

RELATED CORRESPONDENCE

LILCO, June 19, 1984

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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OFFICE OF SECRETARY
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Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
LONG ISLAND LIGHTING COMPANY)	Docket No. 50-322-OL-4
)	(Low Power)
(Shoreham Nuclear Power Station,)	
Unit 1))	

OBJECTIONS TO SUFFOLK COUNTY'S
SECOND DISCOVERY REQUEST TO LILCO
RELATING TO LILCO'S APPLICATION FOR EXEMPTION

Long Island Lighting Company (LILCO), by counsel,
objects as follows to Suffolk County's Second Discovery Request
to LILCO Relating to LILCO's Application for Exemption (the
Second Discovery Request).

1. In its Memorandum and Order Scheduling Hearing on
LILCO's Supplemental Motion for Low-Power Operating License
dated April 6, 1984, at page 16, the Licensing Board directed
that discovery in this case consist of document requests and
depositions only. It prohibited the use of interrogatories.
Accordingly, to the extent that the Second Discovery Request
seeks information not contained in documents properly
discoverable from LILCO, they are interrogatories and beyond
the scope of the permitted discovery in this proceeding.

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2. LILCO objects to all of the requests as not relevant to the subject matter of this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. The requests may be generally characterized as seeking all financial and/or economic information concerning LILCO's operations, cash flow and financial health. They appear to be calculated to address the question of LILCO's financial qualifications to operate the plant, whether it is prudent to engage in low power testing absent assurance that a full power license will be granted and possible uncertainties concerning LILCO's financial health. These matters bear no relevance to LILCO's exemption request and are not relevant to any unresolved contentions concerning LILCO's request for a low power license. The Partial Initial Decision in this proceeding has already determined that LILCO would be entitled to commence low power testing but for resolution of the diesel generator issue. The requested exemption would merely allow LILCO to commence low power testing prior to resolution of the diesel generator issue. Thus, there is no question as to whether low power testing ought to be allowed at all or concerning LILCO's financial qualifications to engage in it. See Financial Qualification Statement of Policy, 49 Fed. Reg. 24111 (June 12, 1984). Moreover, the Commission has on at least two occasions

held that any uncertainty attendant to whether LILCO may receive a full power license for Shoreham does not preclude low power testing. Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), CLI-84-9, 19 NRC ____ (1984); Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), CLI-83-17, 17 NRC 1032 (1983).

3. The discovery requests are burdensome and oppressive.

(a) The number of documents requested is voluminous. Preliminary estimates indicate that more than 500 manhours would be required to search for and produce the documents requested. For requests 2 and 7 alone, it is estimated that a five-foot high stack of documents would have to be produced. Additional details concerning their number and location will be provided, if necessary. In the interest of expediting this response, however, LILCO is filing it before having complete details. Nevertheless, given the lack of relevance and materiality of these requests, such an extensive effort to research and produce these documents is unwarranted.

(b) It will further be unduly burdensome to produce all copies and drafts of the voluminous number of documents requested.

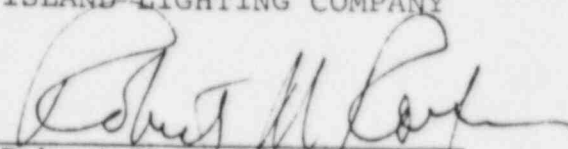
(c) It will also be unduly burdensome and oppressive to supply all documents "in the possession or subject to the control of LILCO's consultants, persons under contract with LILCO and vendors of equipment or services to LILCO." The number of such potential vendors and consultants might be large with respect to the subject matter of the requests.

4. Additionally and alternatively, LILCO objects to the production of any documents that subject to the work-product, trial preparation or attorney-client privileges. If LILCO's other objections are overruled and documents are produced, LILCO will identify those withheld as privileged at that time.

5. The Second Discovery Request is not timely. It was sent to LILCO by Federal Express on June 11 and, accordingly, LILCO's responses would not be due until after the close of discovery.

Respectfully submitted,

LONG ISLAND LIGHTING COMPANY

By 
Robert M. Rolfe
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Hunton & Williams
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DATED: June 19, 1984

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LILCO, June 19, 1984

CERTIFICATE OF SERVICE

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In the Matter of
LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Power Station, Unit 1)
Docket No. 50-322-OL-4 (Low Power)

I hereby certify that copies of OBJECTIONS TO SUFFOLK COUNTY'S SECOND DISCOVERY REQUEST TO LILCO RELATING TO LILCO'S APPLICATION FOR EXEMPTION AND RESPONSE TO SUFFOLK COUNTY'S FIRST DISCOVERY REQUEST TO LILCO RELATING TO LILCO'S APPLICATION FOR EXEMPTION were served this date upon the following by U.S. mail, first-class, postage prepaid or by Federal Express (as indicated by one asterisk).

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