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UNITED STATES OF AMERICA OFFICE OF SECRETARY
NUCLEAR REGULATORY COMMISSION DOCKETING & SERVICE
BRANCH

Before the Atomic Safety and Licensing Board

In the Matter of)

LONG ISLAND LIGHTING COMPANY)

(Shoreham Nuclear Power Station,)
Unit 1))

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

SUFFOLK COUNTY AND STATE OF NEW YORK
PROPOSED FINDINGS OF FACT AND CONCLUSIONS
OF LAW ON REOPENED RELOCATION CENTER ISSUES

A. Background

1. On January 28, 1985, we granted, over the County's and State's objection,^{1/} LILCO's January 11 motion to reopen the evidentiary record.^{2/} LILCO's motion was necessitated by

^{1/} See Suffolk County and State of New York Opposition to LILCO's Motion to Reopen the Record, dated January 18, 1985.

^{2/} Memorandum and Order Granting LILCO's Motion to Reopen Record, dated January 28, 1985 (hereinafter, "January 28 Order").

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its failure, despite three prior attempts, to meet its burden of proof on Intervenor's four contentions directly related to NRC regulatory requirements concerning relocation centers (Contentions 24.N, 24.O, 74 and 75). Having failed to prevail on these contentions with any of its three earlier relocation center schemes (as we noted in our "void in the record" comment (see Tr. 14,806-07)), LILCO developed a new scheme involving the use of the Nassau Veterans Memorial Coliseum as a "reception" relocation center, and separate "congregate care" centers to be operated by the Nassau County Chapter of the American Red Cross. Although we find that LILCO's designation of the Nassau Coliseum as a reception center for monitoring and, if necessary, decontaminating evacuees has, in part, filled the "void" in the record which resulted from LILCO's failure to designate any relocation centers for our consideration, we find for the reasons set forth below in favor of Intervenor on the reopened record, as well as the relocation center contentions previously litigated, and rule that LILCO has failed to comply with the requirements of NUREG 0654 and 10 CFR § 50.47(a)(1).^{3/}

^{3/} We have previously found that LILCO's failure to identify relocation/reception centers for special health care facilities (e.g., nursing and adult homes) and school children constitutes deficiencies in the LILCO Plan. See Partial Initial Decision on Emergency Planning (hereinafter, "PID"), dated April 17, 1985, at 300-01, 331-32. In addition, we have found that LILCO's failure to identify relo-

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2. Because we believe that an understanding of the events which preceded the filing of LILCO's motion to reopen is essential, we summarize below the significant background and chronology. We begin with the filing of Intervenor's emergency planning contentions, including Contentions 24.N, 24.O, 74 and 75, on July 26, 1983.4/

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cation/reception centers for nursery and other schools makes it impossible to determine how long it might take to evacuate school children. Id., at 350-51, 354. Thus, we have concluded that the LILCO Plan "does not provide reasonable assurance that adequate protective measures can and will be taken in the event of an evacuation of school children" during a Shoreham emergency. Id., at 354-55. Neither this conclusion nor any of the findings set forth in our PID regarding LILCO's failure to identify relocation/reception centers for special health care facilities and schools is affected by the findings rendered here on the reopened relocation center issues, since, as we have previously noted, Intervenor's contentions concerning relocation centers for the public are separate from those concerning relocation centers for special facilities and school children. See id., at 332.

4/ We do not set forth here the text of these contentions, the first version of which was filed on June 23, 1983, since they are quoted in their entirety in Appendix C to our PID.

B. Identification of Centers

3. Contentions 24.N, 24.O, 74 and 75 were based on the original version of the LILCO Plan (Rev. O), issued in late May 1983, which designated Suffolk County Community College ("SCCC"), BOCES II Occupational Center ("BOCES II"), and the State University of New York at Stony Brook ("SUNY-Stony Brook") as "primary" relocation centers, and the State University of New York at Farmingdale ("SUNY-Farmingdale") and St. Joseph's College as "backup" relocation centers. These were the only "relocation centers" originally proposed by LILCO, and each was to provide all necessary services to evacuees (e.g., mass care, food, shelter, medical counseling, and radiological monitoring and decontamination of evacuees and their vehicles). Later, these services were separated by LILCO into two categories to be performed in separate locations -- i.e., "reception" centers, where radiological monitoring and decontamination are to be performed, and "congregate care" centers, where food, lodging and relocation assistance are to be rendered to Shoreham evacuees. See Intervenor's Proposed Findings of Fact and Conclusions of Law, dated October 26, 1984 (hereinafter, "Intervenor's Proposed Findings"), ¶ 628, and citations therein.^{5/}

^{5/} In the County's and State's view, the relocation center issues raised by the LILCO Plan and the contentions admit-

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4. Although LILCO revised its Plan in August, November and December of 1983, Revisions 1, 2 and 3 made no change in the relocation centers originally proposed by LILCO, despite the specific deficiencies, including the lack of agreements with the owners of such centers and the unavailability of SCCC for use by LILCO, which were identified in Contentions 24.N, 24.O, 74 and 75. See Intervenor's Proposed Findings, ¶ 628, and citations therein.

