

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'84 APR 23 AIO:37

Before the Atomic Safety and Licensing BoardOFFICE 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

SUFFOLK COUNTY MOTION TO COMPEL THE  
SEPARATE APPEARANCE FOR DEPOSITIONS  
OF ROGER B. KOWIESKI, THOMAS E. BALDWIN,  
PHILIP H. MCINTIRE, AND JOSEPH H. KELLER

Pursuant to 10 CFR §§ 2.740(f) and 2.740a, Suffolk County hereby requests the Board to compel the separate appearance for depositions of Roger B. Kowieski, Thomas E. Baldwin, Philip H. McIntire, and Joseph H. Keller (the "FEMA Witnesses").

Counsel for FEMA has agreed to Suffolk County's request to depose the four witnesses who, on behalf of FEMA, submitted testimony dated April 17, 1984.<sup>1/</sup> Counsel have agreed that the depositions will take place on May 8 and 9, 1984. FEMA counsel, however, has refused to agree to the County's request

<sup>1/</sup> Although the testimony itself is dated April 17, 1984, the cover letter and Certificate of Service accompanying the testimony are dated April 18, 1984, the testimony was apparently filed, and the County received it, on April 19, 1984.

that the witnesses appear one at a time to be deposed individually, and instead has taken the position that they "will be made available as a panel." See letter dated April 17, 1984 from Stewart M. Glass to Karla J. Letsche, which is an Attachment hereto.

FEMA counsel has not stated a basis for refusing to permit the FEMA witnesses to be deposed individually, as has been done with almost every other witness in this proceeding,<sup>2/</sup> despite the County's request that such an explanation be provided. The County believes it is entitled under 10 CFR § 2.740(a) to conduct individual depositions of witnesses in order to obtain the personal views and opinions, and independent recollections of each of those witnesses, and the County wishes to exercise that right with respect to the FEMA witnesses. In addition, the County believes that separate depositions would result in a more efficient use of the witnesses' and counsel's time, because we understand that the witnesses have differing areas of expertise and differing levels of involvement in the FEMA RAC review.

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<sup>2/</sup> On three occasions, LILCO deposed more than one witness at a time. All of the other 55 depositions that have been conducted in this emergency planning proceeding have involved only one witness.

For the reasons set forth above, and in the absence of any showing by FEMA of good cause for depriving the County of its right under the NRC regulations to depose witnesses separately, the County submits that its Motion should be granted.

Because the parties have been unable to resolve this disagreement and the time before the agreed upon deposition date is short, the County is filing this Motion to Compel prior to the formal submission by FEMA of a Motion for a Protective Order.

Respectfully submitted,

Martin Bradley Ashare  
Suffolk County Department of Law  
Veterans Memorial Highway  
Hauppauge, New York 11788



Herbert H. Brown  
Lawrence Coe Lanpher  
Karla J. Letsche  
John E. Birkenheier

KIRKPATRICK, LOCKHART, HILL,  
CHRISTOPHER & PHILLIPS  
1900 M Street, N.W.  
Washington, D.C. 20036

Attorneys for Suffolk County

Dated: April 20, 1984

Respectfully submitted,

Martin Bradley Ashare  
Suffolk County Department of Law  
Veterans Memorial Highway  
Hauppauge, New York 11788

A handwritten signature in cursive script, reading "Karla J. Letsche". The signature is written in dark ink and is positioned above a horizontal line.

Herbert H. Brown  
Lawrence Coe Lanpher  
Karla J. Letsche  
John E. Birkenheier

KIRKPATRICK, LOCKHART, HILL,  
CHRISTOPHER & PHILLIPS  
1900 M Street, N.W.  
Washington, D.C. 20036

Attorneys for Suffolk County

Dated: April 20, 1984

RELATED CORRESPONDENCE

DOCKETED  
USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

84 APR 23 10:37

Before the Atomic Safety and Licensing Board

SECRETARY  
INTELLIGENCE  
SERVICE  
BRANCH

In the Matter of )

LONG ISLAND LIGHTING COMPANY )

(Shoreham Nuclear Power Station,  
Unit 1) )

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

SUBPOENA

To: Cheryl Melina  
c/o U.S. Department of Agriculture  
14th Street & Independence Avenue, S.W.  
Washington, D.C. 20250

You are hereby directed to appear and give your deposition in this proceeding at the offices of Kirkpatrick, Lockhart, Hill, Christopher & Phillips, 1900 M Street, N.W., Suite 800, Washington, D.C. 20036 on the 14th day of May, 1984, at 9:00 o'clock a.m. and from day to day thereafter until the examination is completed, on the subject of the review by the Regional Assistance Committee on behalf of the Federal Emergency Management Agency, of the LILCO Transition Plan for the Shoreham Nuclear Power Station.

