

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'85 AUG 27 A11:30

Before the Atomic Safety and Licensing Appeal Board

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

- - - - - X

In the Matter of

LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power Station,
Unit 1)

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

- - - - - X

SUFFOLK COUNTY MOTION FOR EXTENSION
OF TIME IN WHICH TO FILE BRIEFS

Pursuant to the Appeal Board's July 19, 1985 Order, the County and State must file briefs on their appeal of the April 17, 1985 Emergency Planning PID by August 30, 1985. For the reasons set out below, Suffolk County hereby requests the Board to extend the schedule for filing this brief an additional thirty (30) days until September 30, 1985. All parties have been contacted by the undersigned and have either consented to this request or expressed no objections.

Since June, the question as to who legally represents the County of Suffolk before the Appeals Board (and the NRC in general) has caused a number of delays in this proceeding. The Board is aware that on July 19th, Justice Brown of the New York State Supreme Court made a judicial

8508280361 850819
PDR ADOCK 05000322
G PDR

DS03

determination that the firing of the Kirkpatrick law firm by the County Executive was, in all respects, legal. Thereafter, an appeal of this decision was filed with the Appellate Division, 2nd Department, N.Y.S. Supreme Court. On August 13, 1985, the Appellate Division unanimously affirmed Judge Brown's decision in all respects. Although leave to appeal to the Court of Appeals was also granted, no stay of the enforcement of the decision was issued.¹ Accordingly, we believe, at this juncture, that only the County Attorney can legally represent the County of Suffolk in this proceeding.

Over the weeks since the firing of the Kirkpatrick firm, the County Attorney has consistently requested the return of all files in connection with the Shoreham O.L. proceeding. Until recently those requests have been either ignored by our former attorneys or refused outright. However, on Friday, August 9th, this office received nine (9) cartons of files from the Kirkpatrick firm dealing with the Emergency Planning issues. Our messengers will pick up another forty (40) cartons on August 19, 1985, from their Washington, D.C. offices.

¹A more detailed explanation of the Appellate Division's ruling (plus a photocopy of the decision) was sent to all parties and this Board by the County Attorney under date August 16, 1985.

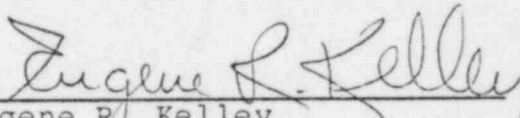
A preliminary review of the materials received underscores the extensive record and proceedings by the ASLB below. The numerous issues decided adversely to the County will require extensive review and research by our office before we can assemble a meaningful brief on the issues to file with the Appeals Board.

We have spoken with counsel for the State and for the Town of Southampton, neither of which has any objections to this application. Counsel for Lilco has consented. NRC staff counsel does not object provided that the Appeals Board at the appropriate time provides them with an equivalent extension in their response time.

Respectfully submitted,

MARTIN BRADLEY ASHARE
Suffolk County Attorney
H. Lee Dennison Building
Veterans Memorial Highway
Hauppauge, N.Y. 11788
(516) 360-4066

By:


Eugene R. Kelley
Chief Deputy County Attorney

August 19, 1985
Copy: Service List

August 19, 1985

DOCKETED
USNRC

CERTIFICATE OF SERVICE

'85 AUG 27 A11:31

In the Matter of
LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Power Station, Unit 1)
Docket No. 50-322-OL-3 (Emergency Planning)

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

I hereby certify that a Motion for Extension of Time in Which to File Briefs on behalf of Suffolk County, dated August 19, 1985, has been served on the following by first class mail, postage prepaid, except as otherwise indicated:

Alan S. Rosenthal, Esq., Chairman*
Gary J. Edles, Esq.*
Mr. Howard A. Wilber*
Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
East-West Tower, North Tower
4350 East-West Highway
Bethesda, MD 20814

Fabian G. Palomino, Esq.*
Special Counsel to the Governor
Executive Chamber, Rm. 229
State Capitol
Albany, New York 12224

Mary Gundrum, Esq.
Assistant Attorney General
2 World Trade Center
Room 4614
New York, New York 10047

Stewart M. Glass, Esq.
Regional Counsel
Federal Emergency
Management Agency
26 Federal Plaza, Rm. 1349
New York, New York 10278

Kirkpatrick & Lockhart, Esqs.
1900 M Street, N.W.
Washington, D.C. 20036

Donna Duer, Esq.
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Comm.
East-West Tower, North Tower
4350 East-West Highway
Bethesda, MD 20814

James B. Dougherty, Esq.
3045 Porter Street
Washington, D.C. 20008

Jay Dunkleberger, Esq.
New York State Energy Office
Agency Building 2
Empire State Building
Albany, New York 12223

*Telecopied

Stephen B. Latham, Esq.
John F. Shea, Esq.
Twomey, Latham & Shea
33 West Second Street
P.O. Box 398
Riverhead, New York 11901

Bernard M. Bordenick, Esq.*
Robert G. Perlis, Esq.
Edwin J. Reis, Esq.
Office of the Executive Legal
Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing Board
Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Jonathan D. Feinberg, Esq.
New York State Department of
Public Service, Staff Counsel
Three Rockefeller Plaza
Albany, New York 12223

Spence W. Perry, Esq.
Associated General Counsel
Federal Emergency
Management Agency
500 C Street, S.W.,
Room 840
Washington, D.C. 20472

Mr.. Martin Shubert
c/o Congressman William Carney
1113 Longworth House Office
Building
Washington, D.C. 20515

Docketing and Service
Branch (3)
Office of the Secretary
U.S. Nuclear Regulatory Comm.
Washington, D.C. 20555

Ralph Shapiro, Esq.
Cammer and Shapiro, P.C.
9 East 40th Street
New York, New York 10016

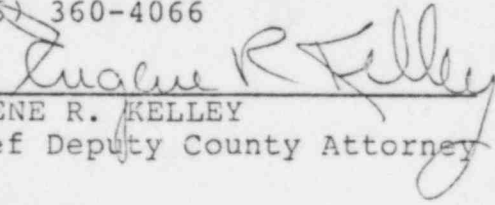
Robert E. Smith, Esq.
Rosenman Colin Freund Lewis
& Cohen
575 Madison Avenue
New York, New York 10022

Hunton & Williams, Esqs.
707 East Main Street
Richmond, Virginia 23219

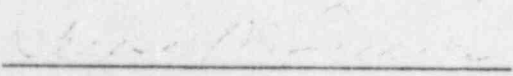
*If being sent by Federal
Express, send to:
U.S. Nuclear Regulatory Comm.
7735 Old Georgetown Road
(to mailroom)
Bethesda, MD 20814

MARTIN BRADLEY ASHARE
Suffolk County Attorney
H. Lee Dennison Building
Veterans Memorial Highway
Hauppauge, New York 11788
(516) 360-4066

By:


EUGENE R. KELLEY
Chief Deputy County Attorney

Sworn to before me this
19th day of August, 1985


NOTARY PUBLIC
STATE OF NEW YORK
My Comm. Expires 12/31/86