Commission in understanding the issues fully and in coming to a proper resolution of the matter.

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Several reasons in particular compel granting this Petition. First, the LILCO and Staff briefs seriously mischaracterize the County's arguments and legal position on several points, particularly concerning the proper interpretation of 10 C.F.R. Sections 50.33(g), 50.47(a)(2) and 50.47(c)(1). See Staff Brief at 12-17; LILCO Brief at 63-80. The County requests an opportunity to correct those mischaracterizations so that the precise legal issues to be considered are sharply focused. See Reply Brief at 6-16.

Second, the LILCO and Staff briefs raise arguments not addressed in the County's initial brief supporting its Motion to Terminate. For example, the Staff and LILCO both discuss the preemption doctrine and the County's alleged attempt to "veto" Shoreham operation. See, e.g., Staff Brief at 8-12; LILCO Brief at 83-94. The County did not address these arguments in its initial submission because it felt these issues were not pertinent. In its reply, the County demonstrates why these Staff and LILCO arguments are not relevant to the narrow legal issues which are presented. See Reply Brief at 3-5, 16.

Third, LILCO, with support from the Staff, proposes a schedule for offsite emergency planning hearings and the order in which the parties should proceed. LILCO Brief at 109-117; Staff Brief at 23. The County did not address this matter in its earlier submissions because it is beyond the scope of the issues the Board asked to be briefed. See ASLB Order, February 28, 1983. The County believes, therefore, that such discussion should

be struck from the LILCO and Staff briefs. However, if the Board considers these matters, the County certainly should have an opportunity to respond. See Reply Brief at 19-20.

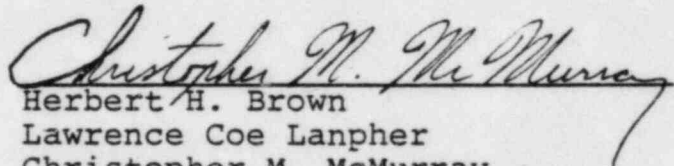
Finally, LILCO has devoted numerous pages of its brief to a distorted discussion of the alleged history of the County's role in emergency planning for Shoreham and has further advanced arguments impugning the competence, integrity, and good faith of the duly elected officials of Suffolk County. See LILCO Brief at 14-63, 82, 92 n. 39. LILCO's resort to such attacks on the County government requires a County response. See Reply Brief at 20-23.

The County submits that the foregoing grounds demonstrate a strong showing of good cause for leave to file a reply brief under 10 C.F.R. 2.730(c). See Metropolitan Edison Co. (Three Mile Island), CLI-80-19, 11 N.R.C. 700, 701 (1980). Furthermore, consideration of the County's brief in reply should not delay the Board's decision on the Motion to Terminate and Motion For Certification since the County has acted promptly in submitting its reply brief only two working days after the Staff's brief was filed.

Therefore, the County requests that this Board grant the instant petition.

Respectfully submitted,

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A handwritten signature in cursive script, reading "Christopher M. McMurray". The signature is written in dark ink and is positioned above the printed name and address of the law firm.

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March 29, 1983

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Petition of Suffolk County For Leave To File A Brief In Reply" and "Suffolk County's Reply To LILCO's And The NRC Staff's Briefs In Opposition To Suffolk County's Motion To Terminate The Shoreham Operating License Proceeding And The County's Motion For Certification" were sent on March 29, 1983 by first class mail, except where otherwise noted, to the following:

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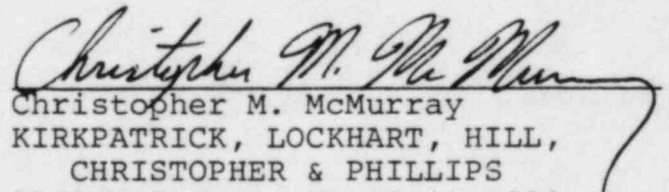
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March 29, 1983