

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Administrative Judges:

Alan S. Rosenthal, Chairman  
Gary J. Edles  
Howard A. Wilber

DOCKETED  
USNRC

'84 August 10, 1984  
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OFFICE OF SECRETARY  
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In the Matter of )  
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 )  
LONG ISLAND LIGHTING COMPANY )  
 )  
(Shoreham Nuclear Power Station, )  
Unit 1) )

Docket No. 50-322-OL-3  
(Emergency Planning)

MEMORANDUM OF GOVERNOR  
MARIO M. CUOMO, REPRESENTING  
THE STATE OF NEW YORK, IN  
SUPPORT OF THE COUNTY OF  
SUFFOLK'S MOTION FOR DIRECTED  
CERTIFICATION

In its order of August 2, 1984, the Appeal Board requested the views of the parties respecting whether the criteria for granting directed certification were met in the County of Suffolk's response to the Appeal Board's Order of July 27, 1984.

The position of the State of New York is that the criteria for granting directed certification were met.

The decision in Public Service Company of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-405, 5 NRC 1190, 1192 (1977), sets forth the following two criteria for granting directed certification:

[W]e have undertaken discretionary interlocutory review only where the ruling below either (1) threatened the party adversely affected by it with immediate and serious irreparable impact which, as a practical matter, could not be alleviated

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by a later appeal or (2) affected the basic structure of the proceedings in a pervasive or unusual manner. [footnote omitted]

The discussion in the County of Suffolk's response to the Appeal Board's Order of July 27, 1984 satisfactorily addresses these criteria. The contents of that discussion need not be repeated here. However, because 10 C.F.R. Section 50.47(a)(2) assigns unique and special responsibilities to FEMA, it should be emphasized that the County of Suffolk's appeal involves issues that raise significant legal and policy questions.

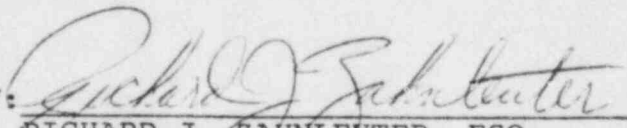
Accordingly, the State of New York respectfully urges the Appeal Board to grant the County of Suffolk's motion for direct certification of the Licensing Board's Order of July 10, 1984.

Respectfully submitted,

MARIO CUOMO,  
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BY:

  
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NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD  
Before Administrative Judges  
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LONG ISLAND LIGHTING COMPANY )

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August 10, 1984

CERTIFICATE OF SERVICE

I hereby certify that one copy of the MEMORANDUM OF GOVERNOR MARIO M. CUOMO, REPRESENTING THE STATE OF NEW YORK, IN SUPPORT OF THE COUNTY OF SUFFOLK'S MOTION FOR DIRECTED CERTIFICATION has been served to each of the following this 10th day of August 1984 by U. S. Mail, first class, except as otherwise noted:

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\*By Telecopier, in addition to service by first-class mail on  
August 10, 1984

Albany, New York