

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
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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)

TESTIMONY OF RICHARD KESSEL ON BEHALF
OF THE STATE OF NEW YORK

Dated: July 13, 1984
Albany, New York

RICHARD M. KESSEL
EXECUTIVE DIRECTOR
NEW YORK STATE CONSUMER PROTECTION BOARD
99 WASHINGTON AVENUE
ALBANY, NEW YORK 12210

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Q. Please state your name.

A. Richard Kessel.

Q. By whom are you employed and in what capacity?

A. I am employed by the State of New York as the Director of
the State Consumer Protection Board ("CPB").

Q. Please describe your educational background, employment
history and responsibilities as CPB Director?

A. I have annexed a biographical sketch to this testimony
which explains my educational background, employment
history and role as a Long Island consumer advocate.

As Executive Director of the CPB I am responsible for the
development and implementation of various energy and other
consumer related programs and policies before regulatory,
legislative, judicial and public forums. I am also
responsible for the development of consumer education
programs and the preparation of educational materials to

guide consumers in making economically sound decisions. In my role as Executive Director of the CPB, I have been integrally involved in developing the CPB's position in the Shoreham Prudence - Phase II (Case No. 27563), the Shoreham Ratemaking (Case No. 28252), and the current Long Island Lighting Company, Inc. (LILCO or the Company) Rate (Case No. 28553) Cases. I have also written many articles and publicly stated my position regarding LILCO and Shoreham related issues. The most recent was an extensive Op Ed article contained in the June 27, 1984 issue of Newsday, a Long Island daily newspaper.

Q. What is the purpose of your testimony?

A. LILCO has requested an NRC exception from a rule which normally requires a nuclear power plant, even operating at low power levels, to have a fully qualified and dependable onsite electric power system. I also understand that LILCO's request for an exception is based upon a special NRC rule which indicates that the "public interest" must be considered in an exemption proceeding. My testimony states my belief, and that of the State of New York, that approval of such an exemption is not in the public interest.

Q. What is your understanding of LILCO's exemption request?

A. I understand that LILCO seeks NRC permission to commence testing Shoreham at up to 5% power without a fully

qualified onsite power system. Instead, LILCO proposes to use its existing offsite power system, enhanced primarily by the addition of a 20 MW gas turbine and four 2.5 MW mobile diesels manufactured by the Electromotive Division of General Motors. Neither the GM diesels nor the gas turbine is fully qualified for nuclear service as "onsite power"; hence, LILCO has sought the instant exception.

Q. What is your understanding of the alleged benefits LILCO contends will result from granting its exemption?

A. These "benefits" are discussed in LILCO's May 22, 1984 Application for Exemption. LILCO has stated that the entire low power testing program, i.e., from fuel load to testing completion, will be completed within 2 to 3 months. If the Company receives an exemption, LILCO contends, it may be able to achieve commercial operation 2 to 3 months earlier than would have been the case without an exemption. This LILCO contention is based upon two speculative assumptions. First, that the Company will be able to convince the NRC that the serious problems which have plagued its onsite power system, i.e., the Transamerica Deleval, Inc. ("TDI") diesels, are resolved. Second, that LILCO can secure NRC approval of its emergency offsite response plan. I also understand that LILCO asserted that savings of \$90 to \$135 million can be attributed to favorable consideration of its exemption

proposal. I have been advised recently LILCO has reduced its estimate of this alleged saving from \$8 to \$42 million.

Q. Do you believe that it is in the public interest for LILCO to be granted the requested exemption?

A. No.

Q. Please describe your reasons for opposing this exemption.

A. I have several bases for my opposition to LILCO's requested exemption. They are as follows:

1. It is not in the public interest to permit contamination of a nuclear facility before the uncertainties surrounding its future operation have been resolved. There is no basis to assume that the NRC will allow LILCO a Shoreham full power operating license. If Shoreham were to be operated at low power, and subsequently abandoned, costs would increase unnecessarily as a consequence of several factors.