You are also hereby directed to produce for inspection and copying all documents in your possession, custody or control

that were produced during, or in any way relate to the Regional Assistance Committee review of the LILCO Transition Plan for the Shoreham Nuclear Power Station, including, but not limited to, memoranda, correspondence, questions, comments, reports, evaluations, ratings, summaries, notes, drafts or revisions of reports, comments, evaluations or summaries or any portions thereof, transcripts, minutes, summaries or notes of meetings, discussions or conferences, including telephone conferences, among RAC members or other documents relating to the RAC review of the LILCO Transition Plan (but not including the LILCO Transition Plan itself or NUREG 0654). These documents shall be produced on or before the 4th day of May, 1984 at the offices of Kirkpatrick, Lockhart, Hill, Christopher & Phillips, 1900 M Street, N.W., Washington, D.C. 20036.

If you oppose this subpoena, you may move to quash or modify it in accordance with 10 CFR § 2.720(f).

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James A. Laurenson  
Presiding Officer

April \_\_, 1984

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'84 APR 23 AIO:37

Before the Atomic Safety and Licensing BoardOFFICE OF SECRETARY  
TRAINING & SERVICE  
BRANCH

In the Matter of )

LONG ISLAND LIGHTING COMPANY )

(Shoreham Nuclear Power Station,  
Unit 1) )Docket No. 50-322-OL-3  
(Emergency Planning)SUBPOENA

To: Ronald Bernacki  
c/o HHS/Food and Drug Administration  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

You are hereby directed to appear and give your deposition in this proceeding at the offices of Kirkpatrick, Lockhart, Hill, Christopher & Phillips, 1900 M Street, N.W., Suite 800, Washington, D.C. 20036 on the 14th day of May, 1984, at 3:30 o'clock p.m. and from day to day thereafter until the examination is completed, on the subject of the review by the Regional Assistance Committee on behalf of the Federal Emergency Management Agency, of the LILCO Transition Plan for the Shoreham Nuclear Power Station.

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James A. Laurenson  
Presiding Officer

April \_\_, 1984



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Before the Atomic Safety and Licensing Board

SECRETARY  
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BRANCH

In the Matter of )

LONG ISLAND LIGHTING COMPANY )

(Shoreham Nuclear Power Station,  
Unit 1) )

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

SUBPOENA

To: Herbert Fish  
c/o Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

You are hereby directed to appear and give your deposition in this proceeding at the offices of Kirkpatrick, Lockhart, Hill, Christopher & Phillips, 1900 M Street, N.W., Suite 800, Washington, D.C. 20036 on the 14th day of May, 1984, at 12:30 o'clock p.m. and from day to day thereafter until the examination is completed, on the subject of the review by the Regional Assistance Committee on behalf of the Federal Emergency Management Agency, of the LILCO Transition Plan for the Shoreham Nuclear Power Station.

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James A. Laurenson  
Presiding Officer

April \_\_, 1984

RELATED CORRESPONDENCE

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION '84 APR 23 A10:38

Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY  
DIG & SERVICE  
BRANCH

In the Matter of )

LONG ISLAND LIGHTING COMPANY )

(Shoreham Nuclear Power Station,  
Unit 1) )

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

SUBPOENA

To: Linda Olmer  
c/o Environmental Protection Agency  
401 M Street, S.W.  
Washington, D.C. 20460

You are hereby directed to appear and give your deposition in this proceeding at the offices of Kirkpatrick, Lockhart, Hill, Christophe & Phillips, 1900 M Street, N.W., Suite 800, Washington, D.C. 20036 on the 15th day of May, 1984, at 9:00 o'clock a.m. and from day to day thereafter until the examination is completed, on the subject of the review by the Regional Assistance Committee on behalf of the Federal Emergency Management Agency, of the LILCO Transition Plan for the Shoreham Nuclear Power Station.

