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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Before the Atomic Safety and Licensing Board ~~84 APR 19 10:34~~

In the Matter of)

LONG ISLAND LIGHTING COMPANY)

(Shoreham Nuclear Power Station,
Unit 1))

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

SUFFOLK COUNTY RESPONSE TO LILCO'S
MOTION TO STRIKE PORTIONS OF THE
DIRECT TESTIMONY ON BEHALF OF
SUFFOLK COUNTY REGARDING TRAINING CONTENTIONS

I. Introduction

Suffolk County hereby responds to LILCO's Motion to Strike Portions of the Direct Testimony on Behalf of Suffolk County Regarding Emergency Planning Contentions 39, 40, 41, 44, 98, 99 and 100 -- Training of Offsite Emergency Response Workers, dated April 9, 1984 (hereinafter, "Motion"). We set forth below the County's general response to the LILCO Motion, followed by a discussion of the individual portions of the County's training testimony (hereinafter, "County testimony") which LILCO seeks to strike, and the reasons that each portion of the LILCO Motion should be denied.

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II. General Response

LILCO's Motion is based primarily on several variations of one argument: that particular statements by the County's witnesses relate to subparts of Contentions 99 and 100 that were not admitted as contentions by the Board, and that, accordingly, those statements do not constitute relevant evidence and should be stricken. This LILCO argument is based on two false premises: (1) that a ruling on the admissibility of a contention automatically means that any opinion or fact that relates to a matter mentioned in such contention does not constitute admissible evidence; and (2) that if a particular opinion or fact relates to a contention or subpart thereof that was denied admission as a contention, it cannot also be relevant and material to an admitted contention and therefore proper and admissible evidence. It is clear that both premises are wrong and, accordingly, the portions of LILCO's Motion that are based on the non-admitted contention argument must fail.

We discuss in Section III below LILCO's application of this argument to particular portions of the County's training testimony, and the lack of basis for the argument is set forth in those specific discussions. The following observations, however, apply generally to LILCO's arguments. First, LILCO's

arguments ignore the portions of the admitted contentions that are properly addressed by the testimony LILCO seeks to strike. Second, LILCO also ignores the fact, acknowledged by the County and the Board in connection with the submission of Contentions 98, 99 and 100, that several of the subparts of those contentions are closely related to the previously admitted contentions.^{1/} Thus, the fact that a particular statement addressing an issue raised by an admitted contention may also relate to a subcontention that was denied admission is not surprising, and provides no basis for striking that statement.

Third, the LILCO arguments also ignore the bases for the Board's denial of admission to certain subparts of Contentions 99 and 100. Several were denied admission, as contentions, because in the Board's view, they were not adequately specific or lacked basis (e.g., subparts A, B, H, I, J and K of Contention 99, and subparts A, C and F of Contention 100). See Order at

^{1/} See Suffolk County Motion for Leave to File New Contentions Concerning the LILCO Offsite Emergency Preparedness Training Program, dated February 13, 1984, at 4, 8 and 9; Order Ruling on Suffolk County's Motion for Leave to File New Contentions Concerning the LILCO Offsite Emergency Preparedness Training Program, dated March 19, 1984, at 10 ("The County's new contentions identify alleged shortcomings and inadequacies in LILCO's training program which at least arguably differ from the issues raised in the contentions already admitted.") (hereinafter, the "Order").

15-19. Specificity and basis requirements do not apply to testimony, and therefore the Board's ruling on the admissibility of subparts of contentions are simply irrelevant to the question of the admissibility of evidence. In order to rule on the portions of LILCO's Motion based on the non-admitted contention argument, this Board must examine the testimony at issue in the context of the admitted contentions. As we demonstrate below, such an examination reveals that the testimony is relevant and material and should not be stricken.

Fourth, in asserting that various portions of the County's training testimony are irrelevant to the admitted contentions being addressed in that testimony, LILCO takes a position that is in direct conflict with the opinions of its own witnesses. Thus, as we demonstrate in Section III, LILCO's own testimony contains extensive discussion by LILCO's witnesses, in response to questions asked in that testimony, concerning the very issues which, when discussed by the County's witnesses, LILCO asserts are "irrelevant" and "beyond the scope of the contentions." Similarly, although LILCO cites the opinion in Louisiana Power Light Co. (Waterford Steam Electric Station, Unit 3), ALAB-732, 17 NRC 1076 (1983), as the basis for its assertion that portions of the County's training testimony which discuss LILCO's training workbooks and LILCO's drill scenarios

require the Board to "delve" into implementing procedures, LILCO itself has submitted such workbooks and drill scenarios, as well as lesson plans, videotape scripts, and videotapes, into evidence (as attachments to the LILCO training testimony) and LILCO's witnesses discuss the contents of such materials in their training testimony. Clearly, LILCO cannot assert one relevance and materiality standard for the testimony of its witnesses, and at the same time seek to have the Board apply a different one to the testimony of the County's witnesses. Substantial portions of the LILCO Motion must fail for the simple reason that by virtue of its own testimony, LILCO is estopped from raising the objections it asserts.

III. Response to Arguments Concerning Specific Portions of the County's Testimony

1. Page 7, lines 4-5

LILCO seeks to strike the phrase "either that those individuals would realize that LILCO has assigned them emergency roles, or" which appears in the middle of the following passage in the summary of conclusions at the beginning of the County's training testimony:

LILCO lacks adequate provisions for training non-LILCO personnel on whose assistance LILCO would rely in the event of an emergency at Shoreham. Consequently, there is no assurance either that those individuals would realize that LILCO has assigned them emergency roles, or that

they would understand and know how to perform those roles properly or effectively.

County's testimony at 7. LILCO asserts that the referenced clause is beyond the scope of the contentions at issue in the testimony, and therefore is not relevant because, according to LILCO, "[n]owhere in the contentions proffered by Intervenor is it stated or is the inference raised that individuals who would perform emergency duties under the LILCO Transition Plan would not be aware that they were responsible for performing those emergency duties." Motion at 3. LILCO's Motion is without basis and should be rejected.

