

008

RELATED CORRESPONDENCE

DOCKETED
USNRCUNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

MAR 21 11:01

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges

James A. Laurenson, Chairman

Dr. Jerry R. Kline

Mr. Frederick J. Shon

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 Proceeding)

March 16, 1984

RESPONSE OF GOVERNOR MARIO CUOMO, REPRESENTING
THE STATE OF NEW YORK, IN OPPOSITION TO LILCO'S
"MOTION TO STRIKE PORTIONS OF DIRECT TESTIMONY
OF THOMAS D. GIBBONS ON CONTENTIONS 66.D AND 97.B"

The State of New York hereby opposes LILCO's "MOTION TO
STRIKE PORTIONS OF DIRECT TESTIMONY OF THOMAS D. GIBBONS ON
CONTENTIONS 66.D and 97.B," dated March 9, 1984 (hereinafter,
"Motion").

I. Performance of snow and ice removal duties by State
employees

LILCO's suggestion that testimony pertaining to one
contention should be stricken because it also happens to relate
to another contention is without basis.

The fact in the case of Mr. Gibbons' testimony in lines
17 - 27 on page 4 and lines 1 - 3 on page 5 is that it is directly
responsive to the following portion of Contention 66.D:

[N]or can it [LILCO] assure that local personnel
assigned to snow removal duties will perform those
functions during an emergency, for the reasons cited
in Contentions 15, 25 and 27.

DS02

Mr. Gibbons' testimony explains the reasons why LILCO cannot assure that State employees assigned to snow and ice removal duties would perform such snow and ice removal tasks during a radiological emergency. Mr. Gibbons' testimony is directly on point with Contention 66.D's theme that LILCO cannot assure that snow and ice will be removed from highways during a radiological emergency.

The fact that Mr. Gibbons' testimony may also be relevant to Contention 25 does not justify striking it from this testimony on Contention 66.D. The testimony is not cumulative or duplicative of any other New York State testimony. Since Mr. Gibbons' testimony is directly relevant to Contention 66.D, the testimony should not be stricken.

II. Increased travel time

Again, LILCO's suggestion that testimony pertaining to one contention should be stricken because it also happens to relate to another contention is without basis. Mr. Gibbons is an expert who is familiar with the ramifications of failing to clear snow and ice from highways, both under normal circumstances and under heavy traffic conditions. Contention 66.D deals with LILCO's inability to remove snow and ice from roadways and the resulting effect on the ability of people to evacuate (see "Contention 66").

Mr. Gibbons' testimony on p. 5 concerning capacities of highways, as well as travel times, is relevant to Contention 66.D because unremoved snow and ice affect capacities and travel times and therefore affect the ability to evacuate in a timely manner. Mr. Gibbons' testimony on lines 4 - 7 of page 5 should not be stricken.

III. Unfavorable weather includes ice storms

A discussion of the effects of ice storms is without a doubt within the scope of Contention 97.B. The thrust of Contention 97.B is the failure of the LILCO Plan to comply with 10 CFR 50.47(b) (10) and NUREG 0654 Section II. J.9. These standards discuss protective actions for many types of events. The contention identifies one such event as "unfavorable weather." Ice storms certainly are an example of "unfavorable weather." Snowstorms also are an example of "unfavorable weather," but the contention never depicts snowstorms as the only example of "unfavorable weather." In addition, the distinction between an ice storm and a snowstorm is not great. If sleet or freezing rain were to fall, and then 6" of snow were to fall, or vice versa, has an ice storm occurred or has a snowstorm occurred? "Unfavorable weather" definitely has occurred. Mr. Gibbons' testimony on pages 6 - 8, as it relates to ice storms, should not be stricken.

It should be noted that LILCO's suggestion in its footnote on pages 5, 6 of its Motion that people could be immobilized during snowstorms but not during ice storms is ridiculous. Ice storms can easily convert highways, especially hilly and curvy ones, into totally unnavigable thoroughfares. The ability to accelerate can be lost completely and the ability to break can be lost completely. Also, ice can form so quickly and heavily on windshields, despite wipers and defrosters, that objects beyond the windshield can't even be seen. LERO personnel and other emergency personnel would not be able to travel to the EOC, staging areas or posts, and residents would not be able to evacuate

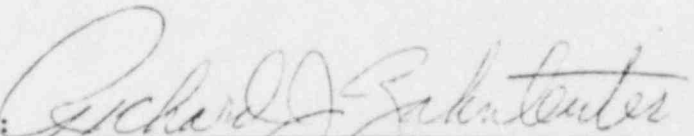
during such unfavorable weather conditions. Mr. Gibbons' testimony is within the issues raised in Contention 97.B and should not be stricken.

