

963.

RELATED CORRESPONDENCE

5/2/84

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

Before the Atomic Safety and Licensing Board <sup>84 MAY -3</sup> 11:04

OFFICE OF SECRETARY  
DOCKETING AGENCY

\_\_\_\_\_)  
In the Matter of \_\_\_\_\_)  
\_\_\_\_\_)  
LONG ISLAND LIGHTING COMPANY \_\_\_\_\_)  
\_\_\_\_\_)  
(Shoreham Nuclear Power Station, \_\_\_\_\_)  
Unit 1) \_\_\_\_\_)

Docket No. 50-322-OL

SUFFOLK COUNTY'S MOTION TO EXTEND  
DISCOVERY SCHEDULE

By its Order of April 20, 1984, this Board permitted Suffolk County and New York State "a maximum of ten days' worth of depositions" to conclude on May 11, 1984. The Board also extended from May 1 to May 22 the filing date for the County's and State's specification of issues and other matters. The expanded discovery period of 21 days granted by the Board was far short of that requested by Suffolk County and New York State or proposed by the NRC Staff.

Facts not available to the Board (and in some cases to the parties) at the time it issued its April 20 Order now make clear that there are substantial grounds to justify a further extension of the discovery schedule.

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1. Suffolk County received on April 17 approximately 35,000 pages 1/ of documents from TDI, which the County had identified as relevant during the March 22-23 visit to TDI.2/ The Board, when it issued its Order, did not know that the TDI documents were so numerous. The County and its consultants have only had time to review a portion of the TDI documents before depositions began today. There will also be an inadequate amount of time for the County to complete its review and analysis of the large number of TDI documents in time for a May 21 filing.3/ The TDI documents include many examples of defects and failures of cylinder heads, crankshafts, pistons, cylinder blocks, and other components which preliminary identification show to have an appropriate nexus to the Shoreham diesel problems. Without more time to complete this analysis, the May 22 filing will be incomplete.

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1/ The County's estimate is 30,000 pages; TDI's estimate is 40,000.

2/ Contrary to assertions by LILCO, it was clear to the County, TDI and all parties that the March visit was only for the purpose of a quick survey of the hundreds of thousands of documents which TDI made available as responsive to the County's February 29 document request, to identify documents to be copied and supplied to the County. Dozens of files were not even looked at, since they were obviously important (i.e., TDI-LILCO correspondence files) and thus needed to be copied. An actual substantive review of all files would have taken many, many days of work by the five County representatives, and would have delayed even further the process of getting the materials copied.

3/ As made clear in paragraph 3, virtually all of the County's team of attorneys and consultants will be occupied more than full time during depositions from May 2 through May 11, and will be unavailable to review the TDI documents.

2. Based upon the partial review to date, the County is certain that the TDI documents supplied on April 17 did not include all of the documents identified for copying. See Exhibit 1. Moreover, LILCO has not yet completed its production of documents. Additional time will be required to review and analyze these documents when received, and/or to pursue discovery through motions to compel production of documents.

3. The deposition period is inadequate for the County to take important depositions and discover potentially significant information. The ten days allotted by the Board have forced the County to reduce the number of depositions originally noticed or contemplated from over 30 to 15 plus two NRC panels. This required the County to forego deposing any LILCO or Stone & Webster personnel, and to concentrate on TDI and FAA personnel, although time will not permit the depositions of all TDI and FAA persons whom the County wants to depose.

a. The schedule for depositions is as follows:

*	May 2	- - -	Bakshi (Ocean Fleets)
*	May 3	- - -	Eley (Ocean Fleets)
	May 3	- - -	Swanger (FAA)
*	May 4	- - -	Eley
	May 4	- - -	Rogers (FAA)
	May 4	- - -	Chen (LILCO consultant)
*	May 7	- - -	Hubbard (MHB)
*	May 7	- - -	Bridenbaugh (MHB)
	May 7	- - -	Barich (TDI)
	May 7	- - -	Wells (FAA)
	May 8	- - -	Trussell (TDI)
	May 8	- - -	Dobric (TDI)
	May 8	- - -	Wilson (TDI)
*	May 8	- - -	Christensen (S.C. consultant)
*	May 9	- - -	Christensen
	May 9	- - -	Mathews (TDI)
	May 9	- - -	Harris (FAA)
	May 9	- - -	Shyne (FAA)
	May 10	- - -	Lowry (TDI)
	May 10	- - -	Schilling (TDI)
*	May 10	- - -	Anderson (S.C. consultant)

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\* Indicates deposition by LILCO, defended by Suffolk County

*	May 11	- - -	Anderson
	May 11	- - -	Yang (TDI)
	May 11	- - -	Beshouri (TDI)

\* Indicates deposition by LILCO, defended by Suffolk County.