Contention 98 expressly raises the issue of LILCO's failure to demonstrate that training will be provided to non-LILCO personnel. It explicitly alleges that because the Plan provides no assurance that 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 LILCO Plan can or will be taken. Similarly, the main portion of Contention 99 states that the training provided by LILCO to both LILCO and non-LILCO emergency personnel is inadequate and, as a result, such personnel "will neither understand nor be able to perform properly the functions assigned to them under the LILCO Plan" in the event of a radiological emergency.

Clearly, one result of LILCO's failure to provide any training at all to non-LILCO personnel is the fact that such personnel may not be aware of, much less have been trained to perform, the roles that LILCO assumes in its Plan they will perform. The referenced clause is relevant to admitted Contentions 98 and 99 and LILCO has failed to demonstrate any basis for striking it.

2. Page 12, lines 14-15

LILCO moves to strike the following sentence from page 12 of the County's testimony: "That is, some of them may not realize that they have emergency roles." This sentence follows the following statement in the portion of the County's testimony which explains the basis for the witnesses' opinions concerning Contention 98:

Unless these non-LILCO individuals receive training concerning both the tasks LILCO expects them to perform and the manner in which LILCO expects the tasks to be performed in the context of a radiological emergency and the LILCO Plan, there is no assurance that these non-LILCO personnel will fulfill the roles assigned to them by LILCO. First, the fact that LILCO states in its Plan that it expects the employees of schools and special facilities to perform certain tasks, does not assure that those employees know about or understand LILCO's expectations. That is, some of them may not realize that they have emergency roles.

County Testimony at 12. For the reasons described in Section III.1 above with respect to the clause on page 7 of the County testimony, this sentence which LILCO seeks to strike is relevant to Contention 98. LILCO has failed to demonstrate any basis for striking it.

3. Page 18, lines 6-9
Page 28, lines 4-19

LILCO seeks to strike these two portions of the County's testimony because they discuss the fact that the LILCO workers who were selected for LILCO's training program were not selected based on relevant experience, aptitudes or skills. LILCO states that it "cannot find any part of the contentions which involves the manner in which LILCO workers were selected for LERO," and therefore that the referenced portions of the County's testimony are not relevant or material evidence and are beyond the scope of the contentions. Motion at 3-4. LILCO's argument is without basis.

First, Contention 40 explicitly raises the issue whether the LILCO personnel assigned to LERO have prior experience related to their LERO job functions. Clearly, the brief explanation by the County's witnesses of the fact that LILCO workers without prior experience were assigned to be LERO workers because no screening or recruiting methods to identify persons

with relevant and necessary prior experience were involved in the creation of LERO, is related to the very issue raised by Contention 40 and is a proper topic for testimony. The fact that the word "selection" is not contained in Contention 40 does not mean that an explanation of the basis for an allegation in Contention 40 -- that is, that LILCO's workers who are assigned to LERO do not have relevant prior experience -- is improper. The County's witnesses are entitled to provide evidence to support a factual allegation contained in a contention. Thus, the LILCO Motion should be denied because it has no basis.

Furthermore, LILCO's own testimony on the training contentions discusses the methods used by LILCO in assigning workers to LERO as well as the prior experience of the workers.^{2/} See, for example, LILCO Training Testimony at Volume 1, page 40 ("in certain instances, the LERO organization has made use of the job-related skills of LILCO employees when assigning them to LERO jobs. For example, the majority of LERO bus drivers are

^{2/} See, Testimony of Harry N. Babb, Gary J. Berger, Matthew C. Cordaro, Charles A. Daverio, Dennis S. Milet, William F. Renz, and Ronald A. Varley on Behalf of Long Island Lighting Company on Phase II Emergency Planning Contentions 39.A, B, 40, 41, 44.D, E, and F, 98, 99.C and G, 100.B, D, and G, dated April 2, 1984 (hereinafter "LILCO Training Testimony").

underground lines personnel who drive trucks or other large vehicles as part of their daily work"), page 38 ("There is no doubt that . . . emergency workers are best selected to do emergency jobs that match their routine jobs as closely as possible . . . emergency workers must know their emergency jobs and how to do them, and these goals are more readily achieved if emergency jobs and workers are matched to virtually identical non-emergency jobs and workers"), and page 58 ("in many cases [the LERO members who will be required to use two-way radios] use two-way radios on a frequent basis in conducting their normal job activities for LILCO. For example, transfer point coordinators are all assigned to LILCO's underground lines department. This department uses radio equipment in conducting day-to-day business."). Thus, the LILCO witnesses apparently believe that the assignment of certain LILCO employees to particular LERO functions, and the relationship between such assignments and the experience afforded by the workers' regular LILCO job functions, are relevant and material to the contentions at issue. LILCO has failed to demonstrate any basis for striking testimony by the County witnesses on the same subjects.

4. Pages 19-20, footnote 1

LILCO seeks to strike this footnote which it describes as concerning "the ability of traffic guides to direct traffic" because, according to LILCO, it is repetitive and cumulative of testimony on Contention 65. Motion at 4. LILCO is incorrect. First, the point of footnote 1 is not just the "ability" of LILCO's traffic guides to direct traffic in the abstract or in general. It is a specific example of one skill which LILCO's traffic guides will need to have in order to be effective -- i.e., the ability to direct traffic out of habit while dealing with particular distractions which are likely to occur. Second, the testimony on Contention 65 cited by LILCO in its Motion (i.e., pages 39-44 of the County's January 16, 1984 Amended Testimony^{3/}) does not address the example discussed in footnote 1 of the County's training testimony. Although the County's Amended Contention 65 Testimony does reference briefly the fact that LILCO's proposed traffic guides do not have prior

^{3/} See Amended Direct Testimony of Inspector Richard C. Roberts, Inspector Joseph L. Montieth, Deputy Inspector Philip Maguire, Deputy Inspector Michael J. Turano, Jr., and Captain Edwin J. Michel on Behalf of Suffolk County Regarding Emergency Planning Contentions 65 and 23.H -- Evacuation Time Estimates and EPZ Access Control, dated January 16, 1984 (hereinafter, "County's Amended Contention 65 Testimony").

experience in directing traffic, it does not discuss the need for such traffic guides to be able to direct traffic out of habit while dealing with particular distractions. Therefore, there is no basis for striking footnote 1 as repetitive or cumulative.

