

April 13, 1988

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before 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)

DIRECT TESTIMONY OF PATRICK G. HALPIN ON BEHALF  
OF SUFFOLK COUNTY CONCERNING CONTENTIONS 1-2, 4-8, AND 10

Q: Please state your name.

A: Patrick G. Halpin.

Q: What is your position?

A: I am the County Executive of Suffolk County, New York.

Q: What is the purpose of this testimony?

A: I present this testimony to address what Suffolk County  
would do in the following hypothetical situation: the NRC

authorizes operation of Shoreham at power levels above 5% and there is a serious nuclear accident at the plant which may require offsite protective actions.

Q: Does Suffolk County have a plan for responding to such a hypothetical accident at Shoreham? If not, is one being developed by the County?

A: The answer to both questions is no. In Resolution No. 456-1982, the County determined that it would devote no funds, personnel, or resources to test or implement any plan for Shoreham unless the plan was first approved by the County Legislature. (A copy of Resolution No. 456-1982 is attached.) During 1982 and early 1983, the County government thoroughly evaluated whether it was possible to develop an emergency plan that would protect the health, welfare, and safety of Suffolk County's residents. In Resolution 111-1983, the County determined that such a plan could not be developed. Accordingly, the County resolved not to adopt or implement a plan for Shoreham. Resolutions 456-1982 and 111-1983 have been upheld as rational and lawful by both federal and state courts. Citizens for an Orderly Energy Policy, Inc. v. County of Suffolk, 604 F. Supp. 1084 (E.D.N.Y. 1985), aff'd, 813 F.2d 570 (2d Cir. 1987); Prospect v. Cohalan, 65 N.Y.2d 867, 493 N.Y.S.2d 293 (1985).

Q: Nevertheless, if the NRC were to license Shoreham for operation above 5% power, wouldn't Suffolk County reconsider the determination expressed in Resolution 111-1983 and develop a plan, even if you had doubts about how effective it would be? In other words, wouldn't something be better than nothing?

A: No. The County has already devoted extensive resources to determining whether to develop and implement a plan for Shoreham. This included the year-long 1982-83 planning effort that cost in excess of \$600,000 for outside experts alone. NRC action to license Shoreham above 5% power would not cause the County to reconsider Resolution Nos. 456-1982 and 111-1983, because such a reconsideration would breach the trust our citizens have placed in their elected officials. The County's determination not to adopt or implement an emergency plan for Shoreham was not based on expediency or any purpose of convenience. The determination was based on good faith and dedication to the principle that Suffolk County's government has an unqualified duty to protect the well-being of its citizens. The County determined that the public could not be safely evacuated or otherwise protected in the event of a serious nuclear accident at Shoreham. This meant that we could not responsibly adopt or work to implement an emergency plan that we believed would fail to protect the public. As elected officials, our duty is to tell the public the truth. We did that in enacting Resolution No. 111-1983, and we will continue to do that now. We will not

back-down from what was determined and resolved in Resolution Nos. 456-1982 and 111-1983.

Q: Are you aware that LILCO has developed an offsite response plan for use in case of a nuclear accident at Shoreham?

A: Yes.

Q: Are you aware also that LILCO has taken the position that if the County does not develop its own plan to respond to an accident at Shoreham and there were in fact such an accident, the County would use and implement LILCO's plan and the LILCO resources assembled as part of that plan to respond to the accident?

A: Yes, I am aware of LILCO's position. I am also aware that LILCO has asserted that in such a circumstance, LILCO and County personnel would work cooperatively with each other to attempt to implement LILCO's plan, and that I, as County Executive, or someone else with authority in County government if I were not available, would give approval or permission for LILCO's personnel to take various actions pursuant to LILCO's plan.



Q: Is LILCO's position correct?

A: No. The Suffolk County government would not follow or implement LILCO's plan or work with LILCO's personnel if there were an accident at Shoreham. The reasons are set forth in detail in an affidavit I executed on February 9, 1988. Rather than repeat those reasons again, I attach a copy of that affidavit and make it a part of this testimony.

Nevertheless, I wish to underscore several points. First, LILCO has suggested that the County would work to implement LILCO's plan because this would be the best way to attempt to protect the County's citizens and because it is not credible that the County would do anything else at the time of an emergency. LILCO's premise, however, is incorrect because the County government does not view LILCO's plan as an acceptable way to respond, or indeed even as an option. The County, after analyzing various deficiencies in LILCO's plan for purposes of participating in litigation before the NRC, has found LILCO's plan to be unworkable. We have told our citizens that LILCO's plan cannot protect them, and County officials from the police department and other departments, whose expertise and qualifications are outstanding, have documented this. If, after telling our citizens that LILCO's plan cannot protect them, we were to do an about-face and tell them that they and we should follow this unworkable plan in an accident when their lives and safety are on the line, we would

have no credibility with our own citizens. The result would be a breakdown in the essential trust that our citizens must have in us if this government is to be able to function for the public's well-being. In the circumstances of a nuclear accident, it would be a prescription for even greater chaos.

Second, LILCO is incorrect when it suggests that the Suffolk County government might give LILCO permission to take offsite actions during a Shoreham emergency. We would not. There are several reasons. To give such permission would in my opinion be an improper delegation of the County's police power responsibility. I recognize that the Cuomo v. LILCO decisions were vacated by the Court of Appeals for technical jurisprudential reasons on February 17, 1988. But the rationale articulated by Justice Geiler on February 20, 1985, and by four justices of the Appellate Division (127 A.D.2d 626, 511 N.Y.S.2d 867 (1987)), is still the only judicial view of the law: the County cannot delegate or through "permission" grant to LILCO the police power authority held by this County.

Further, and aside from the legal question, I would never give LILCO permission or approval to take offsite actions in a Shoreham emergency because I find LILCO to be incompetent to perform such actions. As discussed in the attached affidavit, LILCO's conduct over the years has convinced the County government that we would not effectively serve our citizens' interests

if we acted in concert with LILCO. LILCO has lost the confidence of this government and its citizens. For us to join with LILCO would be to relinquish the trust our citizens have in us. We would never do that.

Third, no one connected with Suffolk County government has operational familiarity with LILCO's plan. A few members of the Suffolk County Police Department and a few people from other departments have studied parts of LILCO's plan in connection with litigation before the NRC. They have specified various defects in the plan. None of these persons has reviewed LILCO's plan for purposes of acting pursuant to it. No one in the County government has trained to act pursuant to LILCO's Plan. Suffolk County Resolution Nos. 456-1982 and 111-1983 prevent any County personnel or resources from being used to implement LILCO's Plan. Indeed, the County has sent all copies of LILCO's plan -- except for three which we are retaining solely for litigation purposes -- to our lawyers in Washington, D.C.

Q: You have stated that Suffolk County will have no plan for an accident at Shoreham and that you would not follow LILCO's plan. What if the NRC were to license Shoreham anyway?

A: I do not believe that the NRC would license Shoreham to operate in the face of the lawful and rational determinations of Suffolk County. If the NRC nevertheless were to take such

action, Suffolk County would maintain its position and put the matter before the courts. The County has acted in good faith and solely in the interests of its citizens. We will not back-down from our convictions and our duty as elected government officials.

Moreover, it is unproductive to engage in make-believe by pretending how the County would act under the hypothetical circumstances of an accident at Shoreham after that plant were somehow licensed by the NRC. For reasons stated above and the attached affidavit, we would never follow LILCO's plan or coordinate in any way with LILCO. Nor do I know what resources would be available. It is my judgment that if there were a serious emergency, many of our employees would necessarily look after their families as a first and perhaps only priority. Also, County personnel have had no training or preparation to carry out any kind of a purported "response" to a Shoreham emergency. The County's position is that it would not be possible to safely evacuate or otherwise protect the public in the event of a nuclear accident at Shoreham. It is thus baseless fantasy to try to speculate about what might hypothetically be done.

Q: The NRC's Licensing Board on February 29, 1988, stated the following:

There is a presumption that the State and County response will follow the LILCO Plan, a presumption rebuttable only by timely evidence

that the Governments will follow a different but adequate and feasible plan that can be relied on or by other evidence of like kind.

Was the Board accurate with respect to how the County would act in a Shoreham emergency?

A: No. As discussed above, Suffolk County has no plan for responding to an accident at Shoreham and will not develop one, because we have determined after extensive analyses that no such plan could be adequate to protect the well-being of our citizens. Further, the County would not under any circumstances follow LILCO's plan, because LILCO's plan is unworkable and cannot protect the well-being of our citizens and because County law prohibits us from implementing that plan. There is no factual basis for the Board's statement.

Q: Does that complete your testimony?

A: Yes.

Intro. Nos. 1515-15

Introduced by Legislators Blais, Rosso, Foley, Lacappa, Glase, Alstrove,  
Richards, Greenberg, Rizzo, Nolan, MacLellan, Hoto, Howard, Prospect, Luzzo,  
Divine, Meach

RESOLUTION NO. 456 - 1982, ESTABLISHING THE  
RADIOLOGICAL EMERGENCY RESPONSE PLANNING  
POLICY OF THE COUNTY OF SUFFOLK

WHEREAS, County of Suffolk has the primary responsibility for protection of its residents in the event of a radiological emergency at the Long Island Lighting Company's Shoreham Nuclear Power Station; and

WHEREAS, Suffolk County takes this responsibility seriously and intends through good faith and sound planning efforts, to assure that the best possible emergency plan and preparedness are developed to protect the citizens of Suffolk County; and

WHEREAS, Suffolk County's Emergency Planning Task Force, composed of nationally recognized experts drawn from a range of pertinent disciplines, is now conducting a detailed planning effort in order to attempt to develop a viable radiological emergency plan for Suffolk County; and

WHEREAS, The Long Island Lighting Company, in an unwarranted and arrogant act, has gone beyond its powers as a private corporation in an attempt to usurp the rightful powers of Suffolk County by submitting county planning resource material to the New York State Disaster Preparedness Commission for its approval as the official radiological emergency response plan for Suffolk County; and

WHEREAS, said planning resource material developed in part by county personnel, is preliminary data which in no way constitutes the Suffolk County-approved RADIOLOGICAL EMERGENCY RESPONSE PLAN and will not in the future constitute such County plan; and

WHEREAS, Suffolk County will submit its RADIOLOGICAL EMERGENCY RESPONSE PLAN to the New York State Disaster Preparedness Commission only when that plan has been fully prepared and approved by Suffolk County and is thereby integrated with the planning efforts of both LILOCO and New York State; therefore, be it

RESOLVED, that Suffolk County hereby established the following Radiological Emergency Response Planning Policy:

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been fully developed to the best of the County's ability.

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been the subject of at least two public hearings, one to be held in Riverhead, and one to be held in Hauppauge.

Suffolk County shall not assign personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been approved, after public hearings, by the Suffolk County Legislature and the County Executive.

and, be it further

RESOLVED, that copies of this resolution be sent to the Governor, the Speaker of the Assembly, the Majority Leader of the Senate and the Legislature of the State of New York.

DATED: May 13, 1992

APPROVED BY:

John A. Holm  
County Executive of Suffolk County

Date of Approval: 5/19/92

SUFFOLK COUNTY  
County Legislature  
RIVERHEAD, N. Y.

The County Clerk J. William H. Rogers, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on May 18, 1992 and that the same is a true and correct transcript of said resolution and of the whole thereof.

As Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk

William H. Rogers  
Clerk of the County Legislature



February 9, 1988

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

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In the Matter of )

LONG ISLAND LIGHTING COMPANY )

(Shoreham Nuclear Power Station,  
Unit 1) )

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

AFFIDAVIT OF PATRICK G. HALPIN

Patrick G. Halpin, being duly sworn, does state as follows:

I. Introduction

1. I am the County Executive of Suffolk County, New York. I have held this position since January 1, 1988, having been duly elected to this position in November 1987. As County Executive, I am authorized to direct the County's response to emergencies.

2. I am familiar with "LILCO's Motions for Summary Disposition of Contentions 1-2 and 4-10," dated December 18, 1987. This Affidavit addresses matters alleged by LILCO in the Motions.

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3. LILCO alleges in the Motions that in the event of a radiological emergency at Shoreham, the Suffolk County government would respond by working in close coordination with LILCO personnel and that Suffolk County officials, in carrying out such a response, would rely upon and follow LILCO's offsite emergency response plan for Shoreham. LILCO asserts that such a coordinated response effort between LILCO and Suffolk County personnel must be presumed to occur on the basis of the NRC's recently amended emergency planning rule, set forth at 52 Fed. Reg. 42078-87 (Nov. 3, 1987). Attachments 1 and 2 to this Affidavit are summaries and quotations of LILCO's various assertions about the ways in which LILCO claims Suffolk County and New York State would act in the event of an emergency at Shoreham.

4. LILCO's assertions regarding how Suffolk County would respond to a radiological emergency at Shoreham are false. Suffolk County believes that Shoreham should not be permitted, and indeed will not be permitted, to operate above 5 percent power. If, for present purposes of discussion, however, one assumes that Shoreham were permitted to operate, and if there were then a radiological accident at Shoreham, Suffolk County would not use LILCO's plan or coordinate with LILCO personnel in any response to that emergency. To use or otherwise follow LILCO's plan in any way or to rely upon LILCO personnel would be to violate the County's established emergency planning policies, to breach the trust of our citizens, and to endanger the safety

of the public through reliance on a LILCO plan and LILCO emergency workers that are incapable of protecting the public safety.

## II. County Policy

5. Suffolk County's policy that it will not use LILCO's plan or rely upon LILCO personnel in a Shoreham emergency does not represent a new County policy. Rather, the policy is long standing, enunciated first in Resolution No. 111-1983, then followed by Peter F. Cohalan, the County Executive during most of the period covering the Shoreham emergency planning controversy, and subsequently followed by my predecessor in office, Michael A. LoGrande. A copy of Resolution No. 111-1983 is Attachment 3 hereto; a copy of Mr. Cohalan's statement is Attachment 4 hereto; and a copy of Mr. LoGrande's affidavit adopting Mr. Cohalan's statement is Attachment 5 hereto.

6. I hereby affirm my agreement with, and I hereby adopt as part of this affidavit, Attachments 3-5 hereto. I will not burden this affidavit by repeating the statements and rationale contained in those Attachments. I stress, however, that they set forth in detail the bases for the County's decision not to adopt or implement an emergency plan for Shoreham, the reasons that the County would never use LILCO's Plan, and why the County would

never in any way rely upon or coordinate with LILCO personnel in the event of a radiological emergency at Shoreham.<sup>1/</sup>

### III. Additional Comments Related to LILCO's Motions

7. I am informed that LILCO asserts repeatedly that the County would give LILCO approval or permission to take various actions in the event of a Shoreham accident.<sup>2/</sup> LILCO's assertions are false. As County Executive, I would never grant LILCO any such permission or approval. First, in my view, giving LILCO such permission or approval would constitute an improper transfer of the governmental authority and police powers of this County to LILCO. It would thus be inconsistent with my responsibilities as the County Executive and would put into LILCO's hands the public's safety that I was elected to protect. Second, LILCO

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<sup>1/</sup> LILCO suggests that because County police officers have responded to several security threats at Shoreham, the County would work cooperatively with LILCO if there were a radiological emergency at Shoreham. LILCO's suggestion is false and a distortion of logic, because the events and circumstances are totally different. The County has determined that it is possible to respond adequately to a Shoreham security incident and the County does so. The County has also determined that an adequate response to a radiological emergency is not possible. Therefore, the County has resolved not to adopt or implement an emergency plan, and it will not do so. The County is thus forthright in the context of both security and emergency planning. It is disingenuous for LILCO to torture facts and logic in order to create false impressions about the County's intentions.

<sup>2/</sup> For example, LILCO states in its "Introduction: Memorandum of Law" (p. 3) that "LERO must get permission from the State or County to activate the warning sirens (for example) or to recommend to the public that they shelter or evacuate." LILCO then states that "LERO workers would be permitted to perform specific functions under the direction of these governmental authorities." Id. at 4.

cannot be trusted to perform its duties capably, let alone perform emergency functions upon which the welfare and safety of 1.3 million citizens of Suffolk County would depend. We on Long Island have learned not to rely on LILCO to take action capably: LILCO's feeble and woeful response to hurricane Gloria and its gross mismanagement of Shoreham's construction are but two dramatic examples.<sup>3/</sup> Finally, we have seen the debacle of LILCO's performance in its February 1986 "exercise." Even though LILCO had originated the scenario for the exercise, even though the "exercise" has been found to be too limited in scope, even though LILCO had received advance notice of the date of the nuclear "accident," and even though LILCO had conducted countless drills to get ready for the exercise and the specific date it was scheduled for, LILCO's LERO personnel still performed incompetently. The Licensing Board's recent decision in LBP-88-2 underscores what we have known for years: LILCO's LERO personnel are

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<sup>3/</sup> I am informed that LILCO in several affidavits has asserted that its personnel's capabilities have been established through actions such as responding to gas line breaks and directing traffic in a few minor circumstances, and because some individual LILCO employees have received awards. I do not belittle these efforts -- they are commendable. But we must keep in mind how limited these actions were; they are irrelevant to the scope and types of action that would be required in a radiological emergency. When LILCO has been required to act in response to a major event such as Hurricane Gloria, or to the simulation of the 1986 Exercise whose scenario LILCO created for itself, its performance has been inadequate. And, no matter how many gas line breaks LILCO might postulate, the severity and massive impact of a nuclear accident at Shoreham would create burdens on LILCO's workers that even the best gas-line repairman could probably not even imagine. Indeed, it is ridiculous for LILCO to compare a localized gas line break to the evacuation of hundreds of thousands of people under circumstances of a nuclear plant disaster. The fact that LILCO does this, again shows that LILCO does not take emergency planning seriously.



