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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Commission

In the Matter of LONG ISLAND LIGHTING COMPANY (Shoreham Nuclear Power Station, Unit 1)	Docket No. 50-322-OLA

LILCO'S OPPOSITION TO JOINT MOTION FOR STAY

On March 8, 1991, Petitioners Shoreham-Wading River Central School District and Scientists and Engineers for Secure Energy, Inc., filed a "Joint Motion to Stay or Vacate License Issuance and Other Matters (Joint Motion). Petitioners ask the Commission to "exercise its discretionary supervisory authority" to stay various NRC Staff and Licensing Board actions -- including most particularly the Staff's prospective issuance of a "possession only" license (POL) for Shoreham -- pending the outcome of certain appeals now before the New York Court of Appeals regarding the Settlement Agreement between LILCO and the State of New York.

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Long Island Lighting Company (LILCO or the Company) opposes Petitioners' Joint Motion. As shown below, Petitioners have failed to satisfy the standards for a stay.

I. Background

A. Applicable Law

Under federal court precedent (the so-called "Virginia Petroleum Jobbers" test), the following factors are to be assessed in determining whether to award the extraordinary relief of a stay: (1) the likelihood that the party seeking the stay will prevail on the merits of the appeal, (2) the likelihood that the moving party will be irreparably harmed absent a stay, (3) the prospect that others will be harmed if the stay is granted, and (4) the public interest in granting the stay. See, e.g., Cuomo v. NRC, 772 F.2d 972, 974 (D.C. Cir. 1985); Washington Metropolitan Area Transit Comm'n v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977); Virginia Petroleum Jobbers Ass'n v. FPC, 259 F.2d 921, 925 (D.C. Cir. 1958).

While NRC regulations do not explicitly address stays of the agency's actions pending judicial review, the Commission has said that requests for such stays will be considered applying the four-part Virginia Petroleum Jobbers test.[1/] See, e.g., Natural

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1/ NRC regulations do contain specific requirements for requesting stays of Licensing Board and Appeal Board decisions, and this provision incorporates the four-part Virginia Petroleum Jobbers test. See 10 C.F.R. § 2.788(e)(1)-(4). Under § 2.788(b), a request for stay is not to exceed 10 pages; in contrast, Petitioners' instant request is nearly three times that

(continued...)

Resources Defense Council, CLI-76-2, 3 NRC 76 (1976); Northern Indiana Public Service Co. (Bailly Generating Station, Nuclear-1), ALAB-224, 8 AEC 244, 272 (1974). The burden of persuasion as to all four factors is on the movant. See, e.g., Alabama Power Co. (Joseph M. Farley Nuclear Plant, Units 1 and 2), CLI-81-27, 14 NRC 795, 797 (1981).

While, as a general matter, none of the four prongs of the Virginia Petroleum Jobbers test is alone dispositive, the "most significant factor in deciding whether to grant a stay request is 'whether the party requesting a stay has shown that it will be irreparably injured unless a stay is granted.'" Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1), CLI-84-17, 20 NRC 801, 804 (1984), quoting Westinghouse Electric Corp. (Exports to the Philippines), CLI-80-14, 11 NRC 631, 662 (1980); Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), ALAB-820, 22 NRC 743, 746 (1985).

Importantly, mere speculative assertions by the moving party that it will suffer injury almost inevitably fail. See Cuomo v.

1/ (...continued)
long. Petitioners, who almost appear to be seeking not so much a stay as an injunction with respect to certain prospective NRC actions, claim not to be proceeding under § 2.788. Rather, Petitioners seek to invoke the Commission's "inherent authority to exercise its discretionary supervisory authority" to suspend any further actions by the NRC Staff and the Licensing Board regarding Shoreham. Joint Motion at 1-2. Apparently, Petitioners do not believe that the 10-page limit imposed by § 2.788(b) applies to their instant motion. Given Petitioners' approach, LILCO does not restrict its Opposition to 10 pages. Cf. 10 C.F.R. § 2.788(d). Should the Commission determine that the page limitations specified in § 2.788 apply here, LILCO respectfully requests leave to file a response that exceeds the 10-page limit.

NRC, 772 F.2d at 976 (a "party moving for a stay is required to demonstrate that the injury claimed is 'both certain and great'"), quoting Wisconsin Gas Co. v. FERC, 758 F.2d 669, 674 (D.C. Cir. 1985); see also Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), ALAB-820, 22 NRC 743, 747 (1985). Given this requirement that the harm asserted must be "certain," a harm whose "likelihood of occurrence is too small" will not be deemed to meet the "irreparable harm" standard. See Cuomo v. NRC, 772 F.2d at 976.

