



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

OCT 30 1985

50-322

The Honorable Anthony C. Beilenson
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Beilenson:

This letter responds to your letter of October 7, 1985, in which you request a reply to a letter to you from Ms. Anna W. Nadler, dated September 20, 1985, concerning the licensing of the Shoreham nuclear power plant. Specifically, Ms. Nadler inquired as to why the Nuclear Regulatory Commission (NRC) permitted Long Island Lighting Company (LILCO) to build the Shoreham plant when it now appears that the plant may not be utilized.

The Atomic Energy Act provides a two stage process for the licensing of commercial nuclear power reactors. The first stage of this process involves a determination as to whether a construction permit may be issued, while the second stage focuses on whether an operating license may be issued. In April 1973, after extensive evidentiary hearings had been conducted, the Atomic Energy Commission (predecessor to the NRC) issued a construction permit for Shoreham, thereby allowing the plant to be built. At that time, LILCO was found to have complied with all applicable laws and regulations governing the issuance of such construction permits, including existing requirements relating to emergency planning for radiological accidents.

Following the accident at Three Mile Island in March 1979, the NRC's regulations relating to emergency planning for radiological accidents were extensively revised and expanded. Operating license applicants were required to submit the emergency plans of State and local governments with jurisdiction over areas lying within the 10-mile plume exposure pathway emergency planning zone (EPZ) for review by the Federal Emergency Management Agency (FEMA) and ultimate approval by the NRC. Significantly, commencing in 1982, Suffolk County (the county in which the Shoreham plant is located) and the State of New York determined that they would oppose LILCO's efforts to obtain an operating license for the Shoreham plant, based upon Suffolk County's belief that the populace within the vicinity of the Shoreham plant could not be safely evacuated in the event of a radiological accident.

Extensive hearings were held on LILCO's application for an operating license. With respect to all contested environmental and health and safety issues other than emergency planning, the Commission and its adjudicatory

boards determined that the Shoreham facility is in compliance with Federal laws and regulations and may be licensed to operate. On that basis, and because offsite emergency planning is not required for low levels of power operation, a low power license (for levels up to 5% of rated power) was issued to LILCO in July 1985.

With respect to emergency planning, an NRC Licensing Board and the Federal Emergency Management Agency have now determined that LILCO has satisfied virtually all applicable regulatory requirements. However, Suffolk County and the State of New York continue to refuse to participate in offsite emergency planning for the plant, and a New York State court has determined that LILCO is prohibited by State law from implementing its own offsite emergency plan. An NRC Licensing Board and Appeal Board have determined, as a matter of law, that the State laws in question are not preempted by Federal law; LILCO is likely to seek a review of this determination by the Commission, and possibly by the Courts, in the near future. However, in view of the current state of the law, as determined by the NRC's adjudicatory boards, and because an implementable offsite emergency plan is vital in order to provide reasonable assurance as to the adequacy of emergency planning for a nuclear reactor, it is presently unclear whether LILCO will be able to obtain a license to operate the Shoreham plant in the absence of further adjudicatory or legislative action.

Please do not hesitate to contact me in the event you or Ms. Nadler have any additional questions.

Sincerely,

(Signed) William J. Dircks

William J. Dircks
Executive Director
for Operations

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*Previously concurred

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

EDO PRINCIPAL CORRESPONDENCE CONTROL

FROM:

DUE: 10/24/85

EDO CONTROL: 001072

DOC DT: 10/07/85

FINAL REPLY:

REP. ANTHONY C. BEILENSON

TO:

NRC

FOR SIGNATURE OF:

** GREEN **

SECY NO: 85-850

EXECUTIVE DIRECTOR

DESC:

ROUTING:

ENCLOSES LETTER FROM ANNA W. NADLER RE HER MONEY
BEING TIED UP IN LILCO AND PLANT NOT BEING
ALLOWED TO BE USED

MURLEY
DENTON

DATE: 10/09/85

ASSIGNED TO: ELD

CONTACT: CUNNINGHAM

SPECIAL INSTRUCTIONS OR REMARKS:

MARK ENVELOPE ATTN: ANITA SAVAGE

860116

CORRESPONDENCE CONTROL TICKET

Rep Anthony Beilenson

SECY NUMBER: 85-850

LOGGING DATE 10/8/85

OFFICE OF THE SECRETARY

ACTION OFFICE:

EDO

AUTHOR:

Rep Anthony Beilenson--Const Ref

AFFILIATION:

Anna W. Nadler

LETTER DATE:

10/7/85

FILE CODE _____

ADDRESSEE:

NRC

SUBJECT:

Complains about investments tied up in the LILCO

ACTION:

Direct Reply...Suspense: Oct 18

DISTRIBUTION:

OCA to Ack

SPECIAL HANDLING:

None

SIGNATURE DATE:

FOR THE COMMISSION Champ

Rec'd Off. EDO
Date... 10-9-85
Time... 1:30 PM

EDO --- 001072