The depositions during the week of May 2 will be on Long Island; those during the week of May 7 will be in California. During this period all of the County's attorneys and consultants on diesel matters will be occupied more than full time preparing for the depositions, taking and assisting in the taking of depositions, having depositions taken of them and defending such depositions, and traveling.<sup>4/</sup>

b. On April 27, the County noticed the depositions F. Pischinger (LILCO's German diesel consultant) for May 2 and of J. Wallace (TDI's metallurgist consultant) for May 7-8. The County was informed that neither of these deponents could be located and they could not be deposed by May 11. LILCO rejected the County's request to extend the deposition period voluntarily beyond May 11 to permit these gentlemen to be deposed. LILCO also took the position that the Board's order for 10 days of depositions did not mean 10 days, with possibly several depositions per day, but rather serial depositions over a maximum 10 day period; hence, LILCO argues that the County has already exceeded its allotted depositions. Suffolk County believes LILCO's interpretation is incorrect, but in any case, efficiency and fairness will not be served by precluding the depositions of Messrs. Pischinger,

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<sup>4/</sup> Suffolk County continues to hold the position that, in view of the thousands of relevant documents which could not be reviewed in time or have not yet been produced, these depositions are premature and adequate preparation for the depositions has not been possible.

Wallace, and the other LILCO deponents previously noticed by the County who cannot be deposed in the allowed time.

c. Despite repeated requests by the County, TDI continues to refuse to identify its key personnel and their positions, including personnel responsible for diesel design. See Exhibit 2. This inexplicable refusal may preclude the County from deposing the most knowledgeable TDI personnel unless additional deposition time is granted.

d. The Staff did not respond to the County's March 1 request for identification of Staff personnel and consultants involved in diesel matters, until April 30. This identification followed the County's April 27 deposition notice to the Staff. See Exhibit 3. The Staff has agreed to make some of the requested personnel and consultants available for depositions in two panels, as requested, but refused to do so until after May 11. Unless the discovery period is further extended, the County will be unable to take these important depositions. Even if the parties were to agree to permit these depositions after May 11, the County cannot simultaneously depose these individuals meaningfully, attempt to complete document reviews and analyses, and prepare the May 22 filing, all in the space of 10 days (6 business days).

For all of the foregoing reasons, Suffolk County hereby moves that this Board extend the discovery schedule as follows:

May 23 (8 additional business days -- depositions end  
for depositions)

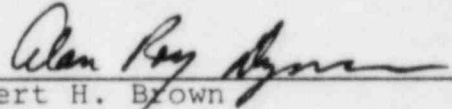
June 11 (9 more days than originally -- filing of specifications contemplated to analyze and absorb many documents and depositions)

June 21 -- LILCO and Staff answers

This modest 30 day extension is appropriate under the circumstances of this complex case, is reasonable, and will not prejudice any of the parties.

Respectfully submitted,

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

  
Herbert H. Brown  
Lawrence Coe Lanpher  
Alan Roy Dynner  
Douglas J. Scheidt  
KIRKPATRICK, LOCKHART, HILL,  
CHRISTOPHER & PHILLIPS  
1900 M Street, N.W.  
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Attorneys for Suffolk County

May 2, 1984



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BY FEDERAL EXPRESS

David Ross, Esq.  
c/o Transamerica Delaval, Inc.  
Engine and Compressor Division  
550 - 85th Avenue  
Oakland, California 94621

Re: EDG Discovery

Dear David:

First, this will confirm certain aspects of our recent telephone conversations concerning TDI's production of documents pursuant to Suffolk County's discovery requests. On April 28, I notified you that a number of the documents identified and requested by the County during its inspection of TDI files in Oakland had not been produced by TDI. These documents include the following:

1. TDI service department correspondence files for November 1983 - January 1984, and July - August 1983
2. TDI failure analyses nos. 100, 118, 127, 142, 148, 150, 151, and 159
3. TDI interoffice correspondence files (by subject matter) nos. 330 (Fly Wheel), 331 (Guard), 445, 450 (Fuel Boost, Pump Headers), 620 (Fuel Day Tank), 621 (Fuel) and 700 (Stand Pipe)
4. DE file 8T
5. DE calculations 5-2, 8-2 and 3-2

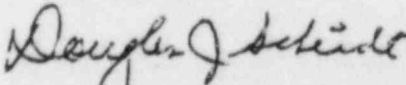
You subsequently informed me that you had made copies of these documents and would send them to me promptly. As I also informed you, the County's review of the documents produced by TDI for additional missing documents was continuing.

David Ross, Esq.  
May 2, 1984  
Page Two

Second, I mentioned to you that the County considered critical its request for visicorder continuous plots of cylinder pressure against time/crank angle (showing four pressure waves) at 75%, 100% and 110% loads for the TDI R-48 diesel engines. The County also considers critical its previous requests for documents showing temperature distribution through cylinder heads, the piston crown and upper parts of the cylinder liner. Your April 27 letter in response to these requests merely states that the items are open. No indication is stated as to why TDI has not complied with these requests. Further unexplained delay will insure a motion to compel by the County.