Respectfully submitted,

MARIO CUOMO,
Governor of the State of New York

FABIAN G. PALOMINO, ESQ.
Special Counsel to the Governor
of the State of New York

BY:



RICHARD J. ZAHNLEUTER, ESQ.
Assistant to the Special Counsel
to the Governor of the State
of New York

Albany, New York

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges
James A. Laurenson, Chairman
Dr. Jerry R. Kline
Mr. Frederick J. Shon

In the Matter of)
)
)

LONG ISLAND LIGHTING COMPANY)
)
)

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

Docket No. 50-322-OL-3
(Emergency Planning Proceeding)

March 16, 1984

CERTIFICATE OF SERVICE

I hereby certify that one copy of the

RESPONSE OF GOVERNOR MARIO CUOMO, REPRESENTING
THE STATE OF NEW YORK, IN OPPOSITION TO LILCO'S
"MOTION TO STRIKE PORTIONS OF DIRECT TESTIMONY
OF THOMAS D. GIBBONS ON CONTENTIONS 66.D AND 97.B"

has been served to each of the following this 16th day of March
1984 by U. S. Mail, first class, except as otherwise noted:

James A. Laurenson, Chairman ***
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. Jerry R. Kline ***
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Mr. Frederick J. Shon ***
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Ralph Shapiro, Esq.
Cammer and Shapiro
9 East 40th Street
New York, New York 10016

Howard L. Blau, Esq.
217 Newbridge Road
Hicksville, New York 11801

W. Taylor Reveley III, Esq. **
Hunton & Williams
P. O. Box 1535
707 East Main Street
Richmond, Virginia 23212

Mr. Jay Dunkleberger
New York State Energy Office
Agency Building 2
Empire State Plaza
Albany, New York 12223

James B. Dougherty, Esq.
3045 Porter Street, N. W.
Washington, D. C. 20008

Mr. Brian McCaffrey
Long Island Lighting Company
Shoreham Nuclear Power Station
P. O. Box 618
North Country Road
Wading River, New York 11792

Martin Bradley Ashare, Esq.
Suffolk County Attorney
H. Lee Dennison Building
Veterans Memorial Highway
Hauppauge, New York 11788

Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D. C. 20555

Bernard M. Bordenick, Esq. **
David A. Repka, Esq.
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Stuart Diamond
Environment/Energy Writer
NEWSDAY
Long Island, New York 11747

Stephen B. Latham, Esq.
Twomey, Latham & Shea
P. O. Box 398
33 West Second Street
Riverhead, New York 11901

Marc W. Goldsmith
Energy Research Group, Inc.
400-1 Totten Pond Road
Waltham, Massachusetts 02154

MHB Technical Associates
1723 Hamilton Avenue, Suite K
San Jose, California 95125

Honorable Peter F. Cohalan
Suffolk County Executive
H. Lee Dennison Building
Veterans Memorial Highway
Hauppauge, New York 11788

Ezra I. Bialik, Esq.
Assistant Attorney General
Environmental Protection Bureau
New York State Department of Law
2 World Trade Center
New York, New York 10047

Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

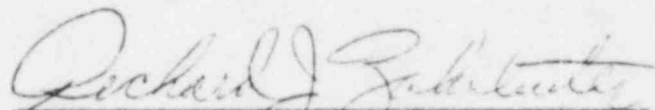
Stewart M. Glass, Esq. **
Regional Counsel
Federal Emergency Management
Agency
26 Federal Plaza, Room 1349
New York, New York 10278

Nora Bredes
Executive Director
Shoreham Opponents Coalition
195 East East Main Street
Smithtown, New York 11787

Eleanor L. Frucci, Esq. ***
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Herbert H. Brown, Esq. **
Lawrence Coe Lanpher, Esq.
Karla J. Letsche, Esq.
1900 M Street, N. W., Suite 800
Washington, D. C. 20036

Spence Perry, Esq.
Associate General Counsel
Federal Emergency Management Agency
Washington, D. C. 20472



RICHARD J. ZAHNLEUTER
Assistant to the Special Counsel
to the Governor of the State
of New York
Executive Chamber
State Capitol
Albany, New York 12224

*By Hand
**By Federal Express
***By Telecopier
****By U.S. Express Mail

Albany, New York