"amateurs" (LBP-88-2, at 6), not competent emergency workers; and LILCO's Plan is fundamentally flawed, including deficiencies in communications, training, mobilization of workers, public information, media relations, and handling emergency broadcast system matters.<sup>4/</sup> LBP-88-2 provides further corroboration of my judgment and Suffolk County's determination that the County could not and would not rely upon LILCO's plan or personnel. LILCO's plan is seriously flawed and unable to protect public safety, and LILCO's personnel are incompetent and inadequately trained to take effective emergency response actions. Therefore, in a radiological emergency situation at Shoreham, whatever response Suffolk County made, it would be without following LILCO's emergency plan or coordinating with LILCO or LERO. I emphasize that in such a situation, it would not even be realistic to consider working with LILCO. The citizens of Suffolk County would undoubtedly view LILCO as the culprit that recklessly forced Shoreham into operation over the public's overwhelming opposition. The accident would again prove LILCO's judgment to be worthless, and it would prove the public's to have been right. LILCO would be seen as having betrayed its promise that an accident was virtually certain not to happen. No Suffolk County official could then turn to LILCO for aid and advice on how to respond to the catastrophe which LILCO itself created. There

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<sup>4/</sup> LILCO asserts in its Memorandum of Law (p. 8) that its LERO personnel are "trained" to respond to a radiological emergency at Shoreham. Suffolk County's witnesses at the Exercise hearing, including expert police officers, conclusively demonstrated LILCO's assertion to be false, and LBP-88-2 underscores this fact.

would be public outrage toward LILCO and disbelief of anything LILCO was part of, including recommendations for protective actions, public information, and other emergency response actions.

8. LILCO urges that the County would be irresponsible if it were to act on its own. LILCO claims that the County would have to use LILCO's sirens and LILCO's radio messages and other resources because LILCO's methods are in LILCO's judgment the best way of protecting the public. LILCO is entitled to its views of what is "best" for itself, but LILCO does not speak for the County and has no basis or competence to claim what is "best" for the County or what our "best efforts" would be. The County speaks for itself through its Legislature and its County Executive. On Shoreham matters, we speak in one voice: Suffolk County would not use LILCO's Plan or resources because we believe LILCO's Plan is inadequate and unworkable. We thus have concluded that our "best efforts" would be exercised as described above -- acting on our own, without regard to LILCO's Plan or personnel.

9. I want to ensure that there is no misunderstanding of Suffolk County's policy: Suffolk County will not under any circumstances rely on LILCO's emergency plan or on LILCO's LERO personnel. I have directed my staff to gather all copies of LILCO's Plan in the County's possession, except for only three



copies which will be maintained to assist our litigation efforts. The Suffolk County Police Department ("SCPD") personnel who have served and/or may serve as witnesses will have one copy to share only for purposes of assisting with matters in litigation. Mr. Boyle, the County Attorney, will have one copy for purposes of assisting with matters in litigation. And Mr. Kurtter, my Deputy County Executive who oversees Shoreham matters, will have one copy for purposes of assisting with matters in litigation. All other copies of the Plan have been or are being sent to the County's outside litigation counsel, Kirkpatrick & Lockhart, for their use in litigation. It must be stressed, therefore, that County personnel know essentially nothing about LILCO's Plan, except for those few persons who have provided litigation support. And, these persons' knowledge of LILCO's Plan is thus limited to having identified, analyzed, and/or testified about inadequacies in the Plan and specific ways in which the Plan is deficient. These persons have not studied LILCO's Plan for any purpose of preparing or learning how to administer or implement the Plan. There has been and will be no planning or training whatsoever for County personnel to take any actions pursuant to LILCO's Plan or any other plan or to work with LILCO personnel.

10. It is my intent that the foregoing paragraphs put to rest conclusively LILCO's baseless statements that Suffolk County would ever rely on LILCO's Plan or personnel in an emergency.

Yet, there are a number of additional matters contained in LILCO's Motions that I wish to address below.

11. I am informed that LILCO asserts that in the event of an emergency, I or my representative would go to LILCO's Emergency Operations Center. It also is asserted that LILCO personnel would be permitted to come to the SCPD police headquarters in Yaphank to assist in briefing and dispatching County police. Indeed, LILCO would have the Licensing Board believe that the Suffolk County police would work with LILCO's Traffic Guides to implement the traffic and EPZ perimeter access control measures set forth in LILCO's Plan. LILCO also contends that its personnel would be given permission to remove obstructions such as accidents and stalled or broken down vehicles from the roadways and to provide fuel to motorists. LILCO's statements are false, and I reject them as pure fantasy. I would not go, nor would any County representative go, to LILCO's facility; and no LERO personnel would be permitted into the SCPD headquarters. Moreover, under no circumstances would the Suffolk County police work in partnership with LERO personnel to direct traffic or control access to evacuated areas of the EPZ. It is equally baseless for LILCO to suggest that the police would implement the traffic control portions of the LILCO Plan. They would not do so. Nor would I or any other County official give LILCO permission to remove roadway obstructions or to provide fuel to motorists during a Shoreham emergency. I repeat that LILCO's

actions over the years make LILCO a company whose judgment and competence Suffolk County and the public cannot trust or rely on. I would be derelict in my responsibilities if I were to work with LILCO in a radiological emergency situation when the public's lives and safety were in danger and when the public had to have confidence in their leaders and their leaders' judgment. Indeed, if in an emergency I were to turn to the discredited LILCO for help or advice, I would have no credibility with the public because neither I nor the public have any trust in LILCO. If I turned to LILCO, I would lose my effectiveness as a public official.

12. I am informed that LILCO claims that Suffolk County personnel would use LILCO's Plan and rely upon LERO personnel because New York State law, particularly Article 2-B of the New York Executive Law, and the Suffolk County Charter, call for the use of private resources in an emergency. LILCO's statement is false and seriously misleading. While New York law permits reliance in appropriate circumstances on a volunteer organization to carry out certain tasks, the clear premise of New York law is that a County Executive, before relying upon any volunteer organization, must consider the volunteer organization to be competent and helpful in performing needed emergency services. In the present instance, neither LILCO's judgment nor its competence is worthy of Suffolk County's trust. LILCO has demonstrated itself and its LERO organization to be grossly inadequate in its

structure, organization, composition, training, performance, and even purpose. Indeed, LERO has shown itself simply to be a cosmetic organization that LILCO has sought to use for the pro forma purpose of securing an NRC license, not an organization actually constituted to be able to provide effective emergency services in a nuclear accident where human lives and safety are on the line.<sup>5/</sup>

13. I am informed that LILCO asserts that Suffolk County in the past has merely offered "generalized denials" in stating that it would not rely upon LILCO or LILCO's Plan. LILCO's statement is false. Attachments 3-5 hereto do not constitute "generalized denials," but rather constitute detailed explanations of why Suffolk County, in the rational exercise of its police powers, has decided not to adopt or implement an emergency plan for Shoreham and why no County Executive could or would make use of LILCO's Plan or rely in any way on LILCO personnel in an emergency. These are pointed statements of principle and practical explanations detailed with chapter and verse specificity. The fact that LILCO persists in mischaracterizing these categorically clear statements and seeking to pass them off as inconsequential is, to Suffolk County, just another example of the cavalier

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<sup>5/</sup> For example, the County Charter permits the County to use "trained" radiological personnel. LILCO cites this provision at pages 5-6 of its Memorandum of Law. But LILCO omits a critical fact: LILCO's personnel are not trained and competent emergency workers on whom the County could rely. The County's witnesses at the Exercise hearing conclusively demonstrated this, and LBP-88-2 underscores it.

conduct, the lack of good faith, and the misdeeds LILCO has consistently manifested toward Suffolk County. In short, LILCO's claim is simply a distortion of the truth.

14. I am informed that LILCO asserts that the principal reason that Suffolk County would not use LILCO's Plan is Suffolk County's alleged disagreement with LILCO's choice of a 10-mile plume exposure emergency planning zone. LILCO's statement is false. The principal reason that Suffolk County would not use LILCO's Plan is that the Plan would not protect the public's safety, but would instead imperil public safety. Indeed, following an eight month, \$600,000 study and analysis by a team of nationally recognized experts, Suffolk County determined that an adequate emergency response, whether it be in the context of a 2, 10, or 20-mile EPZ, would not be possible to achieve.<sup>6/</sup> The County's determination was the basis of its resolution not to adopt or implement an emergency plan for Shoreham that was upheld

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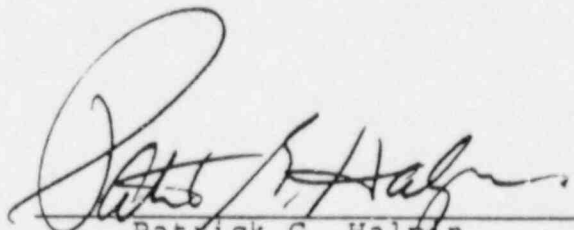
<sup>6/</sup> LILCO refers several times to the so-called Voorhees plan, i.e., the draft County plan which was developed in 1982 and rejected by Suffolk County in Resolution 111-1983. LILCO's references to that plan are irrelevant because the plan was rejected and is thus a nullity. The plan was a draft document prepared in 1982 by County consultants; when the draft was presented to the Legislature, and reviewed following extensive hearings, it was rejected on the merits. The draft was not distributed to County officials or departments for use under any circumstance. The County has devoted no resources to the implementation of the rejected plan or to any other plan. To my knowledge, no copies of that draft plan are even available to County response personnel. LILCO's references to Mr. Cohalan's statement that the Voorhees plan was the "best possible" plan are likewise irrelevant. The consultants were told to prepare the best possible plan; but that plan was not adequate and was rejected. LILCO's assertions that the rejected draft plan reflects how Suffolk County would act in a Shoreham emergency are baseless, false, and a distortion. LILCO has no right to arrogate to itself the power to speak for the County and attribute to the County the false statements that LILCO fabricates.



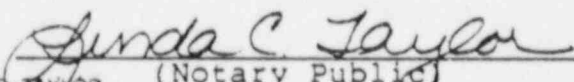
by the federal courts and the courts of New York as being lawful and rationally based. LILCO's claim, again, is simply a distortion.

15. I am informed that LILCO asserts at various places in its Motions that the NRC's new rule and the so-called "best efforts" principle require the Licensing Board to presume that in the event of a serious radiological emergency, Suffolk County would take actions which are contrary to Suffolk County law (Legislative Resolution 111-1983) and the sworn statements of two past Suffolk County Executives and myself. LILCO's assertions are false. The NRC's new rule permits no such presumption. Indeed, the new rule recognizes that local governments and State governments have the authority and responsibility to exercise their police powers in the manner which they deem serves the health, welfare, and safety of their citizens. Attachments 3-5 hereto, as well as the discussion in the body of     's Affidavit, explain thoroughly why Suffolk County has determined that its police power responsibilities require it not to adopt or implement an emergency plan for Shoreham and not to rely on LILCO's Plan or LILCO's personnel. Suffolk County has thus acted conclusively within the sphere of governmental responsibilities that is exclusively the County's. Neither LILCO nor the NRC is in a position to second guess how Suffolk County exercises its police powers, and any such suggestions of LILCO or the NRC would be both misguided and false. It is only this County government--

established by law and elected by the people it is constituted to serve--that can speak authoritatively of what the County would itself do in an emergency. The fact is that Suffolk County speaks through its elected officials: the County Legislature and the County Executive. The Legislature through duly enacted Resolutions, and the Executive through repeated statements and representations, including affidavits such as the instant affidavit, have spoken categorically and directly: Suffolk County would never follow or otherwise use LILCO's Plan or rely on, coordinate with, or otherwise work with LILCO's personnel in the event of a radiological emergency at the Shoreham plant. Any statement of LILCO or anyone else to the contrary is but mere fantasy.

  
Patrick G. Halpin

Sworn to and subscribed before me this 9<sup>th</sup> day of February 1988.

  
LINDA C. TAYLOR (Notary Public)  
NOTARY PUBLIC, State of New York  
No. 524615136 Suffolk County  
Commission Expires July 31, 1989

My Commission expires:



Summary of LILCO "Best Efforts" Assertions

CONTENTION

5&6: Activation of  
sirens, direct  
broadcast  
messaging making  
protective action  
decisions

LILCO VERSION OF A BEST EFFORTS  
GOVERNMENT RESPONSE

Pursuant to the LILCO version  
of a best efforts response, the  
Governments would:

- 1) "tell LERO to sound the  
sirens" (Motion at 2);
- 2) grant LERO permission to  
implement "certain elements of  
the emergency response"  
(Motion at 13), including  
notification, evacuation  
and/or early dismissal of  
schools (Motion at 14);
- 3) rely on the advice of the  
plant staff (Motion at 15);
- 4) use the Emergency Broadcast  
System messages written by  
LILCO (Motion at 16);
- 5) "direct the emergency response  
out of the LERO EOC"  
(Motion at 20).

CONTENTION

1&2 Direct traffic, block roadways, erect barriers on roadways, channel traffic during a Shoreham emergency.

LILCO VERSION OF A BEST EFFORTS  
GOVERNMENT RESPONSE

Pursuant to the LILCO version of a best efforts response, the Governments would:

- 1) "implement in the field the traffic control elements of the LILCO Plan" (Motion at 2);
- 2) be able to supply the communication system and police necessary to implement the traffic control elements of the LILCO Plan (Motion at 3);
- 3) notify, mobilize and dispatch the police to the traffic control points (Motion at 4);
- 4) have Suffolk County police assembled and briefed at Yaphank in two hours time (Motion at 5);
- 5) instruct Suffolk County police to direct traffic pursuant to the advice of LERO traffic guides and the guidance of the LILCO Plan rather than implement an ad hoc response of their own (Motion at 8);
- 6) grant permission for the LERO traffic guides to direct traffic in the event an adequate number of Suffolk County police fail to report (Motion at 10).

CONTENTION

LILCO VERSION OF A BEST EFFORTS  
GOVERNMENT RESPONSE

10 Provide access control  
at the perimeter of  
the E&Z

Pursuant to the LILCO version  
of a best efforts response, the  
Governments would:

- (1) "Suffolk County Police could  
and would provide long-term  
access control" (Motion at 4);
- (2) the best efforts response of  
the Suffolk County police  
would "be adequate to protect  
the public health and safety"  
(Motion at 7);
- (3) the Suffolk County police  
"would maintain EPZ perimeter  
control" and keep the public  
out of evacuated areas  
(Motion at 8).

4&9 Removing road  
obstructions and  
providing gasoline

Pursuant to the LILCO version  
of a best efforts response,  
the Governments would:

- (1) in a fast-breaking accident,  
give LERO permission via a  
telephone conversation to  
remove obstructions from the  
road and dispense gasoline to  
evacuees (Motion at 1);
- (2) in a slower developing  
accident, give permission to  
LERO at the LERO EOC to remove  
obstructions and dispense  
gasoline to evacuees  
(Motion at 1);

CONTENTION

LILCO VERSION OF A BEST EFFORTS  
GOVERNMENT RESPONSE

- (3) grant permission to LERO quickly (Motion at 2);
- (4) "certainly" allow LERO to clear road obstructions and dispense gasoline (Motion at 6).

7&8 Make and implement ingestion pathway, recovery and reentry decisions

Pursuant to the LILCO version of a best efforts response, the Governments would:

- (1) the State of New York would:
  - (a) implement its generic recovery and reentry and ingestion pathway procedures, using the LILCO Plan to compensate for the lack of a county plan (Motion at 2);
  - (b) "convene the State Recovery Committee" (Motion at 6);
  - (c) "function in the lead position for long-term radiological monitoring and medical follow-up for the general public." The County "would assist the State, using the LILCO Plan" (Motion at 13);
  - (d) "recommend protective actions and direct ingestion pathway activities for Nassau and Suffolk counties" (Motion at 19);
  - (e) use the LILCO Plan to maintain an inventory of dairy farms, food processing plants and State farms (Motion at 21);

CONTENTION

LILCO VERSION OF A BEST EFFORTS  
GOVERNMENT RESPONSE

- (2) Suffolk County would:
- (a) use the LILCO Plan and LERO resources (Motion at 2, 6);
  - (b) collect data on the needs of an affected area and submit that data to the State (Motion at 12);
  - (c) "follow its normal procedures for all other emergencies" (Motion at 12);
  - (d) provide security and fire protection (Motion at 14);
  - (e) determine the availability of transportation (Motion at 14);
  - (f) gather data and submit requests for federal aid (Motion at 14);
  - (g) would implement all of LERO's recovery and reentry procedures (Motion at 14);
  - (h) use LERO data and LERO decontamination and transportation resources and procedures (Motion at 16);

CONTENTION

LILCO VERSION OF A BEST EFFORTS  
GOVERNMENT RESPONSE

- (i) "use LILCO's ingestion pathway procedures and resources" (Motion at 19);
  - (j) use LILCO's procedures for writing EBS messages (Motion at 24);
  - (k) use LILCO's procedures for ingestion pathway (Motion at 25);
  - (l) be responsible for implementing all LERO/County activities and for coordinating with the State (Motion at 25);
- 3) the State and County would use the LILCO Emergency News Center (Motion at 24);
- (4) the State response to an ingestion pathway incident would be adequate (Motion at 26).

Examples of LILCO "Best Efforts" Statements

I. Introduction: Memorandum of Law on LILCO's Motions for  
Summary Disposition of Contentions 1-2 and 4-10

"Later on in the emergency contact [between LERO and Suffolk County] would be face-to-face, because Suffolk County, using its 'best efforts,' would send a representative to the LERO Emergency Operations Center (EOC)."

Memorandum at 4.

"In a real emergency, LERO workers would be permitted to perform specific functions under the direction of these [State and County] governmental authorities."

Memorandum at 4.

