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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20545
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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-OL-3
(Emergency Planning)

SUFFOLK COUNTY MEMORANDUM
IN OPPOSITION TO LILCO'S MOTION
TO STRIKE PORTIONS OF THE TESTIMONY
OF DAVID HARRIS AND MARTIN MAYER
ON CONTENTIONS 24.G AND 75

In LILCO's Motion to Strike Portions of the Testimony of David Harris and Martin Mayer on Contentions 24.G and 75 dated March 9, 1984 (hereinafter, the "Motion"), it asserts that five segments of the Direct Testimony of David Harris and Martin Mayer on Behalf of Suffolk County Regarding Contentions 24.G, 24.K, 24.P, 73 and 75 dated March 2, 1984 (hereinafter, "Harris and Mayer Testimony"), are outside the scope of Contentions 24.G and 75, and thus not relevant and not admissible. LILCO's Motion should be denied.

I. Portions of Harris and Mayer Testimony
Relating to Contention 24.G

LILCO's Motion seeks to strike two portions of the Harris and Mayer Testimony because allegedly they are "outside the

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scope of Contention 24.G," and are "cumulative" to points made in (1) a subsequent portion of Harris and Mayer's testimony on Contention 73.A, and (2) testimony -- that has not even been filed yet -- on Contention 72. LILCO's allegations are untrue and there is no basis for striking these portions of the Harris and Mayer testimony.

The statements LILCO seeks to strike are as follows:

1. Page 6, line 21 through page 7 -- This testimony states that "LILCO's estimates of how many ambulance and ambulette trips would be necessary in an evacuation are unrealistically low for two reasons." It then discusses the fact that LILCO's trip estimates do not include the trips necessary to carry 630 hospital patients, and the witnesses' opinion that LILCO's estimate of the number of handicapped persons residing at home requiring evacuation assistance is too low.

2. Page 8, lines 17-18. These lines consist of the following:

"And, for the reasons we stated above, LILCO's estimates are unrealistically low."

LILCO's argument is based, first, upon a mischaracterization of Contention 24.G. Although LILCO states that "In essence, this contention states that LILCO does not have sufficient agreements for ambulances and ambulettes to meet its own estimates in the LILCO Transition Plan," Motion at 2, the fact is that the contention states much more than that. Specifically,

after noting LILCO's estimates of how many trips it believes would be necessary to evacuate nursing and adult homes and the homebound, Contention 24.G also states:

An additional number of ambulances and ambulettes will be required to evacuate the approximately 630 patients likely to be in the hospitals within (and just outside) the EPZ. (See Appendix A, at IV-172; OPIP 3.6.5.) However, LILCO has no agreements with ambulance companies to provide such equipment in such quantities. . . .

Clearly, LILCO's assertion that the portion of the Harris and Mayer testimony which discusses the number of trips necessary to carry 630 hospital patients is not "outside the scope" of Contention 24.G. That portion of the Harris and Mayer testimony addresses a matter expressly identified and raised in the contention and there is no basis upon which to strike it.

Furthermore, LILCO's argument concerning the portion of the Harris and Mayer testimony that deals with its estimate of the number of handicapped persons requiring evacuation assistance is also based on a misreading of the contention. Contention 24.G states that LILCO does not have necessary letters of agreement to enable LILCO to implement an evacuation of persons in special facilities, hospitals, and the handicapped. LILCO's suggestion that "Intervenors are attempting to expand the existing Contention 24.G regarding letters of agreement to meet the specifications of the Plan, to include an attack on the specifications of the Plan itself," (Motion at 3-4) is similar to an argument LILCO

made in its Motion to Strike Portions of the Testimony of Inspector Richard C. Roberts et al. on Contentions 65 and 23.H, dated November 28, 1983. Here LILCO attempts to argue that because Contention 24.G references estimates contained in the LILCO Plan, testimony setting forth the County's disagreement with the accuracy of LILCO's estimates is improper despite the fact that the contention (and other related contentions) expressly questions the accuracy of those estimates. The similar argument made by LILCO with respect to the traffic testimony (i.e., that because Contention 65 contained a sentence which began "Assuming that LILCO's traffic plan could be implemented," the County's witnesses could not express their opinions that the Plan could not be implemented) was rejected by the Board in its Order dated January 16, 1984.