5. On March 2, 1984, Suffolk County and LILCO submitted testimony on the relocation center contentions admitted by the Board. See Intervenor's Proposed Findings, ¶ 628, and citations therein.^{6/} Thereafter, LILCO indicated that it intended

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ted by the Board are interrelated and cannot be segregated in piecemeal fashion. Tr. 16,045-49. We agree. For this reason, and to provide ease of reference to the parties in their review of this decision, we have, where appropriate, sometimes essentially repeated, or cited to, certain of the proposed relocation center findings which were filed by the parties after the close of the evidentiary record on August 29, 1984. This was in keeping with our suggestion to the parties after the reopened record on the issue of the Nassau Coliseum's adequacy had closed. See Tr. 16,049. Of course, in citing to a party's proposed findings, we also mean to include all citations to the underlying record referenced therein.

^{6/} This testimony addressed LILCO's relocation center proposals contained in Revision 3 of the LILCO Plan.

to change the relocation centers relied upon in its Plan because some of those facilities were in fact not available for its use.^{7/} LILCO then abandoned its intention to rely upon SCCC and SUNY-Stony Brook in the Plan, and instead designated BOCES II, SUNY-Farmingdale, and St. Joseph's College as primary relocation centers, and Dowling College as a backup center. Again, these proposed relocation centers were to provide at each facility both what later became known as "reception" (monitoring and decontamination) and "congregate care" (food, lodging, and relocation assistance) services. LILCO submitted testimony supporting this version of its relocation center scheme on June 15, 1984.^{8/} Soon thereafter, the County filed revised testimony responding to LILCO's revised proposal. The essence of this revised testimony was that SUNY-Farmingdale and BOCES

^{7/} We find that the unavailability of SCCC was well known to LILCO at least as early as the summer of 1983, when Intervenor's contentions were filed; similarly, LILCO presumably was always aware that neither it nor the Red Cross had any agreements with the owners of the BOCES and SUNY facilities for the use of those buildings by LILCO during a Shoreham emergency. Nonetheless, it was not until after the parties had filed testimony concerning those facilities, and more than nine months after Intervenor's contentions had been filed, that LILCO acknowledged its inability to respond to Intervenor's contentions without changing its relocation center scheme.

^{8/} LILCO's June 15 testimony indicated that this second relocation center scheme would be contained in Revision 4 of the Plan, which had not yet been issued.

II were unavailable for use by LILCO in a Shoreham emergency based on evidence that officers of those institutions had never agreed, and had no intention of agreeing, to permit LILCO to use their facilities as relocation centers. See Intervenor's Proposed Findings, ¶ 629, and citations therein.

6. On July 30, 1984, LILCO sought leave to withdraw its previously filed testimony on Contentions 24.0, 74 and 75 -- i.e., its second version filed on June 15 -- in favor of revised testimony on the same issues. LILCO's revised testimony -- its third attempt to come up with a viable relocation center scheme -- failed to identify any relocation centers to which LILCO intended to send evacuees.^{9/} Instead, after conceding that LILCO no longer relied upon SUNY-Farmingdale and BOCES II, the testimony merely asserted that LILCO intended to "work with" the Nassau County Red Cross which, according to LILCO, would sometime in the future designate one or more relocation centers in Nassau County. See Intervenor's Proposed Findings, ¶ 630, and citations therein. We granted LILCO's motion for

^{9/} The testimony did include a long list of facilities which, according to LILCO, represented buildings available for LILCO's use in housing evacuees during an emergency. None of the facilities was designated as a relocation center, however, and no agreements for their use by LILCO were submitted.

admission of its July 30 testimony on August 16, 1984.

Tr. 14,663.

7. It became evident during the August 1984 examination of LILCO's witnesses on the July 30 version of LILCO's testimony that LILCO's relocation center scheme was incomplete, indefinite and still in the process of being formulated. As a result, we found it impossible to determine from the evidence what that scheme actually consisted of, much less whether it was adequate or met NRC requirements. For example, during the August hearings, it became clear for the first time that, contrary to all LILCO's prior relocation center proposals, and contrary to the statements in the LILCO Plan and its brochures, LILCO was then proposing to rely on two different types of relocation facilities--one or more very large facilities called "reception centers," and approximately 50 smaller facilities called "congregate care centers." According to LILCO, under this new scheme all radiation monitoring and decontamination activities were to take place at the so-called "reception centers." However, no proposed, much less actual, reception centers were designated or identified by LILCO; in fact, LILCO's witnesses refused even to identify the candidate facilities then under consideration, and with which negotiations were underway. In addition, it was revealed that the identities and

locations of the so-called "congregate care centers," where evacuees were to be sheltered and fed, were not even to be determined until after evacuees appeared at reception centers during an actual emergency. Thus, although possible congregate care centers, all in Nassau County, were listed in an attachment to the LILCO testimony, LILCO's witnesses agreed that this latest LILCO scheme represented an "ad hoc approach" which was still under development. See Intervenor's Proposed Findings, ¶ 631, and citations therein.

