

and Suffolk County met on July 1, 1983. At that meeting the Applicant and the NRC staff stated possible organizational and legal objections to the contentions. The County indicated that it probably would not be filing final contentions until July 7, 1983 -- the due date of LILCO and Staff responses to the contentions. Thereafter, on July 6, 1983, the County served the Staff with a computer printout of final contentions. This document reorganizes, renumbers, and adds several contentions. The NRC staff is unable to respond to this "final" version of the contentions in this pleading due to the short notice. The Staff, however, will provide a supplement to this pleading providing a cross-reference to the final consolidated contentions, to the extent possible, by the prehearing conference scheduled for July 13, 1983.

II. GENERAL DISCUSSION

A. Organization of the Draft Contentions

The first general objection the NRC staff raises with respect to the draft contentions concerns the overall organization. As written, the contentions are extremely repetitive. If litigated in the current form there would be undue repetition in both the issues and the evidence. Therefore, the Staff suggests a general reorganization to create new contentions to focus on some of the issues which appear throughout the draft contentions. Issues susceptible to reorganization (if otherwise admissible) would be role conflict, LILCO's credibility, traffic congestion/"evacuation shadow phenomenon," and mobilization of emergency personnel. In addition, throughout the specific discussion below, the Staff suggests many other subcontentions which should be removed or

consolidated because they are repeated under a different subject heading. Finally, the Staff believes that the contentions of SOC and Southampton are also largely redundant to the County contentions. Therefore many must be eliminated or consolidated. Any remainder should be renumbered as appropriate to fit into the overall scheme.

B. Admissibility of Contentions

For a proposed contention to be admitted to this proceeding, it must pass a twofold test. First, under 10 C.F.R. § 2.714(b), the contention must be set out with adequate "basis" and "specificity." While largely a matter of Board judgment, it is generally held that to satisfy the requirement the contention must be sufficient to assure that the parties are on notice as to the precise issues that will be litigated. Philadelphia Electric Co. (Peach Bottom Atomic Power Station, Units 2 and 3), ALAB-216, 8 AEC 13, 20-21 (1974). The Staff concludes below that many of the proposed contentions for this proceeding do not meet this basis and specificity requirement and should not be admitted.

The second requirement for admission of a proposed contention is that the contention must raise a substantive issue litigable in the individual licensing proceeding. There are several limitations on the issues which may be raised. For example, a contention is inadmissible if it constitutes a challenge to the regulations. 10 C.F.R. § 2.758. Or a contention may be inadmissible if it is supported by no legal requirement and the contention constitutes nothing more than an assertion of a view of what applicable policy should be. Duke Power Co. (William B. McGuire Nuclear Station, Units 1 and 2), ALAB-128, 6 AEC 399, 401 (1973). Finally, in

this proceeding, a contention is inadmissible if it is outside the scope of the Phase II emergency planning hearing. See LBP-83-22, at 62-64; see also "Order Limiting Scope of Submissions" (unpublished), June 10, 1983. The Staff sets out below its rationale for concluding that several of the proposed contentions for this proceeding are not appropriate for litigation and should not be admitted.

It is further noted that the Licensing Board has ruled on the admissibility of contentions in "Prehearing Conference Order (Phase I--Emergency Planning)," (unpublished), July 27, 1982; "Supplemental Prehearing Conference Order (Phase I--Emergency Planning)," LBP-82-75, 16 NRC ____ (September 7, 1982); "Appendix B to September 7, 1982 Supplemental Prehearing Conference Order (Phase I--Emergency Planning)," October 4, 1982. To the extent that matters Intervenor now seek to raise were covered by those rulings, those rulings should be applied as the "law of the case." Further, certain of the Phase I emergency planning contentions were dismissed by stipulation. See Tr. 14,718 ff. Finally, all matters within the permissible scope of the Phase I emergency planning litigation -- which encompassed all matters relevant to onsite planning and certain aspects of offsite emergency planning -- were dismissed for default and may not be raised again. See LBP-82-115, 16 NRC ____ (December 22, 1982); LBP-83-22, 17 NRC ____ (April 20, 1983, slip op. at 63-65, Appendix A, at A-4); LBP-83-30, 17 NRC ____ (June 22, 1983, slip op. at 2 n.1). None of the matters previously denied admission, settled by stipulation or subject to the default dismissal may be now litigated. Further, to the extent any contention is relevant to low power licensing it was dismissed by virtue of LBP-82-115.