As for the "likelihood of success on the merits" prong, in order to meet this criterion, a movant must do more than simply list the possible grounds for reversal. Toledo Edison Co. (Davis-Besse Nuclear Power Station, Units 1, 2 & 3), ALAB-385, 5 NRC 621 (1977); Alabama Power Co. (Joseph M. Farley Nuclear Plant, Units 1 and 2), CLI-81-27, 14 NRC 795 (1981). Moreover, the movant must put forth more than mere conclusory assertions that it will prevail. See Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), ALAB-814, 22 NRC 191, 196 (1985), citing Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1), CLI-84-17, 20 NRC 801, 804-805 (1985). Where there has been no adequate showing of irreparable harm, and the other factors do not favor the movant, an "overwhelming" showing that the movant will likely prevail on the merits is required. Florida Power & Light Co. (St. Lucie Nuclear Power Plant, Unit 2), ALAB-404, 5 NRC 1185, 1186-89 (1977).

If a movant for a stay fails to meet its burden with respect to the first two criteria, it is not necessary to give lengthy consideration to balancing the other two factors. See, e.g., Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), ALAB-810, 21 NRC 1616, 1620 (1985), citing Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), ALAB-794, 20 NRC 1630, 1635 (1984).

With respect to the "harm to other parties" criterion, the NRC has recognized that, while a licensee's economic interests are not generally within the proper scope of issues to be litigated in NRC proceedings, such interests may be considered in determining whether the grant[illegible] of a stay would harm other parties. See Philadelphia Ele[illegible] Co. (Limerick Generating Station, Units 1 and 2), ALAB-808, 21 NRC 1595 (1985). In Limerick, the Appeal Board noted that "under the third stay criterion, the Commission has in the past taken into account the economic harm that an applicant might suffer if a stay of its license is granted." 21 NRC at 1603, citing Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3), CLI-85-3, 21 NRC 471, 477 (1985); Florida Power & Light Co. (St. Lucie Nuclear Power Plant, Unit No. 2), ALAB-404, 5 NRC 1185, 1188 (1977). The Appeal Board continued that "refusal to consider economic harm would effectively eliminate the third stay criterion insofar as an applicant's interest is concerned," since the harm "most likely to be incurred by a utility . . . is monetary." 21 NRC at 1603.

B. **Petitioners' Joint Motion**

Petitioners' Joint Motion, which recognizes generally the applicability of the four-part Virginia Petroleum Jobbers test outlined above, can be briefly summarized. Having failed completely thus far to enlist the aid of either the NRC Staff, the Licensing Board, or the Commission in their two year campaign to force Shoreham's operation, Petitioners now seize upon the New York Court of Appeals' recent decision to grant review of three interrelated cases concerning state law challenges to the Shoreham Settlement Agreement in order to argue that all proceedings before the NRC concerning Shoreham should be brought to an immediate and complete halt, until the New York Court of Appeals has issued its final decision. Petitioners' theory, while fatally flawed, is simple: since (according to Petitioners) all of the regulatory approvals and Commission decisions regarding the scaling down of activities at Shoreham have been and are predicated on the presumed validity of the Settlement Agreement, if it were to be overturned by the New York Court of Appeals, the NRC would no longer be able to authorize LILCO to take actions directed towards closing the plant.

Springboarding off this theory, Petitioners proceed to argue that they will suffer an "irreparable injury" to their interests under both the Atomic Energy Act and the National Environmental Policy Act (NEPA) should a stay not be granted, and if (1) the NRC issues to LILCO a POL for Shoreham and the plant irreversibly

degrades to a point that precludes future operation, (2) the New York Court of Appeals reverses the New York Supreme Court Appellate Division and declares void the Settlement Agreement, and if (3) at that point, someone wishes to operate Shoreham.

Petitioners further argue that they are "likely to succeed on the merits" before the New York Court of Appeals. In so doing, however, Petitioners do not actually engage the merits of the cases before the court at all. Instead, Petitioners advance an argument that is based solely on the court's aggregate record of one year in granting review and disposing of cases on appeal. According to Petitioners, given the court's history of granting motions for leave to appeal and its subsequent disposition of those appeals, there is a 79.5% probability that the court will reverse the Appellate Division in at least one of the three pending cases. Joint Motion at 24.