5. Page 28, line 20, through page 32, line 12

The referenced portion of the County's testimony responds to the following question:

But doesn't the fact that LILCO's LERO workers volunteer for membership in LERO mean that they have the necessary motivation to perform emergency response work?

County Testimony at 28.

The response includes three sentences (lines 1-11 on page 29) discussing why volunteering for LERO does not ensure the existence of the necessary motivation to learn in the training program, as well as a discussion of the fact that individuals assigned to LERO do not have relevant prior job experience.

LILCO's Motion contains only the following characterization of the County's testimony, followed by the unsupported and unexplained assertion that the testimony is beyond the scope of the contentions and should be stricken as irrelevant.

Suffolk County's testimony addresses the motivation of LILCO employees in volunteering for the LERO organization and whether or not a proper skill-matching or selection process was engaged in by LILCO when it assigned LILCO employees to specific positions in the LERO organization.

Motion at 4.

First, the LILCO Motion clearly fails to meet the Board's requirement that the basis for a motion to strike be stated with particularity. See Amended Order Ruling on Motion to Strike, dated January 23, 1984, at 1. It should be denied for that reason alone.

Second, the question and response obtained in the County's testimony directly address the issues raised in Contention 40. That contention alleges, among other things, that the workers assigned to LERO do not have relevant prior experience, that there is no assurance that LERO training will compensate for the lack of job-related experience, and that various features of the LILCO training program will minimize any benefits gained through such training "especially since . . . there are no incentives for LILCO personnel to learn or to retain the emergency training provided to them." A discussion of the motivation of participants in LILCO's training program and whether the training program provides incentive for learning or retention of knowledge is contained in the first paragraph

LILCO seeks to strike. The remainder of the testimony which LILCO seeks to strike directly relates to the particular job skills possessed by particular LERO workers and explains why such job skills do not provide the experience necessary to enable those workers to perform their LERO job functions adequately or effectively. These issues are expressly raised in Contention 40 and the testimony thus is relevant, material and probative.

Third, as noted in Section III.5 above, LILCO's own testimony on the training contentions includes a similar discussion of LILCO's so-called efforts to match LILCO job skills with LERO required job functions. It is inconsistent and incongruous for LILCO to move to strike the County's testimony which corresponds to testimony submitted by LILCO itself on a subject which is clearly relevant to Contention 40.^{4/}

^{4/} See, for example, the following portions of pages 38-40 of LILCO's Training Testimony, which clearly correspond in subject matter to the County's testimony which LILCO seeks to strike.

There is no doubt that, in the best of all possible worlds, emergency workers are best selected to do emergency jobs that match their routine jobs as closely as possible. . . . The reason is straightforward: emergency workers must know their emergency jobs and how to do them, and these goals are more readily achieved if emergency jobs and workers are matched to virtually identical non-emergency job and workers.

(Footnote cont'd next page)

6. Page 32, line 13 to page 33, line 2

LILCO moves to strike this portion of the County's testimony because, according to LILCO, it contains "a number of assertions concerning the ability of persons to function under pressure," and therefore it "apparently relates to an issue which was denied admission by the Board when it struck Contention 100.C." Motion at 4-5. LILCO's argument is unfounded. The referenced portion of the County's testimony discusses the need for emergency workers to be able to make decisions and take actions under stressful conditions. That issue is expressly raised in Contention 40 which states:

There is no assurance that LILCO training will compensate for this lack of job-related experience, especially when the tasks to be performed may be accompanied by high levels of stress and fatigue involving life-threatening situations. Training alone cannot prepare people for the actual stress and trauma that accompany emergency conditions. Experience is also essential.

(Footnote cont'd from previous page)

. . .

[T]he emergency response tasks that are assigned to individual LILCO employees generally are not complex or difficult and do not require daily practice to ensure proficiency . . . [I]n certain instances, the LERO organization has made use of the job-related skills of LILCO employees when assigning them to LERO jobs. For example, the majority of LERO bus drivers are underground lines personnel who drive trucks or other large vehicles as part of their daily work.

(Emphasis added). Clearly, a discussion of the need to be able to function under stressful conditions is relevant to Contention 40. LILCO has failed to demonstrate a basis for striking this testimony.

Moreover, LILCO's own training testimony includes several pages discussing the effect of stress upon worker's abilities during an emergency, and the alleged ability of LILCO employees to perform despite stress that may be present during a Shoreham emergency. See, e.g., LILCO Training Testimony at pages 46-54. It is inconsistent and incongruous for LILCO to move to strike the County's testimony dealing with stress which is relevant to admitted Contention 40, and yet submit its own testimony on precisely the same subject.

Finally, although LILCO asserts that the County's testimony should be stricken because, according to LILCO, it relates to the issue mentioned in Subpart C of Contention 100 (which alleged "the LILCO drill scenarios provide no training with respect to how to deal with stress"), LILCO's Training Testimony contains the following question "How do you propose to simulate stress in drills and exercises?" followed by a full page response by the LILCO witnesses. LILCO Training Testimony at 53-54. Accordingly, LILCO has failed to demonstrate a basis

for striking the County's testimony concerning the inability of LILCO's workers to perform their LERO jobs under the stress that will be present during an emergency.

7. Page 33, line 3 to page 34, line 6

This portion of the County's testimony is a summary of the preceding sections. For the reasons stated in Section III.3-6 above, the discussion is relevant to the issues raised in Contention 40 relating to LILCO's failure to designate as LERO workers LILCO employees with relevant prior experience related to their LERO functions, the failure of LILCO's training program to deal with high levels of stress and fatigue, and the inability of individuals to make proper judgments under such conditions. There is no basis for striking this testimony.