8. LILCO's failure to identify any reception or congregate care centers required us to find that LILCO had failed in its attempt to demonstrate that it had made adequate arrangements for evacuees. Because we agreed with the FEMA witnesses that relocation centers must be identified in advance of a radiological emergency, we concluded that the Plan, which failed to identify relocation centers and proposed to identify and direct evacuees to such centers on an ad hoc basis during an actual emergency, was in clear violation of NUREG 0654, Section II.J.10. Thus, we noted that there was a "void" in the record. See Intervenor's Proposed Findings, ¶ 632, and citations therein.

9. In its January 11, 1985 motion to reopen the evidentiary record, LILCO attempted to fill this "void." According to the evidence proffered by LILCO with its motion to reopen, LILCO's new scheme involved the use of the Nassau Coliseum as a "reception" center for monitoring and decontaminating evacuees; thereafter, evacuees would be directed to "congregate care" centers operated by the Red Cross, where they would be fed, provided with shelter, and given other required care and relocation services.

10. On January 28, 1985, we granted LILCO's motion to reopen the record, and provided an opportunity for the other parties to submit proposed evidence. However, we precluded any discovery on the reopened record.^{10/} Thereafter, pursuant to our January 28 Order, Suffolk County, on February 19, 1985,

^{10/} Following issuance of our January 28 Order, the County served discovery requests on LILCO, the NRC Staff, and FEMA. On February 5, we granted LILCO's request for a protective order and ruled that no discovery against any party on the issues raised by LILCO's motion to reopen was to be permitted. On February 7, 1985, the County and State moved for reconsideration of our February 5 Order. See Suffolk County and New York State Motion for Reconsideration of Board's February 5 Order Prohibiting Discovery on LILCO's Proposed Use of the Nassau Coliseum, dated February 7, 1985. In an unpublished Memorandum and Order dated February 12, 1985, we reaffirmed our ruling that there was to be no discovery by denying this motion for reconsideration.

submitted testimony concerning LILCO's proposed use of the Nassau Coliseum sponsored by Leon Campo, James H. Johnson, Jr., Edward P. Radford, and Deputy Chief Inspector Richard C. Roberts. New York State submitted on the same day the testimony of Charles E. Kilduff, Langdon Marsh, and Sara J. Meyland. This testimony asserted that: (1) contrary to evidence proffered with LILCO's motion to reopen and evidence already in the evidentiary record, there are no agreements in existence between the Nassau County Red Cross and many, if not all, of the facilities to which LILCO proposed to send evacuees for "congregate care" relocation purposes after they have reported to the Nassau Coliseum (see Testimony of Leon Campo); (2) LILCO's proposal to use the Nassau Coliseum as a reception center would increase the evacuation shadow phenomenon resulting from a Shoreham accident from that discussed during the prior litigation, when relocation centers located much nearer the edge of the EPZ were being proposed by LILCO (see Testimony of James H. Johnson, Jr.); (3) LILCO's use of the Nassau Coliseum would likely result in an incremental increase in adverse health effects to Shoreham evacuees (see Testimony of Edward P. Radford); (4) LILCO's use of the Nassau Coliseum would result in serious and substantial traffic congestion that would cause significant delays to evacuees attempting to reach the Coliseum

(see Testimony of Deputy Chief Inspector Richard C. Roberts; Testimony of Charles E. Kilduff); (5) LILCO's proposed use of the Coliseum would violate New York State law because the environmental assessment required by State law has not been prepared (see Testimony of Langdon Marsh); and (6) LILCO's proposed use of the Coliseum poses a serious health threat to the public and threatens the water supply of Long Island (see Testimony of Sara J. Meyland).

11. On February 26, 1985, LILCO objected to the County's and State's proffered testimony, arguing, inter alia, that the testimony was irrelevant and untimely.^{11/} Thereafter, the County and State moved for leave to reply to LILCO's Response on March 1, 1985, and filed a substantive reply on March 20, 1985.^{12/} On May 6, 1985, we ruled that our January 28 Order was restricted to only contested issues raised by Contention 24.0.^{13/} Since we interpreted Contention 24.0 as being limited

^{11/} LILCO's Response to Intervenors' Proffered Testimony on the Designation of Nassau Coliseum as a Reception Center, dated February 26, 1985 (hereinafter, "LILCO Response").

^{12/} Suffolk County and State of New York Reply to LILCO's Response to February 19 Proffered Testimony on the Designation of Nassau Coliseum as a Monitoring and Decontamination Center, dated March 20, 1985.