As for LILCO and the NRC, Petitioners suggest that neither will suffer any injury if a stay were granted. Monetary loss and regulatory delay, Petitioners contend, are not "cognizable considerations" in this circumstance. Joint Motion at 26.

Finally, Petitioners argue that a stay is in the "public interest." The "granting of all three motions for leave to appeal by the New York Court of Appeals," Petitioners state, in conclusory fashion, "surely shows that Petitioners here have satisfied that standard of the public interest." Joint Motion at 28.

II. Argument

A. The NRC Need Not Wait for the New York Court of Appeals' Decision

As a threshold matter, Petitioners assert that "all of the traditional considerations" of "comity" and "the desirability of having a reliable and final determination of the state claim by state courts," argue in favor of the Commission's issuing a stay. Joint Motion at 12. Citing Kaiser Steel Corp. v. W.S. Ranch Co., 391 U.S. 593 (1968), as guidance, if not explicit authority, Petitioners suggest, "a fortiori," that a federal agency should "stay federal proceedings pending the state court decisions." Joint Motion at 12. The factors cited by the Court in Kaiser Steel, Petitioners maintain, "fit the facts of this case like a glove." Id.

Petitioners are wrong. Under the doctrine of judicial comity, the courts of one jurisdiction give effect to the laws and judicial decisions of another jurisdiction. See 16 Am. Jur. 2d. Conflict of Laws § 10 (1979). Comity is practiced as a matter of deference and respect and is not a matter of obligation. Id. Judicial comity, moreover, is a practice traditionally restricted to courts and, as far as LILCO can determine, has never been extended to situations involving courts and administrative bodies. Thus, contrary to Petitioners' assertions, it does not follow "a fortiori" that comity should be available between judicial forums and administrative bodies. For instance, it is not the NRC's practice to suspend its proceedings or regulatory process during the pendency of either federal judicial

or administrative appeals. See, e.g., Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), ALAB-810, 21 NRC 1616 (1984); Uranium Mill Licensing Requirements, CLI-81-9, 13 NRC 460 (1981); Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), ALAB-338, 4 NRC 10 (1976). Petitioners suggest no reason why the Commission should alter that approach now with respect to pending state proceedings.

Further, Kaiser Steel is simply inapposite here. In Kaiser Steel, a federal court stayed a federal diversity action to allow a state court to interpret the meaning of a term in the state constitution, an issue that would have not been before the federal court at all except as a matter of pendent jurisdiction. This interpretation was directly relevant to and would likely determine the ultimate outcome of the federal diversity action. Thus, out of deference and respect, the U.S. Supreme Court declared that the state court should interpret the state constitution prior to deciding a federal case which depended on that very interpretation.

Kaiser Steel is clearly distinguishable from the present situation, where the NRC is being asked to defer to a state judicial forum having before it certain appeals of issues not before the agency and of only tangential relevance to those which are before it. As explained in part II.B.(1), below, the validity of the NRC's actions in authorizing LILCO to take steps directed toward the scaling down of licensed activities at Shoreham is not dependent on the decision by the New York Court

of Appeals regarding the Settlement Agreement. No matter what the outcome of the appeals now pending before the Court of Appeals, LILCO has no intention of ever operating Shoreham as a nuclear facility. Thus, the decision of the New York Court of Appeals and the actions taken by the NRC are not connected. Accordingly, no purpose would be served by the NRC suspending its consideration of licensing actions at Shoreham pending the court's decision.

B. Petitioners Have Not Demonstrated that They Are Entitled to a Stay

When the four-prong Virginia Petroleum Jobbers test is applied to Petitioners' request, it is clear that they have failed completely to demonstrate that they are entitled to a stay. Each criterion is addressed in turn below.

(1) Petitioners Will Suffer No Irreparable Harm

When the theory underlying Petitioners' claim that they will suffer "irreparable harm" is properly characterized, it becomes clear that Petitioners have not satisfied and, indeed, cannot hope to satisfy, this crucial requirement. Petitioners cannot suffer irreparable harm in the absence of a stay because they have no hope whatsoever of ever obtaining the relief they truly seek before the NRC, i.e., the operation of Shoreham as a nuclear facility. Put another way, Petitioners cannot assert, as the basis for a stay request, an injury to an interest in which they have no legitimate or rational expectation.

