

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'84 MAR 12 A11:27

Before the Atomic Safety and Licensing Board

OFFICE 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
(Emergency Planning)

SUFFOLK COUNTY MOTION TO STRIKE
TESTIMONY OF JOHN R. SEARS ON
BEHALF OF THE NRC STAFF REGARDING
EMERGENCY PREPAREDNESS CONTENTIONS
26.A, 26.C, AND 26.D

Pursuant to 10 CFR Section 2.743(c), Suffolk County hereby moves to strike in its entirety the Testimony of John R. Sears on Behalf of the NRC Staff Regarding Emergency Preparedness Contentions 26.A, 26.C and 26.D (hereinafter, the "Sears Testimony").

Although the Sears Testimony is characterized in its title and in Mr. Repka's cover letter to the Board, dated March 2, 1984, as being submitted "on behalf of the NRC Staff," in the testimony itself Mr. Sears states:

My testimony contains my personal professional
opinions and does not represent the NRC Staff's
final position on these contentions.

Sears Testimony at 2 (emphasis supplied). Clearly, the NRC Staff has not endorsed the substance of Mr. Sears' testimony. Indeed,

the NRC Staff apparently has not even determined yet what its position is on Contentions 26.A, 26.C and 26.D.

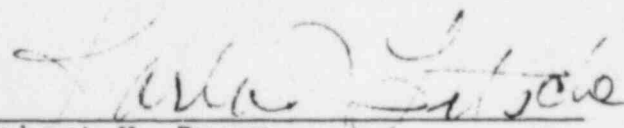
The NRC Staff is a party to licensing proceedings for one purpose: to provide licensing boards with the views of the NRC Staff as to matters at issue. The Sears Testimony contains only Mr. Sears' personal views, not the views of the NRC Staff. Indeed, the NRC Staff may disavow some or all of the comments in the Sears Testimony whenever it determines its "final position" on the contentions addressed by Mr. Sears.

For testimony to be properly submitted to a licensing board, it must be sponsored by, and represent the views of, a party to the proceeding or be submitted at the request of the Board. Clearly, this Board would not accept into evidence as testimony the personal views of some individual LILCO employee or Suffolk County employee if those views were not proffered and endorsed by LILCO, or by the County. The proper vehicle for the expression of such personal views is through limited appearance statements, not testimony. Given the role of the NRC Staff in licensing proceedings, the fact that the NRC has not yet determined its position on the contentions addressed by Mr. Sears, and the fact that the Sears Testimony contains only Mr. Sears' personal views rather than a representation of the views of the NRC Staff, this Board cannot properly accept the Sears Testimony as reliable, probative or material evidence. It should be stricken.

Moreover, it would be wasteful and inefficient for the Board and the parties to take up hearing time and devote resources toward related preparation for cross examination with respect to the personal views expressed in the Sears Testimony. Presumably, at some future date, after it has reached a "final position" on Contentions 26.A, 26.C and 26.D, the NRC Staff will seek to submit testimony that does represent its views. The parties and the Board should concern themselves with that future testimony whenever it appears, rather than with the purely personal views contained in the Sears Testimony.

Respectfully submitted,

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Dated: March 9, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)

LONG ISLAND LIGHTING COMPANY)

(Shoreham Nuclear Power Station,)
Unit 1))
_____)

Docket No. 50-322 (O.L.)
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CERTIFICATE OF SERVICE

I hereby certify that copies of Suffolk County Motion to Strike Testimony of John R. Sears on Behalf of the NRC Staff Regarding Emergency Preparedness Contentions 26.A, 26.C and 26.D have been served on the following by U.S. mail, first class except where noted this 9th day of March, 1984.

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