^{13/} Memorandum and Order (Reopening of the Record), dated May 6, 1985 (hereinafter, "May 6 Order").

to whether the Nassau Coliseum is "functionally adequate" to serve as a relocation center for Shoreham evacuees, we accepted the evidence proffered by LILCO with its motion to reopen, consisting of the affidavit of Elaine D. Robinson and six attachments, as the applicant's prefiled testimony for the reopened hearing. We also accepted as prefiled testimony the submission of FEMA, consisting of a two-page affidavit from Messrs. Baldwin, Keller, Kowieski and McIntire. We rejected, however, most of the testimony submitted by Intervenors. See May 6 Order, at 4-7.^{14/}

12. On May 17, 1985, Intervenors Suffolk County and New York State filed a motion seeking reconsideration of our May 6 Order, or, in the alternative, to reopen the record on Contentions 24.N, 74 and 75 for the purpose of admitting the evidence proffered on February 19 and rejected by our May 6 Order, or, on failure by us to take either action, to certify the issues to the Appeal Board.^{15/} On June 10, 1985, we denied

^{14/} Other than very limited portions of the testimony of County witnesses Radford and Roberts, we rejected the testimony proffered by the County and State for the reasons set forth in our May 6 Order. On June 21, 1985, counsel for the County withdrew those portions of County witnesses Radford and Roberts' testimony which we had accepted for the hearing. The testimony was withdrawn because, in counsel's opinion, our May 6 Order had so emasculated the testimony as to render it essentially meaningless.

^{15/} Suffolk County and State of New York Motion for Reconsideration of May 6 ASLB Order or, in the Alternative, Motion

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Intervenors' requests.^{16/} Four days later, on June 14, we also denied a petition to intervene in the reopened proceeding which had been filed on May 21, 1985 by the Long Island Coalition for Safe Living.^{17/} However, we permitted representatives of the Coalition to submit written statements, which were bound into the hearing transcript, ff. Tr. 15,956. Trial commenced on June 25, 1985.

13. Cross-examination of the LILCO and FEMA witnesses was conducted on June 25 and 26, 1985. LILCO's prefiled testimony (hereinafter, "Robinson, ff. Tr. 15,870") was sponsored and testified to by Elaine D. Robinson on June 25, 1985. FEMA's prefiled testimony (hereinafter, "Baldwin et al., ff. Tr. 15,991") was sponsored and testified to by Thomas E. Baldwin, Joseph H. Keller, Roger B. Kowieski, and Philip H. McIntire on June 26, 1985, with the witnesses testifying as a panel.

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to Reopen the Record on LILCO's Relocation Center Scheme, dated May 17, 1985.

^{16/} Memorandum and Order Ruling on Motion of Suffolk County and State of New York for Reconsideration and Other Relief, dated June 10, 1985.

^{17/} See Memorandum and Order (Ruling on Motion to Intervene), dated June 14, 1985.

14. At the outset, we have the following observations concerning the evidence presented by LILCO and FEMA and the proposed findings of fact and conclusions of law that LILCO urges us to adopt. See LILCO's Proposed Findings of Fact and Conclusions of Law on Reopened Contention 24.0 (Nassau Coliseum), dated July 10, 1985 (hereinafter, "LILCO Brief"). LILCO's Brief provides an inappropriately glib view of the evidence which we heard during the course of June 25 and 26. Indeed, contrary to the suggestions of LILCO, it became evident during the two hearing days that neither Mrs. Robinson nor FEMA's witnesses were qualified to provide the opinions set forth in their testimony. For example, although Mrs. Robinson formerly managed the Local Emergency Response Implementing Organization ("LERIO") team responsible for "incorporating" outside organizations into LILCO's emergency planning effort (Robinson, ff. Tr. 15,870, at 1), she had never managed or operated a relocation center, shelter, or monitoring or decontamination facility of any kind. Nor had she ever been involved in any way with the establishment or operation of a relocation center or a monitoring or decontamination facility. Tr. 15,855-56 (Robinson). No one with responsibility for actually setting up or operating the Nassau Coliseum as a reception center for LILCO's use during a Shoreham emergency testified for LILCO. And, despite our

explicit invitation that Mr. E. B. Sumerlin, Jr., the General Manager of the Coliseum, be subpoenaed to testify (see May 6 Order, at 7), Mr. Sumerlin was not presented as a witness by LILCO. Presumably, testimony from Mr. Sumerlin could have been of significant assistance to this Board in determining the "functional adequacy" of the Coliseum to serve as a reception center during a Shoreham emergency. LILCO has only itself to blame for his absence, since it is the applicant which has the burden of proof on the issue of the Coliseum's adequacy. See 10 CFR § 2.732.

15. Moreover, the witnesses for FEMA only had general familiarity with the issues raised by Contention 24.0, based primarily on their having reviewed Mrs. Robinson's affidavit, NUREG 0654, and applicable sections of the LILCO Plan, Revision 4. Baldwin, et al., ff. Tr. 15,991, at 1; Tr. 15,991 (Keller). They attempted no verification of the information set forth in the Robinson affidavit or the attachments to that affidavit. Tr. 15,991-92 (Kowieski). Thus, for example, they never reviewed the lease agreement between Nassau County and the Hyatt Management Corporation of New York, Inc. ("Hyatt Management"), which leases and manages the Nassau Coliseum. Tr. 16,019 (Keller). Nor had they ever met with or had any discussions with representatives of Hyatt Management or the Nassau

County Red Cross. Tr. 16,019-20 (Kowieski). Indeed, it appears that FEMA's witnesses had done nothing to determine whether the Coliseum would even be available to LILCO in the event of a Shoreham emergency (Tr. 16,015-16 (McIntire); Tr. 16,020 (Kowieski)), and it was only because they drove to the Coliseum the day before testifying at trial that the FEMA witnesses were able to state that they had even seen the Coliseum facility. Tr. 16,001 (Kowieski, Keller). Even then, it was only the outside areas of the Coliseum property which were viewed by the witnesses, since they did not go inside the Coliseum itself. Tr. 16,005 (Keller).