As already noted, Petitioners' assertion of "irreparable harm" is predicated on the occurrence of a sequence of contingent acts: the injury that they truly fear is that, if the NRC issues a POL and the plant is then allowed to irreversibly degrade, and if the New York Court of Appeals overturns the Settlement Agreement, and if some competent entity at that point desires to see Shoreham operate as a nuclear facility, then it will be too late to convert the POL back into an operating license and physically restore the plant to an operable condition. Fatal to Petitioners' position, however, is that this last contingent development upon which their theory hinges -- that operation of Shoreham would become an option if the Settlement Agreement were overturned -- has no basis in reality. Such conjecture does not satisfy the standard for a stay. Cf. Cuomo v. NRC, 772 F.2d at 976 ("[w]hile it is true that these potential harms, should they occur, cannot be repaired by mere money, their likelihood of occurrence is too small to meet an irreparable harm standard").

The fact is, despite Petitioners' representations to the contrary, neither LILCO's decision not to operate Shoreham, nor the NRC's licensing actions allowing LILCO to scale down activities at the plant, are necessarily dependent on the continued legal validly of the Settlement Agreement. As for LILCO, even if the New York Court of Appeal were to overturn the Settlement Agreement, the court's action would not have the effect of compelling LILCO to operate Shoreham. Even if the Settlement Agreement's legal bar to LILCO's running the plant were to be

removed, this is not tantamount to saying -- as Petitioners implicitly assume -- that the Company would then choose to operate Shoreham. To the contrary, LILCO has no intention of ever operating Shoreham as a nuclear facility, no matter what the outcome of the appeals before the New York Court of Appeals.

Accordingly, all of Petitioners' concerns that the NRC's issuance of a POL "would have more than a substantial probability of proving irreversible and irretrievable," and that "at no time in the history of the NRC . . . has a possession only license for a power reactor ever been reconverted into a full power operating license," Joint Motion at 16, are beside the point. LILCO will not choose to operate Shoreham no matter the outcome of the appeals now pending before the New York Court of Appeals. Therefore, the issue whether, as a matter of law or fact, a POL can be "reconverted" into an operating license will never come up.

With respect to the NRC, Petitioners simply mischaracterize the agency's most recent Shoreham decisions when they assert that the Commission

> has consistently recognized that the validity of the Settlement Agreement is the essential basis for LILCO's proposals, and the Commission's approval, of license amendments, exemptions and other forms of permission leading to the decommissioning of Shoreham.

Joint Motion at 10 (emphasis in original). Elsewhere, Petitioners wrongly contend that the "Commission has recognized . . . that the existence of the Settlement Agreement with no reasonable prospect of it being undone has been the sine qua non

for the various forms of permission given LILCO and for its decisions in CLI-90-08, CLI-91-01, and CLI-91-02." Joint Motion at 19.

The Commission's mere references, in the "background" portions of its decisions, to the existence of the Settlement Agreement do not constitute a determination by the Commission that the Settlement Agreement forms the legal linchpin of its NEPA decisions. Rather, the Commission's determination in Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), CLI-90-08, 32 NRC 201 (1990), that the "alternative" of resumed operation need not be considered in any environmental review of Shoreham's decommissioning hinged on the Commission's finding that LILCO's decision never to operate the plant was a "private" choice that did not constitute "federal action" for purposes of NEPA. The only part of CLI-90-08 where the Commission appears to place any particular significance on the Settlement Agreement is its ruling, in the alternative, that "even if 'resumed operation' were an alternative to decommissioning, we would not be required to consider it under the NEPA 'rule of reason.'" 32 NRC at 208.

As for the Commission's reconsideration of CLI-90-08, Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), CLI-91-02, 33 NRC __ (Feb. 22, 1991), there, too, the Commission makes clear that it is LILCO's decision not to operate Shoreham, and not the Settlement Agreement per se, that is the basis for

its NEPA ruling.[2/] For instance, the Commission states that it "may be true that 'but for' the decision not to operate Shoreham, LILCO would not be able to seek permission to decommission the facility." CLI-91-02, slip op. at 9 (emphasis added). Further, even during the Commission's discussion of its alternative finding regarding the NEPA "rule of reason," the Commission emphasizes that its decision on that point was predicated on all of the "facts and circumstances surrounding and leading to LILCO's decision." Id. at 10 (emphasis added). Significantly, the Commission continues that, "[i]f we thought that the parties might repudiate their agreement and favor a return to operation, we might not have made such a finding." Id. (emphasis added). Petitioners ignore that, even if the Settlement Agreement were to be overturned, the parties here assuredly do not "favor a return to operation."[3/]

The upshot is, what Petitioners are asking the Commission to do is suspend, for some number of months, all Shoreham-related actions before both the NRC Staff and the Licensing Board,

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[2/] Indeed, in CLI-91-02, the Commission indicated that it was aware that the New York Court of Appeals had taken review of the state court challenges to the Settlement Agreement. See CLI-91-02, slip op. at 10 n.2.

