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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before the Atomic Safety and Licensing Board

'84 JUL 25 P3:22

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 OFFER OF PROOF
AND REQUEST FOR RECONSIDERATION
OF THE BOARD'S LIMITATIONS ON
SUFFOLK COUNTY'S CROSS-EXAMINATION
OF THE FEMA WITNESS PANEL

Pursuant to an agreement among the parties,^{1/} FEMA's witnesses were scheduled to be available on July 10-13, 1984, to be cross-examined on the contentions in Group II-A and II-B on which the County, LILCO, the State of New York and the NRC Staff had already presented their witnesses. This amounted to 33 contentions which were heard from March 20, 1984 until the date of the FEMA panel's appearance.

On July 3, 1984, Suffolk County submitted to the Board a detailed cross-examination plan of the FEMA witness panel. The County's cross plan was nearly 50 pages in length and outlined quite explicitly the County's intended cross-examination of the FEMA witness panel. In the cover letter accompanying the cross-examination plan, the County informed the Board that the time

^{1/} Ground Rules For FEMA Witnesses (July 27, 1984).

necessary to cross-examine the FEMA witness panel was estimated to be four to five days. The County's estimate was made in good faith and was predicated on the vast number of issues to be inquired into, which had taken months for the parties in this case to litigate.

Although the Board received the County's cross-examination plan and time estimate one week before the FEMA witnesses were to appear, it was not until the morning of July 10 -- minutes before the County was to begin cross-examination of FEMA's panel -- that the Board expressed displeasure with the County's time estimate. At that time, the Board, sua sponte, imposed a two-day limitation on the County's cross-examination of the FEMA witnesses. Tr. 12,145-46. The Board further ruled that at the end of two days, the County could elect from two options. Under the first option, the County could make an oral offer of proof and a motion for additional time which the Board would rule on immediately. Under the second option, the County could file a written offer of proof and a motion to conduct further cross-examination on the July 10-13 issues when the FEMA witnesses next appeared during the week August 13, 1984.^{2/} Tr. 12,146.

On Friday, July 13, the Board granted the County some additional time to cross-examine FEMA's witnesses. However, at approximately 5:15 p.m. on that day, the Board barred the County

^{2/} The hearing week has now been rescheduled to commence on August 14, 1984.

from continuing its cross examination. At that time, the County had conducted less than 2 1/2 days of cross-examination and had not completed questioning on several of the contentions at issue.^{3/} Therefore, pursuant to the Board's July 10 ruling, and pursuant to 10 CFR §§ 2.743(e), 2.718(c) and 2.730, the County has chosen to pursue the Board's second option and submits the following offer of proof and motion for reconsideration.^{4/}

Offer Of Proof

At the time the County was barred by the Board from proceeding further with its questioning of the FEMA witness panel, the County had not yet pursued any cross examination on Contentions 21, 61 and 64. Furthermore, at that time, although the County had begun its initial inquiry into the issues dealing with loss of offsite power (Contentions 93-96), it had been unable to complete that inquiry. In addition, the County was unable to pursue

^{3/} Only 2 1/2 days of cross-examination had been completed by Friday afternoon because a number of procedural issues and the cross-examination of the County's panel on Contention 61 were also heard during the week of July 10.

^{4/} This offer of proof does not address issues related to the Regional Assistance Committee ("RAC") process, nor the RAC report issued by FEMA with respect to the LILCO Plan, nor other related matters, such as how a "consensus" was reached by the RAC on various aspects of the LILCO Plan. Such "background" issues were raised, in part, during the County's cross examination on July 10-12. However, because of the Board's ruling of July 10, which limited the County to two days of cross examination time, not all matters concerning "background" issues were fully explored. The County thereby reserves the rights to continue its inquiry into such areas as the RAC process when the FEMA panel returns for cross-examination during the week of August 14.

many additional lines of questioning related to Contention 22.D.^{5/} If the County had been permitted to go forward on these issues, it would have proved the following:

Contention 21

1. The FEMA witnesses have not evaluated whether LILCO has complied with FEMA Guidance Memorandum 20, which sets forth measures to be taken in the event that a single language minority does not exceed 5 percent of a County's population.

2. Guidance Memorandum 20 interprets the requirements of NUREG 0654 in this regard.

3. The FEMA witnesses will not attempt to determine the effectiveness for single language minorities of LILCO's public education campaign in any exercise of the LILCO Plan.

Contention 22.D

1. The FEMA witnesses have not evaluated the configuration of the Shoreham EPZ against the guidelines of 10 CFR § 50.47(c).

2. The FEMA witnesses do not know whether the EPZ boundary is "recognizable" as stated in their testimony.

^{5/} The County was cross-examining on Contention 22.D when the Board interrupted the County's questioning to let the other parties question the FEMA witness panel. Time constraints precluded the County from returning to that issue before it was barred from proceeding. Tr. 12,961.

3. The FEMA witnesses have failed to apply recognized planning principles to their evaluation of the Shoreham EPZ.

4. The FEMA witnesses have not considered any alternate EPZ boundaries.

5. The FEMA witnesses have not considered the consequences of dividing population centers.

6. The FEMA witnesses have not considered the consequences of the zig-zagging nature of the EPZ boundary, especially in Riverhead, and the confusion this would cause to the population.

7. Contrary to the suggestion of the FEMA witnesses, 10 CFR 50.47(c) requires more than just following roadway boundaries in defining EPZ boundaries.

