

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges

James A. Laurenson, Chairman

Dr. Jerry R. Kline

Mr. Frederick J. Shon

'84 FEB 21 A11:19

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 Proceeding)

February 16, 1984

MEMORANDUM OF GOVERNOR MARIO CUOMO, REPRESENTING
THE STATE OF NEW YORK, IN OPPOSITION TO LILCO'S
MOTION TO COMPEL EXPEDITED PRODUCTION OF THE
NEW YORK STATE EMERGENCY PREPAREDNESS PLAN

This memorandum has been prepared in opposition to LILCO's
MOTION TO COMPEL EXPEDITED PRODUCTION OF THE NEW YORK STATE
EMERGENCY PREPAREDNESS PLAN, dated February 10, 1984 (herein-
after, LILCO's Motion).

For the reasons set forth below, the State of New York
respectfully urges that the Board deny LILCO's Motion.

I. Background

In a previous motion, dated February 6, 1984, LILCO sought
to compel the State of New York to produce, on an expedited basis,
large numbers of documents possessed by the New York State Disaster
Preparedness Commission. The State of New York objected to LILCO's
February 6, 1984 motion in a memorandum dated February 13, 1984.

The State of New York's memorandum of February 13, 1984,
adequately responds to LILCO's Motion of February 10, 1984
as well. Therefore, the State of New York refers the Board to

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the State of New York's memorandum of February 13, 1984 and requests that the Board incorporate that memorandum into this one.

However, LILCO's Motion of February 10, 1984, which seeks to compel expedited production of a lengthy document referred to by LILCO as the New York State Emergency Preparedness Plan (hereinafter, the State Plan), warrants a brief discussion of certain additional considerations.

II. Discussion

First, in an attempt to demonstrate that the State Plan is somehow relevant to this proceeding, LILCO has mischaracterized certain facts relating to that Plan. For instance, on the first page of its Motion, LILCO states that:

The [State] Plan consists of a generic State-wide plan prepared under the auspices of the New York Disaster Preparedness Commission, and includes State-prepared annexes or appendices for individual nuclear power plants within New York State. It also includes specific supplements or appendices prepared by each of the counties occupying the emergency planning zone around each nuclear plant in New York State.

This statement is inaccurate and misleading. While the State Plan does contain some annexes or appendices for other power plants, it contains no site-specific materials for the Shoreham Plant. Likewise, as LILCO knows, the State Plan contains no specific supplement or appendix prepared by any county or other local government for the Shoreham Plant. Therefore, contrary to misleading characterizations in LILCO's Motion, the State Plan is entirely irrelevant to this proceeding, the purpose of which is to determine the adequacy of the LILCO Plan. The State Plan neither addresses the adequacy of LILCO's Plan, nor does it address anything specific to Shoreham at all.

On page 3 of its Motion, LILCO also describes the State Plan as a "unique and irreplaceable component in understanding" how New York State agencies perform their duties concerning nuclear power plants in New York State. However, since the State of New York (and the County of Suffolk) will not be performing any functions in LILCO's Plan, the State Plan is, again, irrelevant to this proceeding. Regardless of whatever criticisms the State of New York witnesses may have concerning LILCO's Plan (see LILCO's Motion at Attachment 3), the State Plan is irrelevant to this proceeding because LERO, not the State of New York, will be implementing LILCO's Plan.

Second, the individual from the New York State Department of Environmental Conservation who requested a copy of LILCO's Plan has withdrawn his request, as evidenced by Attachment 3 of LILCO's Motion. At this time, the State of New York is not requesting discovery of documents possessed by LILCO.

Third, LILCO's request for expedited production of the voluminous State Plan is unjustified. LILCO could have requested a copy of the New York State Emergency Preparedness Plan at any time in the past pursuant to the New York State Freedom of Information Law. LILCO's last minute request for production of the State Plan on an expedited basis is therefore unwarranted and improper.

Finally, the State Plan, if aggregated in one place, would consist of a stack of paper approximately three feet high. Written text appears on both sides of some of the papers. Other papers consist of oversized and cumbersome maps and diagrams. The Plan does not now exist in any complete form.

Many of the appendices and supplements to the master documents are scattered throughout various offices, where they are undergoing substantial revisions and updates. Even if the State Plan were deemed to be relevant, the task of finding these papers, bringing them together and copying them would be time-consuming, burdensome and simply cannot be completed on the expedited basis proposed by LILCO.

III. Conclusion

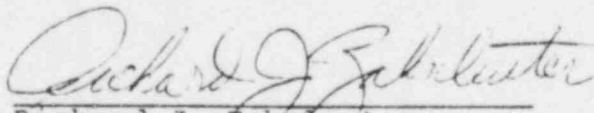
For the reasons set forth above and in the State of New York's memorandum of February 13, 1984, the State of New York respectfully urges that the Board deny LILCO's Motion.

Respectfully submitted,

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Governor of the State
of New York

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DATED: FEBRUARY 16, 1984
ALBANY, NEW YORK

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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In the Matter of)	
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LONG ISLAND LIGHTING COMPANY)	Docket No. 50-322-OL-31
)	(Emergency Planning Proceeding)
(Shoreham Nuclear Power Station,)	
Unit 1))	February 16, 1984
)	
)	

CERTIFICATE OF SERVICE

I hereby certify that one copy of the MEMORANDUM OF GOVERNOR MARIO CUOMO, REPRESENTING THE STATE OF NEW YORK, IN OPPOSITION TO LILCO'S MOTION TO COMPEL EXPEDITED PRODUCTION OF THE NEW YORK STATE EMERGENCY PREPAREDNESS PLAN has been served to each of the following this 16th day of February 1984 by U.S. Mail, first class, except as otherwise noted:

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#Original and 2 copies
*By Hand
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Albany, New York
February 16, 1984