8. Page 34, lines 14-15

LILCO seeks to strike the following sentence "No, there are serious deficiencies in both LILCO's classroom and drill sessions," which is the beginning of the County's witnesses' response to the question "[D]oes the LILCO formal training program compensate for the lack of experience among LERO members?" LILCO asserts that the introductory sentence to the witnesses' response is outside the scope of the contentions and

irrelevant, apparently because, according to LILCO, the issue addressed in that sentence was raised in Contention 99.B which was denied admission. Motion at 5. This LILCO objection is without merit.

The sentence which LILCO seeks to strike is merely an introductory sentence preceding the witnesses' discussion of the LILCO training program (which consists of classroom and drill sessions) and its failure to compensate for the LERO workers' lack of prior experience. The testimony clearly is relevant to Contention 40. LILCO has stated no basis for striking this sentence in the County's testimony.

9. Page 36, line 21 through page 37, line 2

LILCO here seeks to strike the following two sentences for the County's testimony:

Skills simply cannot be developed by watching videotapes or reading workbooks. Skills can only be developed through instruction, hands-on practice and experience.

The basis for LILCO's motion is that, in LILCO's view, the testimony "raises the issue of the ability to develop skills through watching videotapes and the alleged need for hands-on practice and experience," that it therefore relates to

Contention 99.B, and that the testimony thus constitutes "[a]n attempt to expand, through testimony, the scope of prior contentions to include the issues raised by Contentions 99.B and 99.J." Motion at 6. LILCO asserts that the testimony is not relevant to the admitted contentions.

LILCO is simply incorrect. First, Contention 40 explicitly alleges that the LILCO training program (including classroom training), does not compensate for the LERO workers' lack of practice and prior experience, matters which are directly addressed in the sentences LILCO seeks to strike. Similarly, Contention 99.G states that the LILCO training program provides insufficient information concerning how trainees are to perform specific duties and responsibilities. And, Contention 100.D also discusses the failure of the LILCO training program to include actual practice and performance of LERO job skills. Clearly, the referenced testimony is relevant to admitted contentions and there is no basis for striking it.

Second, contrary to LILCO's suggestion, the referenced subparts of Contention 99 which were not admitted by the Board discuss the contents of workbooks and videotapes, which is not addressed in the referenced testimony on pages 36 and 37 of the County's testimony.

Third, LILCO's own testimony on training addresses the same matters discussed in the referenced portion of the County's testimony. Thus, in their training testimony the LILCO witnesses spend more than a page discussing how the classroom sessions of the LERO training program are structured, emphasizing the use of workbooks and videotapes, the reasons for their use, and what they can accomplish in LILCO's view. LILCO Training Testimony at 16-17. They also discuss hands-on demonstrations that allegedly take place in classroom instruction. LILCO Training Testimony at 17. In addition, the LILCO witnesses provide a three page response to the question "Why did LILCO choose to use videotapes?" and respond to the questions "Have educators found the videotape medium to be an effective instructional method?" and "How do LERO workers gain practical experience for their LERO jobs?" LILCO Training Testimony at 17-22. Clearly, the LILCO witnesses, as well as the County witnesses, address the development of skills through the media used in the LILCO training program -- i.e., videotapes and workbooks -- because those matters are relevant to the admitted contentions. LILCO has failed to demonstrate any basis for striking the referenced County testimony.

10. Page 38, line 20 to page 39, line 9

LILCO asserts that the referenced testimony, which discusses the need for instructors to know the items of knowledge they are expected to impart or skills they are expected to develop in their students, is beyond the scope of the contentions and therefore not relevant. LILCO's objection is without basis. Contention 99.C specifically alleges that LILCO's training program is inadequate because, among other reasons, LILCO's classroom sessions are conducted by individuals who are not experienced in or knowledgeable about the subject areas they are assigned to teach, and they are not experienced or trained in teaching methods. The testimony which LILCO seeks to strike provides part of the basis for the allegation in Contention 99.C. In other words, it sets forth the reason that knowledgeable and experienced instructors are necessary in order for training to be effective. The testimony is clearly relevant to the issues raised in Contention 99.C. LILCO has provided no basis for striking it.

11. Page 40, lines 5-8
Page 40, lines 15-16

LILCO seeks to strike the following two sentences:

But the LILCO training program does not include such information for instructors. Neither lesson plans nor the other training materials contain references to authority,"

and the clause "and because they are given no extra materials except inadequate lesson plans" which appears in the middle of a sentence. LILCO alleges that this testimony "seeks to resurrect the issues of the adequacy and substantive content of lesson plans, videotapes, and workbooks," and therefore should be stricken as beyond the scope of the contentions. Motion at 7.

When the lines LILCO seeks to strike are viewed in the context of the paragraphs in which they appear, it is clear that the words LILCO seeks to strike are relevant to the admitted contentions. The County's witnesses explain in the testimony preceding the sentences LILCO seeks to strike that because LILCO's instructors lack knowledge in the subject area and pertinent experience related to the subjects they are called upon to teach, references to resource materials and other authoritative information are necessary for them to be effective. LILCO does not seek to strike that testimony, which addresses the issue raised in Contention 99.C. Contrary to LILCO's assertion, the passages LILCO seeks to strike, which merely state the conclusion which follows from the preceding discussion, are not irrelevant to Contention 99.C; they address the inadequacy of the LILCO Plan resulting from the failure of the training program to include experienced, knowledgeable, or properly

trained instructors by referring to the particular information that is provided to the LILCO instructors. LILCO has failed to demonstrate any basis for striking the testimony.

Moreover, LILCO's own witnesses discuss the "preparation" LILCO's instructors receive prior to conducting classes and the contents of the lesson plans, (see LILCO Training Testimony at 88-89), and actually attach five lesson plans to their testimony. LILCO states no basis for striking the testimony of the County's witnesses as irrelevant to Contention 99.C, when its own witnesses discuss identical matters in their testimony on that contention.

12. Page 43, line 15 to page 45, line 16
Page 45, line 17 to page 46, line 17

LILCO moves to strike this testimony on the ground that it is irrelevant and immaterial, based upon an argument that it is related to Contention 99.I which was not admitted by the Board. A reading of the testimony makes clear that it is directly related to Contention 99.G which alleges in pertinent part:

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. . . .