"[T]he State and County would order (or ask -- it makes no difference) LILCO to sound the sirens; the authorities would not refuse to do the best thing simply because it was part of the LILCO Plan . . . . [I]f plant conditions dictated that people should evacuate, the County would not refuse to evacuate them just because the LILCO Plan called for evacuation."

Memorandum at 12.



"The plain truth is that the authorities would do either what the LILCO plan calls for or something better."

Memorandum at 12.

II. LILCO's Motion for Summary Disposition of Contentions 5 and 6 (Making Decisions and Telling the Public)

"It is indisputable that the County would agree to sound the warning sirens if the public needed to be alerted, because the sirens are the best way to do it."

Motion at 2.

"[I]n the event that the County were faced with a phone call from LERO reporting that there was an emergency at the plant, that a Site Area or General Emergency had been declared, and that the public should be alerted, it is clear that the County would tell LERO to sound the sirens because the public deserve to be notified and because there is no reason not to alert them."

Motion at 2.

LILCO has revised this Summary Sheet, in light of the amendment to the emergency planning regulations, to provide the LERO Director with more specific instructions about how to . . . obtain permission to begin implementing certain elements of the emergency response."

Motion at 13.

"After getting permission to initiate the EBS message and sound the sirens, the LERO Director would suggest that the Suffolk County Executive go to the LERO EOC, would end the call, and would immediately implement OPIP 3.3.4, Prompt Notification System Activation."

Motion at 14-15.

"[T]he 'best efforts' principle dictates that the County Executive would have to rely on the best available information, and that is the advice of the plant staff, particularly when no other information is available."

Motion at 15.

"[T]he Suffolk County Executive would be no worse off than officials near other nuclear plants; any county executive faced with a 'fast-breaking' accident would be forced to rely, at least in the initial stages of the response, on the advice and recommendations of the utility's onsite experts."

Motion at 16.

"The question may remain whether the County Executive would allow the use of the EBS messages in the LILCO plan or spend time rewriting them. Obviously he would have the option of changing the messages if he wished. But the 'best efforts' principle requires that he use the pre-approved messages if immediate action is needed."

Motion at 16.

"It must be assumed that the County Executive or his designee would direct the emergency response out of the LERO EOC, simply because that is where the information he needs is to be found."

Motion at 20.

"The 'best efforts' principle dictates that the County would operate out of the LERO EOC."

Motion at 20.

"Since LERO personnel and the County officials at the LERO EOC would be able to work in coordination, the emergency response would be implemented with a minimum of delay or confusion. The Suffolk County Executive, or his representative, would be in charge and would have the responsibility for ordering the implementation of emergency response actions."

Motion at 23.

III. LILCO's Motion for Summary Disposition of  
Contentions 1 and 2 (Directing Traffic

"LILCO's position that the Board should summarily dispose of Contentions 1 and 2 is based on one disputable fact: the 'best efforts' of the Suffolk County police (working in cooperation with LERO) would be to implement in the field the traffic control elements of the LILCO Plan in the event of a Shoreham emergency."

Motion at 2.

"[T]here can be no question that the Suffolk County police could provide the personnel and communications system necessary to direct traffic during a Shoreham evacuation . . . . [T]here is also no question that the police, with assistance from LERO, would be able to implement the traffic control portion of the LILCO Plan without appreciable delay or confusion."

Motion at 3.

"When the 'best efforts' principle is applied to the existing record, a clear picture emerges how the police would respond during a Shoreham evacuation. Specifically, it is evident that the police could be notified and mobilized quickly, that they would know where to go once they were dispatched, and that they would understand what they needed to do once they arrived at the TCPs."

Motion at 4.

"The Board has found that LERO's Traffic Guides could report to their Staging Areas and be readied for dispatch within approximately two hours. The Suffolk County police would almost certainly be able to assemble and be briefed at Yaphank within the same time."

Motion at 5.

"The Traffic Guides would monitor the officers' radiological exposure and inform them if Protective Action Guidelines (PAGs) for permissible exposure were exceeded. Other than this, the police would probably not need any assistance in performing their duties."

Motion at 8.

"With a police 'best effort,' . . . traffic control would be performed in almost exactly the same way it would under the

LERO-only response which the Board has already examined and approved. The only difference is that Suffolk County police, rather than LERO Traffic Guides, would actually be directing traffic."

Motion at 8.

"The 'best efforts' principle forecloses the argument that the police would drastically deviate from the LILCO plan, or simply ignore the advice of trained traffic guides, in favor of some spur-of-the-moment, ad hoc response of their own. Common sense refutes the argument that the police, trying their best, would somehow spoil the emergency response out of ignorance or incompetence."

Motion at 8.

"If in such circumstances some LERO Traffic Guides were mobilized and dispatched before enough police could be mobilized and briefed, these Traffic Guides could be given permission to direct traffic by themselves."

Motion at 10.

IV. LILCO's Motion for Summary Disposition of  
Contention 10 (Access Control at the EPZ Perimeter

"LILCO submits that, given the 'best efforts' principle, there is no question that the Suffolk County police could and would provide long-term access control if necessary."

Motion at 4.



"[T]he 'best efforts' principle of 10 CFR § 50.47(c)(1) compels the conclusion that the police would provide long-term control if necessary."

Motion at 5.

"[T]he police's 'best efforts' would certainly be adequate to protect the public health and safety."

Motion at 7.

"[S]ince under the 'best efforts' principle the police would maintain EPZ perimeter control, the public would be effectively kept out of those evacuated areas."

Motion at 8.

V. LILCO's Motion for Summary Disposition of Contentions 4 and 9 (Tow Trucks and Fuel Trucks)

"In a real emergency LERO would get permission from Suffolk County (or, as a back-up, from New York State) before removing any obstructions from the roads or giving any gasoline to evacuees. In a fast-breaking accident LERO would get permission from the County Executive by telephone, as detailed in the accompanying LILCO's Motion for Summary Disposition of Contentions 5 and 6 (Making Decisions and Telling the Public). In a more likely slower-developing accident, permission would be obtained face-to-face from a County representative at the LERO EOC."

Motion at 1.

"[P]ermission to do their jobs would be obtained and transmitted to the (LERO) road crews very quickly."

Motion at 2.

"[T]hey (the LERO road crews) would not do their emergency jobs until told to by the EOC, which would first have received permission from Suffolk County."

Motion at 5.

"[I]n an emergency the LERO Director of Local Response would ordinarily receive permission to perform needed functions from the County Executive."

Motion at 5.

"[W]hen the LERO Director, at the EOC, got permission from the County (or State) to remove obstructions and give gas to motorists, he would relay the information to the Road Logistics Coordinator, also in the EOC."

Motion at 5.

"When informed that an obstruction needed to be cleared, the Suffolk County Executive, using his 'best efforts' to protect people, would certainly allow LERO to clear it. If there were an evacuation, he would certainly allow LERO to provide gas rather than let evacuees' cars run dry."

Motion at 6.

"In an emergency requiring the evacuation of the public from around the Shoreham plant if an obstruction occurred on the roads that would hinder evacuating motorists, Suffolk County would permit LERO personnel to remove the obstruction unless there were a better way to remove it."

Motion, Attachment 1.

"In an emergency requiring the evacuation of the public from around Shoreham, Suffolk County would permit LERO to give fuel to members of the public who needed it to evacuate."

Motion, Attachment 1.

VI. LILCO's Motion for Summary Disposition of Contentions 7 and 8 (Ingestion Pathway and Recovery and Reentry)

"[T]he State can apply its recovery and reentry and ingestion pathway procedures in the generic plan section of the State Plan to a Shoreham emergency."

Motion at 2.

"[D]uring a Shoreham emergency, the State of New York would implement its generic recovery and reentry and ingestion pathway procedures since they are not site-specific and would use the LILCO Plan as needed to compensate for the fact that no county plan for Shoreham has been appended to the generic section of the State Plan. Suffolk County, on the other hand, would fulfill its clearly defined

responsibilities in the State Plan by using the LILCO Plan and LERO resources."

Motion at 2.

"During a Shoreham emergency, using its 'best efforts,' the State would direct recovery and reentry activities, using its own procedures, and Suffolk County would use the LILCO Plan and LERO's resources to meet its responsibilities."

Motion at 5.

"If there were an emergency at Shoreham, a 'best efforts' response would require that the State convene the State Recovery Committee. The Committee would be comprised of the same State personnel and its members would be charged with the same responsibilities enumerated in the State's recovery procedures."

Motion at 5.

"At this point in the emergency, Suffolk County will have been working side-by-side with LERO, using the LILCO Plan, since the onset of the emergency. Since Suffolk County has no recovery plans for a Shoreham emergency, it would continue to use the LILCO Plan to coordinate its participation in the recovery phase until recovery and reentry is accomplished."

Motion at 6.

"The Suffolk County Executive and the Director of Local Response would continue working together during the recovery and reentry phase. The County Executive would retain full responsibility for local decisionmaking and would direct the County's response to the emergency. Meanwhile, the Director of Local Response would serve as an advisory to the County Executive. The County Commissioner of Fire, Rescue and Emergency Services or his designee would work with the Manager of Local Response and would chair the Recovery Action Committee. Similarly, the County Commissioner of the Department of Health Services or his designee would work with the Health Services Coordinator; the County Commissioner of Police or his designee would work with the Evacuation Coordinator; and the County Public Information Officer or his designee would work with the Coordinator of Public Information."

Motion at 8.

"The 'best efforts principle requires that the State would commence recovery operations for Shoreham based on these four major considerations. Since the State applies the Plan generically to all other nuclear power plants in New York, it can apply it to Shoreham without modification. Thus, precisely how the State would respond to a Shoreham emergency is clear, as the following sections show."

Motion at 9.

"Since the State will be implementing its recovery and reentry procedures, this division of responsibilities will also occur during a Shoreham emergency. The State would follow its procedures and Suffolk County would fulfill its role in the State Plan by using LILCO's recovery procedures and resources."

Motion at 10.

"The same decisionmaking process and coordination between the State and County would occur during a Shoreham emergency. The LERO Coordinator of Public Information would work with the County Public Information Officer to disseminate information on the local level."

Motion at 11.

"The County Executive would be responsible for collecting data on the needs of the affected areas and submitting that data to the State."

Motion at 12.

"Suffolk County's involvement in this area does not require special planning for a radiological emergency. Rather, the County would follow its normal procedures for all other emergencies."

Motion at 12.



"During the recovery/reentry phase of a Shoreham emergency, the State would function in the lead position for long-term radiological monitoring and medical follow-up for the general public. The State would implement the same radiological monitoring activities and decisions for a Shoreham emergency that it would for any other power plant in New York State. Suffolk County would assist the State, using the LILCO Plan, in any manner that the State deemed appropriate."

Motion at 13.

"Consequently, the only functions that a county performs independently of the State are (1) providing security and fire protection, (2) determining the availability of transportation, and (3) gathering data and submitting them for federal aid. None of these functions require special radiological expertise. Rather, they are the types of activities that counties normally perform during any emergency. The only function that may require special assistance during a Shoreham emergency would be assessing the transportation needs of the public."

Motion at 14.

"Even though the LILCO Plan duplicates many of the State's activities, Suffolk County would still implement all of

LERO's recovery and reentry procedures during a Shoreham emergency."

Motion at 14.

"[B]ased on the 'best efforts' principle, the State would implement its procedures completely."

Motion at 14.

". . . Suffolk County, using 'best efforts,' would implement the LILCO Plan to fulfill its responsibilities in the State Plan."

Motion at 14-15.

"The State will perform its functions and use their data in making protective action recommendations to the County. The County will take LERO's data under advisement in its discussions with the State about what protective measures to take."

Motion at 15-16.

"Since Suffolk County has no decontamination procedures in place, the County would use LERO's resources. The State, however, retains the responsibility for deciding when to begin these activities; LERO would not initiate environmental decontamination without direction from the County and/or the State."

Motion at 16.

"Since LERO has arrangements for transportation in place, Suffolk County would use LERO's resources."

Motion at 16.

"The County Executive would make decisions about where to set up traffic control points on the advice of the LERO Evacuation Coordinator and the County Commissioner of Police. The Suffolk County Executive would decide whether LERO traffic guides should be used during the reentry process."

Motion at 16-17.

"Any communications activities implemented by LERO would be at the direction of Suffolk County."

Motion at 17.

"LERO would not perform any security functions on public grounds other than helping with traffic control at the County Executive's request.

Motion at 17.

"The Manager of Local Response and the County Commissioner of Fire, Rescue and Emergency Services will jointly chair the Recovery Action Committee and, as such, would be responsible for the implementation of these tasks. They would brief the County Executive and the Director of Local Response on the status of reentry operations. The County Executive would take this information under advisement and would confer with the State on what protection action should be implemented."

Motion at 17.

"The best efforts principle requires that the State implement its radiological ingestion exposure procedure during a Shoreham emergency and use the LILCO Plan wherever site-specific procedures and information are needed. As such, the State would recommend protective actions and direct ingestion pathway activities for Nassau and Suffolk Counties, the only two counties in the Shoreham 50-mile ingestion pathway."

Motion at 19.

"Obviously the State is prepared to mobilize its district offices on Long Island for an ingestion pathway response. Therefore, they could do the same for Shoreham."

Motion at 19.

"[T]he 'best efforts' principle dictates that Suffolk County use LILCO's ingestion pathway procedures and resources in response to such an emergency."

Motion at 19.

"[S]tate agencies provide the necessary resources to protect the public health, property, and the environment."

Motion at 20.

"Departments of Health, Agriculture and Markets, Environmental Conservation, State Police, and Transportation, the State Emergency Management Office (SEMO), and the Radiological Emergency Preparedness Group (REPG) will participate in assessing the impact of the radiological emergency on the ingestion pathway and will work with local governments in their response."

Motion at 20-21.

"[T]he State would rely on the LILCO Plan which maintains complete lists of dairy farms, food processors, duck farms,

beef farms, fruit farms, vegetable and potato farms, farm stands, milk dealers, and ice cream plants."

Motion at 21.

"[T]he 'best efforts' principle requires the State and County to follow the LILCO Plan which calls for using the ENC for this purpose."

Motion at 24.

"The County, however, would use LILCO's procedures for writing EBS messages."

Motion at 24.

"The 'best efforts' principle requires Suffolk County to use the LILCO Plan in response to an emergency at Shoreham. Since the State performs most ingestion pathway response activities, Suffolk County can easily fulfill its designated functions in the State Plan by using LILCO's procedures for ingestion pathway."

Motion at 25.

"Both LERO and the State can perform these functions without working at a cross purposes since the County Executive would be responsible for implementing all LERO/County activities and for coordinating them with the State."

Motion at 25.



"There can be no question that the State's response to an ingestion pathway incident would be adequate."

Motion at 26.

Introduced by Legislator - Wehrenberg, Caracappa, D'Andre, Geise, Allgrove, Back  
Prospect, Foley, Nolan, Blass, Rizzo, LaBua, Devlin, Mariton, Beck

RESOLUTION NO. 111 - 1983, CONSTITUTING THE FINDINGS  
AND DETERMINATIONS OF SUFFOLK COUNTY ON WHETHER  
A LEVEL OF EMERGENCY PREPAREDNESS TO RESPOND  
TO A RADIOLOGICAL ACCIDENT AT THE SHOREHAM  
NUCLEAR POWER STATION CAN PROTECT THE HEALTH,  
WELFARE AND SAFETY OF THE RESIDENTS OF  
SUFFOLK COUNTY

WHEREAS, Suffolk County has a duty under the Constitution of the State of New York, the New York State Municipal Home Rule Law, and the Suffolk County Charter to protect the health, safety, and welfare of the residents of Suffolk County; and

WHEREAS, the Long Island Lighting Company ("LILCO") is constructing and desires to operate the Shoreham Nuclear Power Station ("Shoreham"), located on the north shore of Long Island near the town of Wading River, a location which is within the boundaries of Suffolk County; and

WHEREAS, a serious nuclear accident at Shoreham could result in the release of significant quantities of radioactive fission products; and

WHEREAS, the release of such radiation would pose a severe hazard to the health, safety, and welfare of Suffolk County residents; and

WHEREAS, in recognition of the effects of such potential hazard posed at Shoreham on the duty of Suffolk County to protect the health, safety, and welfare of its citizens, this Legislature on March 23, 1982, adopted Resolution No. 262-1982, which directed that Suffolk County prepare a "County Radiological Emergency Response Plan to serve the interest of the safety, health, and welfare of the citizens of Suffolk County . . ."; and

WHEREAS, in Resolution 262-1982, the Legislature determined that the plan developed by the County "shall not be operable and shall not be deemed adequate and capable of being implemented until such time as it is approved by the Suffolk County Legislature"; and

WHEREAS, in adopting Resolution 262-1982, the Legislature found that earlier planning efforts by LILCO and County planners (the "original planning data") were inadequate because they failed to address the particular problem posed by conditions on Long Island and further failed to account for human behavior during a radiological emergency and the lessons of the accident at Three Mile Island; and

WHEREAS, on March 29, 1982, Peter F. Cohalan, Suffolk County Executive acting to implement Resolution 262-1982, by Executive Order established the Suffolk County Radiological Emergency Response Plan Steering Committee ("Steering Committee") and directed it to prepare a County plan for submittal to the County Executive and County Legislature; and

WHEREAS, the Steering Committee assembled a group of highly qualified and nationally recognized experts from diverse disciplines to prepare such County plan; and

WHEREAS, such highly qualified experts worked in a diligent and conscientious effort at a cost in excess of \$500,000 to prepare the best possible plan for Suffolk County, and particularly to ensure that such plan took into account all particular physical and behavioral conditions on Long Island that affect the adequacy of the emergency response plan; and

WHEREAS, the analyses, studies, and surveys of such experts included:

- (a) Detailed analyses of the possible releases of radiation from Shoreham;
- (b) Detailed analyses of the radiological health consequences of such radiation release on the population of Suffolk County, given meteorological, demographic, topographical, and other specific local conditions on Long Island;
- (c) A detailed social survey of Long Island residents to determine and assess their intended behavior in the event of a serious accident at Shoreham;
- (d) A detailed survey of school bus drivers, volunteer firemen, and certain other emergency response personnel to determine whether emergency personnel intend to report promptly for emergency duties, or instead to unite with their own families, in the event of a serious accident at Shoreham;
- (e) Detailed estimates of the number of persons who would be ordered to evacuate in the event of a serious accident at Shoreham, as well as the number of persons who intend to evacuate voluntarily even if not ordered to do so;
- (f) Detailed analyses of the road network in Long Island and the time required to evacuate persons from areas affected by radiological releases;
- (g) Detailed analyses of the protective actions available to Suffolk County residents to evacuate or take shelter from such radiological releases; and
- (h) Analysis of the lessons learned from the accident at Three Mile Island on local government responsibilities to prepare for radiological emergency; and

WHEREAS, on May 10, 1982, LILCO, without the approval or authorization of the Suffolk County Government, submitted to the New York State Disaster Preparedness Commission ("DPC") two volumes entitled "Suffolk County Radiological Emergency Response Plan" and containing the original planning data as further revised and supplemented by LILCO, and requested the DPC to review and approve such LILCO submittal as the local radiological emergency response plan for Suffolk County; and

WHEREAS, in Resolutions 456-1982 and 457-1982, the County further addressed the matter of preparing for a radiological emergency at Shoreham and emphasized that:

- (a) The LILCO-submitted document was not and will not be the County's Radiological Emergency Response Plan; and

(D) The County's Radiological Emergency Response Planning Policy, enunciated in Resolution 456-1982, is as follows:

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been fully developed to the best of the County's ability.

