

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))	

ORDER RELATIVE TO NRC
STAFF'S MOTION TO COMPEL
OF JANUARY 12, 1979

On May 15, 1978, the Staff filed its "First Set of NRC Staff Interrogatories to the County of Suffolk." Several extensions of time were agreed to between the parties. A partial response (to #20, 21, and 23) was filed on August 23, 1978. On November 30, 1978, a further response covering the other interrogatories was filed.

On January 12, 1979, following a time extension, the Staff filed a motion to compel. The Staff considered some responses as adequate while others are incomplete but they will be discussed in the SER and the Staff does not press for additional information. A third category is the subject of Staff motion to compel since it states these interrogatories deal with contentions which the Staff "cannot adequately comprehend and identify as subjects to be considered in its SER."

Those are Staff Interrogatories Nos. 1, 2 (relative to Contention 3a(iii), 4, 5, 6e, 6f, 7 (relative to Contention 6a(i), (iii), and (iv), 9, 14, 15 (except for Contention 12a(iv) and 16 (except Contention 13a(i)).^{1/}

On February 7, 1979, Suffolk responded by contending that its responses are generally adequate, considering the procedural stage of the proceeding, and that it recognizes its obligation to supplement answers. It considered the Staff motion premature and unwarranted and requested a protective order relieving it of any responsibility to further respond to the Staff's interrogatories.

Suffolk's request for a protective order is denied. The Board expects each party to answer all interrogatories with the best information it has and if it does not have any information, it should say so.

The Board has determined the following relative to the interrogatories in controversy:

No. 1. Suffolk should furnish the names, etc., of any witnesses known at this time and should promptly supplement in the future.

^{1/} A review of the filings shows that No. 14 was apparently included in the Staff's conclusion by error.

No. 2. It appears to the Board that a disclosure agreement is imminent. As soon as Suffolk has had an opportunity to review the "Reed Report," it should promptly respond.

No. 4. The material County has supplied does not, in the Board's opinion, answer the questions asked. The Staff asked for the regulatory requirements "with which the Shoreham facility does not comply" and asked for the reasons County claims the facility does not comply. (Staff also asked for identification of those materials upon which County relies for its claim). By contrast, County lists the regulations with which Shoreham is required to comply but gives no indication of any specific non-compliance. County does intimate (at pp. 5-5 and 5-6) that, given access to certain documents under a proprietary agreement, it would be able to discover instances of non-compliance, and that further instances may be found if and when County examines certain NRC I&E reports.^{2/}

^{2/} County appends two such reports (Attachments A & B to County's Particularized Contentions) documenting certain items of non-compliance which Staff's motion points out were later corrected. (Staff's motion at p. 8, footnote 8).

It appears that County simply has no present knowledge of any specific items of non-compliance. If so, the County should so state. If and when County obtains access to detailed records or I&E reports which do indicate non-compliance, County should furnish the requested information.

No. 5. It appears from the material at pp. 5-7 through 5-10 of County's Particularized Contentions that County has not answered Staff's Interrogatory 5. If County relies only upon the 1978 GAO report and had, in 1975, no information to support its contention, it should so state. If County knows of specific failings in the I&E program it should identify them. Under any circumstances, the County should reply to Interrogatory 5c to the extent that that interrogatory asks a definition of terms and should relate these terms to any failings it identifies. County should also address Interrogatories 5e, 5f, 5g, and 5h, or state that it has no information.

No. 6. The Board directs a response by Suffolk. The County has an obligation to explain why it thinks the Applicant's program does not meet the particular regulatory requirement identified.

No. 7. Staff's motion complains that County has, in effect, not sufficiently particularized certain parts of this contention to permit Staff to determine exactly what accident sequences County wishes to explore.

As to County's response to 6a(i), it is clear to the Board that County is referring to cracking in feedwater nozzles despite the fact that, County persistently uses the term "pressure vessel" cracking. At any rate, examination of gross failure of the pressure vessel absent a showing of special circumstances has long been precluded in individual licensing actions. (Consolidated Edison Co., Indian Point, Unit No. 2, AEC 5 at p. 20, 1972). Accordingly, we can consider only cracking of the feedwater nozzles.

We agree with Staff that the County's treatment of accident mechanisms in 6a(iii) and (iv) is inadequate. The County should respond to Interrogatory 7 concerning these items.

No. 9. [Contention 8a(i)]. Suffolk should identify which elements of General Design Criteria 29 it considers relevant to equipment arrangement in the control room.

[Contention 8a(ii)]. Suffolk should respond relative to the automation and computer control of emergency equipment discussed.

No. 15. The Board agrees with the Staff that County has not been responsive to the interrogatory. As with Interrogatory 4 above, County has, in response to 15a, merely identified the requirements which County thinks each item must meet. It has not given any indication of the way in which the facility fails to meet the requirements.

The statement that the basis for Contention 12a(i) is "MHB's personal knowledge" is not responsive unless amplified by a recounting of what that knowledge is.^{3/}

As to Contentions 12a(ii), (iii), (v), (vi), and (vii), if all County has is general information to the effect that previous reactors have had trouble, it should say so. If County expects additional information later, it should supplement its reply.

^{3/} The Board recognizes that MHB is no longer being retained by County. The information could surely be obtained, however.

No. 16. As in its response to Interrogatories 4 and 15 above, County has here listed only the General Design Criteria requirements which it feels Shoreham must meet. The essence of Staff's Interrogatory --the question of why County believes the facility does not meet the requirements--has been ignored. County should explain this point for each subparagraph. If County has no information that indicates the requirements will not be met, it should so state.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

Elizabeth S. Bowers
Elizabeth S. Bowers, Chairman

Dated at Bethesda, Maryland
This 9th day of March 1979.