III. SPECIFIC DISCUSSION

A. Suffolk County Contentions

Suffolk County's contentions are set out in detailed outlined form. The Staff has read the contentions as if each numbered sub-contention raises the specific concern proposed for litigation. The Staff regards all the general preambles as statements of basis or summary, and therefore does not treat them as separate issues. Suffolk County has indicated in the meeting of the parties, that this reading is generally correct.

Due to the great length of the proposed contentions, the Staff below will list only those contentions for which it has a comment or objection. If the contention number is not listed, the Board can assume that the Staff has no objection.

CONTENTION 1: COMMAND AND CONTROL

1.A This contention questions LILCO's legal authority to undertake many activities listed in the LILCO Plan. The issue appears many times throughout Suffolk County's contentions. This contention should be the general legal authority contention subsuming all the later contentions on the issue. However, for the sake of specificity the contention should be limited to those specific activities listed. Therefore the words "such as" should be removed from the preamble to Contention 1.A. Further, no specific statutory provision is cited prohibiting LILCO from performing most of the cited functions. The contention should not be admitted as written.

1.B.1 This contention concerns the familiarity of LILCO employees in command and control with the various facts and conditions of Long Island. As written, this contention is extremely vague, and should not be admitted. The contention could be read as a training contention. However, specific concerns on training are not listed. Furthermore, any such concerns should be asserted under Contention 11. The contention also implies that the employees should reside in the "immediate Shoreham vicinity." There is no legal basis for such an assertion.

1.B.2 This contention is a general training contention. It lacks the requisite specificity and basis and therefore should not be admitted. If it were admitted, the issue would fall into Contention 11.

1.B.3 This contention concerns possible conflicts between LILCO's financial interests and the general public interest. The contention is extremely speculative. There is no basis to assume that LILCO will not follow the emergency plan provisions or comply with the regulations. The contention therefore does not state an issue capable of litigation and should not be admitted.

1.B.4 This subcontention raises several issues related to performance of emergency duties. The first concerns "proper education" of LILCO employees and an alleged resulting "disincentive to report to duty." This concern is lacking in basis. The second concern is potential "role conflict" experienced by LILCO employees. As noted above, role conflict appears throughout the County's contentions. The Staff believes that the

issue should be stated once with requisite specificity and basis, rather than in the present piecemeal fashion. Moreover, as here expressed, the allegation is vague and without basis. The third concern relates to the "Emergency Worker Tracker System." This part of the contention is possibly premature and certainly lacking in specificity. In total, this contention should not be admitted.

1.B.5 This contention concerning worker availability is extremely vague and lacking in basis. To the extent it is related to notification and mobilization, the contention raises issues which are also covered in more detail elsewhere. To the extent it raises other unforeseeable difficulties such as labor strikes, the contention is speculative and lacking in any regulatory basis.

1.B.6 This contention concerns the need to indemnify personnel for possible injuries or liabilities incurred in training or actual response. This contention fails to establish the relevance of indemnification to the procedures of the emergency plan. Furthermore, the issue is speculative in its assumptions about how individuals will act in an emergency. Finally, no legal requirements for indemnification are cited. The Staff opposes admission of the contention.

1.C.2 This contention concerns public perception of LILCO. No basis is stated. If at all pertinent the contention should be covered by a general LILCO credibility contention. See 1.D. This contention should not be admitted.

1.D. This contention should subsume all other questions regarding LILCO's credibility. In any case however, the contention fails to provide a basis for its assertions as to LILCO's lack of credibility. Furthermore, there is no basis for establishing a nexus between credibility and the implications suggested in the contention. As written, the contention is not sufficiently focused and should not be admitted.

CONTENTION 2: EMERGENCY PLANNING ZONE

This contention asserts the need for an emergency planning zone (EPZ) for Shoreham of "at least 20 miles." The contention cites two reasons in support of the assertion. First, the County cites a Shoreham-specific consequence analysis allegedly indicating that under certain circumstances persons beyond the LILCO 10 mile EPZ will receive doses in excess of the EPA Protective Action Guides (PAG's). Second, the County asserts that the "evacuation shadow phenomenon" resulting from evacuation by individuals beyond 10 miles from the plant makes a 20 mile EPZ necessary.

