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RELATED CORRESPONDENCE

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

DOCKETED  
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In the Matter of )

LONG ISLAND LIGHTING COMPANY )

(Shoreham Nuclear Power Station, )  
Unit 1) )

Docket No. 50-322-OL-3  
(Emergency Planning  
Proceeding)  
June 18, 1984

RESPONSE OF GOVERNOR MARIO M. CUOMO, REPRESENTING  
THE STATE OF NEW YORK, IN OPPOSITION TO "LILCO'S  
MOTION TO FILE SURREBUTTAL TESTIMONY ON PHASE II  
EMERGENCY PLANNING CONTENTION 67"

The State of New York hereby opposes the LILCO motion  
identified above.

LILCO's motion should be denied for several reasons,  
the most important of which is that LILCO's motion flagrantly  
violates the Board's order of March 16, 1984.

In denying the State's motion for leave to file rebuttal  
testimony concerning Contention 65, the Board stated on lines  
17-19 on page 6, "[W]e do not expect to entertain written  
motions to submit rebuttal testimony. Such requests will be  
dealt with orally, on the record, and at the hearing."

During the hearing on March 20, 1984, the Board emphasized  
the need for strict adherence to this procedural rule concerning  
rebuttal testimony:

add:  
J. Gorn  
OCA

DS03

I want to direct everyone's attention to the problem that has been presented with the request to file rebuttal testimony in the fashion that we adopted. It just hasn't worked. We have had a lot of rebuttal testimony filed. We have had extensive briefs on both sides. It is taking too much of your time, and too much of our time.

To that end, I want to direct everyone's attention to the last two sentences on Page 6 before we get to the Order provision. I will read them: To avoid these problems in the future, we do not expect to entertain written Motions to submit rebuttal testimony. Such requests will be dealt with orally, on the record, and at the hearing, unquote.

That means that from now on when we finish each contention or cluster as we are going through them, you will have to keep your witnesses here until all witnesses are finished if you expect to present rebuttal testimony. If you do so, you will have to make an oral motion at the time. We will consider arguments on that, and we will decide immediately, and the witnesses will either testify, or they will not.

This filing of these extensive briefs and arguments back and forth is just not a productive use of anyone's time. So, we are going to abandon the written testimony aspect of the Rebuttal. We will deal with it contention by contention, as we go through the rest of the case.

So that is a change that we have adopted, and we wanted to make sure that everyone is aware of that before we start into any new testimony today. (Emphasis added). Tr. 3900,3901.

LILCO had an opportunity on May 8, 1984, after the completion of Professor Herr's surrebuttal testimony on

Contention 67, to make an oral motion to submit further rebuttal testimony. However, LILCO failed to make such a motion.

Tr. 8532, 8533. Likewise, LILCO remained silent on May 9, 1984 when, after the completion of all testimony on Contention 22.D., the Board stated, "That then completes the schedule on Group 2-A issues, except for the ones that are going to have to be rescheduled at a later time....(Emphasis added).

Tr. 8756, lines 8-10. By filing its written motion on June 4, 1984, LILCO has reinstituted the practice of filing extensive briefs and arguments concerning rebuttal testimony. LILCO's motion results in the unproductive use of everyone's time and it flagrantly violates the Board's order of March 16, 1984.


For these reasons and for the reasons stated in Suffolk County's response to LILCO's motion, LILCO's motion should be denied.

Respectfully submitted,

MARIO CUOMO  
Governor of the State of New York

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BY:

  
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CERTIFICATE OF SERVICE

I hereby certify that one copy of the RESPONSE OF GOVERNOR MARIO M. CUOMO, REPRESENTING THE STATE OF NEW YORK, IN OPPOSITION TO "LILCO's motion to file surrebuttal testimony on Phase II Emergency Planning Contention 67" has been served to each of the following this 18th day of June, 1984 by U. S. Mail, first class, except as otherwise noted:

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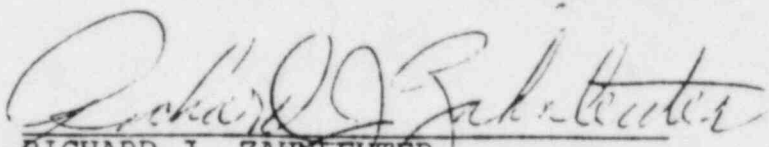
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\*By Hand  
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\*\*\*By Telecopier on June 18, 1984 and by U. S. Mail, first class  
on June 18, 1984  
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