Contention 61

1. The LILCO Plan offers inadequate guidance on what conditions must be present to institute selective evacuation.

2. The LILCO Plan does not identify all types of radiosensitive people who could benefit from selective evacuation.

3. Selective evacuation would not be an effective protective action in the event of a radiological emergency at Shoreham.

Contention 64

1. The FEMA witnesses lack knowledge of meteorological conditions in and around the EPZ.
2. LILCO cannot reliably predict shifts in wind direction before they occur.
3. The fact that wind directions may shift before they can be predicted means that one should evacuate at least 5-7 miles in any evacuation in order to account for that uncertainty.
4. Under the present LILCO Plan, protective action recommendations could not be issued to the subzones toward which the plume has shifted prior to the plume reaching those subzones coming into contact with the plume.

Contentions 93-96

1. Adequate backup power is necessary for the EOC to operate.
2. Adequate backup power for the EOC is a requirement of NUREG 0654.
3. The FEMA witnesses have not evaluated whether the backup power at the EOC is sufficient and adequate for the EOC to function properly.

4. Reliable sources of power at staging areas, bus transfer points and relocation centers are necessary in order for those facilities to function properly.

5. Backup power sources at staging areas, bus transfer points and relocation centers are required to assure that emergency functions can be performed at those facilities.

6. Without backup power, LILCO's emergency facilities would not meet NRC regulations or NUREG 0654.

7. Communication and notification functions performed by the LILCO Customer Service Office could not be performed without a power source. The FEMA witnesses, however, have not evaluated the adequacy of the backup power source provided by LILCO for the Customer Service Office.

8. The FEMA witnesses have not evaluated the adequacy of LILCO's siren system in light of the fact that 10 sirens lost power during a storm last spring.

9. FEMA's witnesses have not evaluated whether LILCO's route alert drivers can perform their functions in a timely and workable manner; nor can FEMA's witnesses support their assertion that LILCO's proposal for using route alert drivers is "adequate."

10. FEMA's witnesses have not evaluated LILCO's agreement with Island Helicopter; nor have they evaluated whether Island Helicopter can respond to an emergency at the Shoreham plant in a timely manner.

11. Necessary functions at the ENC cannot be conducted without power.

12. The FEMA witnesses have not determined whether backup power exists at the ENC.

13. The FEMA witnesses have no support for their statement that radio communications could be conducted between LILCO and the ambulances relied upon by LILCO without offsite power.

14. The FEMA witnesses erroneously appear to believe that LILCO communicates directly with ambulances.

15. The FEMA witnesses are not aware of the fact that some of the ambulance companies relied upon by LILCO lack reliable offsite power.

16. The FEMA witnesses state in their answer to Q. 119 that a power failure during an evacuation would have significant effects on evacuation. The County would prove that the consequences of such a power failure would make evacuation an ineffective protective action.

Motion For Reconsideration

Under 10 CFR § 2.743(a), every party has the right to "conduct such cross-examination as may be required for full and true disclosure of the facts." The County submits that the Board erred in arbitrarily limiting the County's ability to pursue this right. The County's good faith estimate of four to five days was reasonable in light of the sheer magnitude of the issues to be covered. The County conducted its cross-examination as expeditiously as possible while pursuing its right to full and fair disclosure of the facts. Nevertheless, the Board's ruling precluded the County from conducting meaningful cross-examination on at least eight Contentions.

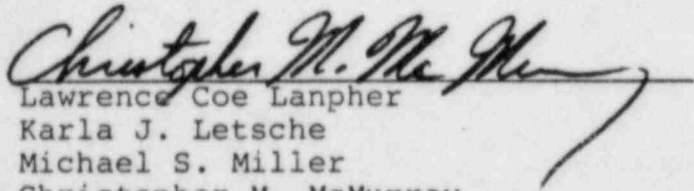
The County's offer of proof demonstrates that the areas of inquiry which would have been pursued by the County are relevant, probative and material and would have been useful to the Board in determining the weight to be given to the FEMA witnesses' testimony. Therefore, the County requests that this Board reconsider its termination of the County's cross-examination and allow the County to complete its inquiry into the eight Contentions listed in its offer of proof when the FEMA witnesses appear again on August 14-17.

Conclusion

For the reasons stated above, the Board should grant Suffolk County's Request for Reconsideration of the Board's Limitations on Suffolk County's Cross-Examination of the FEMA Witness Panel.

Respectfully submitted,

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Dated: July 23, 1984

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OFFICE OF SECRETARY
DOCKETING & SERVICE
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CERTIFICATE OF SERVICE

I hereby certify that copies of SUFFOLK COUNTY'S OFFER OF PROOF AND REQUEST FOR RECONSIDERATION OF THE BOARD'S LIMITATIONS ON SUFFOLK COUNTY'S CROSS-EXAMINATION OF THE FEMA WITNESS PANEL dated July 23, 1984, have been served to the following this 23rd day of July 1984 by U.S. mail, first class, except as otherwise noted.

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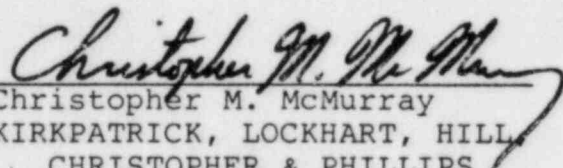
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Dated: July 23, 1984

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