The NRC staff opposes admission of this contention. The contention is an attack on the Commission's regulations, and as such is not litigable in an individual licensing proceeding absent a showing of special circumstances pursuant to 10 C.F.R. § 2.758. Detroit Edison Co., et al. (Enrico Fermi Atomic Power Plant, Unit 2), LBP-78-37, 8 NRC 575, 584-85 (1978). The Commission's regulations, 10 C.F.R. § 50.47(c), provide that "[g]enerally, the plume exposure EPZ for nuclear power plants shall consist of an area about 10 miles (16 Km) in radius. . . ." The regulations envision minor adjustment to the 10 mile zone according to local needs. However, the

adjustments contemplated do not include an adjustment doubling the radius of the EPZ. The 10 mile EPZ was chosen to provide a planning basis for a spectrum of accidents as described in NUREG-0654, Rev. 1, "Criteria for Preparedness and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," November 1980. The Commission noted in the Statement of Considerations for § 50.47(c) that the 10 mile zone is considered a satisfactory planning basis to "support activity outside the planning zone should this ever be needed." 45 Fed. Reg. 55402, 55406, at col 2. (1980). This contention may not be admitted.

CONTENTION 3: ACCIDENT ASSESSMENT

3.B.1 The Staff believes that the preamble to 3.B and 3.B.1 should all be viewed as 3.B.1, concerning dose assessment of particulates. Even if so interpreted, the combined contention should not be admitted for lack of regulatory basis. NUREG-0654, Table 3 does list significant isotopes in addition to radioiodine to be included in dose assessments. However, to date there are no EPA Protective Action Guides (PAG's) for these radionuclides. See "EPA Protective Action Guide Manual," EPA-520/1-75-001, Second Revision, February 1980. For this reason FEMA was able to find the LILCO Transition Plan adequate with respect to Item I.10. See "FEMA Element-by-Element Review of the LILCO Transition Module," June 22, 1983, at 7. Further, to the extent this contention deals with onsite measurements or activities it is barred by LBP-82-115 dismissing for default all onsite emergency planning contentions. See also LBP-83-22, at 63-65.

3.B.2 This contention lacks specificity and should not be admitted. The words "may be" in the second line are symptomatic of the general lack of precision in the assertion of inadequacies.

3.B.5 This contention concerns alleged inadequacies in dose assessment procedures. For the sake of proper specificity, the words "for example" should be removed from the contention. Otherwise, the effect of the words is to broaden the contention to include a whole range of unspecified procedures.

3.C. This contention concerns the method used for evaluating the effect of meteorological conditions on the diffusion of the plume. As noted in NUREG-0654, Item I.5, this capability is part of the licensee onsite plan. The contention should not be admitted in Phase II of the emergency planning hearing because it was "within the permissible scope of the Phase I emergency planning litigation" and dismissed from this proceeding. See LBP-83-22, at 64; see also Phase I EP Contention 14.

3.F. This contention asserts that the LILCO plan does not account for "uncertainty and errors" in the measurement of releases from the reactor. Presumably as basis, the contention states that a "nominal factor of 4 uncertainty" is not accounted for in the Plan. The contention provides no explanation for this assertion and no specificity as to how the factor of 4 should be considered. As further basis, the contention refers to the possibility of releases from non-monitored release points. This assertion is also extremely vague. The Staff believes the contention fails to meet

the requirements of § 2.714 and therefore should not be admitted. Further, a contention dealing with measurement of releases was within the scope of Phase I onsite contentions formerly dismissed.

3.G. This draft contention is very vague and appears to be a summary of the overall Contention 3. It should not be admitted as a discrete matter.

CONTENTION 4: ADEQUACY OF PROTECTIVE ACTIONS

Preamble As with the other contentions the Staff views the preamble as basis rather than a separate contention. However, special mention is warranted for this contention. The preamble calls into question the dose consequences of a "severe core melt accident." Contentions, at 29. This language foreshadows many of the specific contentions which appear to the Staff as challenges to the Commission's regulations. The scope of this proceeding is limited by the regulations and contentions may not focus on the philosophical question of the "adequacy" or "feasibility" of emergency planning.