[3/] Furthermore, even the U.S. Department of Energy (DOE), which for some months criticized Shoreham's shutdown, now appears to have publicly abandoned its efforts to forestall the plant's decommissioning. For instance, in CLI-91-02, the Commission indicated that, if DOE intended to take steps either to (1) petition the Commission to order operation of Shoreham or (2) seize the plant by eminent domain, DOE should take concrete steps do so by March 6 1991. CLI-91-02, slip op. at 13 n.5. DOE declined to so do

pending the outcome of certain appeals before the New York Court of Appeals, even though the outcome of those appeals will have no effect on Shoreham's ultimate disposition. The plant will remained closed and, upon the NRC's approval of a decommissioning plan,[4/] will be decommissioned. Petitioners' effort to transmogrify their own wishful thinking into a showing of "irreparable harm" should be rejected.

(2) Petitioners Have Not Demonstrated that They Will Succeed on the Merits

Petitioners take a novel approach in seeking to demonstrate that there is a "likelihood" that they will "succeed on the merits." Petitioners do not engage the merits of the appeals now pending before the New York Court of Appeals. Instead, they rely solely on a "statistical" analysis of one year of aggregate court records in granting motions for leave to appeal. According to Petitioners, there is a 79.5% probability that at least one of the three cases upholding the Settlement Agreement will be reversed. Joint Motion at 24.

Whatever one makes of Petitioners' use of statistics and the laws of probability,[5/] their "showing" does not demonstrate

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[4/] On December 29, 1990, the Long Island Power Authority (LIPA), the entity responsible under the Settlement Agreement for decommissioning Shoreham, submitted to the NRC, pursuant to 10 C.F.R. § 50.82, a proposed decommissioning plan for the plant. The NRC's review of that plan continues.

[5/] On this score, Petitioners' assignment of independent significance to the fact that the court has "issued . . . orders

(continued...)

satisfaction of this particular prong of the Virginia Petroleum Jobbers test. Petitioners' whole approach proceeds from the false premise that the mere granting of the motions by the New York Court of Appeals shows that the court is inclined to rule as Petitioners favor. But this does not follow at all. The granting of review is not an indication, in even a small way, that the reviewing court perceives error on the part of the courts below. Indeed, under New York law, the standard for review used by the Court of Appeals involves "novel[ty]" and "public importance," and not alleged error by the court below. See McKinney's 1991 New York Rules of Court § 500.11(d)(1)(v).[6/]

In sum, while Petitioners gussy up their argument with meaningless statistics and asserted probabilities, the argument amounts to a bald assertion -- lacking a reasoned assessment of

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[5/] (...continued)
granting leave to appeal in not simply one of the cases questioning the validity of the Settlement Agreement . . ., but all three actions attacking the legality of that agreement," Joint Motion at 20 (emphasis in original), is misplaced. Of course, the New York Court of Appeals, facing separate motions in interrelated cases raising essentially identical issues, granted all three motions once it had determined to review the matter. In this respect, then, the numbers Petitioners calculate under their "probability" argument are misleading to the extent they reflect "triple counting."

[6/] In this respect, there are any number of plausible explanations, having nothing to do with error below, why the New York Court of Appeals took review of the cases. For instance, it may simply wish to put the imprimatur of the state's highest court on a settlement involving significant issues of public policy in the State of New York. In addition, it may have granted the motions for leave to appeal out of deference to DOE, which intervened in one of the cases some months ago, when it was pending before the trial court.

the underlying merits of the case -- that the court will rule as Petitioners prefer. This, alone, is insufficient. See, e.g., Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), ALAB-814, 22 NRC 191, 196 (1985). It is all the more inadequate given, as shown above, Petitioners' complete failure to satisfy the critical "irreparable harm" standard. See Florida Power & Light Co. (St. Lucie Nuclear Power Plant, Unit 2), ALAB-404, 5 NRC 1185, 1186-89 (1977).

(3) LILCO Will Be Harmed if a Stay Is Granted

As shown, Petitioners have failed to carry their burden on either of the first two criteria for granting of a stay. Accordingly, it is not necessary to address at length the remaining two factors. See Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), ALAB-810, 21 NRC 1616, 1620 (1985); Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), ALAB-794, 20 NRC 1630, 1635 (1984)(if the movant fails to satisfy the first two factors, it is unnecessary to "dwell long on whether a stay would cause serious injury to the applicant" or to "delve deeply into public interest considerations").