Third, the suggestion in your April 27 letter that TDI's delay in producing documents was "slight" is off base. Although you correctly state that the County received copies of several hundred pages of documents while at TDI, over three weeks passed before the County received copies of any of the other "approximately forty thousand pages of documents" it had requested from TDI. Thus, TDI has had far more time to review documents with which it already was familiar than the County's experts will have had to review the same documents prior to the beginning of the deposition period.

Very truly yours,

  
Douglas J. Scheidt

DJS/ss

cc: Robert E. Smith, Esq.  
Odes L. Stroupe, Jr., Esq. (by hand)  
Richard J. Goddard, Esq.  
Fabian G. Palomino, Esq.



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April 30, 1984

BY FEDERAL EXPRESS

Robert E. Smith, Esq.  
David Ross, Esq.  
Guggenheimer & Untermeyer  
80 Pine Street  
New York, New York 10005

Re: EDG Discovery

Gentlemen:

As you are well aware, on March 1 Suffolk County formally requested that it be provided with the names of

"each individual in TDI with principal day-to-day responsibility for diesel engine design, for the design of crankshafts, for the design of pistons, and for the design of each other component of the Shoreham EDGs which has experienced failures, cracking, or linear indications, . . . [and] each individual in TDI with principal day-to-day responsibility for the manufacture of components in the TDI R-48 diesel engine, as to casting, machine shop, and other significant manufacturing process."

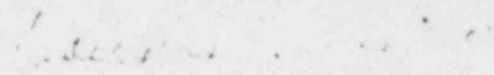
This information was of critical importance to the County to enable it to determine which TDI employees it should depose. Two months have passed and neither LILCO nor TDI has responded to the County's request. On April 24 I telephoned David Ross to remind him of this obligation and Mr. Ross agreed to provide the requested information promptly. Mr. Ross, however, refused to return my repeated telephone calls to him the remainder of the week and when I finally contacted him on Friday, April 27, he could not provide me with any information in response to the County's request.

Robert E. Smith, Esq.  
David Ross, Esq.  
April 30, 1984  
Page Two

On Saturday, April 28 I again telephoned Mr. Ross who only provided me with the name of the TDI employee with principal responsibility for the TDI machine shop.

Thus, the County has noticed various TDI employees for depositions based on the limited information available to it. The County objects strongly to the lack of cooperation exhibited by LILCO and TDI and reserves the right to seek appropriate relief from the Board.

Very truly yours,

  
Douglas J. Scheidt

DJS/ss

cc: Odes Stroupe, Jr., Esq.  
Anthony F. Earley, Jr., Esq.  
Richard J. Goddard, Esq.  
Robert E. Smith, Esq., David Ross, Esq.  
(c/o TDI, Oakland, California by Federal Express)

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April 27, 1984

Mr. William J. Dircks  
Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

(BY TELECOPIER)

Re: In the Matter of Long Island Lighting Company (Shoreham  
Nuclear Power Station, Unit 1) Docket No. 50-322-1 (OL)

Dear Mr. Dircks:

As Alan Dynner, counsel for Suffolk County, informed Richard Goddard this morning, the County will take the depositions of the Staff's consultants from Battelle/Pacific Northwest Laboratory. We have specifically noticed the depositions of Messrs. Laity and Louzecky but understand that two other persons, B. Saffell and A. Henricksen, may also be employed as consultants by the Staff. We intend to depose all four of these individuals as a panel on May 2 in San Jose, California, on their review of the TDI Owners Group DRQR. We also will take the deposition of (i) the NRC Staff person(s) (W. E. Foster, others) responsible for and with direct personal knowledge of the evaluation of the NRC vendor inspection activity and findings with respect to TDI, and (ii) the NRC Staff person (C. Berlinger) responsible for the Staff's review of the TDI Owners Group DRQR. We will continue to discuss with the Staff the times and locations of all of these depositions.

Very truly yours,

Douglas J. Scheidt

DJS/ss

cc: Odes Stroupe, Jr., Esq.  
Anthony F. Earley, Jr. Esq.  
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Robert E. Smith, Esq.  
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

\_\_\_\_\_  
In the Matter of )  
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 )

LONG ISLAND LIGHTING COMPANY )  
 )  
 )

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

Docket No. 50-322-OL

CERTIFICATE OF SERVICE

I hereby certify that copies of SUFFOLK COUNTY'S MOTION TO EXTEND DISCOVERY SCHEDULE, dated May 2, 1984, have been served on the following this 2nd day of May 1984 by U.S. mail, first class, except as otherwise indicated.

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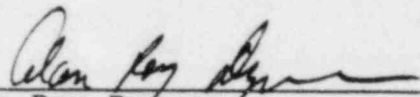
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DATE: May 2, 1984

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## By Federal Express  
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# By Telecopier