The discussion in the testimony provides specific evidence in

support of the above-cited allegation contained in Contention 99.G. Thus, the County witnesses point to particular modules in the LILCO training program which provide insufficient information concerning specific duties and responsibilities, and discuss particular videotapes which are inadequate for the same reasons. Clearly, witnesses are entitled to cite specific examples to support their opinion that a contention is correct. The mere fact that testimony includes specific examples in support of an allegation in a contention cannot be said to render the testimony irrelevant.

Moreover, in their own training testimony the LILCO witnesses discuss specific training workbooks and videotapes (see, e.g., pages 16-19, 59-60; and 93-94 of the LILCO Training Testimony), and, indeed, attach to their testimony every workbook and several videotapes. It is clear that a discussion of the contents of those workbooks and videotapes in the context of Contention 99.G, which alleges that the training program does not provide sufficient information concerning how to perform specific duties and responsibilities, is relevant, material, and probative evidence. LILCO intends to move the workbooks and videotapes that are attached to its testimony into evidence. There is no basis for striking the County's testimony at pages 43 to 46.

13. Page 46, line 18 to page 49, line 15

LILCO seeks to strike this testimony by asserting that it is not relevant to Contention 40. LILCO's argument is based upon a mischaracterization of the contention, and should be rejected. As LILCO acknowledges, Contention 40 expressly raises the issue of whether the LILCO training program includes incentives for LILCO personnel to learn and/or retain the knowledge provided to them through the LERO training program. Specifically, that contention states that any benefits gained through the LILCO training program will be minimized for several reasons, including the specific one that "there are no incentives for LILCO personnel to learn or retain the emergency training provided to them." The testimony at pages 46 through 49 which LILCO seeks to strike directly addresses the issue whether the LILCO training program includes necessary incentives. The witnesses explain in this testimony the basis for their belief that inadequate incentives exist in the training program, and provide specific examples in support of their opinion. Clearly, the testimony is relevant and material to the incentive issue explicitly raised in Contention 40.

LILCO's argument that Contention 40 "focuses solely on the frequency with which training will be provided and on the

frequency with which LERO personnel will practice their LERO job responsibilities," (Motion at 9), is simply a mischaracterization of the contention. Clearly, the contention alleges much more than that; it concerns both the lack of experience of LERO personnel and also several specific features of the LILCO training program that fail to compensate for that lack of experience. One of those features is the training program's failure to provide the necessary incentive for personnel to learn or retain information or knowledge. The testimony by the Suffolk County witnesses is clearly relevant and material to Contention 40. LILCO has failed to demonstrate any basis for striking it.

14. Page 50, line 14 to page 51, line 12

LILCO objects to this testimony solely because, according to LILCO, it "attempts to resurrect" issues raised in Contention 99.J. LILCO's argument is without basis, and does not support a motion to strike the referenced testimony.

The testimony LILCO seeks to strike explains why LILCO's so-called "tabletop drills" and "equipment demonstrations" do not teach job performance. The testimony directly relates to Contention 99.G, which alleges that "[t]he LILCO training program provides insufficient information concerning how trainees

are to perform the specific duties and responsibilities assigned to them under the LILCO Plan." Because "table-top drills" and "equipment demonstrations" are part of LILCO's training program, the County's witnesses quite properly address those drills and demonstrations in their discussion of the reasons for their belief that that program does not sufficiently train workers in how to perform their jobs. LILCO has stated no basis for striking this testimony.

Moreover, the LILCO witnesses discuss in their training testimony the "table-top drills" and "demonstrations" which are part of the LILCO training program (see, e.g., pages 17, 93-95 of LILCO Training Testimony), and they attach to their testimony materials related to such drills and demonstrations. See, e.g., Attachments 17 and 21 to the LILCO Training Testimony. Clearly, LILCO cannot move to strike the testimony by the Suffolk County witnesses on a subject which their own witnesses apparently believe is relevant to the admitted contentions and which is addressed at length in LILCO's own testimony. There is no basis for striking the referenced County testimony.

15. Page 51, line 13 to page 52, line 17

In the referenced portion of the County's testimony, the County's witnesses discuss one reason that LILCO's training program does not provide necessary simulated experience (a concern that is explicitly raised in Contentions 40 and 99.G) -- that is, because there is no testing included in the LILCO program. The witnesses explain that if testing were included in the training program, it could provide simulated experience, evaluation and constructive criticism and correction by instructors. The witnesses also describe why such testing is particularly important in the context of the LILCO training program, since the workers in that program were not screened and have little prior relevant experience. The discussion is directly related to the issues of lack of prior experience and the LILCO training program's failure to provide sufficient training on how to perform specific jobs. It is thus relevant to admitted Contentions 40 and 99.G.

LILCO asserts that the referenced testimony should be stricken because its "thrust" is that there should be testing in the classroom training program. LILCO alleges that such an issue is beyond the scope of the admitted contentions. Motion at 9-10. For the reasons just stated, LILCO's characterization

of the testimony is incorrect, and the testimony is relevant to two admitted contentions. Moreover, LILCO's own witnesses discuss in their training testimony the fact that in their view, the LILCO program does include evaluation and testing of LILCO workers. See, e.g., pages 16-17, 21, 25, and 108-110 of the LILCO Training Testimony. There is no basis for striking the referenced County testimony.

16. Page 52, line 18 through page 53

This passage in the County's testimony discusses why the portions of the LILCO workbooks which contain so-called "review exercises" are insufficient to provide workers with the necessary information and understanding of specific job requirements. It is relevant to Contention 99.G, which alleges that the LILCO training program provides insufficient information concerning how trainees are to perform specific duties and responsibilities. The review exercises contained in LERO workbooks are part of that training program. This portion of the County witnesses' testimony merely sets forth with specificity their basis for agreeing with Contention 99.G as applied to one particular aspect of the LILCO training program. LILCO's assertion that this testimony is not relevant because it is beyond the scope of the contentions is without merit. The testimony is relevant and material to an admitted contention.