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been subject of at least two public hearings, one to be held in Riverhead, and one to be held in Hauppauge.

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been approved, after public hearings, by the Suffolk County Legislature and the County Executive; and

WHEREAS, on June 9, 1982, the DPC rejected the LILCO-submitted document for the reason that it was deficient; and

WHEREAS, on October 6, 1982, LILCO, again without the approval or authorization of the Suffolk County Government, submitted to the DPC an amended version of the previously submitted LILCO document which had been rejected by the DPC; and

WHEREAS, on December 2, 1982, the Draft County Radiological Emergency Response Plan authorized by Resolution 262-1982 was submitted to the County Legislature for review and public hearings as specified in Resolutions 262-1982, 456-1982, and 457-1982; and

WHEREAS, in January 1983, the Legislature held hearings on the Draft County plan, which hearings included:

- (a) More than 1,590 pages of transcripts;
- (b) Detailed written statements and oral testimony of County expert consultants who prepared the Draft County plan;
- (c) Detailed written statements and oral testimony of LILCO officials and expert consultants retained by LILCO;
- (d) Detailed written statements and oral testimony of the Suffolk County Police Department, the County Health Department, the County Social Services department, and the County Public Works Department, all of which would have indispensable roles in responding to a radiological emergency at Shoreham;
- (e) Detailed written statements and oral testimony of organizations in Suffolk County concerned with radiological emergency preparedness; and
- (f) Extensive presentations by hundreds of members of the general public; and

WHEREAS, members of the Legislature also travelled to and held public hearings in the vicinity of the Three Mile Island Nuclear Power Plant to gain information on the lessons to be learned by local governments from the accident at Three Mile Island; and

WHEREAS, the Draft County plan identifies evacuation and protective sheltering as the two primary protective actions which would need to be implemented in the event of a serious accident at Shoreham; and

WHEREAS, evacuation of Suffolk County residents in the event of a radiological emergency could take as much time as 14-30 hours because of various factors, including: the limited number of appropriate evacuation routes in Suffolk County; difficulties in mobilizing police and other emergency personnel; difficulties ensuing from spontaneous evacuation of large numbers of County residents, thus creating severe traffic congestion; and unavailability of alternate evacuation routes for persons residing east of Shoreham and thus the necessity for such persons during an evacuation to pass by the plant and possibly through the radioactive plume; and

WHEREAS, evacuation times in excess of 10 hours -- and certain evacuation times in the range of 14-30 hours -- will result in virtual immobilization of evacuation and high exposure of evacuees to radiation such that evacuees' health, safety, and welfare would not be protected; and

WHEREAS, protective sheltering is designed to protect persons from excessive radiation exposure by such persons staying indoors until radiation with the greatest danger to health has passed; and

WHEREAS, if protective sheltering were ordered for Suffolk County residents, unacceptable radiation exposure would still be experienced by substantial portions of the Suffolk County population, thus making it impossible to provide for the health, welfare, and safety of these residents; and

WHEREAS, the document submitted by LILCO to the DPC without County approval or authorization is deficient because it does not deal with the actual local conditions, physical and behavioral, on Long Island that would be encountered during a serious nuclear accident at Shoreham; and

WHEREAS, the document submitted by LILCO to the DPC without County approval or authorization does not ensure that effective protective action for persons subject to radiation exposure, in the form of evacuation or sheltering, could be taken in event of a serious nuclear accident at Shoreham, and thus such document, even if implemented, would not protect the health, safety, and welfare of Suffolk County residents; and

WHEREAS, the extensive data which the Legislature has considered make clear that the site-specific circumstances and actual local conditions existing on Long Island, particularly its elongated east/west configuration which requires all evacuation routes from locations east of the plant to pass within a zone of predicted high radiation, the ineffectiveness of protective sheltering, the severe traffic congestion likely to be experienced if a partial or complete evacuation were ordered, and the difficulties in ensuring that emergency personnel will promptly report for emergency duties, preclude any emergency response plan, if implemented, from providing adequate preparedness to protect the health, welfare, and safety of Suffolk County residents; now, therefore, it



RESOLVED, that the draft County plan submitted to the County Legislature December 2, 1982, if implemented, would not protect the health, welfare, and safety of Suffolk County residents and thus is not approved and will not be implemented; and be it further

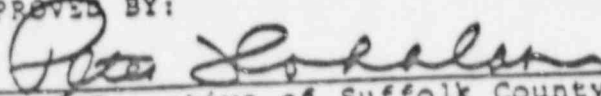
RESOLVED, that the document submitted by LILCO to the DPC without the County approval or authorization, if implemented, would not protect the health, welfare, and safety of Suffolk residents and thus will not be approved and will not be implemented; and be it further

RESOLVED, that since no local radiological emergency response plan for a serious nuclear accident at Shoreham will protect the health, welfare, and safety of Suffolk County residents, and since the preparation and implementation of any such plan would be misleading to the public by indicating to County residents that their health, welfare, and safety are being protected when, in fact, such is not the case, the County's radiological emergency planning process is hereby terminated, and no local radiological emergency plan for response to an accident at the Shoreham plant shall be adopted or implemented; and be it further

RESOLVED, that since no radiological emergency plan can protect the health, welfare, safety of Suffolk County residents and, since no radiological emergency plan shall be adopted or implemented by Suffolk County, the County Executive is hereby directed to take all actions necessary to assure that actions taken by any other governmental agency, be it State or Federal, are consistent with the decisions mandated by this Resolution.

DATED: February 17, 1983

APPROVED BY:

  
County Executive of Suffolk County

Date of Approval: 2/23/83



## COUNTY OF SUFFOLK



March 10, 1987

Mr. Victor Stello  
Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Stello:

On behalf of the government of Suffolk County, we are writing in reply to your letter of February 20, 1987, which responds to the January 16 letter of the Suffolk County Executive. The County Executive's letter had corrected certain of your statements quoted in the press that mischaracterized the actions of Suffolk County concerning the Shoreham nuclear power plant. Your February 20 letter rejects the County Executive's corrections and reiterates even more emphatically the mischaracterizations you made earlier.

The message of your February 20 letter is clear: the Staff of the NRC has decided that public safety does not matter at Shoreham; that what matters only is putting the plant into operation. You have converted the Staff's role in the Shoreham licensing proceedings from participant in the case to champion of the cause -- LILCO's cause. In short, you have betrayed the Staff's responsibility to the public in these proceedings. It is time for you to take remedial actions.

Accordingly, first, the government of Suffolk County requests that you immediately disqualify yourself and the rest of the Staff from participating further as a party in the Shoreham proceedings. The Staff has subordinated its own identity to that of LILCO, and permitting the Staff to continue to participate as a purportedly impartial party would be nothing but a ruse. Section 0.735-3(a)(6) of the NRC's Regulations requires that the Staff "not give or appear to give favored treatment or competitive advantage to any member of the public." The Staff

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cannot satisfy this standard: your February 20 letter is a manifesto of the Staff's favor and partisanship toward LILCO; a declaration of hostility toward Suffolk County.

Second, Suffolk County requests that you appear before a Special Session of the County Legislature. Your February 20 letter parades a bias that stems either from ignorance of the facts or from design. We want to know the sources upon which you rely for information concerning emergency planning at Shoreham. With whom from LILCO and other entities outside the NRC have you met, and what have they said? What private conversations have you held with NRC Commissioners? What is your true purpose in putting LILCO's interests above those of Suffolk County's citizens? The citizens of Suffolk County have the right to know the full story behind your actions concerning emergency planning issues at Shoreham.

Finally, we request that you digest the facts presented in this letter. To begin, the County Executive's January 16 letter corrected your misstatement that in a "real emergency" Suffolk County would cooperate with LILCO and "follow LILCO's plan." The Executive informed you that your statement was unfounded and incorrect, and transmitted documents, including Suffolk County Resolution No. 111-1983, to explain in detail the reasons for his statement that, "I would not use the authority of this government to implement LILCO's emergency plan or to work in concert with LILCO to effect an emergency response to an accident at Shoreham."

Your February 20 letter demeans the County Executive's statement. In scarcely veiled terms, you accuse the County Executive and the County Legislature of being liars, and even boast that you "continue to stand behind" your earlier misstatements. This presumptuousness does not suit an appointed NRC employee addressing the elected government of 1.3 million people.

The fact is that the government of Suffolk County would never use LILCO's emergency plan, or work in concert with LILCO, or rely upon LILCO's advice or judgment in a nuclear emergency. Whatever our actions, they would not include LILCO or LILCO's plan. This is the result of the County government having absolutely no confidence in the judgment or competence of LILCO. The June 23, 1986 statement of the Suffolk County Executive, which I sent you on January 16, explains the reasons in detail.

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Your February 20 letter persists in mischaracterizing the emergency planning actions of Suffolk County. You write of the "refusal" of the County to participate in emergency planning and charge the County with "intransigence." The facts belie your words.

In fact, Suffolk County has participated thoroughly in emergency planning. In March 1982, we retained a team of nationally recognized experts at a cost of \$600,000, directed them to prepare the "best possible" plan, and gave them free rein to do that. Eight months later, when the experts completed their draft plan and the extensive studies, analyses, and surveys that accompanied it, the County Legislature held eight days of open hearings at which specialists from around the country, including LILCO's consultants and officials, and members of the public testified. Sixteen hundred pages of testimony were compiled. Thereafter, the County Legislature travelled to Three Mile Island to meet with local government officials and the public in order to learn first-hand the lessons of the 1979 nuclear accident.

In February 1983, the County Legislature analyzed the emergency planning materials and testimony before it and concluded that in the event of a serious nuclear accident at Shoreham, it would not be possible to evacuate or otherwise protect the public. The bases for this determination are stated in Resolution No. 111-1983: among them are the limited roadway network, population densities, and other physiographic conditions which would cause people who were attempting to evacuate, instead to become stuck in gridlock. These people, therefore, would be exposed to the very radiation from which they were directed to flee.

The government of Suffolk County had two choices: to adopt an emergency plan, or to resolve not to adopt one. To have done the former would have misled the public into believing they were being protected when in fact they were not. To do the latter would be to tell the truth: that the adoption of an emergency plan would merely put an ineffective paper plan on the shelf and lull the public into a sense of false security. This government was elected to tell the public the truth and to protect their welfare. That is what we did resolving in County Resolution No. 111-1983 not to adopt or implement an emergency plan.

Suffolk County's Resolution No. 111-1983 and the County's actions were challenged by LILCO in Federal court. The County won the case: the Court ruled that the Resolution is lawful and rationally based. LILCO also challenged the Resolution in State court. The New York Court of Appeals upheld the County's decision not to adopt a plan. In short, the County lawfully exercised its police powers.

It is clear to us that you accuse Suffolk County of "refusing" to participate in emergency planning only because you do not like the result of the County's emergency planning process -- that is, the decision not to adopt or implement an emergency plan. The reason for your view presumably is that the County's actions do not enable the NRC to license Shoreham. If Suffolk County had followed the identical emergency planning process it used, but instead decided to adopt an emergency plan, we believe you would now be praising the County for its "participation" in emergency planning. You cannot have it both ways: The County in fact participated thoroughly in emergency planning and, as part of that participation, acted lawfully to protect the welfare of its citizens. For the same reasons that you would praise a County decision to adopt a plan, fair-mindedness requires that you accept the County decision not to adopt one.

Your February 20 letter states, "The record of this protracted proceeding also shows various state and local permits for environmental monitoring, building and zoning were also sought by LILCO and approved." This is a contrived and misleading statement, apparently intended by you to convey the impression that the County promoted the construction of Shoreham, and only as a last minute device to prevent operation of the plant raised the emergency planning issue. The impression you seek to convey is false. The fact is that in issuing whatever permits for Shoreham that you have in mind, the County did not address, and was not required to address, the feasibility of evacuating Long Island's residents in a nuclear emergency. The permits you have in mind presumably dealt with whether LILCO satisfied local building and other codes. The permits did not deal with whether safe evacuation was possible. Indeed, the agencies with the opportunity to address radiological emergency preparedness issues were the AEC and NRC, when LILCO applied for a permit to construct Shoreham and thereafter. However, they refused to address the issues. It is thus the AEC and NRC, along with LILCO, who are responsible for building Shoreham without taking into account whether safe evacuation is possible.

Moreover, in 1977, when LILCO applied for an operating license and the County intervened in the NRC's proceeding, the County raised the issue of whether evacuation was feasible at Shoreham. This was three years before the NRC even had a rule requiring an effective local emergency plan. The County's action followed the persistent efforts, begun in 1970, of a Long Island citizens group that had intervened in the Shoreham construction permit proceeding to raise and litigate the emergency planning issue before the AEC. In 1973, at the strong urging of LILCO and the AEC Staff, the AEC ruled that the citizens group could not raise or litigate the emergency planning issue at that time. The issue was postponed by the AEC until the "operating license



stage." Therefore, it is clear that the only reasons that emergency planning issues were not considered before construction of Shoreham was well underway were (1) because LILCO insisted on this and the AEC agreed; and (2) because the NRC did not require the issue to be thoroughly examined until the adoption of its post-Three Mile Island regulations in 1980.

You know well that the turning point for all concerned with radiological emergency planning was the Three Mile Island accident, when the Kemeny Commission, Congress, and the NRC itself heralded the need for workable local emergency preparedness. Indeed, all of the major investigations into the emergency preparedness aspects of Three Mile Island concluded that workable local emergency preparedness is a key to effective response to a nuclear accident. The investigators implored local governments to approach this responsibility seriously. NRC officials who travelled across the country holding workshops echoed the need for effective local involvement in emergency planning. No one had the temerity to suggest that a County which had extensively examined emergency preparedness for a nuclear plant within its jurisdiction, drafted the best possible emergency plan, and lawfully determined that the public could not be protected would be confronted with NRC Staff efforts to license the operation of the plant on the basis of a utility's illegal emergency plan. This is precisely the action of the NRC Staff in the Shoreham case.

The fact is that Shoreham was sited by LILCO and construction of the plant was approved by the AEC when emergency planning was given little attention. As late as 1979, before the Three Mile Island accident, the NRC's regulations did not require a local emergency plan as a condition of licensing a plant. The NRC required only that the utility submit "procedures for notifying, and agreements reached" with local governments that were of a general nature. Your letter of February 20 evidences the Staff's willingness to license Shoreham under circumstances which do not comply even with the NRC's discredited pre-Three Mile Island regulations.

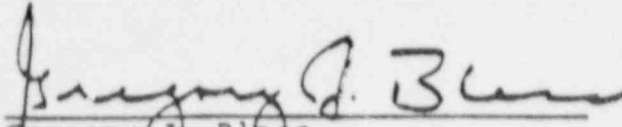
Your February 20 letter discloses the refusal of the Staff to confront reality. Indeed, reality is that (1) Suffolk County has participated extensively in emergency planning and has rationally determined safe evacuation and other protection of the public to be impossible; (2) the County's determination has been upheld in Federal and State courts; and (3) LILCO's substitute emergency plan has been held by New York State courts to be illegal and not implementable. By choosing to rationalize LILCO's licensing objective in the Shoreham proceedings, rather than advocating reality, you have become stuck with promoting the following fantasy: that in the absence of County, State, or

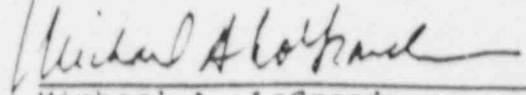
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implementable LILCO emergency plans, the public still would be protected by a not implementable emergency plan which has been lawfully opposed by County government in order to protect the public's welfare.

We look forward to your early reply.

Sincerely,

  
Gregory J. Blass  
Presiding Officer  
Suffolk County Legislature

  
Michael A. LoGrande  
Suffolk County Executive

cc: NRC Service List

STATEMENT OF SUFFOLK COUNTY EXECUTIVE

PETER F. COHALAN

JUNE 23, 1986

I AM ISSUING THIS STATEMENT TO ENSURE THAT THERE ARE NO MISUNDERSTANDINGS OF MY POSITION WITH RESPECT TO THE SHOREHAM NUCLEAR POWER STATION. I AM PARTICULARLY MOTIVATED TO MAKE THIS STATEMENT BECAUSE LILCO HAS MISSTATED MY POSITION IN EFFORTS TO PERSUADE FEDERAL AGENCIES TO LICENSE SHOREHAM. LET THE RECORD BE CLEAR: I AM OPPOSED TO THE LICENSING OF SHOREHAM.