Individual Protective Actions

4.A These three contentions assert that individual protective actions do not provide "adequate protection." The contention fails to specify the level of protection it refers to. 10 C.F.R. § 50.47(b)(10) requires that a "range of protective actions" be developed along with "guidelines for the choice of protective actions." The contention as written is overly broad in its implied assertion that individual protective actions are per se inadequate. The concern of contention

4.A.3 related to the protective action guidelines is a more appropriate issue for litigation.

Sheltering

4.B.1 To the extent this contention refers to actions to be taken onsite it is barred by the former dismissal of such contentions.

4.B.2 This contention raises the question of whether or not an order to take shelter would be obeyed by the populace. As such it may not be admitted. The preamble states that "there is no assurance that sheltering, as a protective action, could or would be implemented." Contentions, at 32. No regulatory basis is cited which requires such "assurance." Therefore this contention is overly broad and would result in litigation of the feasibility of a sheltering action. The specific subcontentions, 4.B.2(a) through 4.B.2(c), raise factors which need not be considered for compliance with the regulations. Contention 4.B.2(d) repeats the issue raised in 4.B.1. Finally, the Staff notes that the specific concern of 4.B.2(b) is redundant to contention 4.B.3.

4.B.3 Through this contention the County seeks to litigate the effectiveness of sheltering in general. The contention asserts that "there is no assurance that taking such action would prevent persons in the EPZ from receiving health-threatening radiation doses." Contentions, at 36. However, there is no requirement that planning for a sheltering order provide the "assurance" that the County seek. The contention misconstrues the purpose of sheltering and the regulations. Therefore, the Staff opposes

admission of the contention as an attack on the Commission's regulations. In addition the Staff notes that contention 4.B.3(e) is redundant and would more appropriately be part of the relocation contentions. See Contention 4.C.5(h).

Evacuation

4.C.2(c) This contention relates to the effect of public perception and education on evacuation time. The substance of these questions is covered elsewhere. 4.C.2(c)(i) is a LILCO credibility question, and if admitted, should go to Contention 1. Contentions 4.C.2(c)(ii)-(v) are all issues related to public education and would be better incorporated into Contention 10. On the question of admissibility, see the Staff discussion in those contexts.

4.C.2(d) This contention should focus on the question raised in 4.C.2(d)(i): whether or not LILCO's assumption in the time estimates is correct that people will follow the prescribed routes. Many of the other issues raised in 4.C.2(d) are redundant. 4.C.2(d)(ii) relates to communications (raised in Contention 8), traffic congestion (raised in Contention 2 and elsewhere), and role conflict (raised numerous places). 4.C.2(d)(iv) and (v) are LILCO legal authority issues raised in Contention 1. 4.C.2(d)(iii) assumes LILCO's legal authority but argues that its traffic guides will not be obeyed. It should not be admitted for lack of specificity and basis. The contention fails to make clear a specific issue apart from redundant generalized concerns related to LILCO's credibility or legal authority. In sum, the contention may not be admitted.

4.C.2(e) These contentions assert that LILCO traffic controls will constitute a source of congestion not considered in the evacuation time estimates. The Staff generally has no objection to the contentions. However, the last sentence of 4.C.2(e)(i) and all of 4.C.2(e)(ii) raise similar concerns regarding potential aggressive behavior. This issue appears to be speculative and lacking in basis. The issue should therefore not be admitted. In addition, Contention 4.C.2(e)(iv) is vague, provides no examples, and should not be admitted for lack of specificity.

4.C.2(f) This contention again raises the potential effect of the "evacuation shadow." Suffolk County asserts that evacuation outside the EPZ will create traffic congestion inside the EPZ (see Contention 2). In that the contention asserts the need to plan for activities outside the EPZ, the contention exceeds the requirements of 10 C.F.R. § 50.47(c) and should not be admitted.

4.C.2(h) This contention relates to the inclusion of time estimates for evacuation of those with special needs. The issue is again raised in the context of 4.C.4. The Staff believes that this contention should render redundant all the later references to the issue.

4.C.2(i) This contention alleges that the evacuation estimates do not consider the impact of diminished driving skills in an emergency situation. The Staff opposes admission of the contention. The assertions made are generalized, speculative, and lacking in basis.

4.C.2(j) The Staff observes that this contention is really a summary of the preceding issues and should not be admitted as a discrete contention.

