



## LONG ISLAND LIGHTING COMPANY

SHOREHAM NUCLEAR POWER STATION  
P.O. BOX 618, NORTH COUNTRY ROAD • WADING RIVER, N.Y. 11792

JOHN D. LEONARD, JR.  
VICE PRESIDENT - OFFICE OF CORPORATE SERVICES  
AND  
VICE PRESIDENT - OFFICE OF NUCLEAR

SNRC-1809

APR 29 1991

U. S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, D.C. 20555

Request to Amend Indemnity Agreement  
Shoreham Nuclear Power Station - Unit 1  
Docket No. 50-322

Gentlemen:

Long Island Lighting Company (LILCO or the Company) hereby requests an amendment to Indemnity Agreement No. 87 between LILCO and the Nuclear Regulatory Commission (NRC), dated May 19, 1982, as amended, (the Indemnity Agreement) to eliminate LILCO's requirement to participate in the secondary financial protection program. As is described below, the Company's request is consistent with the status of and plans for the Shoreham Nuclear Power Station (Shoreham or the Facility), the terms of the Indemnity Agreement between the NRC and LILCO, as well as NRC regulations.

### Background

Pursuant to 10 CFR §140.11(a)(4), LILCO is required to maintain \$200,000,000 in primary nuclear liability insurance for Shoreham. In addition, the Company is required to obtain secondary financial protection in the form of private liability insurance under an industry retrospective rating plan (hereinafter referred to as the secondary financial protection program). Under this program, LILCO is liable for deferred premium charges of up to \$63,000,000 with respect to any nuclear incident but no more than \$10,000,000 per incident, within one calendar year. LILCO's request for an amendment to the Indemnity Agreement relates only to this secondary coverage and is based on the current and future status of Shoreham.

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As the NRC is aware, Shoreham is permanently shut down. Pursuant to the Settlement Agreement between LILCO and the State of New York, LILCO has agreed, inter alia, (1) not to operate Shoreham; (2) to remove the fuel from the Shoreham reactor (which has been accomplished); and (3) to transfer the Facility to the Long Island Power Authority (LIPA). Under New York law, LIPA is prohibited from operating Shoreham and intends to decommission the Facility. New York Public Authorities Law §1020-t (McKinney's 1991).

LILCO and LIPA have taken a number of steps in preparation for the transfer and decommissioning of Shoreham. Among these efforts, the Company has filed a request with the NRC for a Possession Only License;<sup>1/</sup> the Company and LIPA have filed a joint request with the NRC for a License Transfer;<sup>3/</sup> and LIPA has submitted to the NRC a draft decommissioning plan.<sup>4/</sup> Moreover, the NRC has issued a Confirmatory Order Modifying License (Immediately Effective)<sup>4/</sup> which forbids LILCO from placing the fuel back into the reactor.<sup>4/</sup> This order, in effect, eliminates LILCO's authority to operate Shoreham.

As part of these and other applications by LILCO and LIPA regarding Shoreham, the Company has analyzed the risks associated with the current plant status. In the Company's request for a POL, LILCO prepared a Defueled Safety Analysis Report (DSAR) outlining the operating history of Shoreham and the current status of the spent nuclear fuel. As described in the DSAR, the Shoreham spent fuel is in a low burnup condition due to the fact that Shoreham's operating life was limited to testing at power levels not exceeding 5% of rated power.<sup>5/</sup> This results in an estimated total core wide heat generation rate of approximately 330 watts as of June 1990. (See DSAR, Figure 15.1-1). The estimated fuel heat load will reduce to approximately 250 watts by June 1991. Based on this low heat generation rate, systems for active cooling are not required, and only minimal capacity systems are required for pool water makeup to handle evaporation.

- <sup>1/</sup> W. E. Steiger, Jr. Letter to Nuclear Regulatory Commission (SNRC-1664) dated January 5, 1990.
- <sup>2/</sup> Joint Application of Long Island Lighting Company and Long Island Power Authority for License Amendment to Authorize Transfer of Shoreham, dated June 28, 1990.
- <sup>3/</sup> R. M. Kessel (LIPA) letter to Nuclear Regulatory Commission dated December 27, 1990.
- <sup>4/</sup> Confirmatory Order Modifying License (Immediately Effective) dated March 30, 1990.
- <sup>5/</sup> The effective burnup of the fuel is approximately 2 full power days.

Request for Amendment

The Indemnity Agreement states:

Upon the expiration or revocation of any license designated in Item 3 of the Attachment, the Commission will enter into an appropriate amendment of this Agreement with the licensee reducing the amount of financial protection required under this Article; provided, that the licensee is then entitled to a reduction in the amount of financial protection under applicable Commission regulations and orders.

Indemnity Agreement, Article II, paragraph 7.

Under this provision, the NRC is obligated to amend the Indemnity Agreement, provided LILCO is entitled to a reduction in the amount of financial protection required under NRC regulations. Given the status of Shoreham, such an amendment is appropriate.