IN FACT, I HAVE NEVER SUPPORTED THE LICENSING OF SHOREHAM FOR COMMERCIAL OPERATION. ON MAY 30, 1985, I GAVE QUALIFIED SUPPORT ONLY TO A TEST OF LILCO'S EMERGENCY PLAN ON THE CONDITION THAT THERE WOULD BE PARTICIPATION OF THE SUFFOLK COUNTY GOVERNMENT. HOWEVER, ON JUNE 10, 1985, THE NEW YORK STATE SUPREME COURT, AND LATER THE APPELLATE DIVISION AND THE COURT OF APPEALS, RULED THAT I COULD NOT CHANGE COUNTY POLICY BY COMMITTING COUNTY PERSONNEL AND RESOURCES TO A TEST. IN RESPONSE, I WITHDREW MY MAY 30, 1985, POSITION, AND ON NOVEMBER 7, 1985, FORMALLY REQUESTED THE NUCLEAR REGULATORY COMMISSION NOT TO CONDUCT A TEST OF LILCO'S EMERGENCY PLAN.

ON FEBRUARY 13, 1986, OVER THE OBJECTIONS OF THE COUNTY LEGISLATURE AND MYSELF, LILCO CONDUCTED A TEST OF ITS EMERGENCY PLAN. I STATED THEN THAT THE EXERCISE AMOUNTED TO "THEATER OF



THE ABSURD." THE TEST WAS UNREALISTIC AND WAS CLEARLY DESIGNED TO CONVEY FALSE IMPRESSIONS OF LILCO'S COMPETENCE. WE ON LONG ISLAND WERE NOT DECEIVED; WE HAVE FIRST-HAND EXPERIENCE WITH LILCO'S LACK OF COMPETENCE -- LET'S NOT FORGET THE \$1.35 BILLION IMPRUDENCE FINDING AND LILCO'S RESPONSE TO HURRICANE GLORIA. I FEEL THAT THE ONLY SIGNIFICANT ASPECT OF THE FEBRUARY 13 TEST CAME AFTERWARD, WHEN THE REGIONAL DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FRANK PETRONE, ANNOUNCED THAT LILCO'S EMERGENCY PLAN DOES NOT PROVIDE REASONABLE ASSURANCE THAT THE PUBLIC WOULD BE PROTECTED IN THE EVENT OF A NUCLEAR ACCIDENT AT SHOREHAM. IN SHORT, MR. PETRONE, SAID SHOREHAM SHOULD NOT BE LICENSED TO OPERATE.

SINCE FEBRUARY 1983, IT HAS BEEN CLEAR TO SUFFOLK COUNTY THAT THE OPERATION OF SHOREHAM WOULD CREATE A POTENTIAL DISASTER FOR THE PUBLIC. AFTER EXTENSIVE AND COSTLY STUDIES, ANALYSES, AND SURVEYS, PUBLIC HEARINGS, AND A TRIP TO THE THREE MILE ISLAND VICINITY, THIS GOVERNMENT CONCLUDED THAT THE PUBLIC COULD NOT BE SAFELY EVACUATED OR OTHERWISE PROTECTED IF THERE WERE A SERIOUS ACCIDENT AT SHOREHAM. THE COUNTY GOVERNMENT, HAVING BEEN ESTABLISHED FOR THE PURPOSE OF PROTECTING THE PUBLIC'S WELFARE, THEREFORE, HAD ONLY TWO CHOICES: TELL THE PUBLIC THE TRUTH THAT THEY COULD NOT BE PROTECTED; OR DECEIVE THEM BY ADOPTING AN EMERGENCY PLAN THAT WOULD LULL THEM INTO BELIEVING THEY WERE BEING PROTECTED WHEN IN FACT THEY WERE NOT.

SUFFOLK COUNTY CHOSE WHAT IT WAS OBLIGATED TO DO: IN RESOLUTION 111-1983, IT TOLD ITS CITIZENS THE TRUTH. THUS, THE COUNTY RESOLVED NOT TO ADOPT OR IMPLEMENT AN EMERGENCY PLAN FOR SHOREHAM. THIS DECISION WAS UPHELD BY FEDERAL AND STATE COURTS. IT WAS ALSO UPHELD BY GOVERNOR CUOMO AFTER EXTENSIVE ANALYSES BY THE MARBURGER COMMISSION.

UNFORTUNATELY, LILCO HAS REFUSED TO ACCEPT THE FACT THAT SHOREHAM SHOULD NOT OPERATE. FOR INSTANCE, AFTER RESOLUTION 111-1983, WAS ADOPTED, THE COUNTY INFORMED THE NRC OF OUR ACTION, AND ASKED THAT AGENCY TO APPLY ITS REGULATIONS BY DENYING LILCO A LICENSE TO OPERATE SHOREHAM. AT LILCO'S URGING, THE NRC REJECTED OUR REQUEST AND, INSTEAD, STARTED A 3-YEAR CONTORTED PROCESS OF GIVING LILCO CHANCE-AFTER-CHANCE TO CONCOCT A SCHEME BY WHICH TO LICENSE THE PLANT.

AT THE SAME TIME, LILCO LOBBIED TO ENLIST FEDERAL OFFICIALS TO SUPPORT LICENSING SHOREHAM. LILCO'S SUCCESSES PEAKED LAST YEAR WHEN PRESIDENT REAGAN'S SECRETARY OF ENERGY ANNOUNCED THAT SHOREHAM SHOULD BE LICENSED TO OPERATE OVER THE OBJECTIONS OF SUFFOLK COUNTY AND NEW YORK STATE. HE DID THIS IN THE FACE OF THE PRESIDENT'S OWN POLICY ON SHOREHAM, WRITTEN OCTOBER 11, 1984, THAT THE REAGAN ADMINISTRATION DOES NOT FAVOR THE IMPOSITION OF FEDERAL AUTHORITY AT SHOREHAM OVER THE OBJECTIONS OF NEW YORK STATE AND SUFFOLK COUNTY.

I HAVE RECITED THIS BRIEF HISTORY TO BRING THE SHOREHAM SITUATION UP TO DATE. BY NOW, EVERY FAIR-MINDED PERSON MUST REALIZE THAT SAFE EVACUATION OF THE PUBLIC WOULD NOT BE POSSIBLE IF THERE WERE A SERIOUS NUCLEAR ACCIDENT AT SHOREHAM. THE OVERWHELMING MAJORITY OF SUFFOLK COUNTY'S RESIDENTS AND ALMOST EVERY LONG ISLAND ELECTED OFFICIAL ARE OPPOSED TO THE LICENSING OF SHOREHAM. AND BOTH THE NRC'S LICENSING AND APPEAL BOARD'S HAVE REJECTED LILCO'S BID FOR A LICENSE. BUT DESPITE ALL OF THIS, THE CASE IS NOT OVER. WHY IS THAT?

THE REASON IS THAT LILCO PERSISTS IN TRYING TO LICENSE SHOREHAM AND IS NOW ORCHESTRATING THE BIGGEST DECEPTION OF ALL: EVEN THOUGH THE NEW YORK STATE SUPREME COURT AND THE NRC'S LICENSING AND APPEAL BOARDS HAVE RULED THAT LILCO CANNOT IMPLEMENT ITS EMERGENCY PLAN, THE NUCLEAR REGULATORY COMMISSION, AT LILCO'S URGING, IS CONSIDERING A LILCO REQUEST TO LICENSE SHOREHAM WITHOUT THERE BEING ANY IMPLEMENTABLE EMERGENCY PLAN. THIS IS A PRESCRIPTION FOR DISASTER. IN THE WAKE OF CHERNOBYL, IT IS A RECKLESS DISREGARD FOR THE SAFETY OF THE RESIDENTS OF LONG ISLAND.

SPECIFICALLY, LILCO IS PRESSING THE NRC TO LICENSE SHOREHAM ON THE BASIS OF A FICTION IT HAS CREATED AND DUBBED "REALISM." THIS FICTION GOES ON AS FOLLOWS: SHOREHAM SHOULD BE LICENSED EVEN THOUGH THERE IS NO IMPLEMENTABLE EMERGENCY PLAN, BECAUSE IF THE PLANT WERE LICENSED AND IF THERE WERE AN ACCIDENT AT

SHOREHAM, THE STATE AND COUNTY WOULD IN REALITY ACT IN RESPONSE TO THE ACCIDENT AND THIS AD HOC "RESPONSE" WOULD SOMEHOW PROTECT THE PEOPLE. LILCO ARGUES THAT THIS SET OF HYPOTHETICALS WOULD COMPLY WITH THE NRC'S REGULATIONS AND PROVIDE A BASIS FOR THE LICENSING OF SHOREHAM. IT WOULD NOT. LILCO'S FICTION IS ILLEGAL AND ILLOGICAL; IT IS BORN OF CYNICISM AND INDIFFERENCE TO THE PUBLIC'S SAFETY.

FIRST, LILCO'S FICTION RETRIEVES THE DISCREDITED THEORY ON WHICH THE NRC LICENSED NUCLEAR PLANTS BEFORE THE THREE MILE ISLAND ACCIDENT. THEN, THERE WAS NO PRE-PLANNING OR INTEGRATED PLANNING REQUIRED FOR STATE AND LOCAL GOVERNMENTS WITH THE UTILITY. THE NRC SIMPLY ASSUMED THAT IF THERE WERE AN ACCIDENT, THE GOVERNMENTS WOULD KNOW HOW TO ACT ALONE AND WITH OTHERS IN RESPONSE. THE THREE MILE ISLAND ACCIDENT PROVED THIS ASSUMPTION TO BE WRONG. FOLLOWING THREE MILE ISLAND, CONGRESS PASSED LAWS AND THE NRC MADE REGULATIONS THAT REQUIRE PRE-PLANNING AND INTEGRATED PREPAREDNESS. THERE IS NO PRE-PLANNING OR INTEGRATED PREPAREDNESS AT SHOREHAM.

SECOND, LILCO'S FICTION PRESUMES THAT STATE AND LOCAL GOVERNMENTS NOT ONLY WOULD RESPOND TO AN ACCIDENT, BUT THAT THEIR RESPONSE WOULD WORK TO PROTECT THE PUBLIC. THUS, LILCO CLAIMS, THE PUBLIC WOULD BE PROTECTED EVEN THOUGH THE GOVERNMENTS HAVE NO

PRE-PLANNING, OR KNOWLEDGE OF INVENTORY OF AVAILABLE RESOURCES, NO PERSONNEL READINESS, AND NO TRAINING. SUCH A PRESUMPTION IS UNFOUNDED; FARCICAL AT BEST.

THIRD, LILCO'S FICTION PORTRAYS SUFFOLK COUNTY ACTING IN CONCERT WITH LILCO IF THERE WERE AN ACCIDENT AT SHOREHAM. HOWEVER, COUNTY LAW PROHIBITS COUNTY PERSONNEL FROM IMPLEMENTING LILCO'S EMERGENCY PLAN. EVEN IF IT DID NOT, THE COUNTY COULD NOT RESPONSIBLY ACT IN CONCERT WITH LILCO AND ITS EMERGENCY PLAN. THE COUNTY'S STUDIES, ANALYSES, AND SURVEYS, TOGETHER WITH OUR DAY-TO-DAY EXPERIENCES ON LONG ISLAND WITH THE LIMITED ROAD NETWORK AND THE CONFINED GEOGRAPHY, HAVE CONVINCED US THAT SAFE EVACUATION OF THE PUBLIC IS NOT POSSIBLE IN A SHOREHAM ACCIDENT. LILCO'S EMERGENCY PLAN IS A GUIDELINE FOR TRAFFIC-JAM GRIDLOCK AND AN IMMOBILIZED EVACUATION WHERE HUNDREDS OF THOUSAND OF LONG ISLAND'S RESIDENTS WOULD BE TRAPPED TO ABSORB THE RADIATION THEY SOUGHT TO FLEE. THIS COUNTY WOULD NOT ACT IN CONCERT WITH SUCH A GUIDELINE FOR DISASTER.

FOURTH, LILCO'S FICTION RESTS ON THE SURMISE THAT THE COUNTY WOULD HAVE CONFIDENCE IN LILCO, OR THAT IT WOULD RELY ON LILCO BECAUSE THERE WOULD BE NO ONE ELSE ON WHICH TO RELY. THIS IS FALSE. THERE IS NO CORPORATION ON LONG ISLAND WITH SO LOW A STANDING WITH THE PUBLIC AND LOCAL GOVERNMENTS AS LILCO. THERE IS EVEN A STRONG AND CREDIBLE EFFORT TODAY TO EFFECT A PUBLIC

TAKEOVER OF THIS COMPANY. IN AN EMERGENCY OR OTHERWISE, THE PUBLIC AND THE COUNTY GOVERNMENT WOULD HAVE NO CONFIDENCE IN LILCO. WE COULD NOT, AND WOULD NOT, LOOK TO SUCH A DISCREDITED SOURCE FOR GUIDANCE OR ASSISTANCE IN A NUCLEAR ACCIDENT. INDEED, LILCO WOULD BE THE OBJECT OF THE PUBLIC'S WRATH BECAUSE IT CAUSED THE ACCIDENT. IT WOULD BE THE ENTITY WHICH STEAMROLLED SHOREHAM INTO OPERATION OVER THE PUBLIC AND GOVERNMENTS' OBJECTIONS. IN SUCH CIRCUMSTANCES, IT WOULD BETTER SERVE THE PUBLIC'S INTEREST TO ACT ALONE THAN TO ENTRUST THE PUBLIC WEAL TO MORE OF LILCO'S POOR JUDGMENTS.

MOREOVER, LILCO'S RESPONSE TO HURRICANE GLORIA LAST OCTOBER LIVES INDELIBLY AS A LESSON TO EVERYONE ON LONG ISLAND. IN THE POTENTIALLY CATASTROPHIC CIRCUMSTANCES OF A NUCLEAR ACCIDENT, WE WOULD NEVER RELY UPON OR ACT IN CONCERT WITH A COMPANY THAT COULD NOT EVEN PUT THE LIGHTS BACK ON FOR DAYS.

FIFTH, LILCO'S FICTION HAS PROMPTED THE COMPANY TO EXTEND ITS PLEAS FOR LICENSING SHOREHAM TO SHAMEFUL LIMITS. ON JUNE 11, 1986, LILCO'S COUNSEL WROTE THE NRC, CLAIMING THAT STATE LAW REQUIRES THE COUNTY TO TAKE ACTIONS IN AN EMERGENCY THAT PURPORTEDLY WOULD JUSTIFY THE NRC PUTTING SHOREHAM INTO OPERATION. THIS CLAIM MISSTATES THE LAW. IT WOULD NEVER BE "APPROPRIATE" OR "NECESSARY" FOR THE COUNTY TO TAKE ACTIONS IN PURSUIT OF LILCO'S ILLEGAL EMERGENCY PLAN.



FINALLY, IN THE SAME LETTER OF JUNE 11, LILCO ENSHRINES ITS FICTION WITH THE FOLLOWING WORDS: "...THE LILCO PLAN PROVIDES A BASIS FOR A PRIVATE/GOVERNMENTAL PARTNERSHIP THAT COULD AND WOULD BE EFFECTIVE TO PROTECT THE PUBLIC IN A REAL EMERGENCY, WHEN POLITICAL POSTURING WOULD BE ABANDONED AND THE SAFETY OF THE PUBLIC WOULD BE GIVEN PARAMOUNT IMPORTANCE." THIS IS MORE FANTASY. [ I REITERATE WHAT IS IN ESSENCE STATED ABOVE: NEITHER SUFFOLK COUNTY NOR I AS COUNTY EXECUTIVE HAS ANY "PARTNERSHIP" WITH LILCO; THERE IS NO "BASIS FOR A PRIVATE/GOVERNMENTAL PARTNERSHIP" OF ANY KIND WITH LILCO; THE COUNTY HAS NO CONFIDENCE OR TRUST IN LILCO; AND IN AN EMERGENCY, THE COUNTY WOULD GIVE NO CREDENCE TO LILCO OR ITS PLAN AND WOULD NOT WORK IN CONCERT WITH LILCO. INDEED, IN AN EMERGENCY, THE PUBLIC OF SUFFOLK COUNTY -- SHOWN BY RESPECTED POLLS TO OPPOSE SHOREHAM BY MORE THAN 75 PERCENT -- COULD NOT TRUST THEIR OWN GOVERNMENTS OFFICIALS IF WE, IN TURN, LOOKED TO THE DISCREDITED LILCO FOR GUIDANCE OR ADVICE.]

TO MAKE CERTAIN THAT LILCO'S MISCHARACTERIZATIONS OF MY POSITION 'RE BROUGHT TO AN END, I SHALL TRANSMIT A COPY OF THIS STATEMENT TO LILCO, THE NRC, AND FEMA. I SHALL ALSO EXPRESSLY NULLIFY MY JUNE 26, 1985 LETTER TO LILCO'S COUNSEL AND SHALL RESCIND EXECUTIVE ORDER 2-1985. BOTH OF THESE DOCUMENTS HAVE EFFECTIVELY BEEN NULLIFIED BY EARLIER ACTIONS; HOWEVER, LILCO'S PERSISTENT MISSTATEMENTS (SUCH AS IN ITS JUNE 11 LETTER) PROMPT ME TO CLEAR THE SLATE SO THAT NO PERSON CAN CONCOCT FURTHER



FICTIONS. I AM ALSO DESIGNATING CHIEF DEPUTY COUNTY EXECUTIVE FRANK JONES, AS MY REPRESENTATIVE, TO FOLLOW THESE MATTERS AND TO COORDINATE AS NECESSARY AND APPROPRIATE WITH THE COUNTY LEGISLATURE AND WITH THE ATTORNEYS HANDLING SHOREHAM MATTERS.