4.C.2(k) This contention is redundant to contention 4.C.2(f) and should not be admitted.

4.C.3(d) This contention concerns the potential role conflict of tow truck and other heavy equipment operators. As with all the other role conflict contentions, this contention should be consolidated into a general role conflict contention with a supporting statement of basis, if one exists. As presently written there is no adequate basis for admission of the contention.

4.C.3(j) This contention concerns legal authority and is redundant to Contention 1.A and should not be admitted.

4.C.3(1) This contention concerns security and is redundant to Contention 6.F and should not be admitted.

4.C.4(a) The Staff generally has no objections to these contentions concerning evacuation of people without access to cars. However, the Staff does oppose admission of 4.C.4(a)(iv) because it is redundant to 4.C.2(h).

4.C.4(b) This group of contentions concerns evacuation of school children. First, the Staff has no objection to Contention 4.C.4(b)(i) if limited

to the question of the existence of agreements. The last sentence, however, renders the contention unsatisfactorily vague in apparently seeking some "assurance" beyond the agreement. The Staff has no way of knowing what the County seeks under that broad assertion. Therefore, at least the last sentence of the contention should not be admitted. Second, the Staff opposes admission of contention 4.C.4(b)(iii)(a) to the extent it seeks indemnification of school authorities. There is no legal basis to seek this in an NRC proceeding. Third, the Staff opposes admission of 4.C.4(b)(iii)(c) which is a redundant role conflict contention. Fourth, the Staff has no objection to Contention 4.C.4(b)(v)(a) if limited to the question of agreements. However, the potentially broad assertion of a need for "assurance" should fail for lack of specificity. Finally, the Staff opposes admission of 4.C.4(b)(vi) which is redundant to 4.C.2(h).

4.C.4(c) This group of contentions concerns evacuation of people in special facilities. The Staff opposes admission in this context of the last portion of Contention 4.C.4(c)(iii) which relates to role conflict. The issue again is redundant and lacking in any basis. The Staff also opposes 4.C.4(c)(iv) which asserts the need for time estimates. This issue has been adequately raised in the context of time estimates under 4.C.2(h). Finally, the Staff opposes admission of Contention 4.C.4(c)(vi) -- asserting the need for agreements with hospitals and other institutions -- for the reasons set out below in response to Contention 7.

4.C.4(d) This group of contentions concerns evacuation of handicapped people at home. The Staff has several specific objections to these

contentions. First, Contention 4.C.4(d)(i)(a) is inadmissible in that it lacks any legal basis. It can be assumed that several individuals will not return postcards. The issue is not litigable absent any assertion by the County of what more LILCO can do. See, Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 & 3), ALAB-717, 19 NRC ___ (March 4, 1983, slip op. at 52-55). Similarly, the Staff objects to Contention 4.C.4(d)(ii)(a) which alleges that not all handicapped individuals will be able to answer a telephone call. There is no legal basis for a contention that such a procedure is insufficient absent a specific assertion of a better means to notify handicapped people. Third, Staff opposes admission of Contention 4.C.4(d)(ii)(e) for lack of specificity and basis. The contention is very broad, states no basis, and is redundant to many other proposed contentions which relate to notification and mobilization of emergency personnel, and to traffic congestion. Finally, the Staff opposes admission of 4.C.4(d)(ii)(f) because it is redundant to 4.C.2(h) related to evacuation time estimates.

4.C.5(c) This contention asserts that two relocation centers are not at least 5 miles beyond the boundaries of the EPZ. The Staff does not object to this contention so long as it remains narrowly focused. However, the third, fourth, and fifth sentences of the proposed contention could be construed to broaden the contention to include the much more amorphous issues of dose consequences, public perceptions of the safety of relocation centers, and the "necessary services" to evacuees. Suffolk County has indicated in the meeting between parties that these sentences are to be viewed as potential consequences of the alleged deficiency rather than as discrete

issues. The Staff suggests that these broad assertions add nothing to the contention and should be stricken.

4.C.5(e) This contention raises two issues with respect to the staff of relocation centers. The first is possible role conflicts which will make the staff unavailable. This issue is redundant and without basis. The second issue concerns the lack of agreements to provide staffing. The Staff does not object to this portion of the contention. Finally, the Staff notes that the last sentence of this contention appears to be a broad allegation without basis, probably intended as a summary or consequence of the contention's two issues. The sentence should not be admitted as part of the contention.

