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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges
James A. Laurenson, Chairman
Dr. Jerry R. Kline
Mr. Frederick J. Shon

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In the Matter of)

LONG ISLAND LIGHTING COMPANY)

(Shoreham Nuclear Power)
Station, Unit 1))

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH
Docket No. 50-322-OL-3
(Emergency Planning Proceeding)

April 23, 1984

STATEMENT OF GOVERNOR MARIO M. CUOMO, REPRESENTING
THE STATE OF NEW YORK, IN OPPOSITION TO "LILCO
MOTION TO SET SCHEDULE FOR PARTIAL INITIAL DECISION
ON 'GROUP I' EMERGENCY PLANNING ISSUES"

The State of New York opposes the "LILCO MOTION TO SET
SCHEDULE FOR PARTIAL INITIAL DECISION ON 'GROUP I' EMERGENCY
PLANNING ISSUES," dated April 13, 1984 (hereinafter, "LILCO's
motion").

The State has reviewed the County's memorandum in opposition
to LILCO's motion and the State fully concurs with the position
taken by the County. The County's analysis is thorough and
persuasive. However, the following points need to be amplified
from the perspective of the State:

- 1) Contentions 23, 25 and 65 are so intertwined with other
contentions, especially contentions regarding LILCO's
lack of legal authority, that it is impossible for
the parties to prepare meaningful findings of fact
and conclusions of law at this early time in the
proceeding; it also is impossible for the Board to
render a meaningful partial initial decision under
such conditions;

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- 2) the proposed May 18, 1984, deadline for filing proposed findings of fact and conclusions of law would allow only 5 nonhearing, business days, right in the midst of an expedited, intense hearing schedule, to prepare and file proposed findings of fact and conclusions of law; this time frame is extremely prejudicial, unreasonable and unacceptable to the State.

The essence of LILCO's motion is that the parties should submit findings of fact and conclusions of law on Contentions 23, 25 and 65 on May 18, 1984, and the Board should render a partial initial decision as soon as possible thereafter. It appears from LILCO's motion that the underlying logic is that since "all the evidence has been submitted" on these three contentions, it makes sense for the Board to rule on them at this time.

This logic is seriously flawed. Not all shadow phenomenon issues are addressed in Contention 23, not all role conflict issues are addressed in Contention 25, and not all evacuation time estimate issues are addressed in Contention 65. The record is not closed on these issues.

The County's memorandum in opposition to LILCO's motion adequately identifies some of the shadow phenomenon, role conflict and evacuation time estimate issues which are addressed in the rest of the contentions. The contentions dealing with LILCO's lack of legal authority are an additional example of how the issues mentioned above are not limited to Contentions 23, 25 and 65, but are dispersed throughout many

contentions. Contention 1 alleges that LILCO is prohibited by law from directing traffic. This allegation clearly relates to the issues raised by contentions 23.H (LILCO's failure to prevent travel across the EPZ perimeter into evacuated areas) and 65. Contention 1 specifically states:

Further, LILCO's lack of authority to direct traffic renders its evacuation time estimates ...inaccurate.

[S]ince LILCO's traffic guides are prohibited by law from directing traffic, LILCO will not be able to ensure that motorists will use only the prescribed routes, rendering the LILCO evacuation time estimates inaccurate.

Without LILCO's assumption that evacuees will follow prescribed evacuation routes, the LILCO evacuation time estimates would increase substantially. (Emphasis added.)

Contention 2 alleges that LILCO is prohibited by law from blocking roadways, setting up barriers in roadways and channeling traffic. This allegation also clearly relates to issues raised in Contentions 23.H and 65. Contention 2 specifically states:

Because LILCO and its "traffic guides" lack legal authority to implement such traffic controls...LILCO cannot rely on the use of traffic control devices to ensure the use of prescribed evacuation routes. As a result, LILCO's evacuation time estimates are unrealistically low.... (Emphasis added.)

Contention 3 alleges that LILCO is prohibited by law from posting traffic signs on roadways. Contention 3 specifically states:

LILCO's evacuation time estimates assume that such signs are installed...In fact, however, such signs will not be installed in Suffolk County and it is unlawful for LILCO to install such signs. Therefore, LILCO cannot rely on

such signs to ensure the use of prescribed evacuation routes, and its evacuation time estimates are, as a result, unrealistically low. (Emphasis added.)

Contention 9 alleges that LILCO is prohibited by law from dispensing fuel from tank trucks to automobiles along roadsides. Contention 9 specifically states:

Cars running out of gas, and the probable abandonment of vehicles which will follow, will result in obstructions and blockages on roadways in use during the evacuation. LILCO's evacuation time estimates do not take cars running out of gas and the resulting road obstructions into account. If LILCO cannot effectively prevent or remove such obstacles, its evacuation time estimates will increase. (Emphasis added.)

Accordingly, testimony pertaining to Contentions 23, 25 and 65 is not the last word on shadow phenomenon, role conflict and evacuation time estimate issues. Any partial initial decision which is based solely on findings of fact and conclusions of law concerning Contentions 23, 25 and 65 would be so premature that it would be meaningless.

Nevertheless, should the Board decide to grant LILCO's motion, the proposed deadline of May 18, 1984, would severely prejudice the State's ability to prepare and file whatever findings of fact and conclusions of law might be appropriate under the circumstances. Pursuant to 10 CFR §2.754, the applicant should file proposed findings 30 days after the hearing is over, other parties should file proposed findings 40 days after the hearing is over, and the NRC should file proposed findings 50 days after the hearing is over. LILCO's May 18, 1984 deadline does not meet this requirement. Also, LILCO's

May 18, 1984 deadline only allows 5 nonhearing, business days, right in the midst of an expedited, intense hearing schedule, to prepare and file proposed findings. The Board should not accelerate the pace of these proceedings to the point where the parties, particularly the State, are required to perform major tasks simultaneously. The May 18, 1984 deadline proposed by LILCO is unreasonable and unacceptable to the State.

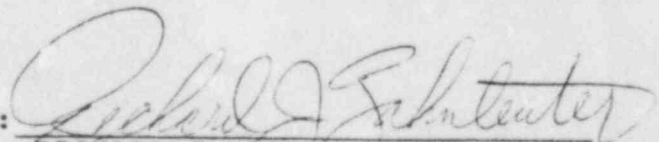
For the reasons stated above, the State respectfully urges that the Board deny LILCO's motion.

Respectfully submitted,

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