Nevertheless, LILCO clearly would be injured if the stay is granted, since the longer the Company is required to meet the requirements a satisfy the regulatory obligations of a full power license, the more wasteful expense it incurs. Petitioners suggest that such financial injury is not a "cognizable harm." Joint Motion at 27. But, again, in the context of a request for

a stay, this is incorrect. See Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), ALAB-808, 21 NRC 1595 (1985).

(4) A Stay Would Not Be in the Public Interest

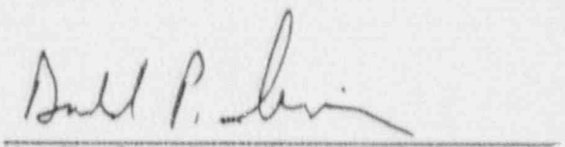
The public interest here lies in allowing the NRC's regulatory process to continue uninterrupted by Petitioners, who fail to recognize a lost cause when confronted with one. The public interest is also advanced by allowing LILCO to take all appropriate steps, consistent with the protection of public health and safety from radiological hazards, to minimize its Shoreham-related costs.

Petitioners argue that the "public interest" lies in waiting for the New York Court of Appeals to decide the appeals before it, so as to "give the Commission confidence that that decision (whether the Court of Appeals finds the Settlement Agreement valid or void) will be the 'correct' decision on which the Commission may base its findings." Joint Motion at 27 (emphasis in original). But this assertion relies on the false predicate that the NRC's decisions on Shoreham are somehow contingent on the agency's expectation that the Settlement Agreement is, and will continue to be, of legal effect. As explained above, the NRC's decisions on Shoreham remain valid whether or not the Settlement Agreement is overturned.

III. Conclusion

For the reasons given above, Petitioners' request for a stay should be denied.

Respectfully submitted,



W. Taylor Reveley, III
Donald P. Irwin
David S. Harlow
Counsel for Long Island
Lighting Company

Hunton & Williams
707 East Main Street
P. O. Box 1535
Richmond, Virginia 23212

DATED: March 25, 1991

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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LONG ISLAND LIGHTING COMPANY	)	Docket No. 50-322-OLA
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(Shoreham Nuclear Power Station, Unit 1)	)	
	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of LILCO's OPPOSITION TO JOINT MOTION FOR STAY were served this date upon the following by Federal Express, as indicated by an asterisk, or by first-class mail, postage prepaid.

Commissioner Kenneth M. Carr, Chairman*
Nuclear Regulatory Commission
One White Flint North Building
11555 Rockville Pike
Rockville, Maryland 20852

Commissioner Kenneth C. Rogers*
Nuclear Regulatory Commission
One White Flint North Building
11555 Rockville Pike
Rockville, Maryland 20852

Commissioner James R. Curtiss*
Nuclear Regulatory Commission
One White Flint North Building
11555 Rockville Pike
Rockville, Maryland 20852

Commissioner Forrest J. Remick*
Nuclear Regulatory Commission
One White Flint North Building
11555 Rockville Pike
Rockville, Maryland 20852

The Honorable Samuel J. Chilk
The Secretary of the Commission
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Administrative Judge*
Morton B. Margulies, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
East-West Towers, Fourth Floor
4350 East-West Highway
Bethesda, MD 20814

Administrative Judge*
Jerry R. Kline
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
East-West Towers, Fourth Floor
4350 East-West Highway
Bethesda, MD 20814

Administrative Judge*
George A. Ferguson
Atomic Safety and Licensing Board
5307 Al Jones Drive
Columbia Beach, Maryland 20764

James P. McGranery, Jr., Esq.*
Dow, Lohnes & Albertson
1255 23rd Street, N.W., Suite 500
Washington, D.C. 20037

Mitzi A. Young, Esq.*
Office of the General Counsel
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, Maryland 20852

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

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

Charles M. Pratt, Esq.
Senior Vice President and General Counsel
22nd Floor
Power Authority of State of New York
1633 Broadway
New York, New York 10019

Carl R. Schenker, Jr., Esq.
Counsel, Long Island Power Authority
O'Melveny & Myers
555 13th Street, N.W.
Washington, D.C. 20004

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

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

Stephen A. Wakefield, Esquire
General Counsel
U. S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Hunton & Williams
707 East Main Street
P.O. Box 1535
Richmond, Virginia 23212

David S. Harlow

DATED: March 25, 1991