Moreover, the LILCO witnesses have submitted as attachments to their testimony the LERO workbooks which include review exercises, and the LILCO witnesses also discuss in their testimony the review exercises and their opinions concerning the value of those exercises. See, e.g., LILCO Training Testimony at 16-17. Clearly, LILCO is inconsistent in asserting that discussion by the County witnesses of this topic is irrelevant or in violation of the Waterford opinion (see Motion at 10), while submitting testimony on precisely the same subject by its own witnesses. LILCO has failed to demonstrate any basis for striking the County's testimony.

17. Page 54, lines 9-10, lines 10-11, lines 11-13, lines 15-16

These sections of the County's testimony summarize earlier testimony which is admissible for the reasons stated above. The phrases which LILCO seeks to strike are admissible for the same reasons.

18. Page 55, lines 8-21

LILCO moves to strike this paragraph of the County's testimony based on LILCO's assertion that it is cumulative and repetitive of the County's Amended Contention 65 Testimony. Motion at 11. It is true that one paragraph in the referenced

portion of the County's Amended Contention 65 Testimony does refer to rookie police officer training. See Amended Contention 65 Testimony at 39-40. That testimony states that rookie police officers are kept on probation status for their first year and are closely supervised by veteran or certified training officers. However, the portion of the County's training testimony which LILCO seeks to strike does not "repeat" the Amended Contention 65 Testimony. The point of the referenced portion of the training testimony is that, contrary to the training provided to LILCO workers, the type of training provided to Suffolk County and typically other police department personnel provides actual experience under real conditions, an opportunity to perform a normal routine and real police work under close supervision and scrutiny, and practically constant observation and evaluation by experienced instructors. Although the two portions of testimony have some relation to each other, in the context of the training testimony as a whole the paragraph at issue is not repetitious or cumulative. It should not be stricken.

19. Page 56, lines 18-19

Here, LILCO seeks to strike the following words "and the repeated suggestion that the training will never have to be put

to use," as beyond the scope of Contention 40. Motion at 11-12. For the reasons discussed in Section III.13 above, the issue of whether LILCO workers are provided the necessary incentive to learn or to retain information or knowledge provided in the LILCO training program is a proper subject for testimony concerning Contention 40. Accordingly, there is no basis for striking this testimony.

20. Page 57, line 1 to page 58, line 12

This portion of the County's testimony concerns Contention 100.D, which alleges that the LILCO drill program violates cited regulations because trainees are not required to perform their LERO jobs during drills and therefore are not provided an opportunity to practice their emergency duties and responsibilities. The testimony discusses specific examples of such inadequacies in LILCO's drill program, involving LILCO's traffic guides, bus drivers, road crews and evacuation route spotters. The testimony is relevant and material to the issue raised in Contention 100.D.

The only basis stated by LILCO for its motion to strike this testimony is its interpretation of the cited regulations. LILCO asserts that the regulations cited in Contention 100.D "do not require public participation," and therefore,

apparently, LILCO believes the County's testimony is not relevant or for some other reason is improper. Motion at 12. First, as the County has discussed in several of its responses to other LILCO motions to strike, such an argument based upon a legal interpretation of the regulations is not a proper basis for a motion to strike testimony. If the testimony is relevant, material, probative and addresses an admitted contention, it is admissible. Legal arguments are for lawyers' briefs after the testimony has been heard by the Board, not for motions to strike testimony.

Second, the referenced testimony does not discuss "mandatory public participation" as LILCO appears to imply in its Motion. The matter addressed in the testimony is a particular identified inadequacy in LILCO's drill program; the testimony discusses the failure of LILCO's program to provide practice opportunities for particular LERO workers. LILCO's discussion of mandatory public participation appears inapposite. Its discussion of this passage of the County's testimony in its Motion certainly fails to meet this Board's particularity requirement set forth in its January 23, 1984 Order.

Finally, LILCO's own training testimony discusses at length the contents of LILCO's drills (including special

sessions and drills for traffic guides and bus drivers), the skills that the LILCO witnesses believe can be practiced during such drills, and the asserted value of the drills as a training tool. See, e.g., pages 40-42, 93-97, 100-101, 103-105, 106-107 of the LILCO Training Testimony. LILCO cannot be heard to argue that the County's testimony on a subject is irrelevant or otherwise improper, when its own witnesses discuss the same matters in their testimony. There is no basis for striking the referenced portion of the County's testimony.

LILCO asserts a second objection for the portion of the above-referenced County testimony beginning at page 57, line 17 through page 58, line 8. First, LILCO characterizes this testimony as alleging that "the LERO drill program is ineffective because it does not provide experience in dealing with members of the public." Motion at 12. It is true that that point is made in one-half of one sentence in the referenced testimony. That is not, however, the point of the testimony. Rather, the testimony provides specific examples of the LILCO drill program's failure to provide an opportunity for personnel to practice their required job skills; specifically, it discusses bus drivers who do not drive their buses, deal with passengers, or drive their own routes; road crew members who do not move stalled vehicles or road blockages; and evacuation route

spotters who do not locate trouble spots in traffic congestion. Thus, LILCO's characterization of the testimony, and its resulting objection, are without basis in the testimony itself.

Second, LILCO moves to strike this testimony on the basis of the Waterford decision. Motion at 12. This objection is without foundation. The point of the Waterford decision was that a licensing board need not consider the details of implementing procedures that have not yet been written or submitted by the applicant, if sufficient information for the necessary findings could be made by looking at other materials that are in existence. Waterford is simply not applicable here. The LILCO training materials, including drill scenarios, have been submitted by LILCO as part of the evidence in this proceeding. In the testimony at issue the County witnesses do not request this Board to concern itself with non-existent procedures or to make rulings based upon the non-existence of procedures, as was the case in Waterford. The County's witnesses merely point to materials that have been offered into evidence by LILCO itself, in order to support their opinions concerning a specific inadequacy in the LILCO training program that is identified in an admitted contention. In short, there is no basis for striking this testimony.

