

RELATED CORRESPONDENCE

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONOFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCHBefore 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)RESPONSE OF THE STATE OF NEW YORK TO LILCO'S SECOND SET
OF REQUESTS FOR ADMISSIONS REGARDING ROLE CONFLICT OF
SCHOOL BUS DRIVERS

This is the State of New York's response to "LILCO's Second Set of Requests for Admissions to New York State," dated February 23, 1988 ("LILCO's Second Set of Requests for Admissions").

This response is being made with the understanding that LILCO commits "to dispense with Mr. Papile's deposition, and not seek a subpoena from the Board," as stated by LILCO's counsel (Mr. Christman) in his letter of February 23, 1988.

The State of New York objects to LILCO's Second Set of Requests for Admissions on the ground that it constitutes untimely, improper, last-minute discovery.¹ The Board's

¹See "Governments' Response to Board Request for Schedule Proposals and Motion to Reconsider Discovery of Orders," dated March 1, 1988, at 11.

February 19, 1988 Memorandum and Order makes no statement about extending "the discovery period in part to give us time to resolve this dispute," as LILCO's counsel alluded to in his February 23, 1988 letter. What the Memorandum and Order does say is that the Board extended discovery from February 19, 1988 to February 26, 1988 "for the purpose of completing depositions on designated witnesses." Since the State of New York has not designated Mr. Papile as a witness, and since LILCO's Second Set of Requests for Admissions is not a deposition, LILCO's Second Set of Requests for Admissions is an untimely, unauthorized form of discovery. Without waiving this objection, the State of New York responds as follows.

LILCO's Requests for Admissions Nos. 7-8

7. Bus driver training conducted in accordance with plans for nuclear plants in New York State other than Shoreham does not address caring for families of bus drivers in emergencies. Response of the State of New York to LILCO's Second Set of Interrogatories and Requests for Production of Documents Regarding Role Conflict of School Bus Drivers and Amendment and Supplementation of the State of New York's Response to LILCO's First Set of Interrogatories and Requests for Production of Documents Regarding Role Conflict of School Bus Drivers (Jan. 27, 1988) at 6 (Interrogatory No. 27).

Response: The State of New York admits that the pleading referenced in LILCO's Request for Admissions No. 7 contains the following statement, which was verified as being true then and remains true now: "Without agreeing to the relevancy of this interrogatory, upon information and belief, bus driver training

conducted in accordance with plans for nuclear plants in New York State other than Shoreham does not address caring for families of bus drivers in emergencies."

8. Other than information or documents submitted or developed in the emergency planning proceedings in 1983-1984, the State of New York has not been able, to date, to locate any instances of bus drivers, in any emergency, attending to the safety of their own families before reporting to perform their bus driving duties. *Id.* at 4 (Interrogatory No. 24); Response of the State of New York to LILCO's Third Set of Interrogatories and Requests for Production of Documents Regarding Role Conflict of School Bus Drivers (Feb. 10, 1988) at 8-10 (Interrogatory Nos. 35-37).

Response: The State of New York admits that the pleading referenced in LILCO's Request for Admissions No. 8 contains the following statement concerning LILCO Interrogatories Nos. 35-37, which statements were true then and are true now, with one qualification: "Other than information or documents submitted or developed in the emergency planning proceedings in 1983-1984, the State of New York has not been able, to date, to locate any responsive information or documents within the possession, custody or control of the State of New York." The qualification is that, upon information and belief, instances of bus drivers attending to the safety of their own families before reporting to perform their bus driving duties in any emergency have been referenced or discussed in discovery, such as depositions, of which LILCO is fully aware, that has occurred subsequent to the filing of the pleading referenced in LILCO's Request for Admissions No. 8.



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CERTIFICATE OF SERVICE

I hereby certify that copies of the "Response of the State of New York to LILCO's Second Set of Requests for Admissions Regarding Role Conflict of School Bus Drivers" have been served on the following this 4th day of March 1988 by U.S. mail, first class, except as noted by asterisks.

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