

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	Docket No. 50-322
LONG ISLAND LIGHTING COMPANY)	(License Transfer
(Shoreham Nuclear Power)	Application)
Station, Unit 1))	(56 Fed. Reg. 11781,
)	March 20, 1991)

AFFIDAVIT OF DR. JOHN R. STEHN

Dr. John R. Stehn, being duly sworn, says as follows:

1. I, John R. Stehn, reside at 8 Harbor Hills Drive, Port Jefferson, New York 11777 which is about ten miles from the Shoreham Nuclear Power Station ("Shoreham Plant"). I have owned this property for twenty-nine years. Thus, I live within both the ten and fifty mile geographical zones utilized by the U.S. Nuclear Regulatory Commission ("NRC") to determine whether a party is sufficiently threatened by the radiological hazard and other environmental impacts of a proposal to establish the requisite interest and standing for intervention as of right.
2. Before I entered semi-retirement in 1974, I worked as a Physicist for sixteen years at the Brookhaven National Laboratory. At Brookhaven, I was part of a team of roughly twelve physicists in the National Nuclear Data Center. The team regularly obtained information from scientists who were making measurements of the nuclear properties of materials, especially those materials important to the design of nuclear reactors, in

order to improve the quality and efficiency of nuclear power plants. Before my tenure at Brookhaven, I spent sixteen years doing very similar work at the General Electric Knolls Atomic Power Laboratory. Although I am presently retired, I enjoy a continuing appointment at Brookhaven as a Guest Scientist. As a Guest Scientist, I am able to both follow recent developments in my field and to continue research on a project that was incomplete at the time I retired. Brookhaven is located about seven miles from Shoreham and, thus, I am within the geographical zone of interest not only while I am at home, but also while I am working.

3. I began my career in graduate school by obtaining a Ph. D. in Nuclear Physics at the University of Wisconsin. This training, together with my thirty-two years of experience practicing as a nuclear reactor physicist and nuclear engineer at two major research laboratories, has allowed me to appreciate the technology developed during and after World War II to use the immense possibilities offered by nuclear energy to help mankind generate electrical energy more cleanly, cheaply, and safely. I know very well how nuclear power plants are designed to work and, from my contacts with others in the field, how it is possible for mishaps to occur. I strongly support the use of nuclear power to meet our nation's energy needs in a safe, economical, and environmentally benign manner. When Shoreham was being built, I was delighted to see evidence that I would be able to retire on

Long Island with the prospect of there being ample supplies of inexpensive electricity to make living here both pleasant and inexpensive. Now that I am almost completely retired, I find myself threatened by the rising costs of electrical power. The terms of the agreement between LILCO and Governor Cuomo which allow LILCO to increase its rates by 5% per year for the next ten years, so long as it does not operate Shoreham as a nuclear plant, will be especially burdensome to me as a retired person.

4. I have been a member of Scientists and Engineers for Secure Energy, Inc. ("SE₂") since 1982. I authorize SE₂ to represent my interests, as described herein, in any proceedings to be held in connection with the Long Island Lighting Company ("LILCO") application to transfer the Shoreham Plant license ("transfer") to the Long Island Power Authority ("LIPA").

5. I am concerned that the transfer would constitute another step in the decommissioning process presently underway at Shoreham in violation of my rights under the National Environmental Policy Act ("NEPA"). The transfer would reaffirm and further the previous NRC decisions allowing LILCO to reduce staffing and maintenance to a level clearly inconsistent with the terms of the full power operating license and NRC regulations. SE₂ submitted a Section 2.206 request in conjunction with the Shoreham-Wading River Central School District in July of 1989 when the destaffing and plant disassembly activities had only

just been announced and were yet to be implemented. The Request, which has been denied, asserted that these actions should not be allowed to go forward before publication of a Final Environmental Impact Statement ("FEIS") pursuant to the dictates of NEPA and because they were inimical to the public health and safety due to their inconsistency with LILCO's license obligations as a full-power licensee. I separately reaffirm that principle with respect to the amendment.

