



LONG ISLAND LIGHTING COMPANY

SHOREHAM NUCLEAR POWER STATION

P.O. BOX 604, NORTH COUNTRY ROAD • WADING RIVER, N.Y. 11792

May 12, 1983

Mr. Richard C. DeYoung, Director
Office of Inspection
and Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

SNRC-885

NRC Enforcement Action 50-322/EA 83-20

Dear Mr. DeYoung:

Pursuant to 10 CFR § 2.205, this letter is LILCO's response to the proposed civil penalty set forth in a letter from Mr. James M. Allen, Acting Regional Administrator, Region I, to Long Island Lighting Company enclosing a Notice of Violation and Proposed Imposition of a Civil Penalty, 50-322/EA 83-20. A separate letter (SNRC-884) addresses the violation as required by 10 CFR § 2.201. LILCO incorporates by reference the information provided in SNRC-884 in this response.

LILCO requests withdrawal or reduction of the proposed civil penalty based on a careful examination of the facts and circumstances as they relate to the NRC's Enforcement Policy, 10 CFR Part 2, Appendix C. For the reasons stated in Part II of LILCO's response to this violation (SNRC-884), the facts and

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May 12, 1983
Page 2

circumstances concerning the emergency diesel generator test merit reconsideration of the severity level of the violation. LILCO believes they should be classified as a lesser violation. As a result, reconsideration of the civil penalty is requested. Under Section IV.B of the NRC's Enforcement Policy:

Generally, civil penalties are imposed for Severity Level I and II violations, are considered and usually imposed for Severity Level III violations, and may be imposed for Severity Level IV violations that are similar to violations discussed in a previous enforcement conference, and for which the enforcement conference was ineffective in achieving the required corrective action.

10 CFR Part 2, Appendix C, Section IV.B (footnotes omitted). Implicit in this statement of policy is the determination that civil penalties will not be imposed for Severity Level V violations. Thus if, after review of SNRC-884, the NRC concludes that the violation is more appropriately classified as Severity Level V, no civil penalty should be imposed.

Similarly, if the violation is ultimately classified as Severity Level IV, no civil penalty should be imposed. As noted in subsection II.(5) of SNRC-884, NRC I&E inspectors have

May 12, 1983
Page 3

conducted a substantial review of Shoreham's preoperational test program and have found no similar violations. Consequently, the conditions set out in the Enforcement Policy for imposing a civil penalty for a Severity Level IV violation have not been met. Though LILCO has not reviewed all actions under the current Enforcement Policy, LILCO believes that the facts and circumstances of this violation are less significant than Severity Level III preoperational test violations noted at other plants.

Moreover, even if the severity level of the violation is not reduced, the factors discussed in SNRC-884 still indicate that a reconsideration of the civil penalty is warranted. While Severity Level III violations are normally accompanied by a civil penalty, this violation presents unique mitigating circumstances. As noted in LILCO's response:

- (1) Severity Level III violations are defined as failures to confirm design safety requirements as a result of inadequate preoperational test program implementation. The test results, however, did confirm that Emergency Diesel Generator 102 could carry a load equivalent to its 2 hour rating. Moreover, this fact was reconfirmed in subsequent testing. (See SNRC-884, subsections II.(1) and (2)).

May 12, 1983

Page 4

- (2) The LILCO review of preoperational test results is a multi-layered process to ensure that inevitable mistakes and oversights are identified and corrected. This process had not been completed when LILCO was cited for the violation; two required reviews remained. One of these was by the Review of Operations Committee whose Preoperational Test Review Results Subcommittee provides a detailed, technical review of preoperational test results. (See SNRC-884, subsection II.(3)).
- (3) LILCO preoperational test results have been subjected to extensive independent review by both Torrey Pines Technology and NRC I&E. These reviews have not disclosed any other failures to meet acceptance criteria. (See SNRC-884, subsection II.(4)).
- (4) The Joint Test Group has taken an active role in diesel generator preoperational testing as indicated by the extensive comments on the test procedure cited in the violation. The JTG has also taken steps, on its own initiative, to ensure further the reliability of the diesel generators. (See SNRC-884, subsection II.(5)).

LILCO believes that consideration of these factors suggests that no civil penalty be imposed for this violation even if the Severity Level is not lowered to IV or V.

May 12, 1983
Page 5

Finally, if the NRC concludes after reconsideration that a civil penalty should still be imposed, LILCO believes that there are substantial reasons to reduce the proposed amount. If I&E agrees to reduce the level of this violation but still concludes that a civil penalty is appropriate, the penalty should be reduced in accordance with Table 1B of the NRC's Enforcement Policy.

Even if I&E, after careful consideration of the facts and circumstances contained in SNRC-884, continues to classify the violation as Severity Level III, there are important reasons why the level of this civil penalty should be reduced. Under the NRC's Enforcement Policy, unusually prompt and extensive corrective action may result in a reduction of a civil penalty by as much as 50% of the base value specified in the Enforcement Policy. A number of factors are considered in determining whether such a reduction is appropriate: "the timeliness of the corrective action, the degree of licensee initiative, and the comprehensiveness of the corrective action -- such as whether the action is focused narrowly to the specific violation or broadly to the general area of concern."