LILCO's argument concerning this portion of the Harris and Mayer testimony should also be rejected. The County's position is that LILCO needs letters of agreement with a sufficient number of ambulance companies to enable it to conduct an evacuation of persons needing such transportation. The number of persons in need of such transportation is clearly relevant to the issue of how many agreements are necessary.

Moreover, LILCO's objection makes no sense. As LILCO itself notes, Drs. Harris and Mayer, in a later portion of the same piece of testimony, also discuss Contention 73.A which, as LILCO acknowledges in its Motion, "alleges that the estimate of

the number of handicapped persons residing in the EPZ is too low." The fact that an opinion concerning one contention is also relevant with respect to a second contention, and therefore appears under one heading in a piece of testimony rather than under the other, is no basis upon which to strike the testimony from either location. Nor is it a basis upon which to strike the testimony as "cumulative," since only one panel of witnesses make the statement, and they make it only once. The testimony is clearly admissible and LILCO's Motion should be denied.

II. Portions of Harris and Mayer Testimony
Relating to Contention 75

LILCO seeks to strike three portions of the Harris and Mayer testimony because that testimony allegedly "expands" Contention 75 "far beyond the original issues raised in this contention." Motion at 6. Again, LILCO's assertion is untrue and there is no basis for striking these portions of the Harris and Mayer testimony. The statements LILCO seeks to strike relating to Contention 75 are as follows:

1. Page 25, line 1 through page 26, line 6 -- This testimony discusses one reason why there is no assurance that LILCO's relocation centers will be incapable of providing necessary services -- that is, because the LILCO Plan fails to provide for any coordination among ARC representatives and various LILCO employees who are expected to perform and provide services to evacuees at those centers.

2. Page 27, line 4 through page 28, line 1 -- This testimony discusses one crucial necessary service which the LILCO relocation centers apparently could not provide: waste removal. It also discusses the fact that the shower and related plumbing facilities at the LILCO designated relocation centers are inadequate because they cannot be used to wash contaminated evacuees as contemplated in the Plan.

3. Page 28, line 9 through page 30, line 13 -- This testimony discusses LILCO's failure to identify where in its proposed relocation centers it intends to set up its relocation services, and therefore it is impossible to determine whether the complexes designated by LILCO would have adequate space or facilities for the use intended by LILCO. It also discusses the fact that LILCO's relocation centers do not contain two sets of facilities such as showers, toilets, food preparation and other areas which would be necessary to accommodate contaminated and uncontaminated evacuees as LILCO's Plan envisions.

Once again, LILCO's motion to strike the above portions of the Harris and Mayer testimony is based on a misreading or mischaracterization of the contents of Contention 75. In its motion, LILCO asserts that Contention 75 deals solely with "the capacity" of relocation centers, and then asserts that the portions of the Harris and Mayer testimony that talk about the need for coordination, waste removal, and facilities including dual facilities, in LILCO's view, go beyond "a fair reading"

of the contention. It is true that Contention 75 contains the word "capacity." In fact, though, the context in which the word is used, as well as the remainder of Contention 75, indicate that the point of the contention is that the LILCO Plan:

fails to demonstrate that each such facility [designated to be a relocation center] has adequate space, toilet and shower facilities, food and food preparation areas, drinking water, sleeping accommodations, and other necessary facilities.

As the contention goes on to state:

Accordingly, there is no assurance that the relocation centers designated by LILCO will be sufficient in capacity to provide necessary services for the number of evacuees that will require them.

Clearly, the term "capacity" was not intended merely to refer to floor space or air space as LILCO seems to suggest. The capacity of concern includes various specifically identified facilities (such as toilets and showers) as well as other facilities necessary to provide the services LILCO itself states in its Plan will be provided at its relocation centers. In Contention 75, Intervenor challenge LILCO's assertion that its designated centers are capable of providing those services.