6. I do not believe that any steps in furtherance of the Shoreham Plant's decommissioning should be implemented until a FEIS evaluating, among other things, the direct and indirect impacts of, and alternatives to, the entire decommissioning proposal has been completed in compliance with the terms of NEPA and the NRC's own regulations in a single proceeding. If the NRC allows steps which are clearly in furtherance of decommissioning, and have no necessary independent utility, to be implemented at the Shoreham Plant prior to the necessary NEPA review, my rights, and the rights of those similarly situated to have an opportunity for meaningful comment on the environmental consideration of the decommissioning proposal will be prejudiced, if not completely denied. Besides reaffirming past actions aimed at removing the Shoreham Plant from service and, therefore, in furtherance of decommissioning, the transfer would also set the stage for yet other actions in furtherance of decommissioning. The transfer

would be a further step in removing the plant from service which is part of "decommissioning" as defined by the NRC regulations.

7. The transfer also represents a threat to my personal radiological health and safety and to my real and personal property in violation of my rights under the Atomic Energy Act of 1954, as amended, since, among other things, LIPA lacks the financial, technical and management qualifications to become the transferee of the Shoreham Plant license. Thus, transfer of the license to LIPA would unreasonably endanger my health and safety.

8. As a Long Island resident, I will be injured if the Shoreham Plant license is transferred to LIPA because LIPA is statutorily barred from operating that plant and thus I will be denied the benefit of that plant as an electric generating facility in violation of the purpose of its license. I am further interested in actions which will have a direct effect on the availability of reliable and environmentally benign electric generation to meet my needs and those of my family and the community as a whole. I understand that Long Island is presently at the full capacity of the existing natural gas pipelines which supply this area and that there is inadequate reserve capacity for the growing electric energy demand of the area. Thus, either the Shoreham Plant must be operated or alternative generating facilities will have to be built and operated. Because natural gas supplies cannot easily be increased, oil-burning plants will

inevitably be needed to replace the Shoreham Plant thereby increasing our reliance on foreign oil and thus reducing the security of our energy supply, among other things. These plants, in turn, will emit pollution lowering air quality in the region and contributing to global warming and acid rain. These effects of the Shoreham Plant's decommissioning will have detrimental effects on my health and on the quality of the natural environment in which I live day-to-day. This calls for serious consideration of the alternatives to decommissioning.

9. I am also concerned about the adverse economic consequences which will automatically flow from the decommissioning of the Shoreham Plant and injure me. These injuries include depriving me of a reliable electrical supply with ensuing damage to my health, loss of economic growth in the area and hence damage to my property values. Also, under the terms of the existing Agreement between LILCO and the State of New York, the cost of electric energy will probably double over the next ten years. In addition to these outrageous electric rate increases, the transfer to LIPA would involve a drastic reduction in real property tax income for the Town of Brookhaven (about 28%) and the County of Suffolk (about 10%) injuring me both by a precipitous decline in government services for me and by imposing significant real estate tax increases on me.

10. And if the scope of this proceeding is narrowed to its relationship to the choice among the alternatives for decommissioning mode, I believe my health, safety and environmental interests would be harmed by any actions inconsistent with mothballing the plant ("SAFSTOR").

11. I understand that SE₂ has been joined by the Shoreham-Wading River Central School District ("School District") in seeking to intervene in hearings on other issues. I also understand that the issues raised by all of these actions significantly overlap due to the fact that each of the actions constitute another step in the decommissioning process underway at the Shoreham Plant. I would favor the consolidation of all of these proceedings to consider the issues raised by the School District and SE₂. Consolidation would be the most efficient and expeditious way to proceed for all concerned. I also submit that such consolidation is demanded by NEPA because all of these segmented proposals and actions are, in fact, part of a single proposal, are cumulatively significant, and have no utility independent of the decommissioning proposal.

John R. Stehn

Dr. John R. Stehn

SUBSCRIBED AND SWORN BEFORE ME, on this 17 day of April, 1991.

