

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)

ADDENDUM TO SUFFOLK COUNTY MOTION FOR
LEAVE TO FILE A NEW CONTENTION CONCERNING
THE SHOREHAM EMERGENCY DIESEL GENERATORS

On May 2, 1983, Suffolk County moved for leave to file a new contention concerning the Shoreham emergency diesel generators (the "Motion"). Thereafter, counsel for the NRC Staff, during telephone conversations with counsel for the County, suggested that, because the evidentiary record on all matters other than emergency planning has been closed, the County, as a procedural matter, might want formally to seek a reopening of the record as well as the admission of a new contention.

The County believes that its original Motion, in seeking admission of a new contention at this stage of the proceeding, already addressed this matter since admission of the new contention certainly will require reopening of the evidentiary record. However, to clarify the County's view, this Addendum is hereby submitted.

Suffolk County does not believe that the filing of its Motion required petitioning the Board to reopen the evidentiary record. Neither the participational rights afforded to the County under

Section 2.715(c), nor the "lateness" factors set forth in Section 2.714(a), are conditioned upon a showing that the record should be reopened with respect to the County's proposed contention.

See In the Matter of Cincinnati Gas and Electric Company (William H. Zimmer Nuclear Station), LBP-79-22, 10 NRC 213 (1979). See also In the Matter of Houston Lighting and Power Company (Allens Creek Nuclear Generating Station, Unit 1), ALAB-671, 15 NRC 508 (1982).

However, even if the criteria for reopening the record were applicable, the County's new contention should be admitted. Since there has been no initial decision rendered by the Board, a motion to reopen the record depends upon "(1) the timeliness of the motion, i.e., whether the issues sought to be presented could have been raised at an earlier stage" and "(2) the significance or gravity of those issues." In the Matter of Vermont Yankee Nuclear Power Corporation (Vermont Yankee Nuclear Power Station), ALAB-138, 6 AEC 520, 523 (1973).

As established by the Motion, the County could not have raised earlier the issues set forth in its proposed contention concerning the emergency diesel generators. See Motion at 6-7. It is also clear that the proposed contention raises significant and serious safety concerns regarding the operational capabilities and the reliability of the diesels. See Motion at 1-4. Thus, the facts which support admitting the County's proposed contention also fulfill the criteria for reopening the evidentiary record in this

proceeding. Leave to file the proposed contention concerning the Shoreham emergency diesel generators should therefore be granted.

Respectfully submitted,

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May 10, 1983

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CERTIFICATE OF SERVICE

I hereby certify that copies of Addendum to Suffolk County Motion for Leave to File a New Contention Concerning the Shoreham Emergency Diesel Generators, dated May 10, 1983, have been served upon the following this 10 day of May, 1983 by first-class mail, postage prepaid unless otherwise indicated.

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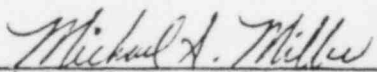
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