LILCO HAS LOBBIED IN WASHINGTON AND ELSEWHERE TO CHARACTERIZE SHOREHAM AS A LITMUS TEST FOR NUCLEAR POWER. THUS, LILCO SEEKS TO TRANSFORM THE SHOREHAM CASE INTO THE SHOREHAM CAUSE. THIS IS A DECEPTION. SUFFOLK COUNTY IS NOT ANTI-NUCLEAR, AND WE HAVE NO SUCH POLICY. INDEED, BROOKHAVEN NATIONAL LABORATORY IS IN OUR MIDST. THE COUNTY IS SIMPLY IN FAVOR OF DOING WHAT WE WERE ELECTED BY OUR CITIZENS TO DO: TO PROTECT THEIR WELL-BEING AND TO BE TRUTHFUL. LILCO DOES NOT LIKE THIS, BECAUSE THE RESULT PUTS THE COUNTY AGAINST THE MISTAKE LILCO MADE AT SHOREHAM. BUT IN A DEMOCRACY, THE PUBLIC GOOD CANNOT BE DISREGARDED. SHOREHAM IS A MISTAKE; GOVERNMENT SHOULD NOT COMPOUND THE MISTAKE OF HAVING PERMITTED SHOREHAM TO BE BUILT WITH THE MISTAKE OF LETTING SHOREHAM OPERATE.

THE SHOREHAM CONTROVERSY HAS OVER THE PAST FOUR YEARS GROWN TO CONFLICT AND CONFRONTATION. THIS IS NOT SOMETHING WE RELISH. TO STEP BACK FROM THE TRENCHES AND VIEW THE BROADER SCALE, ONE CAN ONLY WISH THAT LILCO HAD SEIZED THE OPPORTUNITY TO ABANDON SHOREHAM IN 1983 OR EVEN SOONER, WHEN THE INVESTMENT WAS BILLIONS LESS. WE WOULD STILL WELCOME SUCH A LILCO DECISION TODAY.

BUT, THE FACT IS THAT WE HAVE A FIGHT ON OUR HANDS. LILCO REMAINS BLIND TO THE REALITY WHY SHOREHAM SHOULD NOT OPERATE. TO LILCO, CHERNOBYL NEVER HAPPENED, FEMA'S REGIONAL DIRECTOR NEVER RESIGNED OVER SHOREHAM, THE WHITE HOUSE CHIEF OF STAFF NEVER ADMITTED LONG ISLAND CANNOT BE EVACUATED, SUFFOLK COUNTY DID NOT WIN COURT VICTORIES UPHOLDING THE LEGALITY OF THE COUNTY'S POLICIES ON SHOREHAM, AND LONG ISLAND'S GEOGRAPHY IS NO DIFFERENT FROM ANYWHERE ELSE. INDEED, LILCO IS EVEN IMPERVIOUS TO THE OUTPOURING OF OPPOSITION TO SHOREHAM FROM EVERY CORNER OF LONG ISLAND. VIRTUALLY EVERY ELECTED OFFICIAL OPPOSES SHOREHAM, THE GOVERNOR OPPOSES SHOREHAM, AND THE PUBLIC OVERWHELMINGLY OPPOSES SHOREHAM.

I REMAIN CONFIDENT THAT SUFFOLK COUNTY WILL PREVAIL. WE ARE RIGHT, AND WE HAVE THE PUBLIC'S UNYIELDING SUPPORT. THE REASON IS THAT A BASIC TRUTH HAS DRIVEN THIS COUNTY FROM THE START: IT WOULD NOT BE POSSIBLE TO EVACUATE OR OTHERWISE PROTECT THE PUBLIC IF THERE WERE A SERIOUS NUCLEAR ACCIDENT AT THE SHOREHAM PLANT. SHOREHAM SHOULD NOT OPEN.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

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In the Matter of

LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power  
Station, Unit 1)

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

AFFIDAVIT OF MICHAEL A. LOGRANDE

Michael A. LoGrande, being under oath, deposes and says as follows:

1. I am the County Executive of Suffolk County, New York, and have held that position since December 27, 1986. As County Executive, I am authorized to direct the County's response to emergencies.

2. On January 16, 1987, in response to certain publicly reported misstatements made by Mr. Victor Stello, Executive Director for Operations, United States Nuclear Regulatory Commission, I sent Mr. Stello a letter informing him of the positions of Suffolk County (and my own as Chief Executive Officer of the County) concerning the LILCO Plan and the County's

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actions in a Shoreham emergency if the Shoreham plant were to be licensed to operate. Likewise, on March 10, 1987, I, along with Gregory J. Blass, Presiding Officer of the Suffolk County Legislature, again corresponded with Mr. Stello on those subjects. The January 16, 1987 and March 10, 1987 letters are attached hereto as Exhibits A and B. I hereby affirm those statements, affirm that they are truthful and accurate, and affirm that they continue to represent my position as Suffolk County Executive and the position of Suffolk County on the subjects discussed therein.

3. On June 23, 1986, my predecessor in this office, Peter F. Cohalan, issued a Statement to correct misstatements made by LILCO concerning LILCO's so-called "realism" argument, and related matters. That statement is attached to Exhibit A, my letter of January 16, 1987. I hereby affirm that the County's position regarding the LILCO Plan, LILCO's "realism" argument, and the licensing of the Shoreham plant remains as set forth in Mr. Cohalan's June 23, 1986 Statement, and that Mr. Cohalan's statement truthfully and accurately represents the position of Suffolk County.

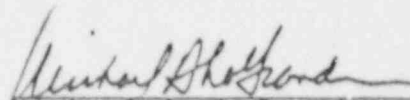
4. On February 17, 1983, the Suffolk County Legislature adopted Resolution No. 111-1983, which was approved by the Suffolk County Executive on February 23, 1983. A copy of Resolution No. 111-1983 is also attached to Exhibit A, my letter of January 16, 1987. Resolution No. 111-1983 is the law of

Suffolk County, and it reflects certain of the findings and conclusions of the County concerning an offsite response to a radiological emergency at the Shoreham plant.

5. It has come to my attention that in "LILCO's Second Renewed Motion For Summary Disposition of the 'Legal Authority' Issues (Contentions EP 1-10)," dated March 20, 1987, LILCO asserts that the County is in possession of 18 controlled copies of the LILCO Plan, and that the County's officials are "familiar" with the Plan by virtue of their participation in the emergency planning litigation before the Nuclear Regulatory Commission. These assertions are incorrect. To the best of my knowledge, the County is in possession of 8 copies of the LILCO Plan. Only 5 of the Plans are up-to-date and, of those, 4 are in the possession of the SCPD for purposes of preparing testimony for hearings before this and other Boards.

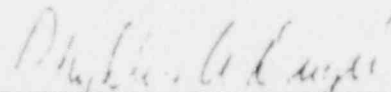
6. Neither I, nor my deputies, nor any members of my staff have in our possession the current version of the LILCO Plan. I have never reviewed the LILCO Plan and none of my deputies or staff has ever reviewed that plan with one exception -- Mr. Frank Petrone, who reviewed portions of an earlier version of LILCO's Plan while employed by FEMA, and has reviewed portions of LILCO's Plan in connection with the preparation of testimony in the Shoreham Exercise proceeding. To my knowledge, no County

official or employee is sufficiently knowledgeable of the LILCO Plan to implement all or a portion of it, with or without LILCO assistance.



Michael A. LoGrande  
Suffolk County Executive

Subscribed to and sworn before me this 8<sup>th</sup> day of May,  
1987.



Notary Public  
State of New York at Large

My commission expires:

PHYLLIS A. DUGRE  
NOTARY PUBLIC, State of New York  
No. 52-6117675, Suffolk County  
Term Expires October 31, 1988

COUNTY OF SUFFOLK

Exhibit A



OFFICE OF THE COUNTY EXECUTIVE

MICHAEL A. LOGRANDE  
SUFFOLK COUNTY EXECUTIVE

January 16, 1987

Mr. Victor Stello  
Executive Director for Operations  
U. S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Stello:

On December 27, 1986, I took office as the Suffolk County Executive. I am writing in this capacity to correct two misstatements by you that were reported in the enclosed Newsday article of January 4, 1987.

First, you state that the problems concerning emergency planning for Shoreham "are all a direct result of the lack of participation by state and local governments." Your statement is unfounded and incorrect. The emergency planning problems at Shoreham are a direct result of the decision to construct the Shoreham plant where a nuclear power plant does not belong. That decision was made by LILCO and approved by the NRC. LILCO and the NRC are thus the ones responsible for the "problems" to which you allude.

Second, you state,

"If there was [sic] a real emergency, there is no doubt that those people pledged to help protect the public would follow LILCO's plan. I'm convinced they would do anything to protect the public, and that means following a structured plan. Unless they have a plan we don't know about, that means they would follow LILCO's plan."

Again, your statement is unfounded and incorrect.

Suffolk County has determined after extensive analyses that under no circumstances would it follow LILCO's emergency plan or work in concert with LILCO to effect an emergency response to an accident at Shoreham. For your information, enclosed are copies



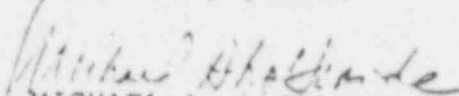
Mr. Victor Stello  
January 16, 1987  
Page 2

of Suffolk County Resolution 111-1983 and the June 23, 1986 statement of the former Suffolk County Executive. These documents reflect the conscientiousness of the County and provide thoroughly considered bases for the County's determinations.

For the reasons elaborated in the enclosed documents, I emphasize that as County Executive, I would not use the authority or resources of this government to implement LILCO's emergency plan or to work in concert with LILCO to effect an emergency response to an accident at Shoreham. Suffolk County has found LILCO's plan to be unworthy and unworkable. The County would not, and could not, rely on such a discredited plan.

Moreover, in recent years LILCO has repeatedly demonstrated itself to possess poor and untrustworthy judgment. For example, after holding full hearings, the State Public Service Commission denied LILCO recovery of \$1.3 billion of Shoreham's costs because of LILCO's "imprudence" and "gross mismanagement" during construction of the plant. The County would not, and could not, rely on the guidance or advice of such a company in an emergency. If the County did, its citizens could not trust their own government.

Very truly yours,

  
MICHAEL A. LOGRANDE  
Acting County Executive

MAL:fmn  
Enclosures

STATEMENT OF SUFFOLK COUNTY EXECUTIVE

PETER F. COHALAN

JUNE 23, 1986

I AM ISSUING THIS STATEMENT TO ENSURE THAT THERE ARE NO MISUNDERSTANDINGS OF MY POSITION WITH RESPECT TO THE SHOREHAM NUCLEAR POWER STATION. I AM PARTICULARLY MOTIVATED TO MAKE THIS STATEMENT BECAUSE LILCO HAS MISSTATED MY POSITION IN EFFORTS TO PERSUADE FEDERAL AGENCIES TO LICENSE SHOREHAM. LET THE RECORD BE CLEAR: I AM OPPOSED TO THE LICENSING OF SHOREHAM.

IN FACT, I HAVE NEVER SUPPORTED THE LICENSING OF SHOREHAM FOR COMMERCIAL OPERATION. ON MAY 30, 1985, I GAVE QUALIFIED SUPPORT ONLY TO A TEST OF LILCO'S EMERGENCY PLAN ON THE CONDITION THAT THERE WOULD BE PARTICIPATION OF THE SUFFOLK COUNTY GOVERNMENT. HOWEVER, ON JUNE 10, 1985, THE NEW YORK STATE SUPREME COURT, AND LATER THE APPELLATE DIVISION AND THE COURT OF APPEALS, RULED THAT I COULD NOT CHANGE COUNTY POLICY BY COMMITTING COUNTY PERSONNEL AND RESOURCES TO A TEST. IN RESPONSE, I WITHDREW MY MAY 30, 1985, POSITION, AND ON NOVEMBER 7, 1985, FORMALLY REQUESTED THE NUCLEAR REGULATORY COMMISSION NOT TO CONDUCT A TEST OF LILCO'S EMERGENCY PLAN.

ON FEBRUARY 13, 1986, OVER THE OBJECTIONS OF THE COUNTY LEGISLATURE AND MYSELF, LILCO CONDUCTED A TEST OF ITS EMERGENCY PLAN. I STATED THEN THAT THE EXERCISE AMOUNTED TO "THEATER OF

THE ABSURD." THE TEST WAS UNREALISTIC AND WAS CLEARLY DESIGNED TO CONVEY FALSE IMPRESSIONS OF LILCO'S COMPETENCE. WE ON LONG ISLAND WERE NOT DECEIVED; WE HAVE FIRST-HAND EXPERIENCE WITH LILCO'S LACK OF COMPETENCE -- LET'S NOT FORGET THE \$1.35 BILLION IMPRUDENCE FINDING AND LILCO'S RESPONSE TO HURRICANE GLORIA. I FEEL THAT THE ONLY SIGNIFICANT ASPECT OF THE FEBRUARY 13 TEST CAME AFTERWARD, WHEN THE REGIONAL DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FRANK PETRONE, ANNOUNCED THAT LILCO'S EMERGENCY PLAN DOES NOT PROVIDE REASONABLE ASSURANCE THAT THE PUBLIC WOULD BE PROTECTED IN THE EVENT OF A NUCLEAR ACCIDENT AT SHOREHAM. IN SHORT, MR. PETRONE, SAID SHOREHAM SHOULD NOT BE LICENSED TO OPERATE.

SINCE FEBRUARY 1983, IT HAS BEEN CLEAR TO SUFFOLK COUNTY THAT THE OPERATION OF SHOREHAM WOULD CREATE A POTENTIAL DISASTER FOR THE PUBLIC. AFTER EXTENSIVE AND COSTLY STUDIES, ANALYSES, AND SURVEYS, PUBLIC HEARINGS, AND A TRIP TO THE THREE MILE ISLAND VICINITY, THIS GOVERNMENT CONCLUDED THAT THE PUBLIC COULD NOT BE SAFELY EVACUATED OR OTHERWISE PROTECTED IF THERE WERE A SERIOUS ACCIDENT AT SHOREHAM. THE COUNTY GOVERNMENT, HAVING BEEN ESTABLISHED FOR THE PURPOSE OF PROTECTING THE PUBLIC'S WELFARE, THEREFORE, HAD ONLY TWO CHOICES: TELL THE PUBLIC THE TRUTH THAT THEY COULD NOT BE PROTECTED; OR DECEIVE THEM BY ADOPTING AN EMERGENCY PLAN THAT WOULD LULL THEM INTO BELIEVING THEY WERE BEING PROTECTED WHEN IN FACT THEY WERE NOT.

SUFFOLK COUNTY CHOSE WHAT IT WAS OBLIGATED TO DO: IN RESOLUTION 111-1983, IT TOLD ITS CITIZENS THE TRUTH. THUS, THE COUNTY RESOLVED NOT TO ADOPT OR IMPLEMENT AN EMERGENCY PLAN FOR SHOREHAM. THIS DECISION WAS UPHELD BY FEDERAL AND STATE COURTS. IT WAS ALSO UPHELD BY GOVERNOR CUOMO AFTER EXTENSIVE ANALYSES BY THE MARBURGER COMMISSION.

UNFORTUNATELY, LILCO HAS REFUSED TO ACCEPT THE FACT THAT SHOREHAM SHOULD NOT OPERATE. FOR INSTANCE, AFTER RESOLUTION 111-1983, WAS ADOPTED, THE COUNTY INFORMED THE NRC OF OUR ACTION, AND ASKED THAT AGENCY TO APPLY ITS REGULATIONS BY DENYING LILCO A LICENSE TO OPERATE SHOREHAM. AT LILCO'S URGING, THE NRC REJECTED OUR REQUEST AND, INSTEAD, STARTED A 3-YEAR CONTORTED PROCESS OF GIVING LILCO CHANCE-AFTER-CHANCE TO CONCOCT A SCHEME BY WHICH TO LICENSE THE PLANT.

AT THE SAME TIME, LILCO LOBBIED TO ENLIST FEDERAL OFFICIALS TO SUPPORT LICENSING SHOREHAM. LILCO'S SUCCESSES PEAKED LAST YEAR WHEN PRESIDENT REAGAN'S SECRETARY OF ENERGY ANNOUNCED THAT SHOREHAM SHOULD BE LICENSED TO OPERATE OVER THE OBJECTIONS OF SUFFOLK COUNTY AND NEW YORK STATE. HE DID THIS IN THE FACE OF THE PRESIDENT'S OWN POLICY ON SHOREHAM, WRITTEN OCTOBER 11, 1984, THAT THE REAGAN ADMINISTRATION DOES NOT FAVOR THE IMPOSITION OF FEDERAL AUTHORITY AT SHOREHAM OVER THE OBJECTIONS OF NEW YORK STATE AND SUFFOLK COUNTY.

I HAVE RECITED THIS BRIEF HISTORY TO BRING THE SHOREHAM SITUATION UP TO DATE. BY NOW, EVERY FAIR-MINDED PERSON MUST REALIZE THAT SAFE EVACUATION OF THE PUBLIC WOULD NOT BE POSSIBLE IF THERE WERE A SERIOUS NUCLEAR ACCIDENT AT SHOREHAM. THE OVERWHELMING MAJORITY OF SUFFOLK COUNTY'S RESIDENTS AND ALMOST EVERY LONG ISLAND ELECTED OFFICIAL ARE OPPOSED TO THE LICENSING OF SHOREHAM. AND BOTH THE NRC'S LICENSING AND APPEAL BOARD'S HAVE REJECTED LILCO'S BID FOR A LICENSE. BUT DESPITE ALL OF THIS, THE CASE IS NOT OVER. WHY IS THAT?

