

LILCO, March 27, 1984

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NUCLEAR REGULATORY COMMISSIONOFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCHBefore the Atomic Safety and Licensing Board

In the Matter of)
)
LONG ISLAND LIGHTING COMPANY) Docket No. 50-322-OL-3
) (Emergency Planning
(Shoreham Nuclear Power Station,) Proceeding)
Unit 1))

SUPPLEMENT TO LILCO'S
MOTIONS FOR SUMMARY DISPOSITION ON
CONTENTIONS 24.B, 33, 45, 46, AND 49
(RADIATION HEALTH COORDINATOR AND DOE)

By letter dated March 19, 1984, Suffolk County requested an opportunity to supplement its response to LILCO's summary disposition motions on Contentions 24.B, 33, 45, 46, and 49 to include information contained in FEMA's RAC review report released on March 15, 1984. On March 20, 1984, the Board orally granted all parties the opportunity to supplement filings regarding the summary disposition motions pending on these contentions with any information they wished to discuss from the FEMA report. LILCO has addressed below items in the FEMA report pertaining to each of its five motions for summary disposition filed on DOE-related contentions.

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I. Contention 24.B
(Letters of Agreement with
the Department of Energy and
the Radiation Health Coordinator)

First, at page 3 of the FEMA report, FEMA indicates that there is potential confusion in the Plan regarding whether the position of Radiation Health Coordinator will be filled by DOE personnel or persons from an outside consulting firm. The report states that "[c]larification should be provided in the plan as to the role of the 'outside consultants' on performing the accident assessment function." Report at 3. The role of the outside consultants is clarified in LILCO's motion for summary disposition of Contention 24.B, in the letter of agreement between IMPELL Corporation and LILCO (Attachment 2 to the motion). That letter clearly indicates that IMPELL Corporation, not DOE, will provide personnel to fill the position of Radiation Health Coordinator. To the extent that FEMA's finding on page 3 relates to Contention 24.B, it has been addressed in LILCO's motion for summary disposition and therefore that motion should be granted.

Second, on page 9 of the FEMA report, FEMA states that the letter of agreement from DOE does not clearly state DOE's role in the LILCO Plan. While it is true that the letter of agreement between DOE and LILCO does not state in detail the specific tasks that DOE will perform in an emergency, the letter does say that "the Department of Energy (DOE) will respond to requests for radiological assistance from licensees" and

that DOE's role is to provide "advice and emergency action essential for the control of the immediate hazards to health and safety." The LILCO Transition Plan and Procedures, including those portions of the Plan and Procedures discussed in the motions for summary disposition on Contentions 45, 46, and 49 and in the affidavits of David Schweller, Manager of the Department of Energy Brookhaven Area Office, filed in support of those motions, show that DOE is aware of the details of the Plan and that DOE has agreed to provide dose assessment teams as described in the Plan. In light of this information, requiring a change to the letter elevates form over substance. The purpose of the letter is to indicate agreement, not to detail every procedure in a multi-volume plan.

In addition, the findings of "adequate" in response to item C.1.b (page 12 of the FEMA report), item C.3 (page 13 of the FEMA report), item H.7 (page 25 of the FEMA report), items H.12 and I.7 (page 27 of the FEMA report), and item I.11 (page 30 of the FEMA report) all indicate that the Plan adequately details the functions to be performed by DOE and support LILCO's view, detailed in its motions for summary disposition, that the County has raised no litigable issue of fact.

Finally, the FEMA report states at page 10 that a letter of agreement could not be located in the Plan for the outside consultant who will fill the position of Radiation Health Coordinator. As described in LILCO's motion for summary disposition on Contention 24.B, the agreement between IMPELL and

LILCO (Attachment 2 to that motion) provides personnel to fill that position. The agreement will be included in Appendix B of the LILCO Plan in future revisions. Consequently, this finding in the FEMA report has already been addressed in LILCO's motion for summary disposition on Contention 24.B. Nothing in the FEMA report precludes granting LILCO's summary disposition motion on that contention.