16. During the cross-examination of the LILCO and FEMA witnesses, it became evident that LILCO's relocation center scheme is nearly as incomplete and as indefinite as it was in August, 1984. LILCO continues to rely, as before, on two types of relocation facilities, with radiation monitoring and decontamination to be provided at a "reception center," and the feeding, sheltering, and other services for evacuees to be provided at smaller "congregate care centers." See Intervenor's Proposed Findings, ¶ 631, and citations therein; Robinson, ff. Tr. 15,870, Att. 3. Moreover, LILCO has now identified the Nassau Coliseum as the facility it intends to use as a reception center during a Shoreham emergency. Robinson, ff. Tr.

15,870, at 1, and Att. 1. However, LILCO has not demonstrated that the Nassau Coliseum can legally be made available to LILCO for use as a monitoring/decontamination center during a Shoreham emergency.^{18/} Furthermore, LILCO has failed to

^{18/} During trial, the County attempted to show that the Nassau County Board of Supervisors, not Francis Purcell, the County Executive for Nassau County, must approve LILCO's proposed use of the Nassau Coliseum. See Tr. 15,886 et seq. After the County established that neither the Nassau County Executive nor LILCO had sought approval from the Board of Supervisors for permitting the Coliseum's use as a monitoring/decontamination facility (see Tr. 15,877, 15,881-82 (Robinson)), however, we refused to permit further questioning of LILCO's witness. Tr. 15,882-84. The County then made an offer of proof pursuant to 10 CFR § 2.743(e). See Tr. 15,888-89; SC Exs. 95,96. In its offer of proof, the County alleged, among other things, that if it had been allowed to continue its examination, it would have established that: (1) under the Nassau County Charter, which constitutes the governing law of Nassau County, authority for permitting the use of the Nassau Coliseum rests with the Nassau County Board of Supervisors, and not the County Executive; (2) the Board of Supervisors has not authorized LILCO's proposed use of the Nassau Coliseum; and (3) therefore, LILCO is not legally entitled to use the Coliseum as a monitoring/decontamination facility during an emergency at Shoreham. The Board finds that it erred in terminating the County's cross-examination of LILCO's witness, and that, as the record now stands, it must be concluded that LILCO has failed to establish that the Coliseum would be available for use as a reception center during a Shoreham emergency. Cf. LILCO Brief, at 4-5. This error was compounded by our refusal to permit questioning of the FEMA witnesses regarding their efforts, if any, to determine whether the Coliseum can legally be made available to LILCO by the Nassau County Executive. Tr. 16,018. Nevertheless, in light of our findings in Intervenor's favor, we find our error to have been harmless.

explain in sufficient detail how it intends to provide radiation monitoring and decontamination services at the Coliseum, even assuming its availability. There is no doubt that further information is necessary before this Board can decide whether the Coliseum is adequate as a reception center. For example, like the FEMA witnesses, we have no knowledge regarding LILCO's procedures for decontaminating vehicles (Tr. 16,036-37 (Keller, McIntire)), and insufficient information concerning such matters as the Coliseum's layout and LILCO's proposal for monitoring and decontaminating evacuees at that facility. Tr. 16,038-39 (Baldwin, Keller). Thus, for example, we can only guess at the number of radiation monitoring personnel LILCO intends to use at the Coliseum in the event of a radiological emergency. See Tr. 16,043 (Kowieski). Accordingly, we agree with the FEMA witnesses that there is no evidence in the record demonstrating the Nassau Coliseum's adequacy as a reception center for LILCO's use. See Tr. 16,032 (Keller).^{19/}

^{19/} We also agree with FEMA's witnesses that only one monitoring and decontamination facility for all Shoreham evacuees is insufficient. Tr. 14,209 (Keller). For example, LILCO's evacuation routes lead in different directions; therefore, a monitoring/decontamination facility should be established in close proximity to each major route. See Intervenor's Proposed Findings, ¶ 631, n. 433, and citations therein.

17. There is also insufficient evidence in the record for us to conclude that LILCO has available to it adequate and sufficient congregate care centers for use in sheltering evacuees during a Shoreham emergency. We note that, as was the case last August, LILCO will not even determine the identities and locations of congregate care centers until an emergency at the Shoreham plant is declared and evacuees report to LILCO's designated reception center for monitoring and decontamination. See Intervenor's Proposed Findings, ¶ 631 and citations therein; Robinson, ff. Tr. 15,870, Att. 3. This LILCO scheme represents an "ad hoc approach," which leaves intact the void in the record which we noted during the hearings last August. See Tr. 14,806-07. Relocation centers, whether their purpose is to register, monitor and, if necessary, decontaminate evacuees, or to shelter and feed evacuees, must be identified in advance of a radiological emergency. See Intervenor's Proposed Findings, ¶ 632, and citations therein. LILCO, however, has indicated that it will not determine where evacuees will be sheltered and fed until an actual emergency at Shoreham is declared. We cannot determine the adequacy of unidentified facilities and we must conclude that the LILCO Plan, which fails to identify the congregate care centers to which evacuees would be directed, does not satisfy NUREG 0654, Section II.J.10. See Intervenor's Proposed Findings, ¶ 632, and citations therein.

