

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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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'S RESPONSE TO LILCO'S
MOTION TO STRIKE PORTIONS OF THE
DIRECT TESTIMONY OF PHILIP B. HERR ON
CONTENTION 22.D -- INADEQUACY OF LILCO'S EPZ

On March 9, 1984, LILCO moved to strike certain portions of the Direct Testimony Of Philip B. Herr On Behalf Of Suffolk County Regarding Emergency Planning Contention 22.D -- Inadequacy of LILCO's EPZ. The County responds as follows:

LILCO seeks to strike the portion of Professor Herr's testimony extending from page 13, line 1 through page 14, line 6 which discusses why the present configuration of the EPZ, running as it does through the populated centers of Riverhead and Port Jefferson, makes perimeter control extremely difficult. Professor Herr concludes that in the case of Riverhead, moving the EPZ boundary eastward -- that is, away from the middle of Riverhead's business district -- would make perimeter control less difficult by reducing the number of roads crossing the EPZ boundary. (Herr Testimony On Contention 22.D at 13). Similarly, he notes that in the

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Port Jefferson area the present EPZ configuration causes the EPZ boundary to be crossed by streets in about two dozen instances, only a few of which are manned by LILCO traffic guides. Again, Professor Herr concludes that a restructuring of the western EPZ boundary could reduce the perimeter control problem in the Port Jefferson area. (Herr Testimony On Contention 22.D at 13-14).

LILCO seeks to strike this testimony on two related grounds. The first asserted ground is premised on one sentence from Professor Herr's testimony which notes that the need for perimeter control on the eastern boundary will arise, in some measure, because of "East Enders" attempting to travel west. LILCO claims that, as a result of his reference to East Enders, Professor Herr is attempting to relitigate the issue of the evacuation shadow phenomenon (Contention 23) which is outside the scope of the Contention 22.D. LILCO's second asserted ground is that the issue of perimeter control was addressed, at least in the Riverhead area, by the Suffolk County Police Department's Direct Testimony on Contention 23.H. Therefore, LILCO again complains that Professor Herr's discussion of perimeter control is an attempt "to relitigate [Contention 23.H] in the guise of Contention 22.D." Both of LILCO's objections are without merit.

We will address LILCO's second asserted ground first. LILCO's argument is based on a mischaracterization of Professor Herr's testimony on Contention 22.D. The purpose of that testimony is to show that LILCO's EPZ, as currently drawn, actually

creates difficulties and confusion in several aspects of the emergency response, contrary to regulatory guidance that EPZs should be drawn in ways consistent with local response needs, capabilities, demography, access routes, etc. One such aspect of the emergency response which will be impaired by LILCO's present EPZ is perimeter control. As Professor Herr testifies, if LILCO had drawn the EPZ according to the planning principles he discusses, perimeter control problems could have been reduced somewhat by moving the boundary out of heavily populated areas, where there are many roads, and placing it in less densely populated areas where there are fewer roads. Professor Herr's discussion of perimeter control in this context is entirely different from the point made in the testimony of the Suffolk County Police Department on Contention 23.D. There, the SCPD witnesses concluded that, based on the present configuration of the EPZ, LILCO did not propose to place traffic control posts at many of the locations where people could enter the EPZ. The SCPD witnesses' testimony discussed those locations and why they should be manned by traffic control personnel. (SCPD Witnesses' Testimony on Contentions 65 and 23.H at 65-69 and Attachment 12). Professor Herr's testimony on Contention 22.D, on the other hand, is not designed to pinpoint where traffic control posts should be located given the present EPZ. Rather, he is testifying that by redrawing the EPZ, the problem of perimeter control can be

reduced by reducing the number of roads entering the EPZ. LILCO's knee-jerk reaction to the words "perimeter control" has apparently caused it to fail to recognize the clear distinction.

LILCO's argument that Professor Herr's testimony is an attempt to relitigate Contention 23 (Evacuation Shadow Phenomenon) is an equally inappropriate knee-jerk reaction to the term "East Ender" and, apparently, is based only on the fact that similar terminology was used in the litigation of Contention 23. Contrary to LILCO's assertions, however, the shadow phenomenon is not the issue that Professor Herr addresses in his testimony on Contention 22.D. Rather, as even LILCO acknowledges (Appendix A at IV-8), people may attempt to enter the EPZ for a variety of purposes during an evacuation. In particular, people from east of the EPZ (East Enders) may attempt to enter the EPZ while moving westward (either intentionally or unintentionally). The purpose of Professor Herr's testimony is not to discuss the nature or scope of the evacuation shadow phenomenon, or the reasons for its existence, as was litigated in Contention 23. The purpose of his testimony is to show that by redrawing the EPZ in a more rational manner, consistent with planning principles and regulatory guidance cited in Contention 22.D and its Preamble, the task of perimeter control can be made less difficult. This issue was not litigated in Contention 23 or in any previous contention.

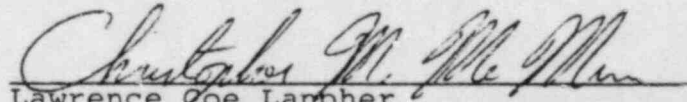
In short, Professor Herr's testimony is well within the scope of Contention 22.D and is not cumulative or unduly repetitious of any other contentions. Therefore, LILCO's objections are groundless.

Conclusion

For the reasons set forth above, LILCO's Motion to Strike Portions Of The Direct Testimony Of Philip B. Herr On Contention 22.D should be denied.

Respectfully submitted,

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