

12012
12013
12014

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
JUL 22 1991

BEFORE THE COMMISSION

'91 JUL 22 12:00

In the Matter of
LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Power Station,
Unit 1)

) Docket Nos. 50-322,
) 50-322-OLA and
) 50-322-OLA-2
)
)
)

PETITIONERS' FIRST EMERGENCY MOTION FOR STAY

Shoreham-Wading River Central School District and
Scientists and Engineers for Secure Energy, movant-intervenors in
the above-captioned matter ("Movants"), hereby move, by counsel,
the U.S. Nuclear Regulatory Commission ("NRC") to order the Long
Island Lighting Company ("LILCO") to take no action pursuant to
the possession-only license ("POL") for the Shoreham Nuclear
Power Station, Unit 1 ("Shoreham") pending the U.S. Supreme
Court's consideration of Petitioners' renewed application for
stay to Mr. Justice John Paul Stevens pursuant to Supreme Court
Rule 22.5. There is good cause to grant this motion on an
emergency and even ex parte basis to preserve the jurisdiction of
the U.S. Supreme Court to consider this important matter.^{1/}

In the morning of July 19, 1991, the U.S. Court of
Appeals for the District of Columbia's Circuit denied
Petitioners' (in that Court) Emergency Motion for stays of

^{1/} Movants' counsel has advised the NRC Secretary, counsel for
the NRC staff, and the Long Island Power Authority, as well as
the Commission's counsel in the U.S. Court of Appeals, of this
motion by telephone on Sunday, July 21, 1991 and has been
attempting to so advise LILCO's counsel.

DS03

issuance of the POL in that court. That same afternoon, Petitioners submitted an application for stay of the POL to Mr. Chief Justice Rehnquist. At approximately noon on Saturday, July 20, 1991, Petitioners were informed by the U.S. Supreme Court Clerk's Office that the Chief Justice had entered "denied" and his initials on the application. At that time, counsel for Petitioners informed the Supreme Court Clerk's Office of their intention to renew their application before Mr. Justice Stevens as of the opening of the Clerk's Office on Monday, July 22, 1991, stating also that counsel for the Petitioners hoped that he would be authorized by counsel for LILCO to represent that LILCO would take no action pursuant to the POL which might moot Mr. Justice Stevens' consideration of the matter.

Immediately, undersigned counsel made a request for such an authorization to LILCO's counsel, Donald P. Irwin, Esq. Mr. Irwin said he would consult with LILCO management and advise of its decision. Later, Mr. Irwin stated that certain persons were unavailable but that he would inform undersigned counsel as soon as possible or in any event by 8:00 A.M. on Monday morning. As of 4:00 p.m. on Sunday, July 21, 1991, there has been no response.

Undersigned counsel does not doubt the good faith of LILCO's counsel's efforts to obtain a decision from LILCO management, but considers that this emergency motion is necessary at this time, lest the Commission's ability to issue the

appropriate orders to LILCO would be mooted by an adverse decision of the 11th hour and Petitioners' counsel's inability to present an appropriate and timely motion for the Commission to consider before such actions might be taken.

WHEREFORE, Movants urge the Commission, in the interest of justice, to enjoin LILCO from taking any actions under the POL which might moot their renewed application for stay before Mr. Justice Stevens.

Respectfully submitted,



James P. McGranery, Jr.
Dow, Lohnes & Albertson
Suite 500
1255 Twenty-Third St., N.W.
Washington, D.C. 20037
(202) 857-2929
Counsel for the Movant-Intervenors

Shoreham-Wading River Central
School District and Scientists and
Engineers for Secure Energy, Inc.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

91 JUL 22 P12:00

In the Matter of

LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power Station,
Unit 1)

)
) Docket Nos. 50-322,
) 50-322-OLA and
) 50-322-OLA-2
)
)
)
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the Petitioners' First Emergency Motion in the above-captioned proceeding have been served on the following by first-class mail, postage prepaid (except as otherwise indicated below) on this 21st day of July, 1991:

Morton B. Margulies, Chairman
Administrative Judge
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
4350 East West Highway
Bethesda, Maryland

Jerry R. Kline
Administrative Judge
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

George A. Ferguson
Administrative Judge
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
5307 Al Jones Drive
Columbia Beach, Maryland 20764

Thomas S. Moore
Administrative Judge
Alternate Chairman
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

W. Taylor Reveley, III, Esq.
Donald P. Irwin, Esq.
Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074
(by telecopy)

Samuel A. Cherniak, Esq.
NYS Department of Law
Bureau of Consumer Frauds
and Protection
120 Broadway
New York, New York 10271

Michael R. Deland, Chairman
Executive Office of the President
Council on Environmental Quality
722 Jackson Place, N.W.
Washington, D.C. 20503

Stanley B. Klimberg, Esq.
Executive Director &
General Counsel
Long Island Power Authority
200 Garden City Plaza, Suite 201
Garden City, New York 11530


Carl R. Schenker, Jr., Esq.
O'Melveny & Myers
555 13th Street, N.W.
Washington, D.C. 20004
(by telecopy)

Stephen A. Wakefield, Esq.
General Counsel
U.S. Department of Energy
1000 Independence Avenue
Room 6A245
Washington, D.C. 20585

Gerald C. Goldstein, Esq.
Office of General Counsel
New York Power Authority
1633 Broadway
New York, New York 10019

Nicholas S. Reynolds
David A. Repka
Winston & Strawn
1400 L Street, N.W.
Washington, D.C. 20005

Edwin J. Reis, Esq.
Mitzi A. Young, Esq.
Office of General
Counsel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555
(by telecopy)


James P. McGranery, Jr.
Dow, Lohnes & Albertson
Suite 500
1255 Twenty-Third St., N.W.
Washington, D.C. 20037
(202) 857-2929
Counsel for the Movant-Intervenors
Shoreham-Wading River Central
School District and Scientists and
Engineers for Secure Energy, Inc.