II. Contention 33
(DOE-RAP Monitoring Teams Communication)

In Contention 33, the intervenors challenge the communications link between the DOE-RAP field teams and the EOC, claiming that direct radio communications between field monitoring teams and the EOC are required by NUREG-0654, Section II.F.1.d. As stated in LILCO's motion for summary disposition on Contention 33, a dedicated telephone line between the EOC and the Brookhaven National Laboratory Command Center, plus radio communications between the Command Center and field teams, as provided in the LILCO Plan, meets the guidelines of NUREG-0654 Section II.F.1.d. The FEMA report states on pages 18-19 that II.F.1.d is adequately addressed in the LILCO Plan. Consequently, LILCO is entitled to summary disposition on Contention 33.

It is true that on page 26 of the FEMA report, FEMA states that "communications equipment on page 4.1-4 should include radio links between the field teams and EOC," but this

did not prevent FEMA from finding NUREG-0654 element H.11 to be adequately met in the LILCO Plan. If, after discussing this item with LILCO, FEMA still finds the description on page 4.1-4 to be unclear, LILCO will clarify the Plan to describe the communications link in more detail. But this does not raise a material issue of triable fact.

III. Contention 45
(Designation of DOE Personnel)

Contention 45 alleges that LILCO has not adequately identified the names, titles, and qualifications of DOE personnel and the personnel who will fill the position of Radiation Health Coordinator. The FEMA findings on NUREG-0654 elements I.7 (page 27 of the FEMA report) and I.11 (page 30 of the FEMA report) that "the capabilities, mobilization, response time, and equipment" of the DOE-RAP resources identified in the Plan are adequate, support LILCO's motion for summary disposition on Contention 45.

On page 28 of the FEMA report, FEMA notes that "the Plan does not specify whether LERO has accident assessment personnel who can weigh the plant status from an operational view in developing protective action recommendations," and finds NUREG-0654 element I.8 inadequate due to this alleged deficiency. This finding is not within the scope of Contention 45, which alleges in part that the "qualifications of the DOE-RAP or other outside consultant personnel" are not described in the

Plan. In short, the contention says that LILCO did not list names, titles, and qualifications of the DOE personnel and the Radiation Health Coordinator relied on in the Plan; the FEMA finding is that the Plan needs to identify a person who can perform a function not now discussed in the Plan. The two ideas are entirely different. Therefore, that portion of the FEMA report should not affect LILCO's motion for summary disposition on Contention 45. Further, that portion of the FEMA report is not within the scope of any of the other DOE-related contentions that are the subject of LILCO's motions for summary disposition.

IV. Contention 46
(Continued Availability of DOE-RAP Resources)

The County contends in Contention 46 that LILCO does not comply with NUREG-0654 Sections II.A.4 and C.1.b relating to continuity of resources. The FEMA report at pages 11-12 supports LILCO's motion for summary disposition on Contention 46, giving a rating of "adequate" to NUREG-0654 elements A.4 and C.1.b. The report states that "the LERO Director of Local Response is responsible for ensuring the continuity of emergency resources for 24-hour operations over a protracted period" (page 11) and that "the DOE-RAP is specified to provide radiological monitoring assistance and expected times for arrival are provided" (page 12). Thus LILCO's motion for summary disposition of Contention 46 should be granted.

V. Contention 49
(Dose Assessment Methods)

The FEMA report findings of "adequate" on NUREG-0654 elements I.7 (page 27 of the report) and I.11 (page 30 of the report), discussing the capabilities of the DOE-RAP resources to locate and track the plume, support LILCO's motion for summary disposition on Contention 49. Therefore, LILCO's motion should be granted for the reasons stated in the motion.

VI. Pages 29 and 53 of the FEMA Report

In its March 19, 1984 letter to the Board requesting the opportunity to supplement its response to LILCO's summary disposition motions, the County indicated that pages 3, 9, 10, 12, 13, 26, 28, 29, and 53 of the FEMA report were, in its view, "relevant to the pending summary disposition motions." Pages 3, 9, 10, 12, 13, 26, and 28 (as well as pages containing certain favorable findings not mentioned by the County) have been addressed above. The findings on pages 29 and 53 of the FEMA report are not relevant to Contentions 24.B, 33, 45, 46, and 49. The finding on page 29 discusses the capability of the DOE Brookhaven Area Office to provide support to LILCO for airborne radioiodine sampling and analysis to concentrations as low as 5×10^{-8} using the procedure outlined in OPIP 3.5.1, pursuant to NUREG-0654 Section II.I.9. This discrete issue is not raised in any of the intervenors' contentions. In addition, the finding on page 53 of the report, suggesting that LILCO

clarify the Plan to state whether DOE-RAP personnel will participate in radiological monitoring exercises and finding that the Plan adequately addresses NUREG-0654 Section II.N.2.d, is not relevant to Contentions 24.B, 33, 45, 46, and 49. Therefore, the findings on pages 29 and 53 do not affect LILCO's summary disposition motions.

