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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
LONG ISLAND LIGHTING COMPANY)	Docket No. 50-322-OL-3
)	
(Shoreham Nuclear Power Station,)	(Emergency Planning)
Unit 1))	
)	

Suffolk County Motion for Leave to
File New Contentions Concerning
the LILCO Offsite Emergency
Preparedness Training Program

Background Facts

In their Revised Emergency Planning Contentions, filed on July 26, 1983, Intervenors challenged the adequacy of various aspects of LILCO's offsite emergency preparedness training program. On August 19, 1983, the Board rejected certain of Intervenors' training contentions on the grounds that those contentions were not sufficiently specific to satisfy applicable regulatory requirements. See Special Prehearing Conference Order (Ruling on Contentions and Establishing Schedule for Discovery, Motions, Briefs, Conference of Counsel, and Hearing) (hereinafter, "August 19 Order"), at 17. In rejecting these

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contentions, however, the Board recognized that "the unavailability of [LILCO's] training materials preclude[d] Intervenor from filing specific contentions . . ." August 19 Order, at 17. Further, the Board made clear that the proper course of action for Suffolk County and the other Intervenor was to file new contentions concerning LILCO's offsite emergency preparedness training program once LILCO had completed and made available its training materials. August 19 Order, at 18. Presumably to facilitate this course of action, the Board, on September 30, 1983, ordered LILCO to notify the Board when LILCO considered its training materials to be complete. See Order Ruling on Objections to Special Prehearing Conference Order, (hereinafter, "September 30 Order"), at 7.

On February 3, 1984, LILCO complied with the Board's September 30 Order by notifying the Board that it had completed and made available to the parties its training materials. See LILCO's Notice of Completion of Training Materials, February 2, 1984 (hereinafter, "Notice"). During the four-month period between the Board's September 30 Order and LILCO's Notice, LILCO provided on a piecemeal basis training materials to Suffolk County. However, it was not until February 3 that the County was advised that LILCO's training materials had been

completed. In fact, on that same day, LILCO made available to the County for the first time a substantial number of drill scenarios and tabletop exercises. (See letter dated February 2, 1984, from J. Monaghan to J. Birkenheier).1/

In its Notice, LILCO asserts that training materials were first provided to the County in mid-July 1983 and that "the vast majority" of its training materials were provided to the County by the fall of 1983. Notice, at 4. Apparently anticipating that the County would file additional training contentions, LILCO also asserts that any such contentions must meet the 10 CFR Section 2.714 standards for late-filed contentions. In LILCO's view, the County cannot meet those standards,

1/ Based on this February 2 letter, it is clear that, even at this time, LILCO's training materials are still not complete. Counsel for LILCO acknowledges, for example, that not all drill scenarios have been developed. In addition, counsel for LILCO states that classroom training materials will shortly be revised to conform with Revision 3 of the LILCO Plan and "to accurately reflect in training what the Plan contemplates will take place during an emergency." Thus, it is misleading for LILCO to characterize its training materials as complete at this time. Nonetheless, based on the training materials it has obtained, the County believes that it can frame training-related contentions with the requisite bases and specificity. The County, however, reserves the right to amend contentions and/or testimony, or to file additional contentions and/or testimony, when it receives additional or revised training materials from LILCO.

particularly as to training materials provided last summer and fall. Notice, at 4.

Clearly, for the reasons discussed below, the Section 2.714 standards for late-filed contentions do not bar the filing of new contentions regarding inadequacies of LILCO's offsite emergency preparedness training program. The new contentions are closely related to original contentions 35-37 and subparts A, B and C and contention 44 -- contentions that were denied admission by the Board because the unavailability of LILCO's training materials precluded the filing of sufficiently specific contentions. August 19 Order, at 17-19. LILCO has now made its training materials available to the County, however, and, for the reasons specifically identified in the contentions, the County finds such materials seriously flawed. LILCO cannot claim to be surprised by the County's filing, nor has LILCO been prejudiced in any way. Any assertion by LILCO to the contrary is totally without merit.