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James A. Laurenson  
Presiding Officer

April \_\_, 1984

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Before the Atomic Safety and Licensing Board

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In the Matter of )

LONG ISLAND LIGHTING COMPANY )

(Shoreham Nuclear Power Station,  
Unit 1) )

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

SUBPOENA

To: Joyce Feldman  
c/o Environmental Protection Agency  
401 M Street, S.W.  
Washington, D.C. 20460

You are hereby directed to appear and give your deposition in this proceeding at the offices of Kirkpatrick, Lockhart, Hill, Christopher & Phillips, 1900 M Street, N.W., Suite 800, Washington, D.C. 20036 on the 15th day of May, 1984, at 12:30 o'clock p.m. and from day to day thereafter until the examination is completed, on the subject of the review by the Regional Assistance Committee on behalf of the Federal Emergency Management Agency, of the LILCO Transition Plan for the Shoreham Nuclear Power Station.

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If you oppose this subpoena, you may move to quash or modify it in accordance with 10 CFR § 2.720(f).

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James A. Laurenson  
Presiding Officer

April \_\_, 1984

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In the Matter of )

LONG ISLAND LIGHTING COMPANY )

(Shoreham Nuclear Power Station, )  
Unit 1) )

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

SUBPOENA

To: Paul Lutz  
c/o Department of Transportation  
400 Seventh St., S.W.  
Washington, D.C. 20590

You are hereby directed to appear and give your deposition in this proceeding at the offices of Kirkpatrick, Lockhart, Hill, Christopher & Phillips, 1900 M Street, N.W., Suite 800, Washington, D.C. 20036 on the 15th day of May, 1984, at 3:30 o'clock p.m. and from day to day thereafter until the examination is completed, on the subject of the review by the Regional Assistance Committee on behalf of the Federal Emergency Management Agency, of the LILCO Transition Plan for the Shoreham Nuclear Power Station.

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If you oppose this subpoena, you may move to quash or modify it in accordance with 10 CFR § 2.720(f).

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James A. Laurenson  
Presiding Officer

April \_\_, 1984





# Federal Emergency Management Agency

Region II

26 Federal Plaza

New York, New York 10278

April 17, 1984

BY TELECOPIER

Karla J. Letsche, Esquire  
Kirkpatrick, Lockhart, Hill,  
Christopher & Phillips  
1900 M Street, N.W.  
Washington, D.C. 20036

Dear Karla:

The FEMA panel of witnesses will be available for deposition on May 8th and May 9th as we previously agreed. The panel consists of Thomas E. Baldwin of Argonne National Laboratory; Joseph H. Keller of Westinghouse Idaho Nuclear Corporation; Roger B. Kowieski, RAC Chairman and Philip P. McIntire, Chief, Natural and Technological Hazards Division of Region II of the Federal Emergency Management Agency. It is the position of this office that these witnesses will be made available for deposition as a panel.

At your earliest convenience, we should arrange a conference call with all parties to discuss the scope and schedule of the deposition so that all parties can be accommodated in the two days available.

Robert L. Acerno and Marianne Jackson of the FEMA Region II office provided staff assistance to the RAC and RAC Chairman. Ms. Jackson's role was limited to a review of public information materials. Margaret Lawless of FEMA's headquarters staff reviewed a portion of the RAC review after its submittal to FEMA Headquarters. Based on her comments seven editorial changes were made, none of which affected the final rating of any element.

The following RAC members participated in the review of the LILCO Transition Plan:

Cheryl Melina	Department of Agriculture
Herbert Fish	Department of Energy
Ronald Bernacki	HHS/Food Drug Administration
Linda Olmer	Environmental Protection Agency
Joyce Feldman	Environmental Protection Agency
Craig Gordon	Nuclear Regulatory Commission
Robert Bores	Nuclear Regulatory Commission
Paul Jatz	Department of Transportation

Prior to the submission to FEMA of Revision 3 of the LILCO Transition Plan Mr. Bores replaced Mr. Gordon on the RAC and Ms. Feldman replaced Ms. Olmer.

Pursuant to your request to depose other FEIA personnel or members of the RAC, I respectfully refer your attention to the Board's order of September 27, 1983. As FEIA has an interest in any attempt to depose these individuals it is respectfully requested that this office be provided information as to any such request and be given an opportunity to further state our position on this issue.

Very truly yours,

*Stewart M. Glass*

Stewart M. Glass  
Regional Counsel