4.C.5(h) This contention asserts that the LILCO Plan provides only for radiological monitoring for those at relocation centers. The NRC staff opposes admission of this contention. There is no legal basis for asserting that monitoring and decontamination is required other than at relocation centers or for all evacuees. See NUREG-0654, II.J.12.

4.C.6 The contention should be rejected. No legal basis is given for the supposition that a plan must be provided for a complete evacuation of 5 to 7 miles in any contingency. The supposed factual bases are without foundation. No basis is given for the statements that it is unrealistic to expect only some zones to evacuate.

4.D.2 This contention asserts that the LILCO Plan fails to "take into account" the protective actions for the ingestion pathway required for the State of Connecticut. The Staff opposes admission of the contention. Obviously, these protective actions are not a licensee responsibility. Furthermore, the contention fails to indicate specifically how the actions to be taken by Connecticut should be considered in the LILCO Plan.

4.D.4 The Staff opposes admission of this contention for lack of specificity. As presently written, the contention is broadly stated, referring only to "inconsistencies" in "certain OPIPs." The Staff would not object to the admissibility of the contention if limited to the one example specifically cited and explained. That example refers to the different PAG's for milk and drinking water.

4.D.6 This contention concerns the disposal of contaminated milk after the decay period. Specifically, the contention alleges ambiguities in the LILCO Plan which could result in redistribution of the milk. The NRC staff opposes this contention for lack of specificity and basis. The contention fails to specify how the LILCO plan can be interpreted as alleged and fails to provide a basis for its speculative conclusion of potential health consequences to the public.

4.D.7 This contention faults the LILCO Plan for failure to provide procedures for disposing of wash water and milling residue remaining after washing contaminated fruit and milling contaminated grains. The

Staff opposes admission of the contention. First, the contention does not reference the New York State Plan for the ingestion pathway emergency planning zone. Second, the contention fails to provide a basis for its allegation of potential serious health consequences. Third, and most importantly, the contention fails to demonstrate any legal requirement for requiring such procedures at this time. See NUREG-0654, II.J.11.

4.D.8 This contention raises two issues. The first assertion is that the LILCO Plan does not provide for confiscation of contaminated fish from Long Island Sound. The second assertion is that the LILCO Plan does not provide for control of migration of fish in the Sound. The contention makes no reference to the New York State Plan for the ingestion pathway EPZ. The Staff opposes admission of the contention for lack of a legal basis. The contention far exceeds the scope of the legal requirements of NUREG-0654, II.J.11. See "FEMA Element-by-Element Review of the LILCO Transition Module," Item J.11, at 12.

4.D.9 This contention also asserts two deficiencies in the LILCO Plan for the ingestion pathway zone. First, the contention states that the LILCO plan insufficiently considers the Long Island duck industry by merely listing duck raisers. Second, the contention asserts the need to consider and control the migration of wild ducks. The contentions do not reference the New York State Plan for the ingestion pathway. The Staff opposes admission of the contention because the two assertions made far exceed the scope of the legal requirements of NUREG-0654, II.J.11. See

"FEMA Element-by-Element Review of LILCO Transition Module," Item J.11, at 12.

CONTENTION 5: EMERGENCY OPERATIONS CENTER

These five contentions appear to apply only to the interim period until the LILCO Emergency Operations Center is operational. Matters related to the Emergency Operations facility were dismissed for default with the onsite contentions. See Phase I EP Contention 8. To the extent any of the matters raised in this contention are germane to low power licensing they were dismissed for default. See LBP-82-115.

CONTENTION 6: SECURITY

6.A. This contention is a legal authority issue and is therefore redundant to the issues raised in Contention 1.A. Further, no legal authority is cited prohibiting LILCO from performing security functions at the EOC and the relocation centers.

6.B. This contention is deficient and should not be admitted. The contention fails to specify the concern it seeks to litigate. The contention may be another statement of the legal authority issue. If that is the case, it is redundant. However, the contention may be seeking to litigate some issue other than actual legal authority. In that case the contention fails to put the parties sufficiently on notice as to what the issues for litigation would be.