C. Location of Centers

18. In light of LILCO's failure to identify the congregate care centers it intends to use, we cannot find in LILCO's favor concerning the proposed locations of these facilities. See Intervenors' Proposed Findings, ¶ 633, and citations therein. Similarly, we cannot find in favor of LILCO with respect to its proposed use of the Nassau Coliseum as a reception center. The distance from Shoreham to the Coliseum is approximately 43 miles, and from the eastern and western 10-mile EPZ boundaries, it is approximately 53 miles and 33 miles, respectively. Robinson, ff. Tr. 15,870, at 2; Tr. 15,892-93 (Robinson); Tr. 15,996-97 (Baldwin). Any relocation center should be located as close as possible to the EPZ, consistent with the NUREG 0654, Section II.J.10.h guideline that they be at least 5 miles, and preferably 10 miles, beyond the boundaries of the EPZ. See, e.g., Tr. 16,023 (Keller). Among other reasons, this is because evacuees, as a general rule, should be monitored and decontaminated as quickly as possible. Tr. 16,023 (Keller). The Nassau Coliseum's distance from the Shoreham plant, however, makes unreasonable any assumption that monitoring and decontamination of evacuees can be performed in a prompt and timely manner. Moreover, there is no evidence in the record to demonstrate that there are no available adequate facilities

located closer to the Shoreham plant than Nassau County, where the Coliseum and the facilities LILCO intends to use as congregate care centers are located. Thus, we are unable to conclude that LILCO's proposed use of facilities in Nassau County would be appropriate. See Intervenor's Proposed Findings, ¶ 633, and citations therein. Indeed, given the Coliseum's distance from the Shoreham EPZ and the time it would likely take evacuees to reach the Coliseum, we find that LILCO's use of the Coliseum would probably result in increasing adverse health effects to evacuees following a Shoreham accident.

D. Capacities and Facilities in Centers

19. As a threshold matter, it remains impossible for us to find in favor of LILCO with respect to whether there will be facilities with sufficient capacities to provide shelter to evacuees during an emergency at Shoreham, since LILCO has failed to identify the specific facilities it intends to use as congregate care centers. See Intervenor's Proposed Findings, ¶ 641, and citations therein. The Board cannot find, in a factual vacuum, that unidentified buildings have adequate capacity or facilities to make them useful or appropriate for the purposes stated in the LILCO Plan and NUREG 0654. Thus, we rule in favor of Intervenor on this issue.^{20/}

^{20/} In addition to the testimony heard by the Board, the County made an offer of proof pursuant to 10 CFR § 2.743(e)

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20. It is also impossible for us to find in favor of LILCO with respect to the adequacy of the Nassau Coliseum as a reception center for monitoring and, if necessary, decontaminating evacuees. Although LILCO has now identified

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regarding whether LILCO has adequate congregate care centers in the event of a Shoreham emergency. This offer of proof was in response to our ruling precluding cross-examination of LILCO's witness on the issue of the sufficiency of congregate care centers to shelter Shoreham evacuees. See e.g., Tr. 15,932, 15,939-40. In its offer of proof, the County alleged, among other things, that if it had been allowed to cross-examine LILCO's witness, it would have established that, although LILCO estimates that the number of persons who would seek sheltering at congregate care centers would be approximately 32,000 persons, and has testified that the facilities with which the Nassau County Red Cross purportedly has agreements have an aggregate capacity for roughly 48,000 persons (see Intervenors' Proposed Findings, ¶ 642, and citations therein), facilities with an aggregate capacity of about 33,000 of these 48,000 persons have stated in writing that they have not given permission to the Red Cross or LILCO to use their buildings to shelter Shoreham evacuees. See Tr. 15,941-44; SC Ex. 97. Thus, the County alleged in its offer of proof that, as a factual matter, the LILCO Plan cannot be implemented because, contrary to the assertions proffered by LILCO and its witness, LILCO and the Nassau County Red Cross do not have available to them a sufficient number of facilities to shelter Shoreham evacuees.

In our opinion, we erred in precluding the County's cross-examination of LILCO's witness, especially since it appears that LILCO is now considering trying to identify new facilities to be used as congregate care centers in order to compensate for the unavailability of those it currently relies upon. See Tr. 15,939 (Robinson). We conclude, however, that such error was harmless, in light of our findings in Intervenors' favor.

the Coliseum as the facility it intends to use as a reception center, the paucity of facts and data in the record regarding how LILCO intends to utilize the Coliseum to provide radiation monitoring and decontamination services precludes a finding in LILCO's favor. See ¶ 16, infra. We, of course, do not expect an applicant to detail every procedure that could be employed in the monitoring/decontamination process. However, we do expect--indeed, require--more than the generalized statements and testimony offered by the applicant here.