Each of the portions of the Harris and Mayer testimony on Contention 75 which LILCO seeks to strike address an issue that is within the scope of Contention 75. The portion which LILCO characterizes as dealing with "coordination," in fact discusses one reason for Drs. Harris' and Mayer's opinion that necessary services will not be provided at LILCO's relocation centers. As

they note, the LILCO Plan contemplates that several different individuals from both the ARC and LILCO will perform many functions necessary to the successful and proper operation of the centers. The fact that there will be no coordination among those individuals, in their opinion, suggests that operation of the centers may not be possible (see Harris and Mayer testimony at 25) and that it would be "almost impossible to determine what supplies and facilities were available, obtain those that were needed, or provide adequate services to evacuees." (Id. at 26) This opinion -- that lack of coordination is one reason that evacuees may not be provided with necessary services at relocation centers -- is directly related to the point of Contention 75. It should not be stricken.

Second, the portion of the Harris and Mayer testimony which LILCO characterizes as dealing with "waste removal" is also proper and relevant testimony within the scope of Contention 75. Waste removal clearly is a service that is necessary at a relocation center. Moreover, in order to provide such service, certain facilities would be necessary. Indeed, special facilities would probably be necessary for waste removal at a relocation center designed for use following a radiological emergency, because, as Drs. Harris and Mayer note and the LILCO Plan contemplates, such centers would need to be able to deal with contaminated as well uncontaminated wastes. The discussion by Drs. Harris and Mayer of the need for waste removal facilities is within the scope of

Contention 75. Moreover, in the portion of their testimony which LILCO seeks to strike Drs. Harris and Mayer discuss one particular example of a facility which is expressly mentioned in Contention 75. Specifically, they discuss the fact that the showers at LILCO's relocation centers cannot be used to wash contaminated evacuees if the contaminated water simply drains into a sewer. Clearly, this discussion cannot be said to be outside the scope of Contention 75 which expressly states that LILCO's Plan fails to demonstrate that relocation centers have "adequate . . . shower facilities." Thus, the testimony on pages 27 and the top of 28 should not be stricken.

Third, the portion of the Harris and Mayer testimony which discusses LILCO's failure to identify specific areas in the buildings it identifies as relocation centers and its failure to include two sets of essential facilities is also within the scope of Contention 75. The portion of that testimony which appears on pages 28 and the first half of 29, deals expressly with the portion of Contention 75 which identifies the Plan's failure to demonstrate that relocation centers have "adequate space, toilet and shower facilities, food and food preparation areas, drinking water, sleeping accommodations, and other necessary facilities." Drs. Harris and Mayer note that because the centers identified by LILCO are very large complexes, and LILCO has not identified what areas or buildings it has in mind for use for its relocation center operations, "it is impossible to

determine whether the proposed facilities would be adequate or available for the use intended by LILCO." (Harris and Mayer testimony at 28) This directly addresses the allegations in Contention 75 that the Plan fails to demonstrate that facilities have adequate space and facilities.

Similarly, the discussion at the bottom of page 28 and continuing on to page 29 of the Harris and Mayer testimony is also within the scope of Contention 75. There, Drs. Harris and Mayer note that the LILCO Plan fails to identify where in the proposed complexes various operations, including those involving monitoring and decontamination, are to be set up, and therefore there is no assurance that the necessary space, facilities or equipment would be available. Again, this directly addresses the point stated in Contention 75 that the Plan fails to demonstrate that each designated relocation center has adequate space and facilities.

Finally, the discussion which begins on page 29 and carries over to page 30, concerning the need for two sets of many facilities "such as reception areas, waiting rooms, showers, toilets, storage areas, waste disposal facilities, nursing and first aid facilities, and possibly cooking and dining facilities, as well as adequate supplies and equipment for such double sets of facilities," directly addresses the point of Contention 75 that the Plan fails to demonstrate that relocation centers have adequate space and facilities.


LILCO's motion fails to set forth any basis upon which this Board could determine that the Harris and Mayer testimony goes beyond Contention 75. Indeed, the portions LILCO seeks to strike directly address the issues raised in Contention 75. LILCO's complaint appears to be that the County did not set forth its testimony in its contention. Of course, there is no requirement that the County do so, and there is no basis for striking any of the testimony which addresses Contention 75.

III. Conclusion

For the foregoing reasons, LILCO's motion to strike portions of the Harris and Mayer testimony should be denied.

Respectfully submitted,

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