Moreover, there is absolutely no support for LILCO's suggestion that the Section 2.714 standards require stricter application with respect to training materials made available to the County by the fall of 1983. The County does not even know

what LILCO means by the "fall of 1983." Assuming that LILCO is referring to mid-November, 1983, it is significant that since that time, LILCO has provided training materials to the County on at least five occasions.^{2/} During that same time, there have been conversations and correspondence between attorneys for LILCO and the County regarding LILCO's training materials. However, at no time prior to February 3 was the County advised that LILCO had completed its training materials and, even assuming that LILCO is correct in its assertion that the "vast majority" of training materials were provided to the County by the fall of 1983, the County clearly had no way of knowing that this was in fact the case. Thus, it is the February 3 date, when LILCO first advised the County that it had completed its training materials, that is relevant to a determination as to whether the County has acted promptly to file new contentions with this Board.

Based on its review of the LILCO training materials that have been provided since the Intervenor's filed their revised

^{2/} According to our records, LILCO sent training documents to counsel for Suffolk County on the following dates: November 15 and 16, 1983, December 9, 1983, January 12, 1984 and February 2, 1984.

contentions, the County believes that LILCO's offsite emergency preparedness training program is inadequate in respects not specifically indentified in the already admitted training contentions. As a result, LILCO's training program does not meet the regulatory requirements of 10 CFR Part 50 and NUREG 0654. The County therefore seeks leave to file the training contentions attached to this Motion as Exhibit 1. As discussed below, these contentions fully satisfy the standards for late-filed contentions contained in 10 CFR Section 2.714.

Discussion

Since each proposed new contention fully satisfies the Section 2.714 standards for admission of late-filed contentions, we will discuss Section 2.714 only once, rather than for each new contention.

1. There is good cause for the County's failure to file the proposed contentions earlier

The County clearly has good cause for not filing its proposed contentions earlier. Indeed, the County has followed the course of action suggested by the Board in light of LILCO's failure to have completed its training materials prior to the time that Intervenor's contentions were required to be filed

last July. The County should not now be penalized for having followed the Board's advice in waiting until LILCO's training materials were completed before filing new contentions.^{3/}

In addition, the County's proposed training contentions meet the three-part test for showing "good cause" enunciated in Duke Power Company (Catawba Nuclear Station, Units 1 and 2), ALAB-687, 16 NRC 460, 469 (1982), and endorsed by the Commission as the proper test for determining good cause in Duke Power Company (Catawba Nuclear Station, Units 1 and 2), CLI-83-19, 17 NRC 1041, 1045, 1047 (1983).

The first element of the Catawba test--whether the late-filed contentions are "wholly dependent upon the content of a particular document" -- is plainly satisfied given that the County's proposed training contentions are wholly dependent on the contents of documents, such as the LERO training workbooks, videotapes and drill scenarios, which are the foundation of the LILCO training program. As recognized by the Board in its

^{3/} Indeed, based upon the Board's August 19 Order, the County would be justified in not filing its new training contentions until LILCO fully completes its drill scenarios and revises its classroom training materials to conform with Revision 3 of the LILCO Plan. See note 1, supra.

August 19 Order, these documents either did not exist or had not been provided to the County when the Intervenor's revised contentions were filed with the Board. Indeed, some of these documents were not provided to the County until the same day that LILCO notified the Board that it had completed its training materials.

The second part of the Catawba test -- whether the late contentions "could not therefore be advanced with any degree of specificity (if at all) in advance of public availability of that document" -- is also satisfied here. As noted above, the contentions sought to be admitted are closely related to contentions previously denied admission by the Board for lack of specificity. In denying admission, the Board recognized that the unavailability of LILCO's training materials had precluded the filing of sufficiently specific contentions. See August 19 Order, at 17-19. LILCO's training materials, however, have now been made available to, and found inadequate by, the County.

The final element of the Catawba test is whether the late contentions are "tendered with the requisite degree of promptness once the document comes into existence and is accessible for public examination." Here, it simply cannot be

denied that the County has acted promptly subsequent to LILCO's February 3 Notice and has satisfied the Catawba test for showing prompt action.

It is clear, then, that the County has "good cause" for not filing its proposed contentions earlier.

2. There are no other available means whereby the County's interest will be protected

There is no basis for believing that any means other than litigation of contentions in this proceeding will adequately protect Intervenor's interests.^{4/} Although the Board admitted certain of Intervenor's original training contentions in its August 19 Order, and certain of those contentions relate in some respects to several of the issues raised in the County's new contentions, the new contentions specifically identify those issues for the Board and the parties. In addition, the new contentions identify shortcomings and inadequacies in the LILCO training program which, in some respects, differ from the problems raised in the training contentions previously admitted by the Board. Thus, the County's new contentions should be

^{4/} This argument is also relevant to the fourth factor under Section 2.714 (concerning whether another party would represent the County's interests in the concerns specifically identified in the proposed contentions).

admitted so that the Intervenor can pursue in a full and fair manner their position that the LILCO training program is inadequate.

