

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board -9 All:13

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 MOTION TO ADMIT SUPPLEMENTAL TESTIMONY
OF DEPUTY INSPECTOR PETER F. COSGROVE AND
LIEUTENANT JOHN L. FAKLER ON BEHALF OF SUFFOLK COUNTY
REGARDING CONTENTIONS 39, 40, 41, 44, 98, 99 and 100 --
TRAINING OF OFFSITE EMERGENCY RESPONSE WORKERS

For the reasons set forth below, Suffolk County hereby requests that the Board admit the attached supplemental testimony on Contentions 39, 40, 41, 44, 98, 99 and 100 (Training of Offsite Emergency Response Workers).

Suffolk County's prefiled direct testimony on Contentions 39, 40, 41, 44, 98, 99 and 100 (the "training issues") was filed on April 2, 1984. That same day, LILCO also filed its prefiled direct testimony on the training issues before the Board. Shortly thereafter, on April 18, 1984, the County requested production of a number of documents referenced and relied upon by the LILCO prefiled testimony. See letter from M. Miller to J. Monaghan, dated April 18, 1984. Included among the documents requested were "[a]ll documents relating to the critiques and evaluations of LERO trainees' performance by drill and/or exer-

cise controllers and/or observers . . . including all completed drill and/or exercise evaluation forms . . . and/or exercises that have been conducted."

On June 1, 1984, the Board ordered LILCO to produce such documents. Tr. 9,670 (Laurenson). In ordering that the documents be produced, the Board agreed with the County that the LILCO training testimony specifically relied upon evaluations and critiques of LERO trainees' performance during drills and exercises to support the LILCO witnesses' assertion that the LILCO training program teaches trainees their emergency response roles, including how to perform their emergency jobs. See Tr. 9,672-73. Thus, the Board ruled that the completed evaluation and critique forms were relevant to the LILCO testimony and the training contentions in issue and ordered LILCO to produce such documents. Tr. 9,673 (Laurenson).

Following receipt of the completed evaluation and critique forms on June 1, the County conducted cross examination of the LILCO training witnesses during the week of June 11. The County attempted to establish, through its cross examination, that there had been numerous and serious deficiencies in the training drills and exercises conducted under the LILCO training program, and that these deficiencies had prevailed throughout the course of the training provided to LERO trainees. For a number of reasons, however, including lack of time to review and analyze adequately

the documents provided by LILCO (the documents having been provided in the middle of a three-week trial period), the restrictions imposed by the Board on how such documents could be used in questioning the LILCO witnesses (see, e.g., Tr. 11,558-61), and the fact that the LILCO witness panel was comprised of hostile witnesses, through whom it was not possible to establish the extent of the training deficiencies revealed by the documents produced by LILCO, it remains necessary and appropriate for the County to submit supplemental testimony with respect to the extent and magnitude of such training deficiencies. Further, discussion of the deficiencies and how they impact LILCO's overall training program is necessary. This is accomplished by the attached supplemental testimony.

Clearly, under the circumstances, good cause exists for admitting the attached supplemental testimony. The testimony is relevant, material and probative to the issues raised in the training contentions and could not have been filed earlier since the documents upon which the testimony is based were themselves not produced until June 1 -- some two months after the County's prefiled direct testimony was submitted. Further, the parties will not be prejudiced if this testimony is admitted, because they will have the opportunity to cross-examine the County's witnesses about the supplemental testimony, and because the

testimony is limited in scope to a discussion of the evaluation and critique forms completed by observers/controllers of LILCO drills and/or exercises.

This Board has previously noted that, for an adequate showing of "good cause," proffered testimony must be shown to be relevant, not cumulative, and incapable of being filed in a more timely fashion. See Board Order dated February 28, 1984, at 7. Here, the proffered testimony meets the requisite showing of good cause. It is relevant to the issues raised in the training testimony submitted by Suffolk County and LILCO, since it is based directly on information gleaned from the training evaluations and critiques which this Board has previously found to be relevant. See, e.g., Tr. 9,673 (Laurenson). Further, the testimony proffered is not cumulative, since the County was barred from presenting the data discussed in the testimony during its cross examination of the LILCO witnesses. In this regard, the County notes that the summary reports admitted into evidence by the Board (see SC EP 63 and 64) do not adequately substitute for the data now offered because, unlike the summary reports, the data discussed in the supplemental testimony present particular comments which form the underlying bases for the summary reports. In addition, a number of the comments discussed in the proffered testimony are not reflected in any way in the summary reports that have been received into evidence. Thus, at this time, information contained and discussed in the supplemental testimony

does not appear as evidence anywhere in the record. Finally, it is clear that this supplemental testimony could not have been filed in a more timely fashion, since the information upon which the testimony is based was only recently produced by LILCO, and only since the end of trial in mid-June has there been adequate time for the County's expert training witnesses to review and analyze the data contained in the documents which form the bases for the testimony now offered.

For the reasons stated above, Suffolk County requests that the Board admit the supplemental training testimony attached to this motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of Suffolk County's Motion to Admit Supplemental Testimony Of Deputy Inspector Peter F. Cosgrove and Lieutenant John L. Fakler on Behalf of Suffolk County Regarding Contentions 39, 40, 41, 44, 98, 99 and 100 -- Training of Offsite Emergency Response Workers have been served to the following this 6th day of July, 1984 by U.S. mail, first class, except as otherwise noted.

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Dated: July 6, 1984

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