

9/19/83

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)

LONG ISLAND LIGHTING COMPANY)

(Shoreham Nuclear Power Station,
Unit 1))

Docket No. 50-322-OL-3
(Emergency Planning)

SUFFOLK COUNTY MOTION
FOR LEAVE TO FILE REPLY

On September 6, 1983, Suffolk County filed a Motion to Compel Responses to Discovery Requests Relating to Non-LILCO Support Organizations. Late on Friday, September 16, 1983, the County received a LILCO Motion for Protective Order and Response to Suffolk County Motion to Compel Discovery.

After review of LILCO's September 16 filing, the County has decided that it needs to file a reply. The County accordingly moves for leave to reply. The reply will cover the following points:

(1) LILCO's failure to assert any legal authority in support of its view that it is entitled to shield certain materials from discovery;

(2) LILCO's failure to disclose to the Board that it has made certain materials related to uncompleted negotiations with non-LILCO entities available to Governor Cuomo's Shoreham Commission. See attached letter from County Counsel to LILCO

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Counsel rejecting terms of proposed protective order;

(3) LILCO makes allegations that the County has interfered with LILCO negotiations or that the County has supported efforts to interfere with LILCO negotiations. These serious charges are false; and

(4) LILCO's proposed protective order (assuming any such order is deemed appropriate) is grossly deficient in the following regards:

- (a) It does cover the full class of documents requested by the County; and
- (b) The proposed limitations and "sanctions" are completely unreasonable and far too broad and severe.

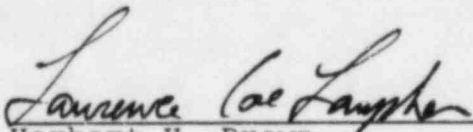
The County is prepared to do its best to file a response on these matters by close of business on September 20. In the alternative, the County requests that the Board convene a conference call to discuss this dispute.

The County notes for the Board's information that the deposition of Ms. Robinson, a LILCO employee, is scheduled for this Friday, September 23. That deposition will involve LILCO negotiation with non-LILCO entities. Accordingly, the

County hopes that this dispute regarding the scope of permitted County discovery can be resolved prior to Friday.

Respectfully submitted,

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September 19, 1983

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September 15, 1983

BY TELECOPIER

Kathy E.B. McCleskey, Esquire
Hunton & Williams
707 East Main Street
Richmond, Virginia 23212

Dear Kathy:

I am in receipt of your September 14 letter transmitting a draft protective order relating to the Elaine Robinson discovery dispute. The draft order is not acceptable.

Indeed, in view of yesterday's Shoreham Commission meeting, I cannot understand how LILCO can continue to assert its objection to our requests for the information covered by the Motion to Compel. I am informed that at yesterday's meeting, Elaine Robinson, responding to comments by Dr. David Harris, stated that she had notes of numerous conversations with hospital and other medical personnel (with whom LILCO has had conversations) and that these notes were available for the Commission. Ms. Robinson's comments were in an attempt to rebut the County view that LILCO had done virtually nothing to transform the planning document into a plan with substance. Since Ms. Robinson was willing to make the data available to the Shoreham Commission, how can LILCO refuse to make them available to the County?

Further, in the same vein, LILCO has made available to the Shoreham Commission certain data and documents related to MediBus Inc., a company with which LILCO has had conversations but with whom no agreement has been reached. See September 2 letter from Elaine Robinson to Dr. John Marburger and attachments thereto. Since LILCO has already made such information public (in an attempt to respond to Mr. Fricano's

KIRKPATRICK, LOCKHART, HILL, CHRISTOPHER & PHILLIPS

Kathy E.B. McCleskey, Esquire
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comments), how can LILCO, as a matter of privilege, refuse to produce other such data? In our view, there is no privilege involved here (and LILCO has never provided any legal authority for any such privilege) but to the extent there is one, LILCO clearly has waived it.

Sincerely,



Karla J. Letsche

KJL:so