3. The County can be expected to assist
in developing a sound record

This requirement is plainly satisfied given the past history of the County's involvement in this proceeding. To bar the County's proposed participation with respect to the issues raised in the proposed contentions would, contrary to the intent of the NRC regulations, result in an incomplete record which would be silent with respect to certain crucial issues. The proposed contentions should therefore be admitted. In fact, to deny their admission would constitute an improper refusal to deal with important issues which are plainly raised by the LILCO Plan.

4. The County's interest in the proposed contentions will not be adequately represented by other parties

The only contentions to be litigated in this proceeding are those submitted by Intervenorors. No other parties have submitted contentions or given any indication that they otherwise intend to bring the matters addressed in the proposed contentions to the attention of this Board. Thus, there is no basis for believing that any other parties will adequately represent Intervenorors' interests.

5. Admission of the County's contentions would not delay the proceeding

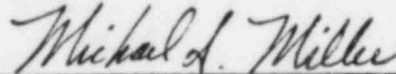
Admission of the proposed contentions would not delay the proceeding in any material way. The issues raised in the proposed contentions are directly related to the already admitted training contentions, and could be addressed by witnesses in the testimony to be submitted on those contentions. Including discussion of the proposed contentions in such testimony may broaden the issues slightly, since the witnesses' testimony would presumably be more complete on a given issue. However, the amount of "delay," if any, that would result from admission of the proposed contentions would be minimal, given the number of contentions yet to be litigated (over 50) and the predicted hearing length involved in the Group II issues.

Conclusion

For the reasons set forth above, the County submits that the proposed contentions satisfy the requirements of 10 CFR Section 2.714 and should be admitted.

Respectfully submitted,

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Dated: February 13, 1984

Proposed Contentions 1 - 3:
Training of Emergency Response Personnel

Contention 1. The LILCO Plan states that emergency response training and periodic retraining "will be offered" to organizations, such as schools, hospitals, nursing homes, adult homes and other special facilities, which may be called upon to "take actions during an incident" at the Shoreham plant (see Plan, at 5.1-6). However, the Plan fails to demonstrate that such training and retraining will, in fact, be provided, nor is there any description of the training that "will be offered." Further, the Plan fails to demonstrate that training and/or periodic retraining will be provided to the personnel of emergency response organizations which are relied upon by LILCO to provide essential support services during an emergency, including the U.S. Coast Guard, DOE-RAP, the American Red Cross, and ambulance personnel. Therefore, the LILCO Plan does not comply with 10 CFR §50.47(b)(15), 10 CFR Part 50, Appendix E, Section IV.F, and NUREG 0654, Section II.0. Because the Plan provides no assurance that the persons necessary to implement the LILCO Plan will be timely and adequately trained, there can be no assurance that the protective measures described in the Plan can or will be taken in the event of an emergency, in violation of 10 CFR §50.47(a)(1).

Contention 2. In violation of 10 CFR §50.47(b)(15), 10 CFR Part 50, Appendix E, Section IV.F, and NUREG 0654, Section II.0, the training provided by LILCO to emergency response personnel (both LILCO and non-LILCO) is inadequate and, as a result, in the event of a radiological emergency such personnel will neither understand nor be able to perform properly the functions assigned to them under the LILCO Plan. There is, therefore, no assurance that adequate protective measures can and will be taken in the event of a radiological emergency at Shoreham, as required by 10 CFR §50.47(a)(1). The specific deficiencies in LILCO's training program, each of which contributes to the overall inadequacy of the training proposed by LILCO, are set forth below.

A. The lesson plans used in classroom training sessions are substantially inadequate and incomplete. They do not provide instructors with sufficient guidance, substantive information or resource references, or objective criteria by which to determine whether necessary learning has occurred.

B. The workbooks and videotape scripts used in the LILCO classroom training program are substantially inadequate. They do not contain sufficient, accurate or detailed information concerning important substantive matters.

C. LILCO's classroom training sessions have been conducted by individuals who are neither experienced in, nor knowledgeable about, the subject areas they are assigned to teach. In addition, the teachers are not experienced or trained in teaching methods.

