

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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USNRC

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Before the Atomic Safety and Licensing BoardOFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

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

SUFFOLK COUNTY'S RESPONSE TO  
LILCO'S MOTION TO SUBMIT SUPPLEMENTAL  
EXHIBIT OR TO STRIKE NEW YORK EXHIBIT 3

On May 22, 1984, LILCO moved this Board to admit into evidence a letter dated April 18, 1984 from Frank Mancuso (apparently the State Director of the Office of Civil Preparedness for the State of Connecticut) to Dr. David Axelrod, the New York State Commissioner of Health. (LILCO's Motion To Submit Supplemental Exhibit or to Strike New York Exhibit 3, May 22, 1984 [hereinafter "motion"]). That letter admits that there is no letter of agreement between the State of New York and Connecticut concerning the Shoreham plant.

The County fully supports the State of New York's opposition to LILCO's motion (Response of Governor Mario M. Cuomo, Representing the State of New York, in Opposition to "LILCO's Motion to Submit Supplemental Exhibit or to Strike New York Exhibit 3") and submits that LILCO's motion should be denied on the grounds asserted by the State. The County also makes the following addi-

tional observations. First, LILCO's motion appears to be founded on the baseless assumption that a party can introduce and move exhibits into evidence based solely on arguments of counsel contained in a motion. There is absolutely no precedent for such a procedure, nor is it supported by any existing NRC regulation or caselaw. Indeed, LILCO's motion failed to cite any support for the curious procedure it proposes. The arguments of counsel contained in a motion do not constitute a proper foundation for the admission of evidence and LILCO's attempt to circumvent the requirement for a proper evidentiary foundation should be rejected out of hand.

In addition, LILCO's proposed supplemental exhibit provides no additional information which is not already in the record. The record reflects that there is no existing agreement with the State of Connecticut regarding the Shoreham plant. The letter LILCO proposes to offer into evidence is therefore cumulative and should be rejected by this Board. 10 CFR Section 2.743(c).

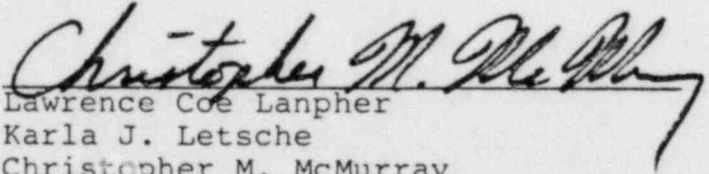
Finally, LILCO's alternative motion to strike New York's exhibit EP-3 is without basis. Not only is LILCO's motion in this regard untimely, but New York's exhibit EP-3 is clearly relevant and not cumulative. LILCO does not argue otherwise. Thus, LILCO has not shown good cause for striking New York's exhibit EP-3.

Conclusion

For the reasons stated above, LILCO's Motion to Submit Supplemental Exhibit Or To Strike New York Exhibit 3 should be denied.

Respectfully submitted,

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



Lawrence Coe Lanpher  
Karla J. Letsche  
Christopher M. McMurray  
KIRKPATRICK, LOCKHART, HILL,  
CHRISTOPHER & PHILLIPS  
1900 M Street, NW  
Washington, DC 20036

Attorneys for Suffolk County

Dated: June 4, 1984

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

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

CERTIFICATE OF SERVICE

I hereby certify that copies of MOTION FOR RECONSIDERATION and SUFFOLK COUNTY'S RESPONSE TO SUBMIT SUPPLEMENTAL EXHIBIT OR TO STRIKE NEW YORK EXHIBIT 3 dated June 4, 1984, have been served to the following this 4th day of June 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

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

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

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

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

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

Edward M. Barrett, Esq.  
General Counsel  
Long Island Lighting Company  
250 Old Country Road  
Mineola, New York 11501

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

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

Joel Blau, Esq.  
New York Public Service Commission  
The Governor Nelson A. Rockefeller  
Building  
Empire State Plaza  
Albany, New York 12223

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.  
Edwin J. Reis, Esq.  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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

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

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

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

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

Jonathan D. Feinberg, Esq.  
Staff Counsel  
New York State Public  
Service Commission  
3 Rockefeller Plaza  
Albany, New York 12223

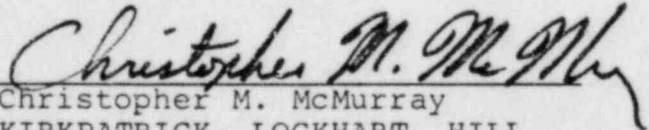
Stuart Diamond  
Business/Financial  
New York Times  
229 W. 43rd Street  
New York, New York 10036

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

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

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

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

  
Christopher M. McMurray  
KIRKPATRICK, LOCKHART, HILL,  
CHRISTOPHER & PHILLIPS  
1900 M Street, N.W., Suite 800  
Washington, D.C. 20036

Dated: June 4, 1984

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\* By Hand  
# By Telecopier  
## By Federal Express