KATHLEEN FALLON
Notary Public, State of New York
No. 4789605
Qualified in Suffolk County
Commission Expires January 31, 1992

Kathleen Fallon
Notary Public
My Commission expires: 1992

Heat on LI Power Authority

By Kinsey Wilson

STAFF WRITER

Like the nuclear power plant it helped consign to oblivion, the Long Island Power Authority is coming under fire from critics who question whether it should be a permanent fixture on the local political landscape.

The criticism has come from all quarters — from longtime opponents who feel the authority never should have been created, as well as allies who worry that LIPA has become little more than an arm of the governor's office.

In January, Senate Republicans suggested the Legislature should take another look at LIPA's role. In February, both *Newsday's* editorial page and a collection of local business leaders called for LIPA's outright abolition.

And even some staunch anti-Shoreham activists have admitted having doubts. "I don't want to demean the valuable role that LIPA could play," said Murray Barbash, a businessman who helped lead the crusade against the plant. "But LIPA has absolutely no power. So what good is it?"

Established in 1986 to stage a hostile takeover of the Long Island Lighting Co., LIPA instead settled for a deal that virtually guaranteed LILCO's profitability as an investor-owned utility and left the authority with the job of disposing of an idled nuclear plant.

LIPA officials say it's a crucial job, but one that has left the authority limited time to promote a more sensible energy policy for Long Island.

As a result, the authority's mission

Agency's existence questioned

remains ambiguous, its long-term political future uncertain. Lacking either the clout of a mature state authority or the populist mandate of a grass-roots organization, LIPA remains largely dependent on the goodwill of the governor and the state legislators who created it.

And while no one in Albany appears ready to pull the plug, the divergent political interests that united to create the authority five years ago have conflicting views about its future.

State Sen. James Lack (R-East Northport), one of the authority's early supporters, says that while LIPA could continue to serve a useful function, no government program can be regarded as sacrosanct at a time when the state is facing a \$6-billion deficit. "It's not the first agency I want to get rid of," Lack said recently. "But if we have to rob Peter to pay Paul, so be it."

Gov. Mario Cuomo says his support is firm, but Cuomo didn't give LIPA a penny in his proposed 1991-92 budget, a move that Assemb. Lewis Yevoli (D-Old Bethpage) says is "tantamount to saying you don't think they should stay in existence."

And Assemb. Paul Harenberg (D-Bayport), who was instrumental in establishing LIPA, says he will introduce legislation later this year postponing the first scheduled election of LIPA trustees until at least November, 1992 — a tactical retreat at least partly

aimed at averting a battle with state lawmakers who view LIPA as a potential breeding ground for political rivals.

While tending to Shoreham, LIPA also has attempted to cast itself as a watchdog over local energy matters — a voice of the people in an arena where the public seldom exercises direct influence.

It is spending more than \$500,000 to determine whether Shoreham should be converted to a natural gas-fired power plant. It commissioned a \$300,000 study that examined the potential for cost-effective energy savings on Long Island and was used to prod LILCO into undertaking more aggressive conservation programs. It has earmarked another \$600,000 for energy-efficiency demonstration projects in public buildings on Long Island. It also has promised to oppose LILCO's recent request for successive 5 percent electric rate increases, though the full extent of LIPA's objections have not been spelled out.

Finally, LIPA has clung to the notion that it might one day mount a takeover of LILCO, though having failed when LILCO stock was selling for \$9-a-share, few think LIPA could pull it off with the stock now at \$22. "Someone would have to take up full-time residence in the twilight zone to think there is a remote threat of a takeover," said former Suffolk Legis. Wayne Prospect, who once advocated a public takeover of LILCO.

II, despite such efforts, LIPA has

failed to attract a following, some board members say it is mainly because it has spent the last two years preparing the legal and regulatory groundwork for the decommissioning of Shoreham. "That's not an issue that is a headline grabber," said LIPA Chairman Richard Kennel, a close associate of the governor who acts as the authority's chief spokesman. "Yet, if we didn't make that our main objective, it would wind up costing ratepayers millions of dollars."