First, the reactor vessel and other equipment will have become contaminated, causing decommissioning costs to increase. Second, the value of the nuclear fuel will be substantially reduced. Finally, the salvage value of irradiated equipment will be

reduced. I have been informed that the costs associated with these three factors have been estimated to be approximately \$100 million. (Testimony of Michael Dirmeier and Jamshad Madan who have filed testimony on behalf of Suffolk County in this phase of this proceeding) These increased costs would offset the possible fuel savings resulting from an NRC exemption allowing low power testing.

Furthermore, additional direct and unnecessary economic costs may be absorbed by LILCO's customers if LILCO is allowed to recover the above described diminutions in value from ratepayers. These incremental costs would be caused solely by the approval of an expedited decision to allow low power testing. LILCO has consistently taken the position that all Shoreham related costs have been incurred prudently and are recoverable from ratepayers whether Shoreham does or does not become commercially operable.

2. LILCO's rush to license Shoreham has already resulted in a decline of quality of service. The Company expects either to implement or to

continue austerity reduction measures to reduce costs by \$60 to \$80 million for the 12 month period ending September 30, 1985. This sum is an addition to approximately \$30 to \$40 million in austerity budget cuts already implemented by LILCO. All of these cost reduction measures have affected non-nuclear operations. LILCO's proposal to accelerate low power testing will probably require additional funds which the Company will obtain by reducing non-nuclear related costs, thereby impairing its already diminished quality of service. This will cause further unacceptable deterioration of electric service which is not in the public interest. I believe the public interest will be better served if LILCO incurred only those nuclear expenses related to its attempt to secure a commercial operating license by complying with normal NRC safety regulations.

3. New York does not require Shoreham's capacity now nor for many years in the future. Thus, adequacy of generating capacity is not a concern should Shoreham's commercial operation date be delayed for an additional 2

to 3 months. LILCO's Office of Engineering in a June 1983 publication entitled "Shoreham Operation V. Abandonment (An Economic Analysis)" stated that Shoreham is not required for capacity purposes until 1994-1995. (Appendix B-1) The New York Power Pool in its "Long Range Plan - Electric Supply And Demand 1984-2000" has concluded that, on a statewide basis, Shoreham is not required for reliability purposes until the turn of the century. (pp. 32, 37-38)

4. It makes little sense to allow LILCO to support a request for an exemption to relieve it from economic problems caused by managerial imprudence. LILCO selected the TDI diesels which have already caused the Company's low power testing schedule to slip significantly. The CPB and the County of Suffolk have shown, through testimony submitted in a New York Public Service Commission Shoreham prudence proceeding (Case No. 27563), that LILCO's selection of and testing procedures regarding the TDI diesels were deficient. It is certainly not in the public interest to reward LILCO with an

exemption to allow it to commence low power testing with unqualified on-site and off-site power systems particularly when a prudent utility would have replaced the defective TDI diesels with safety grade equipment many years ago.

5. It is inconsistent with the public interest to allow a financially weakened and nearly bankrupt company to operate a nuclear facility. Consumers' fears regarding Shoreham's operation will not be alleviated with the knowledge that LILCO's financial condition may preclude it from expending the funds necessary to operate Shoreham safely at low power. I note that these financial problems have recently caused a strike of the Company's unionized employees. This indicates that the LILCO's precarious financial condition has undermined the reliability of its personnel and operations. It does not make any sense to impose additional safety responsibilities upon a company which is so close to insolvency. In the July 13, 1984 issue of the Wall Street Journal, LILCO's chairman and chief operating

officer, Dr. Catacosinos, stated that he "... cannot be as optimistic about the possibilities of averting bankruptcy as I was at our annual meeting in May". (p. 8)

6. LILCO has mismanaged the entire Shoreham project. It is incredible that the Company can now seek to cut corners by requesting a low power license, even though it cannot meet minimum safety requirements applicable to other nuclear power plants. Approval of this exemption will neither instill public confidence regarding the impartiality of the NRC nor allay the public perception that LILCO, a Company considered by many to have mismanaged Shoreham, received expedited and unwarranted regulatory treatment. To grant LILCO this exemption, thereby allowing the Company to circuitiously evade normal NRC rules designed to insure safe nuclear power plant operations, would increase public concern that Shoreham is less safe than other nuclear power plants. This is not in the public interest and should not be permitted.

Q. Does this conclude your testimony?

A. Yes.