THE REASON IS THAT LILCO PERSISTS IN TRYING TO LICENSE SHOREHAM AND IS NOW ORCHESTRATING THE BIGGEST DECEPTION OF ALL: EVEN THOUGH THE NEW YORK STATE SUPREME COURT AND THE NRC'S LICENSING AND APPEAL BOARDS HAVE RULED THAT LILCO CANNOT IMPLEMENT ITS EMERGENCY PLAN, THE NUCLEAR REGULATORY COMMISSION, AT LILCO'S URGING, IS CONSIDERING A LILCO REQUEST TO LICENSE SHOREHAM WITHOUT THERE BEING ANY IMPLEMENTABLE EMERGENCY PLAN. THIS IS A PRESCRIPTION FOR DISASTER. IN THE WAKE OF CHERNOBYL, IT IS A RECKLESS DISREGARD FOR THE SAFETY OF THE RESIDENTS OF LONG ISLAND.

SPECIFICALLY, LILCO IS PRESSING THE NRC TO LICENSE SHOREHAM ON THE BASIS OF A FICTION IT HAS CREATED AND DUBBED "REALISM." THIS FICTION GOES ON AS FOLLOWS: SHOREHAM SHOULD BE LICENSED EVEN THOUGH THERE IS NO IMPLEMENTABLE EMERGENCY PLAN, BECAUSE IF THE PLANT WERE LICENSED AND IF THERE WERE AN ACCIDENT AT

SHOREHAM, THE STATE AND COUNTY WOULD IN REALITY ACT IN RESPONSE TO THE ACCIDENT AND THIS AD HOC "RESPONSE" WOULD SOMEHOW PROTECT THE PEOPLE. LILCO ARGUES THAT THIS SET OF HYPOTHETICALS WOULD COMPLY WITH THE NRC'S REGULATIONS AND PROVIDE A BASIS FOR THE LICENSING OF SHOREHAM. IT WOULD NOT. LILCO'S FICTION IS ILLEGAL AND ILLOGICAL; IT IS BORN OF CYNICISM AND INDIFFERENCE TO THE PUBLIC'S SAFETY.

FIRST, LILCO'S FICTION RETRIEVES THE DISCREDITED THEORY ON WHICH THE NRC LICENSED NUCLEAR PLANTS BEFORE THE THREE MILE ISLAND ACCIDENT. THEN, THERE WAS NO PRE-PLANNING OR INTEGRATED PLANNING REQUIRED FOR STATE AND LOCAL GOVERNMENTS WITH THE UTILITY. THE NRC SIMPLY ASSUMED THAT IF THERE WERE AN ACCIDENT, THE GOVERNMENTS WOULD KNOW HOW TO ACT ALONE AND WITH OTHERS IN RESPONSE. THE THREE MILE ISLAND ACCIDENT PROVED THIS ASSUMPTION TO BE WRONG. FOLLOWING THREE MILE ISLAND, CONGRESS PASSED LAWS AND THE NRC MADE REGULATIONS THAT REQUIRE PRE-PLANNING AND INTEGRATED PREPAREDNESS. THERE IS NO PRE-PLANNING OR INTEGRATED PREPAREDNESS AT SHOREHAM.

SECOND, LILCO'S FICTION PRESUMES THAT STATE AND LOCAL GOVERNMENTS NOT ONLY WOULD RESPOND TO AN ACCIDENT, BUT THAT THEIR RESPONSE WOULD WORK TO PROTECT THE PUBLIC. THUS, LILCO CLAIMS, THE PUBLIC WOULD BE PROTECTED EVEN THOUGH THE GOVERNMENTS HAVE NO



PRE-PLANNING, OR KNOWLEDGE OF INVENTORY OF AVAILABLE RESOURCES, NO PERSONNEL READINESS, AND NO TRAINING. SUCH A PRESUMPTION IS UNFOUNDED; FARCICAL AT BEST.

THIRD, LILCO'S FICTION PORTRAYS SUFFOLK COUNTY ACTING IN CONCERT WITH LILCO IF THERE WERE AN ACCIDENT AT SHOREHAM. HOWEVER, COUNTY LAW PROHIBITS COUNTY PERSONNEL FROM IMPLEMENTING LILCO'S EMERGENCY PLAN. EVEN IF IT DID NOT, THE COUNTY COULD NOT RESPONSIBLY ACT IN CONCERT WITH LILCO AND ITS EMERGENCY PLAN. THE COUNTY'S STUDIES, ANALYSES, AND SURVEYS, TOGETHER WITH OUR DAY-TO-DAY EXPERIENCES ON LONG ISLAND WITH THE LIMITED ROAD NETWORK AND THE CONFINED GEOGRAPHY, HAVE CONVINCED US THAT SAFE EVACUATION OF THE PUBLIC IS NOT POSSIBLE IN A SHOREHAM ACCIDENT. LILCO'S EMERGENCY PLAN IS A GUIDELINE FOR TRAFFIC-JAM GRIDLOCK AND AN IMMOBILIZED EVACUATION WHERE HUNDREDS OF THOUSAND OF LONG ISLAND'S RESIDENTS WOULD BE TRAPPED TO ABSORB THE RADIATION THEY SOUGHT TO FLEE. THIS COUNTY WOULD NOT ACT IN CONCERT WITH SUCH A GUIDELINE FOR DISASTER.

FOURTH, LILCO'S FICTION RESTS ON THE SURMISE THAT THE COUNTY WOULD HAVE CONFIDENCE IN LILCO, OR THAT IT WOULD RELY ON LILCO BECAUSE THERE WOULD BE NO ONE ELSE ON WHICH TO RELY. THIS IS FALSE. THERE IS NO CORPORATION ON LONG ISLAND WITH SO LOW A STANDING WITH THE PUBLIC AND LOCAL GOVERNMENTS AS LILCO. THERE IS EVEN A STRONG AND CREDIBLE EFFORT TODAY TO EFFECT A PUBLIC

TAKEOVER OF THIS COMPANY. IN AN EMERGENCY OR OTHERWISE, THE PUBLIC AND THE COUNTY GOVERNMENT WOULD HAVE NO CONFIDENCE IN LILCO. WE COULD NOT, AND WOULD NOT, LOOK TO SUCH A DISCREDITED SOURCE FOR GUIDANCE OR ASSISTANCE IN A NUCLEAR ACCIDENT. INDEED, LILCO WOULD BE THE OBJECT OF THE PUBLIC'S WRATH BECAUSE IT CAUSED THE ACCIDENT. IT WOULD BE THE ENTITY WHICH STEAMROLLED SHOREHAM INTO OPERATION OVER THE PUBLIC AND GOVERNMENTS' OBJECTIONS. IN SUCH CIRCUMSTANCES, IT WOULD BETTER SERVE THE PUBLIC'S INTEREST TO ACT ALONE THAN TO ENTRUST THE PUBLIC WEAL TO MORE OF LILCO'S POOR JUDGMENTS.

MOREOVER, LILCO'S RESPONSE TO HURRICANE GLORIA LAST OCTOBER LIVES INDELIBLY AS A LESSON TO EVERYONE ON LONG ISLAND. IN THE POTENTIALLY CATASTROPHIC CIRCUMSTANCES OF A NUCLEAR ACCIDENT, WE WOULD NEVER RELY UPON OR ACT IN CONCERT WITH A COMPANY THAT COULD NOT EVEN PUT THE LIGHTS BACK ON FOR DAYS.

FIFTH, LILCO'S FICTION HAS PROMPTED THE COMPANY TO EXTEND ITS PLEAS FOR LICENSING SHOREHAM TO SHAMEFUL LIMITS. ON JUNE 11, 1986, LILCO'S COUNSEL WROTE THE NRC, CLAIMING THAT STATE LAW REQUIRES THE COUNTY TO TAKE ACTIONS IN AN EMERGENCY THAT PURPORTEDLY WOULD JUSTIFY THE NRC PUTTING SHOREHAM INTO OPERATION. THIS CLAIM MISSTATES THE LAW. IT WOULD NEVER BE "APPROPRIATE" OR "NECESSARY" FOR THE COUNTY TO TAKE ACTIONS IN PURSUIT OF LILCO'S ILLEGAL EMERGENCY PLAN.

FINALLY, IN THE SAME LETTER OF JUNE 11, LILCO ENSHRINES ITS FICTION WITH THE FOLLOWING WORDS: "...THE LILCO PLAN PROVIDES A BASIS FOR A PRIVATE/GOVERNMENTAL PARTNERSHIP THAT COULD AND WOULD BE EFFECTIVE TO PROTECT THE PUBLIC IN A REAL EMERGENCY, WHEN POLITICAL POSTURING WOULD BE ABANDONED AND THE SAFETY OF THE PUBLIC WOULD BE GIVEN PARAMOUNT IMPORTANCE." THIS IS MORE FANTASY. [I REITERATE WHAT IS IN ESSENCE STATED ABOVE: NEITHER SUFFOLK COUNTY NOR I AS COUNTY EXECUTIVE HAS ANY "PARTNERSHIP" WITH LILCO; THERE IS NO "BASIS FOR A PRIVATE/GOVERNMENTAL PARTNERSHIP" OF ANY KIND WITH LILCO; THE COUNTY HAS NO CONFIDENCE OR TRUST IN LILCO; AND IN AN EMERGENCY, THE COUNTY WOULD GIVE NO CREDENCE TO LILCO OR ITS PLAN AND WOULD NOT WORK IN CONCERT WITH LILCO. INDEED, IN AN EMERGENCY, THE PUBLIC OF SUFFOLK COUNTY -- SHOWN BY RESPECTED POLLS TO OPPOSE SHOREHAM BY MORE THAN 75 PERCENT -- COULD NOT TRUST THEIR OWN GOVERNMENTS OFFICIALS IF WE, IN TURN, LOOKED TO THE DISCREDITED LILCO FOR GUIDANCE OR ADVICE.]

TO MAKE CERTAIN THAT LILCO'S MISCHARACTERIZATIONS OF MY POSITION ARE BROUGHT TO AN END, I SHALL TRANSMIT A COPY OF THIS STATEMENT TO LILCO, THE NRC, AND FEMA. I SHALL ALSO EXPRESSLY NULLIFY MY JUNE 26, 1985 LETTER TO LILCO'S COUNSEL AND SHALL RESCIND EXECUTIVE ORDER 2-1985. BOTH OF THESE DOCUMENTS HAVE EFFECTIVELY BEEN NULLIFIED BY EARLIER ACTIONS; HOWEVER, LILCO'S PERSISTENT MISSTATEMENTS (SUCH AS IN ITS JUNE 11 LETTER) PROMPT ME TO CLEAR THE SLATE SO THAT NO PERSON CAN CONCOCT FURTHER

FICTIONS. I AM ALSO DESIGNATING CHIEF DEPUTY COUNTY EXECUTIVE FRANK JONES, AS MY REPRESENTATIVE, TO FOLLOW THESE MATTERS AND TO COORDINATE AS NECESSARY AND APPROPRIATE WITH THE COUNTY LEGISLATURE AND WITH THE ATTORNEYS HANDLING SHOREHAM MATTERS.

LILCO HAS LOBBIED IN WASHINGTON AND ELSEWHERE TO CHARACTERIZE SHOREHAM AS A LITMUS TEST FOR NUCLEAR POWER. THUS, LILCO SEEKS TO TRANSFORM THE SHOREHAM CASE INTO THE SHOREHAM CAUSE. THIS IS A DECEPTION. SUFFOLK COUNTY IS NOT ANTI-NUCLEAR, AND WE HAVE NO SUCH POLICY. INDEED, BROOKHAVEN NATIONAL LABORATORY IS IN OUR MIDST. THE COUNTY IS SIMPLY IN FAVOR OF DOING WHAT WE WERE ELECTED BY OUR CITIZENS TO DO: TO PROTECT THEIR WELL-BEING AND TO BE TRUTHFUL. LILCO DOES NOT LIKE THIS, BECAUSE THE RESULT PUTS THE COUNTY AGAINST THE MISTAKE LILCO MADE AT SHOREHAM. BUT IN A DEMOCRACY, THE PUBLIC GOOD CANNOT BE DISREGARDED. SHOREHAM IS A MISTAKE; GOVERNMENT SHOULD NOT COMPOUND THE MISTAKE OF HAVING PERMITTED SHOREHAM TO BE BUILT WITH THE MISTAKE OF LETTING SHOREHAM OPERATE.

THE SHOREHAM CONTROVERSY HAS OVER THE PAST FOUR YEARS GROWN TO CONFLICT AND CONFRONTATION. THIS IS NOT SOMETHING WE RELISH. TO STEP BACK FROM THE TRENCHES AND VIEW THE BROADER SCALE, ONE CAN ONLY WISH THAT LILCO HAD SEIZED THE OPPORTUNITY TO ABANDON SHOREHAM IN 1983 OR EVEN SOONER, WHEN THE INVESTMENT WAS BILLIONS LESS. WE WOULD STILL WELCOME SUCH A LILCO DECISION TODAY.

BUT, THE FACT IS THAT WE HAVE A FIGHT ON OUR HANDS. LILCO REMAINS BLIND TO THE REALITY WHY SHOREHAM SHOULD NOT OPERATE. TO LILCO, CHERNOBYL NEVER HAPPENED, FEMA'S REGIONAL DIRECTOR NEVER RESIGNED OVER SHOREHAM, THE WHITE HOUSE CHIEF OF STAFF NEVER ADMITTED LONG ISLAND CANNOT BE EVACUATED, SUFFOLK COUNTY DID NOT WIN COURT VICTORIES UPHOLDING THE LEGALITY OF THE COUNTY'S POLICIES ON SHOREHAM, AND LONG ISLAND'S GEOGRAPHY IS NO DIFFERENT FROM ANYWHERE ELSE. INDEED, LILCO IS EVEN IMPERVIOUS TO THE OUTPOURING OF OPPOSITION TO SHOREHAM FROM EVERY CORNER OF LONG ISLAND. VIRTUALLY EVERY ELECTED OFFICIAL OPPOSES SHOREHAM, THE GOVERNOR OPPOSES SHOREHAM, AND THE PUBLIC OVERWHELMINGLY OPPOSES SHOREHAM.

I REMAIN CONFIDENT THAT SUFFOLK COUNTY WILL PREVAIL. WE ARE RIGHT, AND WE HAVE THE PUBLIC'S UNYIELDING SUPPORT. THE REASON IS THAT A BASIC TRUTH HAS DRIVEN THIS COUNTY FROM THE START: IT WOULD NOT BE POSSIBLE TO EVACUATE OR OTHERWISE PROTECT THE PUBLIC IF THERE WERE A SERIOUS NUCLEAR ACCIDENT AT THE SHOREHAM PLANT. SHOREHAM SHOULD NOT OPEN.

Introduced by Legislators Wehrenberg, Caracappa, D'Andre, Geise, Allgrove, Raci  
Prospect, Foley, Nolan, Blass, Rizzo, LaBua, Devine, Mariton, Beck

RESOLUTION NO. 111 - 1983, CONSTITUTING THE FINDINGS  
AND DETERMINATIONS OF SUFFOLK COUNTY ON WHETHER  
A LEVEL OF EMERGENCY PREPAREDNESS TO RESPOND  
TO A RADIOLOGICAL ACCIDENT AT THE SHOREHAM  
NUCLEAR POWER STATION CAN PROTECT THE HEALTH,  
WELFARE AND SAFETY OF THE RESIDENTS OF  
SUFFOLK COUNTY

WHEREAS, Suffolk County has a duty under the Constitution of the State of  
New York, the New York State Municipal Home Rule Law, and the Suffolk County  
Charter to protect the health, safety, and welfare of the residents of Suffolk  
County; and

WHEREAS, the Long Island Lighting Company ("LILCO") is constructing and  
desires to operate the Shoreham Nuclear Power Station ("Shoreham"), located on  
the north shore of Long Island near the town of Wading River, a location which  
is within the boundaries of Suffolk County; and

WHEREAS, a serious nuclear accident at Shoreham could result in the  
release of significant quantities of radioactive fission products; and

WHEREAS, the release of such radiation would pose a severe hazard to the  
health, safety, and welfare of Suffolk County residents; and

WHEREAS, in recognition of the effects of such potential hazard posed by  
Shoreham on the duty of Suffolk County to protect the health, safety, and  
welfare of its citizens, this Legislature on March 23, 1982, adopted Resolution  
No. 262-1982, which directed that Suffolk County prepare a "County Radiological  
Emergency Response Plan to serve the interest of the safety, health, and welfare  
of the citizens of Suffolk County .."; and

WHEREAS, in Resolution 262-1982, the Legislature determined that the plan  
developed by the County "shall not be operable and shall not be deemed adequate  
and capable of being implemented until such time as it is approved by the  
Suffolk County Legislature"; and

WHEREAS, in adopting Resolution 262-1982, the Legislature found that  
earlier planning efforts by LILCO and County planners (the "original planning  
data") were inadequate because they failed to address the particular problem  
posed by conditions on Long Island and further failed to account for human  
behavior during a radiological emergency and the lessons of the accident at  
Three Mile Island; and

WHEREAS, on March 29, 1982, Peter F. Cohalan, Suffolk County Executive  
acting to implement Resolution 262-1982, by Executive Order established the  
Suffolk County Radiological Emergency Response Plan Steering Committee  
("Steering Committee") and directed it to prepare a County plan for submittal to  
the County Executive and County Legislature; and

WHEREAS, the Steering Committee assembled a group of highly qualified and  
nationally recognized experts from diverse disciplines to prepare such County  
plan; and



WHEREAS, such highly qualified experts worked in a diligent and conscientious effort at a cost in excess of \$500,000 to prepare the best possible plan for Suffolk County, and particularly to ensure that such plan took into account all particular physical and behavioral conditions on Long Island that affect the adequacy of the emergency response plan; and

WHEREAS, the analyses, studies, and surveys of such experts included:

- (a) Detailed analyses of the possible releases of radiation from Shoreham;
- (b) Detailed analyses of the radiological health consequences of such radiation release on the population of Suffolk County, given the meteorological, demographic, topographical, and other specific local conditions on Long Island;
- (c) A detailed social survey of Long Island residents to determine and assess their intended behavior in the event of a serious accident at Shoreham;
- (d) A detailed survey of school bus drivers, volunteer firemen, and certain other emergency response personnel to determine whether emergency personnel intend to report promptly for emergency duties, or instead to unite with their own families, in the event of a serious accident at Shoreham;
- (e) Detailed estimates of the number of persons who would be ordered to evacuate in the event of a serious accident at Shoreham, as well as the number of persons who intend to evacuate voluntarily even if not ordered to do so;
- (f) Detailed analyses of the road network in Long Island and the time required to evacuate persons from areas affected by radiation releases;
- (g) Detailed analyses of the protective actions available to Suffolk County residents to evacuate or take shelter from radiation releases; and
- (h) Analysis of the lessons learned from the accident at Three Mile Island on local government responsibilities to prepare for a radiological emergency; and

WHEREAS, on May 10, 1982, LILCO, without the approval or authorization of the Suffolk County Government, submitted to the New York State Disaster Preparedness Commission ("DPC") two volumes entitled "Suffolk County Radiological Emergency Response Plan" and containing the original planning data, which were further revised and supplemented by LILCO, and requested the DPC to review and approve such LILCO submittal as the local radiological emergency response plan for Suffolk County; and

WHEREAS, in Resolutions 456-1982 and 457-1982, the County further addressed the matter of preparing for a radiological emergency at Shoreham and emphasized that:

- (a) The LILCO-submitted document was not and will not be the County's Radiological Emergency Response Plan; and

(b) The County's Radiological Emergency Response Planning Policy, as enunciated in Resolution 456-1982, is as follows:

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been fully developed to the best of the County's ability.

