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USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Before the Commission

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

SUFFOLK COUNTY AND STATE OF NEW YORK
MOTION TO EXCEED PAGE LIMIT

By Order dated November 19, 1984, the Commission authorized the parties to submit comments on the Miller Board's October 29, 1984 low power Initial Decision. The comments were to be no more than 15 pages. Suffolk County and the State of New York are submitting their joint comments simultaneously with submission of this Motion. Our comments exceed 15 pages and we hereby seek leave to file comments which exceed the specified page limit.^{1/}

Good cause exists to exceed 15 pages. First, as the Commission will discern when it reviews the County/State comments, there are multiple defects with the Miller Board's Decision.

^{1/} LILCO has used the same procedure recently: it submitted its substantive comments with the NRC on the ALAB-788 remand issues at the same time that it moved the NRC for leave to file those comments. See LILCO's Notice to the Commission of Report on Issues Remanded by ALAB-788 and Motion for Leave to File, November 14, 1984. Further, the Commission accepted LILCO's unauthorized filing of November 9 (commenting on the ASLB's low power decision), even though LILCO had not even submitted a motion for leave to file such comments. See NRC October 19 Order at 2, n. 1.

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These defects include repeated instances where the Miller Board denied the County and State due process of law and other instances where the Board plainly ignored the mandatory guidance established by the Commission's May 16 Order and other NRC precedents. Given the multiplicity of errors committed by the Miller Board, it was impossible even in a summary fashion to address these matters in just 15 pages.

Second, the LILCO exemption request presents unprecedented issues of first impression, particularly concerning the proposal to operate a nuclear plant with no safety grade onsite power system. The case further involves a proposal to exempt a utility from fundamental safety requirements despite the undisputed fact that Shoreham's power is not needed for at least 10 years and despite the fact that the representatives of the public -- the State of New York and Suffolk County -- strongly oppose any low power operation. It requires more than 15 pages to address these various points and to identify the public interest and policy factors which the Commission must consider in its review of the LILCO exemption request.

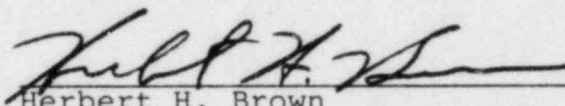
Third, contrary to the implication of LILCO's November 9 comments, the Commission cannot merely undertake a limited "stay" or "immediate effectiveness" review pertaining to LILCO's exemption request. Rather, only the Commission can grant the Section 50.12(a) exemption (see Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), LBP-77-35, 5 NRC 1290 (1977)), and thus the Commission must undertake a

careful review of the entire exemption proceeding record. To address matters in a format appropriate to such a review requires more than 15 pages.

Finally, the State of New York and Suffolk County are each entitled to file 15 pages of comments under the NRC's October 19 Order. To present our views in a coordinated fashion which will simplify Commission review, the State and County have submitted their comments in a single joint filing. Therefore, the 15 page limit applicable to separate filings should not be considered applicable to such a joint filing.

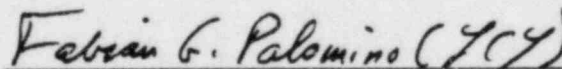
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November 29, 1984