VI. Conclusion

For the reasons stated in LILCO's motions for summary disposition on Contentions 24.B, 33, 45, 46, and 49, in LILCO's memorandum of law in support of those motions, and in the supplement to those motions (above), LILCO's motions for summary disposition on Contentions 24.B, 33, 45, 46, and 49 should be granted.

Respectfully submitted,

LONG ISLAND LIGHTING COMPANY

BY

Kathy E. B. McCleskey
James N. Christman
Kathy E. B. McCleskey

Hunton & Williams
P.O. Box 1535
707 East Main Street
Richmond, VA 23219

DATED: March 27, 1984

CERTIFICATE OF SERVICE

In the Matter of
LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Power Station, Unit 1)
Docket No. 50-322-OL-3

I hereby certify that copies of LILCO'S SUPPLEMENT TO LILCO'S MOTIONS FOR SUMMARY DISPOSITION ON CONTENTIONS 24.B, 33, 45, 46, AND 49 (RADIATION HEALTH COORDINATOR AND DOE) were served this date upon the following by first-class mail, postage prepaid or, as indicated by an asterisk, by Federal Express, or, as indicated by two asterisks, by hand:

James A. Laurenson,**
Chairman
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory
Commission
East-West Tower, Rm. 402A
4350 East-West Hwy.
Bethesda, MD 20814

Dr. Jerry R. Kline**
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory
Commission
East-West Tower, Rm. 427
4350 East-West Hwy.
Bethesda, MD 20814

Mr. Frederick J. Shon**
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory
Commission
East-West Tower, Rm. 430
4350 East-West Hwy.
Bethesda, MD 20814

Secretary of the Commission
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

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

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

Bernard M. Bordenick, Esq.**
David A. Repka, Esq.
Edwin J. Reis, Esq.
U. S. Nuclear Regulatory
Commission
7735 Old Georgetown Road
(to mailroom)
Bethesda, MD 20814

Eleanor L. Frucci, Esq.**
Attorney
Atomic Safety and Licensing
Board Panel
U. S. Nuclear Regulatory
Commission
East-West Tower, North Tower
4350 East-West Highway
Bethesda, MD 20814

Fabian G. Palomino, Esq.*
Special Counsel to the
Governor
Executive Chamber
Room 229
State Capitol
Albany, New York 12224

Herbert H. Brown, Esq.**
Lawrence Coe Lanpher, Esq.
Christopher McMurray, Esq.
Kirkpatrick, Lockhart, Hill
Christopher & Phillips
8th Floor
1900 M Street, N.W.
Washington, D.C. 20036

Mr. Marc W. Goldsmith
Energy Research Group
4001 Totten Pond Road
Waltham, Massachusetts 02154

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

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

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

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

Ralph Shapiro, Esq.*
Cammer & Shapiro, P.C.
9 East 40th Street
New York, New York 10016

James Dougherty, Esq.*
3045 Porter Street
Washington, D.C. 20008

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


Jonathan D. Feinberg, Esq.
New York State
Department of Public Service
Three Empire State Plaza
Albany, New York 12223

Spence W. Perry, Esq.
Associate General Counsel
Federal Emergency Management
Agency
500 C Street, S.W.
Room 840
Washington, D.C. 20472

Ms. Nora Bredes
Executive Coordinator
Shoreham Opponents' Coalition
195 East Main Street
Smithtown, New York 11787

Gerald C. Crotty, Esq.
Counsel to the Governor
Executive Chamber
State Capitol
Albany, New York 12224

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


Kathy E. B. McCleskey

Hunton & Williams
707 East Main Street
P.O. Box 1535
Richmond, Virginia 23212

DATED: March 27, 1984