Finally, LILCO seeks to strike lines 17-19 on page 57 which state "[a]ccording to LILCO, these personnel were selected because they were familiar with driving large vehicles." Motion at 13. For the reasons stated in Section III.3 above, this testimony is admissible. Moreover, at page 40 of its own training testimony, the LILCO witnesses state "For example, the majority of LERO bus drivers are underground lines personnel who drive trucks or other large vehicles as part of their daily work." LILCO has failed to demonstrate any basis for striking this testimony.

21. Page 60, line 5 to page 62, line 19 .

LILCO seeks to strike this portion of the County's testimony because Contention 100 allegedly does not "presage" the matters addressed in the testimony. Therefore, LILCO concludes, the testimony is not relevant. Motion at 13. LILCO is incorrect. Contention 100 expressly identifies the concern that the LILCO drill program is inadequate because it does not prepare or train LILCO personnel to perform properly or effectively their assigned functions. Subpart B of Contention 100 specifically raises the issue that LERO personnel are not accompanied to their drill posts by instructors and therefore their activities are not supervised, observed, evaluated,

graded or critiqued. Subpart D of Contention 100 states that most LERO trainees are not required to perform their LERO jobs during training drills and therefore LILCO's drill program does not provide personnel with an opportunity to practice their emergency duties and responsibilities. Subpart G of Contention 100 alleges that the drills "contain no terminal performance standards" and therefore there are no objective, observable criteria to be used by instructors in evaluating the performance of trainees.

The testimony which LILCO seeks to strike discusses only matters that are raised by Contention 100. Thus, it discusses the fact that LILCO will not know how many of its workers can or cannot perform their jobs because there is no pass-fail testing of the workers. It also discusses the fact that because the drills are not realistic they fail to prepare trainees to deal with the responsibilities they will actually face in their LERO roles. The County witnesses also discuss specific examples of inadequacies in the drill program directly related to the fact that that program does not provide workers an opportunity to practice their actual job. There is no basis for LILCO's assertion that this testimony is not relevant.

Moreover, as noted in Section III.20 above, in their training testimony LILCO's own witnesses discuss the contents of the LILCO drill program and the asserted value of the program in providing simulated experience and practice for workers. Moreover, attached to the LILCO testimony are several drill scenarios. LILCO cannot move to strike the portions of the County's testimony on such matters, alleging they are irrelevant, when LILCO's own witnesses discuss those same matters in their testimony concerning the same contentions.

Finally, LILCO's assertion that the sentence at lines 13-15 of page 60 should be stricken as irrelevant because it concerns the need for graded testing (Motion at 13) is also without basis. As noted above, Contentions 100.B and 100.G both explicitly raise the issue of the failure of LILCO's drill program to have graded terminal performance standards. The testimony is clearly relevant and should not be stricken.

22. Page 63, lines 1-9

LILCO seeks to strike this testimony because it allegedly "concerns the substantive adequacy of the videotapes" which are part of the LILCO training program. Motion at 13-14. For the reasons set forth in Section III.14 above, this testimony is relevant to Contention 99.G. The referenced portion of the

County's testimony states that many of the LILCO training materials deal with "ideal" as opposed to "realistic" conditions, and identifies specific examples relating to videotapes which are part of the LILCO training program. Thus, the testimony relates to the allegation in Contention 99.G that the LILCO training program provides insufficient information concerning how trainees are to perform specific duties and responsibilities assigned to them under the LILCO Plan. In addition, the last sentence of this portion of testimony talks not about videotapes, but about the drill program. It states that drills do not provide simulated experience because the scenarios are unrealistic. This statement directly relates to Contention 100.D. And, as noted above, the LILCO Training Testimony discusses the contents of, and includes as attachments, both videotapes and drill scenarios. This entire portion of the County's testimony is relevant to admitted contentions and LILCO has failed to demonstrate a basis for striking it.

23. Page 64, line 3 to page 65, line 10

This testimony concerns the failure of LILCO's training program to include sufficient information or experience concerning how to deal with the pressure and need for quick judgments that will be present under emergency circumstances. It

relates to Contention 40 (that there is no assurance that LILCO training will compensate for lack of experience especially when tasks to be performed will be accompanied by high levels of stress and trauma), Contention 99.G (that the training program provides insufficient information concerning how trainees are to perform specific duties and responsibilities assigned to them), and Contention 100.D (that the training drills do not provide an opportunity to practice emergency duties and responsibilities). Thus, the testimony is relevant to admitted contentions.

LILCO's motion to strike is apparently based on its argument that there is no regulatory requirement that drill scenarios provide training on how to deal with stress. Motion at 14. The testimony at issue does not assert that stress training is required by the regulations. Rather, the testimony directly addresses admitted contentions in discussing one defect in the LILCO training program which contributes to the overall inadequacy of that program.

Finally, LILCO's own witnesses discuss the stressful situations and stress training which, according to them, are provided in the LILCO training program. See, e.g., pages 46-54 of the LILCO Training Testimony. LILCO cannot move to strike the

County's testimony on this very subject as being irrelevant when its own witnesses discuss it in connection with the same admitted contentions. There is no basis for striking the referenced County testimony.

24. Page 65, Line 11 to Page 67, Line 10

LILCO seeks to strike this testimony on two grounds: first that it is beyond the scope of the admitted contentions and therefore not relevant; second, that it is duplicative of testimony on Contention 65. Motion at 14. The referenced testimony discusses the failure of LILCO's drills to provide an opportunity for workers to become familiar with the particular areas or facilities in which they are expected to perform in the event of an emergency. It is thus directly relevant to Contentions 99.G and 100.D. Indeed, Contention 100.D. specifically identifies as examples of this deficiency in the LILCO program traffic guides and bus drivers who are not permitted to direct traffic at their assigned posts or drive buses on their assigned bus routes during drills. That is precisely the matter that is addressed in the referenced County testimony. The County's testimony additionally explains why such a failure in the LILCO drill program is significant -- that is, because the LILCO workers assigned to perform various emergency functions

do not have familiarity, based on any prior experience or other means, with the areas in which they are expected to work. Witnesses clearly are permitted to state the bases for their opinions and their agreement with allegations contained in contentions, and they may also properly state facts which support those opinions. The testimony at issue clearly is relevant and there is no basis for striking it.