Other board members say LIPA has failed to promote its mission as an agency devoted to helping electric ratepayers save money. "We have to stress more strongly the economic importance of LIPA," said board member Irving Lake. "We've not given enough attention to getting that message across."

Longtime critics say the problem is not publicity, but the lack of a clear mission. Although the Long Island Association has not taken a formal position on LIPA's fate, LIA President James Larocca, says the authority's various functions could easily be assumed by the agencies such as the New York Power Authority, the Public Service Commission, the State Energy Office, the New York State Energy Research and Development Authority, the state Consumer Protection Board, the consumer division of the state Attorney General's Office and the proposed Consumer Utility Board.

"There are literally a baker's dozen," Larocca said. "I think one of the prob-

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LIPA's Continued Existence Questioned

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lems LIPA has had, in defining its role among and between these agencies."

While LIPA has come to expect such criticism, it has also come under fire from some of its natural allies, including activists at the forefront of the fight to close Shoreham.

Pete Maniscalco, a longtime anti-Shoreham campaigner, says the authority has compromised itself by attempting to be too many things to too many people.

On the one hand, Maniscalco said, LIPA is promoting a bold conservation program that has the potential to cut electric bills significantly while reducing the need for new power plants. On the other hand, in talking up the prospects of a nuclear-to-gas conversion, LIPA has raised the prospect of building an enormous new power plant that would almost certainly undercut any serious conservation effort.

"They have a split personality," Maniscalco said. "They are talking out of both sides of their mind."

Maniscalco fears that LIPA might convert Shoreham simply to give itself an independent source of revenue — a motive board members deny. "And from the governor's point of view, it would look good if you took a facility that had been closed and turned it into something useful," Maniscalco said.

LIPA also has seemed torn in its dealings with LILCO.

Although it touts itself as a guardian of ratepayer interests, LIPA reacted cautiously to LILCO's recent request for annual 5 percent rate increases over the next three years.

Kessel says LIPA will oppose LILCO's rate request. Yet when federal regulators asked LILCO officials at a recent meeting in Washington whether anyone had opposed the company's rate hike request, Kessel, who

was seated next to LILCO's lawyers, said nothing, an omission he explains by noting that the question was not directed at him. "There are times when you walk a very difficult line," Kessel said. "And that was one of them."

The difficulty is compounded by the fact that LIPA has had to develop a close working relationship with LILCO to make headway on decommissioning, and by the fact that an outright attack on LILCO's rate case could expose flaws in the financial assumptions underlying the Shoreham settlement, which envisioned annual increases of up to 5 percent.

Yevoli, while supporting LIPA's continued existence, says he's concerned that the authority hasn't been keeping a sharp enough eye on LILCO. "They should be more forceful in these rate applications," Yevoli said. "It's one thing to send a perfunctory letter. It's another to come up with specifics."

Kessel, though, grows defensive when confronted with such criticism. "If there are people out there who think we should be doing less or doing more, let them run for the LIPA board," he said recently.

If LIPA has an enduring role, says Warren Liebold, president of the Albany-based environmental planning lobby, it may be as an advocate of conservation and as a "least-cost planning agency" devoted to finding the cheapest means of supplying electricity to an area that has the highest rates in the nation.

It's a concept endorsed by state Sen. Kenneth LaValle (R-Port Jefferson), a sponsor of the original LIPA legislation.

"I think their role has to be defined narrowly as an advocate for the region," LaValle said recently. "To secure cheap energy sources for Long Island. I think that's the important job ahead for LIPA."

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LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power Station,
Unit 1)

USNRC Docket No. 50-322

License No. NPF-82

(Application for
License Transfer)

CERTIFICATE OF SERVICE

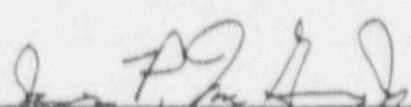
I hereby certify that one copy of the Scientists and Engineers for Secure Energy, Inc.'s Comment on Proposed No Significant Hazards Consideration and Petition for Leave to Intervene and Request for Prior Hearing is being served upon the following by first-class mail, postage prepaid on this 19th day of April, 1991:

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