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USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'85 MAY 17 A11:50

Before the Atomic Safety and Licensing Appeal Board

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of )  
 )  
LONG ISLAND LIGHTING COMPANY )  
 )  
(Shoreham Nuclear Power Station,) )  
Unit 1) )

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

SUFFOLK COUNTY AND STATE OF NEW YORK  
MOTION FOR CHANGE OF ORAL ARGUMENT DATE

Suffolk County and the State of New York are in receipt of the Appeal Board's May 15 Order regarding briefing and argument of pending appeals from the ASLB's April 17 Partial Initial Decision. We hereby ask, for reasons specified below, that the July 31 oral argument date (Order at 2, line 1) be changed to August 12 or any date thereafter.

David A. Brownlee, a Kirkpatrick and Lockhart partner, has responsibility for preparing and arguing before the Appeal Board the County and State position on the federal preemption issue -- the issue which dominates LILCO's appeal. This is a longstanding allocation of responsibilities: Mr. Brownlee has prepared all briefs to the NRC Licensing Board on state law legal authority and preemption issues; Mr. Brownlee has handled (both in terms of brief writing and oral argument) all matters in the New York

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State Supreme Court legal authority case; and Mr. Brownlee has handled (again both in terms of brief writing and oral argument) all legal authority issues in the E.D.N.Y. Federal Court case (the Citizens litigation) and is preparing the Second Circuit appellee brief in that litigation.

Mr. Brownlee will be out of the United States from July 16 to August 6. See the attached statement filed by Mr. Brownlee with the Second Circuit which sets forth his unavailability for Second Circuit oral argument. Because of Mr. Brownlee's absence and his critical role on the preemption/legal authority issues, the County and State respectfully ask that oral argument on the LILCO appeal be scheduled for August 12 or any day thereafter.<sup>1</sup>

We apologize for any inconvenience caused by not setting forth the foregoing data in our filing of yesterday. However, we did not realize that the Appeal Board intended to announce an argument date in ruling on the briefing matters. If the Board prefers, we will be happy to speak with counsel for LILCO and the Staff to agree upon an argument date at the earliest mutually convenient time and to report thereafter to the Board.

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<sup>1</sup> Mr. Brownlee is returning to the United States on August 6, but for obvious reasons would prefer not to argue the issues until early the following week.

Respectfully submitted,

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May 16, 1985

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May 16, 1985

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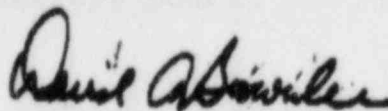
Re: Docket Nos. 85-7321, 85-7323, 85-7325  
Citizens for Ordly Energy v. Cty. Suffolk

Dear Ms. Goldsmith:

I have served as lead counsel for defendants/appellees, County of Suffolk and Peter F. Cohalan in the above-captioned actions, and I will argue on behalf of appellees in the subject appeals. Pursuant to Civil Appeal Scheduling Order #1 dated May 10, 1985, this is to advise you that I will be available for argument on July 15, 1985 and on August 12, 1985 and any date thereafter. I will, however, be out of the country and unavailable for argument or other proceedings from July 16, 1985 through August 6, 1985; although I will be returning to work on August 7, 1985, I would obviously prefer not to have argument in a case of substantial public importance such as this scheduled within the first day or so after my return.

I will greatly appreciate it if my unavailability could be taken into account in scheduling the oral argument in these appeals.

Sincerely yours,



David A. Brownlee

DAB/bd

cc: All Counsel of Record

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Certificate of Service

I hereby certify that copies of SUFFOLK COUNTY AND STATE  
OF NEW YORK MOTION FOR CHANGE OF ORAL ARGUMENT DATE have been  
served on the following this 16th day of May, 1985, by U.S. mail,  
first class, except as otherwise noted.

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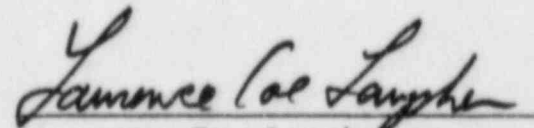
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Date: May 16, 1985

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\* By Hand  
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