

HUNTON & WILLIAMS DOCKETED  
707 EAST MAIN STREET P.O. Box 1535  
USNRC

2000 PENNSYLVANIA AVENUE, N.W.  
P. O. BOX 18230  
WASHINGTON, D. C. 20036  
TELEPHONE 202-855-1500

FIRST VIRGINIA BANK TOWER  
P. O. BOX 3889  
NORFOLK, VIRGINIA 23514  
TELEPHONE 804-625-5501  
TELEX 735828

3050 CHAIN BRIDGE ROAD  
P. O. BOX 1147  
FAIRFAX, VIRGINIA 22030  
TELEPHONE 703-352-2200

RICHMOND, VIRGINIA 20812

TELEPHONE 804-786-8200

TELEX 6844251

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OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

March 1, 1988

100 PARK AVENUE  
NEW YORK, NEW YORK 10017  
TELEPHONE 212-309-1000  
TELEX 424849 HUNT UI

ONE HANNOVER SQUARE  
P. O. BOX 108  
RALEIGH, NORTH CAROLINA 27602  
TELEPHONE 919-899-3000

FIRST TENNESSEE BANK BUILDING  
P. O. BOX 951  
KNOXVILLE, TENNESSEE 37901  
TELEPHONE 615-637-4311

FILE NO 24566.300001

DIRECT DIAL NO. 804 786-8357

James P. Gleason, Chairman  
Dr. Jerry R. Kline  
Mr. Frederick J. Shon  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
East-West Towers  
4350 East-West Highway  
Bethesda, MD 20814

By Telecopier

Long Island Lighting Company  
(Shoreham Nuclear Power Station, Unit 1)  
Docket No. 50-322-OL-3

Gentlemen:

Pursuant to this Board's orders,<sup>1/</sup> LILCO has conferred and exchanged proposals with the other parties concerning a schedule and format for litigation of the remaining issues before this Board. The results of this process may be summarized as follows:

1. Division of Issues for Hearing

LILCO believes that three of the four remaining issues -- school bus driver role conflict, EBS coverage, hospital evacuation time estimates -- are relatively limited in size, well defined, and developed factually. They are thus capable of being tried in one group, quite soon. Realism issues will require more factual development prior to hearing. Litigation should thus

<sup>1/</sup> In its Memorandum and Order of February 8, 1988, the Board directed that the parties should "submit to the Board prior to the close of business on February 24, 1988 a proposed schedule for hearing all remaining issues . . . ." By Memorandum and Order of February 16, 1988, the reporting date was extended to February 26. During the conference call on February 25 the Board, at the request of the NRC Staff and by agreement of the parties, extended the date until today, March 1.

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## HUNTON & WILLIAMS

March 1, 1988  
Page 2

proceed on two tracks: realism (last) and everything else (first).

Counsel for the Staff has stated that the Staff largely agrees with this division.

Counsel for Suffolk County believes that all issues should be tried at one time, with none of the issues coming on until the realism-related issues are developed for trial.<sup>2/</sup>

### 2. Schedule for Trial

#### A. Issues other than Realism

The Staff has proposed a schedule leading to hearing on all issues but realism by late April, with the realism issues being considered later. LILCO's understanding of the Staff's proposed schedule is attached hereto. LILCO is agreeable to that schedule or anything conceptually and temporally similar.<sup>3/</sup>

Counsel for Suffolk County does not agree with that schedule. He stated that Intervenor's desire 60 days for discovery on the EBS-coverage and hospital-ETE issues. LILCO informed counsel for Suffolk County that LILCO would not consent to modification of the 15-day discovery schedules set out for those issues in the Board's February 24 Orders.<sup>4/</sup>

#### B. Realism

LILCO has preliminarily discussed with counsel for the Staff and Suffolk County various approaches to implementing the Board's direction for it to submit its prima facie case. The paramount considerations in this regard include expediting discovery and

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<sup>2/</sup> LILCO understands that counsel for New York State shares the views of counsel for Suffolk County in all material respects on the issues addressed in this letter.

<sup>3/</sup> LILCO's schedule departs in one respect from that proposed by the Staff: LILCO proposes that a prehearing conference be held in Bethesda during the week of April 18.

<sup>4/</sup> Remaining discovery has already been initiated since the Board's Orders by both LILCO and Intervenor's on both issues. LILCO has also already voluntarily furnished the other parties with its hospital ETE calculation sheets, and expects to turn over its remaining EBS documents voluntarily within the next day.

## HUNTON & WILLIAMS

March 1, 1988  
Page 3

coordinating timing of hearings on realism with other relevant events (post-hearing filings and Board decisions on other issues; preparation for and conduct of FEMA offsite graded exercise, currently expected in or about June). Discussions are continuing and LILCO expects to propose the substance and timing of its approach to implementing the Board's order, ideally with the agreement of the other parties, within the next few days. LILCO believes, in any event, that trial of realism issues should be able to take place by mid- or late June.

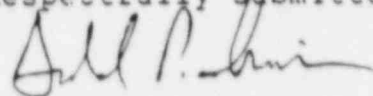
Counsel for Suffolk County opposes proceeding to hearing on any issues until realism issues are ready for trial. He ventured tentatively that issues other than realism could be ready for trial about June, but with a "large asterisk" regarding the timing of trial of realism issues.

### CONCLUSION

LILCO requests that the Board divide the issues for trial into two groups, as indicated above, and that it set the first group for trial and decision on the schedule attached hereto. The realism issues should be tried, on a separate track, as soon as possible.

LILCO does not favor delaying trial and decision of the first three issues until the realism issues are ready. The three other issues are distinct from, and less subject to uncertainty than realism; and there does not appear to be any benefit in terms of economy of resources or coherence of record attributable to delaying their resolution. Further, long years of experience in this case do not suggest any advantage to delaying resolution of issues that are ripe, in the expectation that others will mature in an orderly way.

Respectfully submitted,



Donald P. Irwin  
James N. Christman  
Counsel for Long Island Lighting  
Company

Attachment

cc w/attachment: Counsel for all Parties

LILCO  
3/1/88

Proposed Schedule for Trial of Bus Drivers, EBS, Hospitals

EBS/Hospitals Start Discovery	2/24/88
Bus Drivers End Discovery	2/29/88
EBS/Hospitals End Discovery	3/14/88 <sup>1</sup>
Bus Drivers: Direct Testimony Filing	3/18/88
Bus Drivers: Motions to Strike	4/1/88
Hospitals: Direct Testimony Filing	4/1/88
EBS: Direct Testimony Filing	4/8/88
Bus Drivers: Replies to Motions to Strike	4/11/88
Hospitals: Motions to Strike	4/11/88
EBS: Motions to Strike	4/15/88
Hospitals: Replies to Motions to Strike	4/16/88
Prehearing Conference in Bethesda	Week of 4/18/88
EBS: Replies to Motions to Strike	4/22/88
HEARINGS BEGIN ON SCHOOL BUS DRIVERS, HOSPITALS, EBS	4/25/88
HEARINGS END ON SCHOOL BUS DRIVERS, HOSPITALS, EBS	4/49/88
LILCO Proposed Findings and Conclusions	5/16/88
Intervenors' Proposed Findings and Conclusions	5/23/88
Staff Proposed Findings and Conclusions	5/30/88
LILCO Reply Proposed Findings and Conclusions	6/6/88
Possible Board Decision	7/88

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<sup>1</sup> One FEHA witness on EBS issues may not be available for deposition until about March 21. In that event, discovery may be held open with respect to this one witness through the week of March 21-25.