D. LILCO has failed to monitor properly or effectively the classroom performance or effectiveness of the LILCO training instructors.

E. The LILCO training program has no provisions for meaningful and graded testing of LERO personnel following classroom training sessions to determine if the classroom training information was absorbed, correctly understood, or retained by trainees.

F. Regardless of an individual's performance in classroom, drill or exercise sessions, it is impossible for LERO personnel to fail or "flunk out" of the LILCO training program, nor is there any provision at all in the LILCO training program for evaluation of the abilities of personnel who have completed training. As a result, LILCO's training program does not "qualify personnel who will implement radiological emergency response plans," in violation of NUREG 0654, Section II.0.4.

G. The LILCO training program provides insufficient information concerning how trainees are to perform the specific duties and responsibilities assigned to them under the LILCO Plan. Instead, the "training" consists primarily of descriptive statements of job titles, job duties, and chains of command.

H. Many trainees have never reviewed the LILCO Plan or the implementing procedures.

I. Because training materials have been written for large groups of trainees assigned to several different emergency job categories, trainees receive much general and in many cases irrelevant information rather than sufficiently detailed information concerning their individual job functions.

J. The majority of the LILCO classroom training sessions, including those involving "tabletop drills," involve little or no practical or "hands on" experience in performing assigned emergency functions. The classroom training provides insufficient opportunity for trainees to practice the use of necessary equipment or to develop skills necessary to the effective performance of their assigned functions.

K. The nature and contents of the videotapes used in LILCO's classroom training program renders them ineffective educational tools. The videotapes are, in reality, nothing more than taped lectures, and as such, they fail to promote attentiveness, understanding, participation, or retention of information by trainees.

L. The so-called "review exercises" attached to the LILCO training workbooks are not used in a manner designed to promote or verify meaningful learning, and many of those exercises do not correspond to the learning objectives involved in the particular training workbooks.

Contention 3. In violation of 10 CFR §50.47(b)(15), 10 CFR Part 50, Appendix E, Section IV.F, and NUREG 0654, Section II.0, the LILCO drill and exercise programs are inadequate and do not prepare or train LERO personnel to perform properly or effectively their assigned functions under the LILCO Plan. As a result, there is no assurance that adequate protective measures can and will be implemented in the event of a radiological accident at Shoreham, in violation of 10 CFR §50.47(a)(1). The specific deficiencies in LILCO's drill and exercise programs are as follows:

A. The drills are too short and too narrow in scope to provide meaningful or realistic experience to trainees, or to prepare trainees properly for their emergency roles.

B. During drills, LERO field personnel trainees are not accompanied to their posts by instructors. Therefore, whatever activities they may have performed during the so-called "drill" have not been supervised, observed, evaluated, graded, or critiqued. This renders the "field drills" meaningless as "training."

C. The LILCO drill scenarios provide no training with respect to how to deal with stress.

D. Contrary to the requirements of 10 CFR Part 50, Appendix A, Section IV.F and NUREG 0654, Section II.0.2, most LERO trainees are not required to perform their LERO jobs during training drills. For example, traffic guides did not direct traffic, and bus drivers did not drive buses over bus routes. Thus, LILCO's drill program has not provided LERO personnel with an opportunity to practice their emergency duties and responsibilities.

E. Despite the fact that many LERO workers will have to interact with various officials (e.g., school and special

facility administrators) and the public, the LILCO drill program includes no activities involving such interaction.

F. The LILCO drills have not been designed to and do not develop many skills that are necessary to the proper and effective performance of LERO job responsibilities. For example, the drills provide inadequate opportunities for LERO personnel to develop communications skills, and in drills LERO personnel have not been provided adequate opportunities to learn how to deal with unexpected difficulties or to develop and exercise good judgment.

G. The LILCO drills contain no terminal performance standards, and, consequently, there are no objective, observable criteria to be used by instructors in evaluating the performance of individual trainees.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)

LONG ISLAND LIGHTING COMPANY)

(Shoreham Nuclear Power Station,)
Unit 1))

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

CERTIFICATE OF SERVICE

I hereby certify that copies of Suffolk County Motion for Leave to File New Contentions Concerning the LILCO Offsite Emergency Preparedness Training Program have been served to the following by U.S. mail, first class, except where noted, this 13th day of February, 1984.

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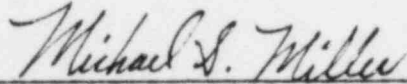
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