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LILCO, July 5, 1984

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Appeal Board

IN THE MATTER OF)
LONG ISLAND LIGHTING COMPANY) Docket No. 50-322 (OL)
(Shoreham Nuclear Power Station,)
Unit 1))

LILCO'S VIEWS ON CLI-84-9

I.

On June 6, 1984, the Commission ordered a rulemaking to determine the relative scope of the terms "important to safety" and "safety related." Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), CLI-84-9, 19 NRC _____, slip op. at 2 (June 6, 1984). The Commission also gave interim guidance:

In the interim, the Boards are to continue to proceed on a case-by-case basis in accordance with current precedent. Cf. Metropolitan Edison Company (Three Mile Island Nuclear Station, Unit 1), ALAB-729, 17 NRC 814 (1983).

The Commission understands current precedent to hold that the term "important to safety" applies to a larger class of equipment than the term "safety-related." However, this does not mean that there is a pre-defined class of equipment at every plant whose functions have been determined by rule to be "important to safety" although the equipment is not "safety-related." Rather, whether any piece of equipment has a function "important to safety" is to

be determined on the basis of a particularized showing of clearly identified safety concerns for the specific equipment, and the requirements of General Design Criterion 1 (GDC 1) must be tailored to the identified safety concerns.

Shoreham, CLI-84-9, slip op. at 2-3. These comments on the Commission's action are submitted pursuant to the Appeal Board's June 7 Order soliciting the views of the parties.

II.

The Commission's decision to engage the "important to safety" issue by rulemaking narrows the scope of the Appeal Board's consideration of the matter to the proper application of the Commission's interim guidance. For the reasons set out below, the Appeal Board should affirm that LILCO has met all of the requirements of the NRC for classification and qualification, including quality assurance requirements. See Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-83-57, 18 NRC 445, 546 (1983). Moreover, the Appeal Board should vacate the Licensing Board's imposition of a license condition requiring LILCO to adopt the Staff's definition of important to safety insofar as the classification and qualification of structures, systems and components are concerned. Id. at 563-64.

A.

Shoreham Already Satisfies the Regulations

The Commission's interim guidance on the safety classification issue holds that existing precedent should be applied pending the outcome of the rulemaking. According to the NRC, precedent holds that "important to safety" is broader than "safety related." But the scope of "important to safety" is narrowly limited. Thus, there is no pre-defined class of equipment "important to safety." Rather, the category "is to be determined on the basis of a particularized showing of clearly identified safety concerns for the specific equipment, and the requirements of General Design Criterion 1 (GDC 1) must be tailored to the identified safety concerns." Shoreham, CLI-84-9, slip op. at 3 (emphasis added). Shoreham has unquestionably met this standard. To quote the Licensing Board:

The reason that we conclude that LILCO has complied with NRC requirements is that with respect to the treatment of structures, systems and components, whether for classification and qualification, quality assurance or safety analysis, such treatment may and should be effected commensurate with the items' importance to safety. LILCO has applied this latter treatment to every structure, system and component in the Shoreham design, notwithstanding the fact that it used only two classification classes, i.e., safety-related and nonsafety-related.

Shoreham, LBP-83-57, 18 NRC at 546. Equally evident is that the Shoreham record makes clear that there exists no "particularized showing of clearly identified safety concerns." Again, to quote the Licensing Board:

No member of the NRC panel was aware of any area in which the difference in usage of the definition of important to safety has made a substantive difference in the design, construction, or quality assurance at Shoreham (Finding J-691).

We conclude that the evidence provided by LILCO and the Staff is credible and convincing and is not controverted by that of the Intervenor. LILCO and the Staff have, indeed, taken into account classification and qualifications of systems important to safety in their analysis of the reliability of systems to determine whether there is reasonable assurance that the Shoreham design adequately protects (the public) from credible accidents.

Id. at 564-65 (footnote omitted); see generally id., unpublished findings of fact at 613-16 (J-421 to -430), 634-659 (J-482 to -549).

It follows that Shoreham already meets the substantive requirements of the Commission's interim guidance.

B.

No License Condition Is Needed

The condition in question was imposed to:

(1) confirm the Commission's regulatory authority over SS&Cs and related activities beyond those which are safety-related, and (2) to assure, as a regulatory requirement, the continuation by LILCO of the application of quality assurance [to] important to safety SS&Cs and related activities, commensurate with their safety function.

Shoreham, LBP-83-57, 18 NRC at 563-64. By its June 6 Memorandum, the Commission has now confirmed NRC authority, at least in the interim, over equipment beyond the safety related set. Although LILCO will continue to advocate its views on the long-standing definition of "important to safety" in the upcoming rulemaking, the Company must and will abide by the Commission's interim requirements. No license condition is needed either to confirm NRC regulatory authority or ensure LILCO's compliance.

In any event, LILCO will continue to abide by its March 1983 commitment to apply in the future, as in the past, appropriate quality assurance and quality standards to all non-safety related equipment. See, e.g., Shoreham, LBP-83-57,

unpublished findings of fact at 719-21 (J-703 to -706). Moreover, LILCO recognizes that, consistent with the Commission's interim guidance, where such quality measures are prompted by a specific safety concern, those measures are mandated by GDC 1.

To reiterate, in light of the above, no need exists to impose an "important to safety" license condition on Shoreham. In fact, if the condition remains unaltered, a substantial potential for confusion will arise. As noted by LILCO on appeal:

The Board's condition is fatally vague. It specifies no definition of "important to safety," and provides no standards to permit LILCO's reasonable compliance with, or to guide the NRC's enforcement of, the condition.

LILCO's Brief on Appeal at 45 (Dec. 23, 1983). In fact, several definitions of "important to safety" appear in the record, id. at 45-46, none of which is as narrowly focused as the Commission's interim guidance. Again, the Commission's interim guidance concerning the scope of GDC 1 is controlling.

III.

For the above reasons, the Appeal Board should (1) affirm the Licensing Board's conclusion that LILCO has met the NRC's regulations as regards "important to safety" and (2) vacate the

license condition concerning "important to safety" because it is both unnecessary and confusing.

Respectfully submitted,

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DATED: July 5, 1984

LILCO, July 5, 1984

CERTIFICATE OF SERVICE

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

I hereby certify that copies of LILCO's Views on
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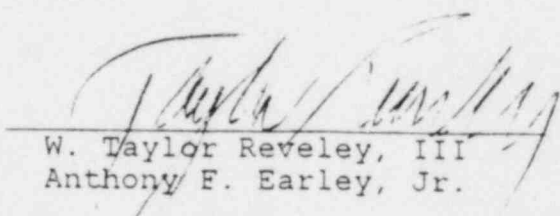
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