

ReSent

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

NRC STAFF ANSWER TO APPLICANT'S REQUEST FOR
SUMMARY DISPOSITION OF CERTAIN CONTENTIONS

Introduction

On February 5, 1979, the Applicant, pursuant to 10 CFR §2.749 filed motions for summary disposition of certain "contentions" put forth by the County of Suffolk in this proceeding. Specifically, the Applicant sought to summarily dispose of County Contentions 4a(ii), 4a(iii), 4a(xvii), 12a(iii), 17a(i), 17a(ii), 20a(i) and 20a(ii). Only two of these contentions, namely County Contentions 20a(i) and 20a(ii), have been admitted as issues for litigation in this proceeding. The remaining "contentions" have been admitted for discovery purposes only, with the requirement that the County particularize those contentions at the close of discovery or have them dismissed.^{1/}

^{1/} Only County Contentions 5b; 5c(i), (iii), and (iv); 7a(vi) and (vii); 9a; 10a; 15a(ii) through (vi); 16a; and 20a are acceptable contentions for litigation in this proceeding at this time. The remainder of the County's Contentions have either been dismissed outright or placed in a category of requiring further specification. Failing such further specification, those contentions must also be dismissed outright. This latter category consists of County Contentions 3a, 4a(i) through (xvii), 5a, 5c(ii), 6a, 6b, 7a(i) through (v), 8a, 9b, 10b, 11a, 12a, 13a, 13b, 13c, 14a, 17a(i) and (ii), 18a(ii), 18a(v), 18a(vi), 18a(vii), 18a(ix), and 19a(xi).

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The Applicant filed a similar set of motions on December 18, 1978.^{2/}

Discussion

The Applicant's additional motions for summary disposition again does not appear to take into consideration the disparate nature of the two groups of contentions with which the parties are presently dealing. One group of contentions stands admitted and is relatively modest in number. The Staff will not burden the Board by repeating the substance of its previous Answer, particularly pages 2-4. The fundamental elements remain unchanged. With regard to the presently inadmissible contentions, the motions are premature and thus do not serve any useful purpose.

In the Staff's view, the Licensing Board should either deny these motions without prejudice to their being resubmitted at such time as they may be relevant to acceptable contentions or simply hold them in abeyance pending the development of acceptable contentions upon the completion of discovery.^{3/}

^{2/} On January 12, 1979, the "NRC Staff Answer to Applicant's Request for Summary Disposition of Certain Contentions" (Answer) was filed.

^{3/} As noted in the Staff's previous Answer at footnote 3, the Applicant's filing should not be taken as evidence that the presently inadmissible contentions are adequately particularized. Applicant's motions respond to general subject matter which should not be issues in this proceeding. Applicant's motions continually create issues by reference to past discovery. Absent specification by the County, the true issue is unknown and not proper for summary disposition.

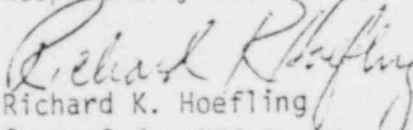
With respect to the motions directed to admissible contentions, the NRC Staff continues to find itself in a difficult position. The members of the NRC technical Staff assigned to this application are fully engaged on a priority basis in completing the Safety Evaluation Report. To divert resources to responding to these motions will delay the issuance of the SER. Such a delay could impact adversely on the hearing schedule. A delay in responding to the motions would not necessarily have that result. Accordingly, the NRC Staff proposes that its response time to the motions be held in abeyance pending the completion of the SER. Thereafter, the NRC Staff will be prepared to respond in detail to the motions or propose summary disposition motions of its own with respect to these contentions.

Conclusion

With regard to the Applicant's motions dealing with the presently inadmissible contentions, the Board should either deny the motions without prejudice to renew at such time as they may be relevant to acceptable contentions or simply hold them in abeyance pending the development of acceptable contentions.

With regard to the motions dealing with the presently admissible contentions, the Staff proposes that its response time be held in abeyance, pending completion of the SER.

Respectfully submitted,


Richard K. Hoefling
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Dated at Bethesda, Maryland
this 2nd day of February, 1979

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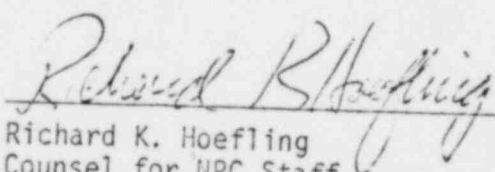
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