May 12, 1983

Page 6

LILCO believes that the measures taken prior to and as a result of this violation demonstrate unusually prompt and extensive corrective action. As noted in SNRC-884, LILCO established a Preoperational Test Results Review Subcommittee (PTRRS) of the Review of Operations Committee to enhance the review process for preoperational tests. This action was taken by LILCO prior to the identification by the NRC of the concerns noted in the violation in recognition of the need to ensure thorough and timely review of completed test procedures during the busy period prior to fuel load. Under the process initiated in December 1982, review and approval by the PTRRS is required prior to Joint Test Group approval of preoperational test results.^{1/} This Subcommittee consists of technically oriented and highly qualified plant staff personnel. This change in procedure, taken at LILCO's own initiative, provides a more timely review of test results by the Review of Operations Committee and thus gives the Joint Test Group the benefit of the additional knowledge of the PTRRS prior to JTG approval. Thus, LILCO's action was unusually timely in that it anticipated

^{1/} This process had not been initiated when the test procedure in question was reviewed by the JTG.

May 12, 1983
Page 7

potential review problems during the busy period immediately prior to fuel load and demonstrated initiative because the action was taken prior to identification of the concerns noted in this violation.

Second, the NRC's cover letter forwarding the Notice of Violation indicated that the violation "demonstrates a lack of aggressiveness on the part of LILCO to pursue, identify and resolve associated problems that can affect the reliability of the diesel generators." As reflected in LILCO's response to the violation, LILCO management has aggressively pursued the reliability of the diesel generators. This aggressive pursuit is demonstrated by the actions of the Joint Test Group in expanding the preoperational test program to include a 72 hour extended run of each diesel generator. These tests, added to the program prior to the NRC raising its concerns, are designed to provide further assurance that the engines will operate as designed in a reliable manner. Again, this corrective action was both timely and taken at LILCO's initiative.

Third, LILCO did not wait until the Notice of Violation was issued to act in response to the NRC's concerns.

May 12, 1983
Page 8

Attachment A of SNRC-884, which included corrective and preventive actions, was sent to the NRC less than three weeks after the NRC identified the test results as a potential violation in an I&E inspection report. A notice of violation did not accompany the report and no response was requested. LILCO did respond, indicating that corrective and preventive action had been and was being taken with respect to this violation. Thus, this action was, in LILCO's view, unusually prompt.

Finally, LILCO has taken corrective actions that extend beyond correction of the immediate problem identified in the violation. As explained in LILCO's response to the violation, graphical presentation of strip chart data gathered during electrical load tests of the diesel generators will be developed to facilitate the review of the results of these procedures. The Test Engineer will be present at all Joint Test Group meetings that will consider the results of any preoperational testing performed on the diesel generators. The formation of the PTRRS will further assure the quality and independence of the review of all future preoperational tests. And steps have been taken to improve OQA review of all test results. Thus, LILCO has taken actions to ensure that similar

May 12, 1983
Page 9

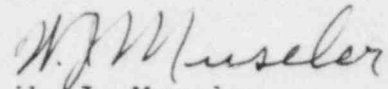
problems do not occur again in reviewing the comprehensive and complex diesel generator preoperational tests and, indeed, all preoperational tests.

In addition to the factors noted above and which are covered in the NRC's Enforcement Policy, LILCO believes there is another important consideration in evaluating the appropriate level of the civil penalty to be imposed in this instance. As SNRC-884 reflects, the review process for this preoperational test procedure had not been completed at the time the NRC Inspector made the observations that are the subject of this violation. LILCO believes that the PTRRS, which was created to assure continued acceptable review of preoperational test results, would have identified and documented the discrepancy between the data recorded in the test package and the acceptance criteria. We are also confident that the judgment of the Test Engineer would have been confirmed in the course of LILCO's normal process for the disposition of matters raised in preoperational test reports. Consequently, since LILCO's own program, which is designed to ensure a comprehensive, multi-layered review, had not been completed, there is a substantial reason for reducing the level of the civil penalty imposed for this violation.

May 12, 1983
Page 10

We appreciate the careful consideration we know you will give this request to withdraw or reduce the proposed civil penalty.

Very truly yours,

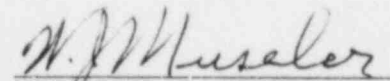
A handwritten signature in dark ink, appearing to read "W. J. Museler". The signature is fluid and cursive, with the first name "W. J." and the last name "Museler" clearly distinguishable.

W. J. Museler
Director, Office of Nuclear

cc: J. M. Allen
J. Higgins
M. S. Pollock
All Parties

COMMONWEALTH OF MASSACHUSETTS)
: ss.:
COUNTY OF SUFFOLK)

WILLIAM J. MUSELER, being duly sworn, deposes and says that I am Director of the Office of Nuclear, Long Island Lighting Company, the owner of the Shoreham Nuclear Power Station. I have read the Notice of Violation and Proposed Imposition of Civil Penalty dated April 12, 1983, and also the responses thereto prepared under my direction dated May 12, 1983. The facts set forth in the response to the Notice of Violation and the response to the Proposed Imposition of Civil Penalty are based upon reports and information provided to me by the employees, agents and representatives of Long Island Lighting Company responsible for the activities described in said Notice of Violation and in said response. I believe the facts set forth in said response are true.


WILLIAM J. MUSELER

Sworn to before me this
12th day of May, 1983

