

Congress of the United States

House of Representatives

Washington, D.C. 20515

August 5, 1985

The Honorable Nunzio J. Palladino
Chairman
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

Dear Mr. Chairman:

We are very troubled by the Commission's June 20, 1985 request that the Federal Emergency Management Agency (FEMA) conduct an exercise of the Long Island Lighting Company's (LILCO) emergency plan for the Shoreham nuclear power plant.

We believe that no useful purpose could be served by a test that fails to include the full and active participation of the state and local government. Indeed, the only goal that the Commission has been able to cite is to identify the extent of deficiencies inherent in a utility plan that does not include the participation of the governmental agencies having legal authority and resources to carry out an emergency plan.

In a December 19, 1984 memorandum to FEMA, the Commission's technical staff specifically stated that it would not request an exercise of the LILCO emergency plan because of unresolved inadequacies including the legal authority issue. Any doubt about LILCO's legal authority to carry out such a plan has been resolved by a New York court which ruled that LILCO has no such legal authority. As you know, William J. Dircks, the NRC Executive Director for Operations, recently questioned the advisability of the Commission's consideration of overruling the NRC Staff decision not to hold an exercise, given the numerous unresolved issues involved. Consequently, we are at a loss to understand the reason for the Commission's change of position.

We are troubled further by information communicated to the Staff of the Subcommittee on Energy Conservation and Power by Edward L. Jordan, who authored NRC's June 20, 1985 memorandum to FEMA and who is the Director of NRC's Division of Emergency Preparedness and Engineering Response. Mr. Jordan has indicated that the exercise that NRC has requested FEMA to undertake will not provide a sufficient basis to make a determination of whether the LILCO emergency plan complies with federal safety regulations. Mr. Jordan has stated that any such exercise would necessarily have to be supplemented by an additional exercise involving the state and local government or some other entity possessing the police powers required to implement an emergency response plan. Hence, it would appear that a partial test is unnecessary and a waste of federal funds.

Similarly, Mr. Jordan has stated that while the exercise will not involve any actual use of police powers, it will seek to demonstrate the following: (1) LILCO's ability to calculate the possible radioactive dose to the public; (2) LILCO's ability to alert the public living and working near the plant; and (3) LILCO's ability to make protective action recommendations to the public in response to any accident at Shoreham, including evacuation, sheltering or relocation.

While we understand that utilities are often tested on their ability to make recommendations to state and local governments regarding these functions, we are very concerned about the legal and policy questions raised by conferring what are normally governmental responsibilities to a private utility company. In essence, it appears that NRC could be institutionalizing a conflict of interest by which the fox would be placed in charge of guarding the chicken coop.

Finally, even if it could be argued that such an exercise would serve some limited purpose and not violate the law, we wish to express our concern that holding it would serve to undermine the integrity of the NRC's licensing process. The public's complete trust and confidence in the regulatory process is essential if nuclear energy is to be a viable energy source in the years ahead. The Commission's proposed course of action is likely to create public distrust.

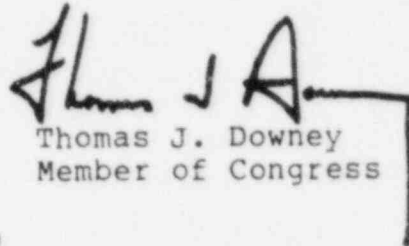
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We ask that you explain to us the basis of your change in position, specifically what you intend to accomplish by such an exercise and how much it will cost the taxpayers. Your prompt response is requested.

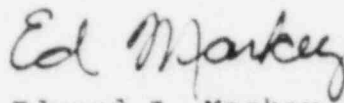
Sincerely,



Robert J. Mrazek
Member of Congress



Thomas J. Downey
Member of Congress



Edward J. Markey
Chairman
Subcommittee on Energy
Conservation and Power