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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

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

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

SUFFOLK COUNTY MOTION
TO CHANGE SCHEDULE

By Order Confirming Schedule Changes ("Order"), dated February 1, 1984, the Licensing Board confirmed the emergency planning schedule which had been announced by the Board at the conclusion of the hearing on January 27, 1984. The schedule specified that all parties would file Group II testimony on March 2, 1984. This March 2 filing date was premised, at least in part, on statements by FEMA counsel that FEMA expected to submit its RAC review to the NRC (and hence to other parties as well) by February 7 and would then need approximately three weeks thereafter to prepare and file its Group II direct testimony. See Order at 1; Tr. 3639.^{1/}

By letter dated February 1, 1984, the NRC Staff advised the Board and parties that the FEMA findings and determinations on the

^{1/} The previous schedule specified that Group II testimony would be filed February 14, 1984. Under that previous schedule, the Board and parties had expected the RAC review to be available on February 1, 1984.

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LILCO Plan -- the FEMA RAC review -- will not be available until March 1, 1984. In conversations with FEMA counsel, we understand that FEMA will require approximately two weeks beyond March 1 -- or until about March 14, 1984 -- in order to prepare its Group II testimony.

Suffolk County believes that the changed availability of the FEMA RAC review and FEMA's inability to meet a March 2 testimony filing date necessitates approximately a two week change in the Group II schedule for submission of testimony and for the events which follow testimony submission. Accordingly, the County moves this Board to amend the Order and to establish the following Group II schedule:

March 14	All parties file Group II testimony
March 21	Motions to strike testimony
March 28	Responses to motions to strike cross-examination plans
April 3	Hearing begins on Group II issues

Suffolk County's reasons for seeking this schedule change are substantially the same as those previously stated when matters concerning the FEMA RAC review and scheduling have been considered. See, e.g., Tr. 728-29, 752-54, 3640. Accordingly, the County will be brief in setting forth its position here.

First, basic fairness dictates that each party in this proceeding should file its testimony on particular issues at the same

time. It is now apparent that the NRC Staff will be unable to file testimony by its FEMA witnesses on March 2 and, in fact, will need until approximately March 14 to file testimony. The FEMA witnesses will contribute the bulk of the Staff's testimony on Group II issues. Tr. 730. Since the Staff clearly will need extra time, all parties should be given the same extension.^{2/} There is no justification for giving special filing dispensation -- or extra time -- to one party but not to others.

Second, there is a real need for all the parties other than FEMA to have an opportunity to review the FEMA findings and determinations prior to submittal of testimony. These findings carry special evidentiary weight under the NRC's rules -- the so-called rebuttable presumption. 10 C.F.R. § 50.47(a)(2). If a party is to be in a position to support or rebut the FEMA findings, it must have them at least two weeks in advance of the testimony filing date.^{3/} Under the current schedule, however, the FEMA findings on the LILCO Plan are only scheduled to be available on March 1, the day before testimony presently is due to be filed. Clearly, the schedule must be changed to allow an adequate period

2/ The County expects that the Staff in due course would have filed a motion for an extension of time, thus complying with this Board's prior instructions. Tr. 2227. For there to be orderly planning and efficient use of resources, the County is seeking this extension immediately, rather than wait until almost March 2.

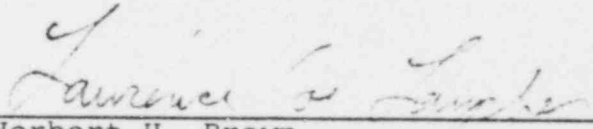
3/ Once counsel receive the FEMA findings, they must be distributed to each consultant; they must then be reviewed and discussed; decisions must be made whether to address particular findings in testimony or to alter draft testimony in view of the findings; and then the testimony relating to the FEMA findings must be actually prepared, reviewed and finalized. A two-week period is the absolute minimum which could be deemed adequate to accomplish these tasks, particularly since the FEMA findings on Group II issues will relate to over 50 separate contentions.

to review the findings and to address them in the prefiled testimony.^{4/}

The County respectfully requests the Board to give early consideration to this Motion.

Respectfully submitted,

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February 8, 1984

^{4/} If the parties are unable to address the rebuttable presumption in the direct testimony, all the parties except FEMA will have to file supplemental or rebuttal testimony on all issues in order to address the FEMA findings. It appears far more preferable and orderly to have all parties address the FEMA data in their initial testimony.

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CERTIFICATE OF SERVICE

I hereby certify that copies of SUFFOLK COUNTY MOTION TO CHANGE SCHEDULE, dated February 8, 1984, have been served to the following this 8th day of February 1984 by U.S. mail, first class, except as otherwise noted.

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DATE: February 8, 1984

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