21. LILCO's witness, for example, testified that the Nassau Coliseum is a sports and entertainment complex designed to accommodate crowds of 15,000 to 17,000 persons, depending on the event. Robinson, ff. Tr. 15,870, at 2; Tr. 15,892 (Robinson). We were also told that the Coliseum has four locker rooms and five dressing rooms, with at least 30 showers (although LILCO intends to use only two locker rooms, with a total of 12 showers). Robinson, ff. Tr. 15,870, at 2; Tr. 15,895-99 (Robinson). Through cross-examination, we learned the general areas at the Coliseum where evacuees will be monitored, and the circumstances under which contaminated persons would be transported to hospitals for medical care. Tr. 15,896-99, 15,900-02 (Robinson). We also were advised that the Coliseum and its parking lots could be cleared in no more than 1-1/2 hours,

should an emergency at Shoreham occur while an event at the Coliseum was in progress (Robinson, ff. Tr. 15,870, at 2-3; Tr. 15,914-19 (Robinson)), and that LILCO will be given "reasonable access" to the Coliseum upon notification to Hyatt Management or Nassau County that an emergency exists at Shoreham. Robinson, ff. Tr. 15,870, Att. 1; Tr. 15,923-24 (Robinson). Finally, we learned that the only waterworks outside the Coliseum building and available for LILCO's use in decontaminating vehicles is a single hydrant. Tr. 15,922-23 (Robinson). Perhaps for this reason, LILCO intends to wipe, rather than spray or hose off, radioactive particulates from vehicle exteriors. Tr. 15,922, 15,960-61 (Robinson).

22. We find such conclusory testimony to have been of little assistance to the Board. In fact, rather than presenting well-reasoned analyses of the potentially serious problems associated with LILCO's proposed use of the Nassau Coliseum, LILCO's testimony raised more questions than were answered. For instance, although LILCO's witness testified that the water from the Coliseum's shower facilities, after it had been contaminated, would go into the Coliseum's drainage, or sanitary sewer, system, and ultimately into the Nassau County sewer system and into the Atlantic Ocean (Tr. 15,903-04 (Robinson)), she was only able to speculate about the consequences

to the Nassau County water supply from any radioactive contaminates which might enter the water supply from the decontamination activities proposed to be carried out at the Coliseum. Tr. 15,905-06 (Robinson). There is no evidence before us that the LILCO Plan has any provision for dealing with this potential threat to the public's health and safety.

23. Similarly, LILCO's witness was unable to discuss LILCO's procedures for handling and disposing of the radioactive clothing that would be discarded by evacuees, other than to suggest that after or during a Shoreham accident -- LILCO's witness did not know when -- the contaminated clothing would somehow be transported from the Coliseum to the Shoreham site. Tr. 15,906-09 (Robinson). Again, therefore, we find on the evidence before us that the LILCO Plan has no provision for dealing with this potential threat to the public's health and safety.

24. To our knowledge, LILCO has not attempted any survey or analysis of traffic patterns in the area of the Nassau Coliseum. And while it has surveyed the time required to clear the Coliseum's parking lots, this "survey," because of the conditions under which it was conducted, was practically of no value to us. For example, rather than attempting to survey traffic

patterns, LILCO merely timed the clearing of the Coliseum's parking lots. LILCO chose to conduct this "survey" late on a Tuesday night, rather than during peak traffic conditions or on a weekend, when traffic flow would have been heavier and traffic would have been moving both into and away from the Coliseum area. See Tr. 15,916-19 (Robinson).21/

25. Finally, we find LILCO's testimony regarding the number of evacuees expected to report to the Nassau Coliseum for monitoring and decontamination to be unrealistic and suspect. Although acknowledging that a full evacuation of the Shoreham EPZ would require the evacuation of 160,000 persons (Tr. 15,969 (Robinson)), and notwithstanding LILCO's intent to direct all evacuees to the Coliseum (Robinson, ff. Tr. 15,870, Att. 3), LILCO asserted at trial that it has planned for no more than 32,000 persons to report to the Coliseum for monitoring and decontamination. Tr. 15,976 (Robinson). As noted above, this figure is the number previously estimated by LILCO to be likely in need of sheltering services, not monitoring and

21/ Equally without value was LILCO's testimony regarding the Coliseum's size, including square footage measurements (see Robinson, ff. Tr. 15,870, at 2), when it was revealed under cross-examination that LILCO cannot realistically expect to have access to major portions of the Coliseum facility. Tr. 15,926 (Robinson).

decontamination. See Intervenor's Proposed Findings, ¶ 642, and citations therein. We find LILCO's confusion between the number of evacuees likely to seek shelter (see, e.g., LILCO Brief, at 3-4) -- clearly, a subset of all evacuees who would require monitoring -- and those who would be advised to report for monitoring and decontamination to be disingenuous. Clearly, a monitoring and decontamination facility for Shoreham, as noted by FEMA, must have the capability to process the entire EPZ population, since in a serious accident involving an offsite release, the potential for exposure could be widespread. See Intervenor's Proposed Findings, ¶ 642 and citations therein; Tr. 15,995-96 (Keller). It is clear to us that the Nassau Coliseum does not have the capability to handle 160,000 persons. We find that LILCO, in attempting to obscure this issue by confusing sheltering needs with monitoring/decontamination needs, has reached the same conclusion. Nonetheless, LILCO has based its Plan on the unrealistic assumption that only 32,000 persons will require monitoring/decontamination services. We find this to be a serious deficiency of the LILCO Plan.