Second, while it is true that the County's Amended Contention 65 Testimony mentions the fact that LILCO traffic guides do not have prior familiarity with the EP2 intersections at which they are expected to work, the thrust of that testimony was on the result of such lack of familiarity on traffic control. To the contrary, however, the thrust of the training testimony is upon the failure of the training program to provide such familiarity, and the resulting inadequacy of training. While the two points are related, the two portions of testimony are not unduly repetitious or cumulative. They are provided in different contexts and the training testimony should not be stricken.

25. Page 67, Line 11 to Page 68, Line 4

LILCO seeks to strike this paragraph of the County's testimony because allegedly it is beyond the scope of the admitted contentions and therefore not relevant. Motion at 15. The testimony discusses the fact that the LILCO drills do not provide sufficient training to LILCO's workers and cites, as an example, the fact that the results of those drills have been organizational changes in LILCO's Plan, rather than changes in or additions to the LILCO training program. The testimony also discusses the fact that LILCO's drills do not focus on individual trainees by requiring them to perform emergency jobs against measurable objective standards, or by making determinations as to the adequacy of performance of individual trainees. The testimony clearly is relevant to Contention 100 which, in subparts B, D and G, expressly raises the issues of whether trainee activities during drills are supervised, observed, evaluated, and whether the drills contain terminal performance standards or objective, observable evaluation criteria. The testimony is also relevant to Contention 99.G, which states that the training program provides insufficient information concerning how trainees are to perform specific duties and responsibilities. The testimony at issue provides a specific example -- what LILCO has done during its drills -- to

demonstrate the failure of the training program to provide actual training. The testimony is relevant. LILCO has failed to demonstrate any basis for striking it.

26. Page 69, Lines 14-18, Lines 20-21, Page 69, Line 21-
first word on Page 70, Page 70, portions of Line
3, Page 70, portion of Line 4

LILCO seeks to strike several statements or phrases contained in the witnesses' summary of their testimony concerning lack of experience. For the reasons already stated above, there is no basis for striking the testimony. The two sentences contained in lines 14-18 of page 69, which discuss the fact that LILCO personnel have almost no prior experience relevant to their emergency functions, is directly related to Contention 40. The various phrases which LILCO seeks to strike in the paragraph which carries over from page 69 to 70, merely refer to the examples which the witnesses mentioned earlier in their testimony as evidence of inadequacies in the LILCO training program. The testimony is relevant and should not be stricken.

27. Page 72, Line 23 to Page 73, Line 6

LILCO seeks to strike this testimony by characterizing it as a "discussion of the impact of stress and anxiety on a radio user," (Motion at 16), and then asserting that it is beyond the

scope of Contentions 41 and 44.D. In fact, the testimony responds to the question, "Why must workers be trained in the use of communications equipment?" which is the point of Contention 41. Specifically, the first sentence of Contention 41 alleges that "[a]ll necessary emergency personnel must be trained adequately in the proper use of the communications equipment relied upon in the LILCO Plan." The portion of testimony which LILCO seeks to strike discusses a specific example in explaining why such training is necessary as alleged in the contention. The discussion by the Suffolk County witnesses is relevant and material to Contention 41.

Moreover, LILCO's own witnesses discuss the communications training provided by the LILCO Plan. See, e.g., pages 61-66 and Attachments 1, 2, 5, 15, 16, 20, and 30 of the LILCO Training Testimony. LILCO has failed to demonstrate any basis for striking this portion of the County's testimony.

28. Page 74, Line 22 to Page 75, Line 6

LILCO seeks to strike this testimony because it asserts that the testimony is irrelevant. Motion at 16-17. The testimony at issue is a description of the two communications classroom sessions included in the LILCO training program. The County witnesses assert in testimony preceding that which LILCO

seeks to strike that such training sessions are inadequate because they do not provide opportunities for the development of necessary communication skills. The portion of testimony which LILCO seeks to strike discusses a particular aspect of one of the training sessions which, in the view of the County's witnesses, does not provide any useful information related to the development of communication skills. The County witnesses note that it will not only fail to provide relevant training, but could cause attention to lapse and result in trainees' not paying attention to information that is relevant. There is no basis for striking the testimony since it merely explains the County's witnesses' conclusion about a training module which has been submitted into evidence by LILCO's own witnesses. See Attachment 14 to the LILCO Training Testimony.

29. Page 76, Lines 5-8

This testimony consists of two sentences:

Moreover, much of the communications-related information provided to trainees is confusing. As we discussed above, many of LILCO's videotapes incorrectly inform or suggest to the trainees that they will use hand-held radios.

LILCO seeks to strike this testimony because it is "beyond the scope of the contentions and, therefore, is not relevant."

Motion at 17. LILCO is incorrect. Contention 41 states that

LILCO's communications training is inadequate because it does not include training in the proper use of the particular equipment relied upon in the LILCO Plan. The statements in the County's testimony which LILCO seeks to strike merely point out one particular reason that the training is inadequate -- that is, the training materials are confusing or inaccurate and discuss equipment that is not even going to be provided to the LILCO workers. Clearly, the testimony is relevant to Contention 41, and there is no basis for striking it.

IV. Conclusion

For the foregoing reasons, LILCO's Motion to strike portions of the County's training testimony should be denied.

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Dated: April 16, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before The Atomic Safety And Licensing Board ~~84~~ APR 19 AIO:34

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)
)

LONG ISLAND LIGHTING COMPANY)
)

(Shoreham Nuclear Power Station,)
Unit 1))
)

Docket No. 50-322 (O.L.)
(Emergency Planning)

CERTIFICATE OF SERVICE

I hereby certify that copies of Suffolk County Response to LILCO's Motion to Strike Portions of the Direct Testimony on Behalf of Suffolk County Regarding Training Contentions have been served on the following this 16th day of April 1984 by U.S. Mail, first class, except as otherwise noted.

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