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been subject of at least two public hearings, one to be held in Riverhead, and one to be held in Hauppauge.

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been approved, after public hearings, by the Suffolk County Legislature and the County Executive; and

WHEREAS, on June 9, 1982, the DPC rejected the LILCO-submitted document for the reason that it was deficient; and

WHEREAS, on October 6, 1982, LILCO, again without the approval or authorization of the Suffolk County Government, submitted to the DPC an amended version of the previously submitted LILCO document which had been rejected by the DPC; and

WHEREAS, on December 2, 1982, the Draft County Radiological Emergency Response Plan authorized by Resolution 262-1982 was submitted to the County Legislature for review and public hearings as specified in Resolutions 262-1982, 56-1982, and 457-1982; and

WHEREAS, in January 1983, the Legislature held hearings on the Draft County plan, which hearings included:

- (a) More than 1,590 pages of transcripts;
- (b) Detailed written statements and oral testimony of County expert consultants who prepared the Draft County plan;
- (c) Detailed written statements and oral testimony of LILCO officials and expert consultants retained by LILCO;
- (d) Detailed written statements and oral testimony of the Suffolk County Police Department, the County Health Department, the County Social Services department, and the County Public Works Department, all of which would have indispensable roles in responding to a radiological emergency at Shoreham;
- (e) Detailed written statements and oral testimony of organizations in Suffolk County concerned with radiological emergency preparedness; and
- (f) Extensive presentations by hundreds of members of the general public; and

WHEREAS, members of the Legislature also travelled to and held public hearings in the vicinity of the Three Mile Island Nuclear Power Plant to gain information on the lessons to be learned by local governments from the accident at Three Mile Island; and

WHEREAS, the Draft County plan identifies evacuation and protective sheltering as the two primary protective actions which would need to be implemented in the event of a serious accident at Shoreham; and

WHEREAS, evacuation of Suffolk County residents in the event of a radiological emergency could take as much time as 14-30 hours because of various factors, including: the limited number of appropriate evacuation routes in Suffolk County; difficulties in mobilizing police and other emergency personnel; difficulties ensuing from spontaneous evacuation of large numbers of County residents, thus creating severe traffic congestion; and unavailability of alternate evacuation routes for persons residing east of Shoreham and thus the necessity for such persons during an evacuation to pass by the plant and possibly through the radioactive plume; and

WHEREAS, evacuation times in excess of 10 hours -- and certain evacuation times in the range of 14-30 hours -- will result in virtual immobilization of evacuation and high exposure of evacuees to radiation such that evacuees' health, safety, and welfare would not be protected; and

WHEREAS, protective sheltering is designed to protect persons from excessive radiation exposure by such persons staying indoors until radiation with the greatest danger to health has passed; and

WHEREAS, if protective sheltering were ordered for Suffolk County residents, unacceptable radiation exposure would still be experienced by substantial portions of the Suffolk County population, thus making it impossible to provide for the health, welfare, and safety of these residents; and

WHEREAS, the document submitted by LILCO to the DPC without County approval or authorization is deficient because it does not deal with the actual local conditions, physical and behavioral, on Long Island that would be encountered during a serious nuclear accident at Shoreham; and

WHEREAS, the document submitted by LILCO to the DPC without County approval or authorization does not ensure that effective protective action for persons subject to radiation exposure, in the form of evacuation or sheltering, would be taken in event of a serious nuclear accident at Shoreham, and thus such document, even if implemented, would not protect the health, safety, and welfare of Suffolk County residents; and

WHEREAS, the extensive data which the Legislature has considered make it clear that the site-specific circumstances and actual local conditions existing on Long Island, particularly its elongated east/west configuration which requires all evacuation routes from locations east of the plant to pass within the zone of predicted high radiation, the ineffectiveness of protective sheltering, the severe traffic congestion likely to be experienced if a partial or complete evacuation were ordered, and the difficulties in ensuring that emergency personnel will promptly report for emergency duties, preclude any emergency response plan, if implemented, from providing adequate preparedness to protect the health, welfare, and safety of Suffolk County residents; now, therefore, it

RESOLVED, that the draft County plan submitted to the County Legislature on December 2, 1982, if implemented, would not protect the health, welfare, and safety of Suffolk County residents and thus is not approved and will not be implemented; and be it further

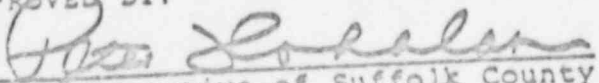
RESOLVED, that the document submitted by LILCO to the DPC without the County approval or authorization, if implemented, would not protect the health, welfare, and safety of Suffolk residents and thus will not be approved and will not be implemented; and be it further

RESOLVED, that since no local radiological emergency response plan for a possible nuclear accident at Shoreham will protect the health, welfare, and safety of Suffolk County residents, and since the preparation and implementation of any such plan would be misleading to the public by indicating to County residents that their health, welfare, and safety are being protected when, in fact, such is not the case, the County's radiological emergency planning process is hereby terminated, and no local radiological emergency plan for response to a nuclear accident at the Shoreham plant shall be adopted or implemented; and be it further

RESOLVED, that since no radiological emergency plan can protect the health, welfare, and safety of Suffolk County residents and, since no radiological emergency plan shall be adopted or implemented by Suffolk County, the County Executive is hereby directed to take all actions necessary to assure the actions taken by any other governmental agency, be it State or Federal, are consistent with the decisions mandated by this Resolution.

ED: February 17, 1983

APPROVED BY:

  
County Executive of Suffolk County

Date of Approval: 2/23/83

## COUNTY OF SUFFOLK



March 10, 1987

Mr. Victor Stello  
Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Stello:

On behalf of the government of Suffolk County, we are writing in reply to your letter of February 20, 1987, which responds to the January 16 letter of the Suffolk County Executive. The County Executive's letter had corrected certain of your statements quoted in the press that mischaracterized the actions of Suffolk County concerning the Shoreham nuclear power plant. Your February 20 letter rejects the County Executive's corrections and reiterates even more emphatically the mischaracterizations you made earlier.

The message of your February 20 letter is clear: the Staff of the NRC has decided that public safety does not matter at Shoreham; that what matters only is putting the plant into operation. You have converted the Staff's role in the Shoreham licensing proceedings from participant in the case to champion of the cause -- LILCO's cause. In short, you have betrayed the Staff's responsibility to the public in these proceedings. It is time for you to take remedial actions.

Accordingly, first, the government of Suffolk County requests that you immediately disqualify yourself and the rest of the Staff from participating further as a party in the Shoreham proceedings. The Staff has subordinated its own identity to that of LILCO, and permitting the Staff to continue to participate as a purportedly impartial party would be nothing but a ruse. Section 0.735-3(a)(6) of the NRC's Regulations requires that the Staff "not give or appear to give favored treatment or competitive advantage to any member of the public." The Staff



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cannot satisfy this standard: your February 20 letter is a manifesto of the Staff's favor and partisanship toward LILCO; a declaration of hostility toward Suffolk County.

Second, Suffolk County requests that you appear before a Special Session of the County Legislature. Your February 20 letter parades a bias that stems either from ignorance of the facts or from design. We want to know the sources upon which you rely for information concerning emergency planning at Shoreham. With whom from LILCO and other entities outside the NRC have you met, and what have they said? What private conversations have you held with NRC Commissioners? What is your true purpose in putting LILCO's interests above those of Suffolk County's citizens? The citizens of Suffolk County have the right to know the full story behind your actions concerning emergency planning issues at Shoreham.

Finally, we request that you digest the facts presented in this letter. To begin, the County Executive's January 16 letter corrected your mistatement that in a "real emergency" Suffolk County would cooperate with LILCO and "follow LILCO's plan." The Executive informed you that your statement was unfounded and incorrect, and transmitted documents, including Suffolk County Resolution No. 111-1983, to explain in detail the reasons for his statement that, "I would not use the authority of this government to implement LILCO's emergency plan or to work in concert with LILCO to effect an emergency response to an accident at Shoreham."

Your February 20 letter demeans the County Executive's statement. In scarcely veiled terms, you accuse the County Executive and the County Legislature of being liars, and even boast that you "continue to stand behind" your earlier misstatements. This presumptuousness does not suit an appointed NRC employee addressing the elected government of 1.3 million people.

The fact is that the government of Suffolk County would never use LILCO's emergency plan, or work in concert with LILCO, or rely upon LILCO's advice or judgment in a nuclear emergency. Whatever our actions, they would not include LILCO or LILCO's plan. This is the result of the County government having absolutely no confidence in the judgment or competence of LILCO. The June 23, 1986 statement of the Suffolk County Executive, which I sent you on January 16, explains the reasons in detail.



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Your February 20 letter persists in mischaracterizing the emergency planning actions of Suffolk County. You write of the "refusal" of the County to participate in emergency planning and charge the County with "intransigence." The facts belie your words.

In fact, Suffolk County has participated thoroughly in emergency planning. In March 1982, we retained a team of nationally recognized experts at a cost of \$600,000, directed them to prepare the "best possible" plan, and gave them free rein to do that. Eight months later, when the experts completed their draft plan and the extensive studies, analyses, and surveys that accompanied it, the County Legislature held eight days of open hearings at which specialists from around the country, including LILCO's consultants and officials, and members of the public testified. Sixteen hundred pages of testimony were compiled. Thereafter, the County Legislature travelled to Three Mile Island to meet with local government officials and the public in order to learn first-hand the lessons of the 1979 nuclear accident.

In February 1983, the County Legislature analyzed the emergency planning materials and testimony before it and concluded that in the event of a serious nuclear accident at Shoreham, it would not be possible to evacuate or otherwise protect the public. The bases for this determination are stated in Resolution No. 111-1983: among them are the limited roadway network, population densities, and other physiographic conditions which would cause people who were attempting to evacuate, instead to become stuck in gridlock. These people, therefore, would be exposed to the very radiation from which they were directed to flee.

The government of Suffolk County had two choices: to adopt an emergency plan, or to resolve not to adopt one. To have done the former would have misled the public into believing they were being protected when in fact they were not. To do the latter would be to tell the truth: that the adoption of an emergency plan would merely put an ineffective paper plan on the shelf and lull the public into a sense of false security. This government was elected to tell the public the truth and to protect their welfare. That is what we did resolving in County Resolution No. 111-1983 not to adopt or implement an emergency plan.

Suffolk County's Resolution No. 111-1983 and the County's actions were challenged by LILCO in Federal court. The County won the case: the Court ruled that the Resolution is lawful and rationally based. LILCO also challenged the Resolution in State court. The New York Court of Appeals upheld the County's decision not to adopt a plan. In short, the County lawfully exercised its police powers.

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It is clear to us that you accuse Suffolk County of "refusing" to participate in emergency planning only because you do not like the result of the County's emergency planning process -- that is, the decision not to adopt or implement an emergency plan. The reason for your view presumably is that the County's actions do not enable the NRC to license Shoreham. If Suffolk County had followed the identical emergency planning process it used, but instead decided to adopt an emergency plan, we believe you would now be praising the County for its "participation" in emergency planning. You cannot have it both ways: The County in fact participated thoroughly in emergency planning and, as part of that participation, acted lawfully to protect the welfare of its citizens. For the same reasons that you would praise a County decision to adopt a plan, fair-mindedness requires that you accept the County decision not to adopt one.

Your February 20 letter states, "The record of this protracted proceeding also shows various state and local permits for environmental monitoring, building and zoning were also sought by LILCO and approved." This is a contrived and misleading statement, apparently intended by you to convey the impression that the County promoted the construction of Shoreham, and only as a last minute device to prevent operation of the plant raised the emergency planning issue. The impression you seek to convey is false. The fact is that in issuing whatever permits for Shoreham that you have in mind, the County did not address, and was not required to address, the feasibility of evacuating Long Island's residents in a nuclear emergency. The permits you have in mind presumably dealt with whether LILCO satisfied local building and other codes. The permits did not deal with whether safe evacuation was possible. Indeed, the agencies with the opportunity to address radiological emergency preparedness issues were the AEC and NRC, when LILCO applied for a permit to construct Shoreham and thereafter. However, they refused to address the issues. It is thus the AEC and NRC, along with LILCO, who are responsible for building Shoreham without taking into account whether safe evacuation is possible.

Moreover, in 1977, when LILCO applied for an operating license and the County intervened in the NRC's proceeding, the County raised the issue of whether evacuation was feasible at Shoreham. This was three years before the NRC even had a rule requiring an effective local emergency plan. The County's action followed the persistent efforts, begun in 1970, of a Long Island citizens group that had intervened in the Shoreham construction permit proceeding to raise and litigate the emergency planning issue before the AEC. In 1973, at the strong urging of LILCO and the AEC Staff, the AEC ruled that the citizens group could not raise or litigate the emergency planning issue at that time. The issue was postponed by the AEC until the "operating license

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stage." Therefore, it is clear that the only reasons that emergency planning issues were not considered before construction of Shoreham was well underway were (1) because LILCO insisted on this and the AEC agreed; and (2) because the NRC did not require the issue to be thoroughly examined until the adoption of its post-Three Mile Island regulations in 1980.

You know well that the turning point for all concerned with radiological emergency planning was the Three Mile Island accident, when the Kemeny Commission, Congress, and the NRC itself heralded the need for workable local emergency preparedness. Indeed, all of the major investigations into the emergency preparedness aspects of Three Mile Island concluded that workable local emergency preparedness is a key to effective response to a nuclear accident. The investigators implored local governments to approach this responsibility seriously. NRC officials who travelled across the country holding workshops echoed the need for effective local involvement in emergency planning. No one had the temerity to suggest that a County which had extensively examined emergency preparedness for a nuclear plant within its jurisdiction, drafted the best possible emergency plan, and lawfully determined that the public could not be protected would be confronted with NRC Staff efforts to license the operation of the plant on the basis of a utility's illegal emergency plan. This is precisely the action of the NRC Staff in the Shoreham case.

The fact is that Shoreham was sited by LILCO and construction of the plant was approved by the AEC when emergency planning was given little attention. As late as 1979, before the Three Mile Island accident, the NRC's regulations did not require a local emergency plan as a condition of licensing a plant. The NRC required only that the utility submit "procedures for notifying, and agreements reached" with local governments that were of a general nature. Your letter of February 20 evidences the Staff's willingness to license Shoreham under circumstances which do not comply even with the NRC's discredited pre-Three Mile Island regulations.

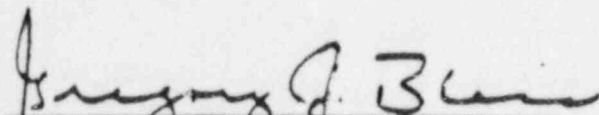
Your February 20 letter discloses the refusal of the Staff to confront reality. Indeed, reality is that (1) Suffolk County has participated extensively in emergency planning and has rationally determined safe evacuation and other protection of the public to be impossible; (2) the County's determination has been upheld in Federal and State courts; and (3) LILCO's substitute emergency plan has been held by New York State courts to be illegal and not implementable. By choosing to rationalize LILCO's licensing objective in the Shoreham proceedings, rather than advocating reality, you have become stuck with promoting the following fantasy: that in the absence of County, State, or

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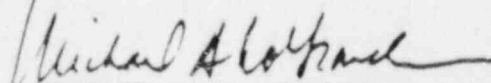
implementable LILCO emergency plans, the public still would be protected by a not implementable emergency plan which has been lawfully opposed by County government in order to protect the public's welfare.

We look forward to your early reply.

Sincerely,



Gregory J. Bliss  
Presiding Officer  
Suffolk County Legislature



Michael A. LoGrande  
Suffolk County Executive

cc: NRC Service List