

RELATED CORRESPONDENCE

LILCO, May 22, 1984

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

|                                  |   |                        |
|----------------------------------|---|------------------------|
| In the Matter of                 | ) |                        |
|                                  | ) |                        |
| LONG ISLAND LIGHTING COMPANY     | ) | Docket No. 50-322-OL-4 |
|                                  | ) | (Low Power)            |
| (Shoreham Nuclear Power Station, | ) |                        |
| Unit 1)                          | ) |                        |

LILCO'S MOTION FOR SUMMARY  
DISPOSITION ON PHASE I LOW POWER TESTING

On March 20, 1984, LILCO filed its Supplemental Motion for Low Power Operating License which requested the approval of a license to conduct four phases of low power testing. LILCO renewed its March 20 motion and, pursuant to 10 CFR § 2.749, sought summary disposition with respect to Phase I of the low power testing program in a motion filed with the Commission on May 4, 1984. Subsequently, the Commission's May 16 Order vacated the Licensing Board's April 6 Memorandum and Order to the extent it was inconsistent with the Commission's view that 10 CFR § 50.57(c) did not make GDC 17 inapplicable to low power operation. The Commission did not rule on LILCO's summary disposition motions. LILCO, in a continuing effort to have the merits of its case engaged, renews its motion for summary disposition on Phase I.

# I. Basis for Summary Disposition

Phase I fuel load and precriticality testing involve both fuel loading and core verification prior to the reactor's going critical. See attached Statement of Material Facts, Material Facts 1, 5. Initial core loading involves the placement of fuel bundles in specified locations within the reactor vessel. Material Fact 2. The following testing is associated with initial core loading:

- (a) water chemistry surveillance testing
- (b) control rod drive stroke time and friction tests
- (c) installation, calibration, and utilization of special startup neutron instrumentation
- (d) core verification instrument operability check

Material Fact 3. Following placement of the fuel in the vessel, the following testing must be conducted:

- (a) local power range monitor (LPRM) sensitivity data
- (b) zero power radiation survey for background readings
- (c) recirculation system instrument calibration checks
- (d) control rod drive scram time testing
- (e) cold main steam isolation valve (MSIV) timing

Material Fact 4.

For these precriticality activities, reliable diesel generators are not necessary to satisfy the Commission's

regulations. The legal requirement for diesel generators derives from GDC 17, which states in pertinent part:

An onsite electric power system and an offsite electric power system shall be provided to permit functioning of structures, systems, and components important to safety. The safety function for each system (assuming the other system is not functioning) shall be to provide sufficient capacity and capability to assure that (1) specified acceptable fuel design limits and design conditions of the reactor coolant pressure boundary are not exceeded as a result of anticipated operational occurrences and (2) the core is cooled and containment integrity and other vital functions are maintained in the event of postulated accidents.

10 C.F.R. Part 50, Appendix A, Criterion 17 (emphasis added). In other words, the onsite AC power source must be of sufficient capacity and capability to assure the performance of the specified safety functions.

During Phase I fuel loading and precriticality testing, there are no fission products in the core and no decay heat. Therefore, core cooling is not required and, with no fission product inventory, fission product releases are not possible. Material Fact 7. In fact, during Phase I activities, most of the anticipated operational occurrences and postulated accidents covered in Chapter 15 of the Final Safety Analysis Report (FSAR) simply could not occur. Even those Chapter 15 events that are possible would have no impact on public health and safety, if they were in fact to occur. Material Facts 6-8. Because no core cooling is required during

Phase I, no AC power, either onsite or offsite, is needed. Material Fact 9. Thus the reliability of LILCO's onsite diesel generators is not material.

The license LILCO seeks with respect to Phase I testing (fuel load and precriticality testing) is identical to the low power approval recently authorized by the Commission for the Diablo Canyon plant. As the Commission noted in that decision:

The risk to public health and safety from fuel loading and pre-criticality testing is extremely low since no self-sustaining nuclear chain reaction will take place under the terms of the license and therefore no radioactive fission products will be produced.

Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-83-27, 18 NRC 1146, 1149 (1983). Indeed, fuel loading and precriticality testing present no significant safety issue. Id.

The rationale for the Commission's grant of a license to Diablo Canyon applies with even greater force with respect to Shoreham. At the time the Commission granted Diablo Canyon a low power testing license, quality assurance litigation concerning Diablo Canyon was still ongoing. In contrast, Shoreham has already been the subject of a lengthy, favorable Partial Initial Decision on all safety issues except those concerning those its existing diesel generators. See Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-83-57, 18 NRC 445 (1983)

(Opinion) and unpublished Board Findings of Fact and Appendices. Since there is no need for diesel generators or any AC power during Phase I, the assurance of no risk to public health and safety from Phase I activities is even greater at Shoreham than at Diablo Canyon because all quality assurance issues at Shoreham have been favorably resolved.

## II. Conclusion

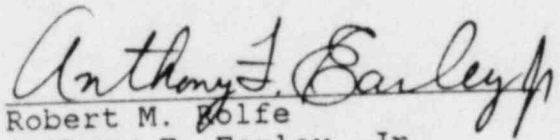
Consistent with the Commission's May 16 Order, GDC 17 requires an onsite power source during low power testing with sufficient capacity and capability to perform certain safety functions specified in the GDC. During fuel loading and precriticality testing conducted during Phase I low power testing, no AC power is required to perform these safety functions. Thus, even assuming that LILCO's onsite diesel generators do not operate, the requirements of GDC 17 are met. For the above stated reasons, LILCO's Motion for Summary Disposition on Phase I Low Power Testing should be granted.<sup>1/</sup>

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<sup>1/</sup> If the Licensing Board believes the Commission's May 16 Order requires an exemption from the regulations for all four phases of the low power testing, then the Board should treat this motion as a motion for summary disposition of all health and safety issues with respect to Phase I.

Respectfully submitted,

LONG ISLAND LIGHTING COMPANY

A handwritten signature in cursive script, reading "Anthony F. Earley, Jr.", written over a horizontal line.

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