26. Cross-examination of the FEMA witnesses also revealed that they have no basis upon which to form an opinion on the adequacy of LILCO's proposal to use the Nassau Coliseum as a

reception center. Indeed, if anything, they believe LILCO's proposal to be seriously lacking in detail, and, therefore, inadequate. See, e.g., Tr. 16,032, 16,039 (Keller). We understand that, contrary to LILCO's latest relocation scheme, the last version of LILCO's Plan submitted to and reviewed by FEMA and the Regional Assistance Committee ("RAC") states that LILCO intends to perform monitoring and decontamination functions in the same facility where evacuees will be sheltered; therefore, FEMA and the RAC must now review a revised version of the Plan before they can decide whether LILCO's proposed use of the Coliseum is adequate. Baldwin, et al, ff. Tr. 15,991, at 1-2; Tr. 15,992-94 (Keller). No such revised Plan exists or has been submitted to FEMA, and, for now, it is necessary that FEMA be given additional information regarding the separation of functions between the monitoring and decontamination facility and congregate care centers before the adequacy of LILCO's proposal to use the Nassau Coliseum can be determined. Tr. 15,993-94, 16,026-27 (Keller). Thus, although the FEMA witnesses have tentatively concluded that the Nassau Coliseum "appears" to be a "suitable facility" for LILCO to use as a reception center (Baldwin et al, ff. Tr. 15,991, at 2), final approval of the Coliseum's use cannot be rendered until: (1) details of the separate reception and congregate care functions are

incorporated within the LILCO Plan and reviewed and approved by the RAC; and (2) an exercise is held during which a demonstration of the reception center functions can be evaluated.

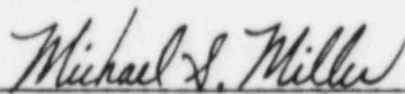
Baldwin et al., ff. Tr. 15,991, at 2; Tr. 16,008 (Keller). Accordingly, FEMA at this time considers the LILCO Plan to be deficient. Tr. 16,032 (Keller).22/

22/ We understand FEMA's reluctance to render a final opinion regarding the Coliseum's adequacy until LILCO has provided details of its relocation scheme to the RAC and an exercise can be held. Nevertheless, we found the FEMA testimony to have been conclusory and, like the LILCO testimony, of little assistance to the Board. We note, for example, that FEMA has not met, or had discussions of any kind, with representatives of Hyatt Management or the Red Cross. Tr. 16,019-20 (Kowieski). Nor has FEMA attempted to determine the circumstances under which the Coliseum would be made available to LILCO by Hyatt Management (Tr. 16,020 (Kowieski))--for example, by reviewing the lease agreement between Nassau County and Hyatt Management. Tr. 16,019 (Keller). We also note that FEMA has not analyzed traffic conditions in and around the Coliseum area. Tr. 16,009 (Baldwin). Nor has it performed any kind of analysis of the possible consequences to the Nassau County water supply from the Coliseum's use to decontaminate evacuees and their vehicles. Tr. 16,010 (Keller). Indeed, from the testimony at trial, it appears that FEMA has not even attempted to determine whether runoff from the Coliseum's parking areas would flow into the ground water supply system in the Coliseum area. Tr. 16,015 (Keller). And, despite having received correspondence from the Nassau County Board of Supervisors indicating that the Nassau County Executive has no authority over the Coliseum's use by LILCO, FEMA has not even bothered to attempt to determine whether the Coliseum can legally be made available to LILCO for use as a reception center during an emergency at Shoreham. Tr. 16,015-18 (McIntire).

E. Conclusion

27. Last August, we stated that there was a "void" in the record resulting from LILCO's failure to designate relocation centers for use during a Shoreham emergency. Tr. 14,806-07. Although LILCO has now identified the Nassau Coliseum as the facility it intends to use as a reception center for monitoring and decontaminating evacuees, it still has failed to identify the specific congregate care centers where evacuees will be sent for food, shelter and relocation assistance. In light of this, and the vagueness--indeed, absence--of factual information and data concerning LILCO's proposed use of the Nassau Coliseum, we find that LILCO's present relocation center scheme is inadequate, and rule in favor of Intervenor on Contention 24.0, as well as the other relocation center contentions.

Respectfully submitted,



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July 15, 1985

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)
)
)

LONG ISLAND LIGHTING COMPANY)

(Shoreham Nuclear Power Station,)
Unit 1))
_____)

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

CERTIFICATE OF SERVICE

I hereby certify that copies of SUFFOLK COUNTY AND STATE OF NEW YORK PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW ON REOPENED RELOCATION CENTER ISSUES have been served on the following this 15th day of July 1985, by U.S. mail, first class, except as otherwise noted.

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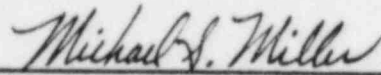
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