By its express terms, the regulations imposing the above-mentioned financial protection requirements apply only to a reactor "which is licensed to operate and which is designed for the production of electrical energy and has a rated capacity of 100,000 electrical kilowatts or more." 10 CFR §140.11(a)(4) (Emphasis added). While, at one time, Shoreham met this criterion, as a result of the Confirmatory Order, the Facility is no longer authorized to operate. Accordingly, the provisions of §140.11(a)(4) do not apply to Shoreham.

However, the Indemnity Agreement also provides that:

The licensee shall, notwithstanding the expiration, termination, modification, amendment, suspension or revocation of any license or licenses designated in Item 3 of the Attachment, maintain such financial protection in effect until all the radioactive material from the location has ended . . . ., or until the Commission authorizes the termination or the modification of such financial protection. The Commission will not unreasonably withhold such authorization.

Indemnity Agreement, Article II, paragraph 1. (Emphasis added).

Hence, while the provisions of §140.11(a)(4) no longer apply to Shoreham, the Indemnity Agreement requires LILCO to maintain the coverage stated in the Indemnity Agreement until the radioactive



material is removed from the site,<sup>6/</sup> or until the NRC agrees to a termination or modification of the required coverage. LILCO believes the termination of the requirement to participate in the secondary financial protection program is appropriate at this time.

The secondary financial protection program is intended to provide assurance of adequate compensation in the event of a severe nuclear accident. However, based on Shoreham's defueled condition, the probability and consequences of an accident at Shoreham are de minimus. In fact, the only remaining credible events are those associated with fuel handling and storage activities, which are analyzed in the Defueled Safety Analysis Report (DSAR). In addition to those credible events a "worst case" accident was analyzed (DSAR Section 15.1.36A). The "worst case" accident -- the complete mechanical failure of the Shoreham spent fuel and the complete release of the fuel's gaseous activity -- results in whole body or skin doses at the exclusion area boundary and limited population zone amounting to only 0.031% of the 10CFR100 guidelines. As a result, the primary insurance coverage of \$200,000,000 is more than adequate to compensate individuals for injuries resulting from any postulated accident at Shoreham.

As a result, LILCO does not require secondary coverage nor should the Company be obligated to extend such coverage (through deferred premiums) to other nuclear facilities. As the Commission well knows, the secondary financial protection program is essentially a self-insurance policy in which the various nuclear utilities pool resources to ensure the availability of adequate funds to cover damages from a nuclear incident which exceed the primary liability coverage held by the licensee involved. In essence, the secondary coverage is a risk-sharing program. Since there is virtually no risk of an accident at Shoreham which would exceed LILCO's \$200,000,000 primary coverage, the Company no longer has risks to place upon other utilities. Consequently, LILCO should not have the risks of other utilities placed upon it. In addition, the elimination of LILCO's obligation to participate in the secondary financial protection program will remove the potential liability (\$63 million per event; \$10 million per year per event) which LILCO must report on its financial statements.

Finally, the amendment sought by LILCO to the Indemnity Agreement is not one of first impression for the NRC. In fact, LILCO's request to amend the Indemnity Agreement is virtually identical

<sup>6/</sup> The Shoreham spent fuel is currently at the Facility and will likely remain there for one to two years. Other radioactive material will be removed during the LIPA decommissioning effort.

to that made by Consolidated Edison Company of New York (Con Edison) for its Indian Point Unit 1 reactor.<sup>7/</sup> This request was granted by the NRC on December 19, 1989. Like LILCO, Con Edison submitted that because it was no longer authorized to operate the Indian Point Unit 1 reactor and because the reactor has been defueled, the secondary financial protection requirements imposed by the Indemnity Agreement should be eliminated.

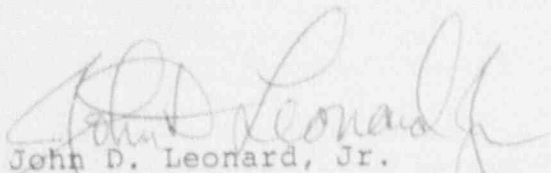
Conclusion

LILCO respectfully requests an amendment to the Indemnity Agreement to eliminate the requirement for LILCO to participate in the secondary financial protection program. As described above, the risk of a severe accident at Shoreham has been virtually eliminated. As a result, the \$200,000,000 in primary liability coverage carried by LILCO is more than adequate to cover any potential liability from an accident at Shoreham and participation in the secondary financial protection program is unnecessary.

The Company has been advised by the NRC that it will issue a POL for Shoreham in the near future. This should provide a convenient point at which to amend the Indemnity Agreement. However, LILCO requests approval of this amendment as soon as possible and does not wish to link the approval of this request with the issuance of a POL.

If you have any further questions on this matter, please contact the undersigned.

Very truly yours,

  
John D. Leonard, Jr.  
Vice President, Office of Corporate Services  
and Vice President, Office of Nuclear

GJG/ab

cc: S. Brown  
T. T. Martin  
B. Norris

<sup>7/</sup> Brent L. Brandenburg (Consolidated Edison Company) letter to Nuclear Regulatory Commission, dated January 24, 1989.