

AC 50-522/OLA/2

'91 APR 23 P1:06

Before the Commission

Docket No. 50-322-OLA

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PDR ADCK 05000322  
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LILCO responds to Petitioners' Motion for Leave as follows:

1. Petitioners have failed to offer any persuasive reasons why they should be provided an opportunity to file their pleading. The NRC's regulations governing the issuance of stays specifically prohibit replies to responses to requests for stays. See 10 C.F.R. § 2.788(d).<sup>2/</sup> In seeking leave to file a reply to what Petitioners characterize as a "blizzard (69 pages) of oppositions from two parties and two amici," Petitioners suggest that their reply would "be helpful to the Commission in sorting out the similarities and contradictions among these oppositions," and would "also be useful to the Commission in identifying the concessions by silence contained within these oppositions and correcting various errors of fact and law within the oppositions." Motion for Leave at 1.

The Commission is quite able to read and understand the papers now before it, without any "assistance" from Petitioners. That Petitioners' motion for a stay provoked a "blizzard" of pages in opposition is not surprising, given the errors in it. Petitioners' desire to take another crack at shoring up their

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<sup>2/</sup> This provision states, in relevant part:

Within ten (10) days after service of an application for a stay under this section, any party may file an answer supporting or opposing the granting of a stay. . . . No further replies to answers will be entertained.

10 C.F.R. § 2.788(d) (emphasis added).

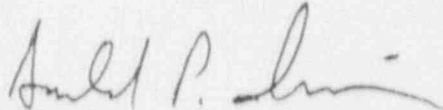
untenable position is not good cause for their being allowed now to file their unauthorized pleading.

2. Petitioners' proffered "Joint Reply to Oppositions to their Joint Motion to Stay License Issuance" (April 5, 1991) is as devoid of merit as Petitioners' initial motion for a stay. While LILCO believes that Petitioners have provided no good reason for the Commission to allow them to file their unauthorized reply, if the Commission decides to accept it, LILCO respectfully requests that the Company (and, if they wish, the NRC Staff, LIPA, and the Governor of New York) be provided an opportunity to file a prompt surreply if the Commission believes further arguments on any issues would be helpful.

3. LILCO urges the Commission to deny promptly Petitioners' motion for a stay, which, as LILCO, the NRC Staff, LIPA, and Governor of the State of New York have shown in their oppositions, so lacks merit as to border on the frivolous. LILCO's request for an amendment to create a "possession only" license has been pending before the NRC since January 5, 1990. The NRC Staff made a proposed determination that the amendment poses no significant hazards consideration on August 15, 1990. 55 Fed. Reg. 34,098 (Aug. 21, 1990). No good purpose is served by allowing Petitioners to continue to impede the orderly functioning of the NRC's regulatory process through the submission of pleadings aimed, ultimately, at simply delaying and

frustrating that process. Accordingly, LILCO respectfully renews its request that Petitioners' motion for a stay be denied and a "possession only" license for Shoreham be promptly issued.

Respectfully submitted,



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DATED: April 22, 1991

LILCO, April 22, 1991

DOCKETED  
USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'91 APR 23 P1:06

Before the Commission

In the Matter of

LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power Station,  
Unit 1)

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) Docket No. 50-322-OLA  
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CERTIFICATE OF SERVICE

I hereby certify that copies of **LILCO'S RESPONSE TO PETITIONERS' MOTION FOR LEAVE TO FILE UNAUTHORIZED JOINT REPLY** were served this date upon the following by Federal Express, as indicated by an asterisk, or by first-class mail, postage prepaid.

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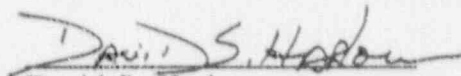
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DATED: April 22, 1991