

# Congress of the United States

House of Representatives

Washington, D.C. 20515

April 27, 1984

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The Honorable Nunzio J. Palladino  
Chairman  
U.S. Nuclear Regulatory Commission  
1717 H Street, N.W.  
Washington, D. C. 20555

Dear Mr. Chairman:

As a result of a recent and unusual chain of events at your agency regarding the Shoreham Nuclear Power Station, we have examined your efforts to expedite the low power licensing process for the Shoreham reactor and are compelled to conclude that you are no longer an impartial adjudicator.

It is apparent that you have made determinations which could have a substantive impact upon the procedural fairness of this controversy without the benefit of hearing all sides of the argument. Accordingly, we are constrained to ask for an explanation from you for why you should not remove yourself in the future on matters concerning the Shoreham licensing proceeding.

Specifically, we are concerned because we understand that you met with Judge B. Paul Cotter, Jr., Chief Administrative Judge of the NRC's Atomic Safety and Licensing Board, on March 16, 1984 concerning the Shoreham licensing process and subsequently suggested to other NRC Commissioners in a March 20, 1984 memorandum that this proceeding should be expedited. As you know, a similar request was made by the Long Island Lighting Company. However, apparently because of your interest in this case, a new licensing board was constituted and the hearing process for this case was greatly expedited to the extent that the U.S. District Court for the District of Columbia has granted New York's Governor Mario M. Cuomo and Suffolk County a temporary restraining order stating that "...meaningful participation in the administrative proceeding by plaintiffs has been precluded by the limited discovery period."

Neither the newly instituted licensing panel nor you have presented an explanation as to why the licensing process in this case must be expedited. The inescapable inference created by your intervention is that you agree with LILCO's contention in its Supplemental Motion that its financial difficulties constitute a sufficient reason to shortcircuit the review of issues relevant to public health and safety.

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The Honorable Nunzio J. Palladino  
Chairman  
U.S. Nuclear Regulatory Commission

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Because it would have been highly inappropriate for you to have determined LILCO's request for an expedited hearing process to be meretorius prior to hearing from all parties, your actions--including your April 4, 1984 memorandum to the other Commissioners that circulated a draft order that would have interfered even more directly with the licensing process-foster the gravest concerns about the fairness and impartiality of the licensing process, in general, and the expedited format in particular.

We do not claim to be experts on the complicated engineering and procedural issues involved here. One thing we do know with great faith is that the people of Long Island are fearful that the significantly altered licensing process now in effect for Shoreham will not serve their best interest in terms of safety. NRC's credibility has been severely damaged. We hold this view knowing that the Commission has apparently decided to take action to introduce a more reasonable time schedule into the hearing process. This does not alter the previous actions that transpired evidently at your direction. That chain of events resulting in the speed up of LILCO's request for a low power license are just too fortuitous to be regarded as mere coincidences. Hence, we would request that you provide us with a detailed explanation of why you should ~~not~~ be recused from any further discussion making role in the licensing of Shoreham.

Sincerely,

THOMAS J. DOWNEY  
Member of Congress

ROBERT J. MRAZEK  
Member of Congress

cc: Honorable Morris K. Udall  
House of Representatives