6.C. This contention concerns the training of LILCO employees assigned security functions. As a training issue this contention might better be

located under Contention 11. In any case, however, the contention should not be admitted for failure to meet the basis and specificity requirements of § 2.714. The bald statement that employees will not receive "necessary" training is not a sufficient contention. Suffolk County must plead specific inadequacies in the training and the basis for the assertion.

6.D. This contention should not be admitted. The core issue again raised here is LILCO's credibility with the public. If the question is found to have adequate basis and is admitted, the substance of this issue will be considered under Contention 1.D. Litigation of this more specific application of the credibility question would be redundant and add nothing to the record.

6.E. This contention raises the question of whether or not Suffolk County police will provide security for evacuated areas. In effect the contention asserts that in the event of an actual emergency, the Suffolk County police will not perform normal law enforcement functions. The Staff believes that this issue should not be admitted. It is pure speculation to assume at this time that the police will not perform their normal functions. It is a given in this proceeding that Suffolk County will not perform any evacuation functions. However, this contention would extend the County's non-participation beyond that premise. The Board has held that it will entertain no contentions in this proceeding "premised solely on the absence of a Suffolk County approved [evacuation] plan." LBP-83-22, at 62. The County in effect is

arguing in this contention that the LILCO plan is insufficient because the County will do anything (or not do anything) to insure that the plan is insufficient. Under such terms, litigation of the issue will serve no reasonable purpose.

6.F. The Staff does not object to this contention if the "certain key areas" are limited to "fuel allocation points, staging areas for emergency response personnel and transfer points for evacuees." Otherwise the contention would fail for lack of specificity.

CONTENTION 7: MEDICAL AND PUBLIC HEALTH SUPPORT

7.A. and 7.B These contentions concern the adequacy of emergency facilities and transportation to hospitals. The Staff objects to the admissibility of Contentions 7.A and 7.B on the grounds of the Commission's decision in Southern California Edison Co., et al. (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-83-10, 17 NRC ____ (April 4, 1983).

In that case the Commission stated:

It was never the intent of the regulation to require directly or indirectly that state and local governments adopt extraordinary measures, such as construction of additional hospitals or recruitment of substantial additional medical personnel, just to deal with nuclear plant accidents. The emphasis is on prudent risk reduction measures. The regulation does not require dedication of resources to handle every possible accident that can be imagined. The concept of the regulation is that there should be core planning with sufficient planning flexibility to develop a reasonable "ad hoc" response to those very serious low probability accidents which could affect the general public.

Id., slip op. at 8. The Commission specifically held that no contractual agreements were necessary and that the regulation would not require construction of additional hospitals.

7.C. This contention asserts that traffic congestion will prevent satisfactory response by ambulances. The Staff opposes this contention as redundant. Although this contention is applied specifically to ambulances, the substance of the issue, and therefore the proof offered, will go to the broader issues of traffic congestion. The County has addressed this issue in several other contexts.

CONTENTION 8: COMMUNICAITONS

8 To the extent any of the contentions raised in this section are germane to low power licensing they were dismissed for default. See LBP-82-115.

8.A.1 and 8.A.2. This contention concerns communications with off-site emergency response organizations. The NRC staff objects to admission of this contention on the grounds that the subject matter was included in Phase I of this proceeding. Phase I EP Contention 11 specifically addressed many of the concerns addressed here -- particularly reliance on commercial phone lines. That contention was dismissed for default. See LBP-82-115, December 22, 1982. The intervenors show no reason why the default dismissal should be vacated. The issue is therefore inappropriate for litigation in Phase II.

8.A.3. The NRC staff objects to admission of this contention. The contention is related to Contention 8.A.2 and is a matter which was capable of final resolution during Phase I. See LBP-83-22, at 63. In particular, similar issues were raised in Phase I EP Contention 11 and

Phase I EP Contention 12 and were settled or dismissed. In addition, the second part of the contention, beginning with the words "some emergency personnel will not be near phones . . .," Contentions, at 111, is fatally lacking in factual and legal basis. This contention would raise the type of concern which possibly goes beyond the ability of emergency planning. Suffolk County in this situation has the burden of pleading a specific proposal to handle the alleged problem. Finally, the part of the contention which refers to inadequacies in the "Emergency Worker Tracker System" should not be admitted for lack of specificity.

8.B.4. This contention alleges the need for a backup communications system for the Emergency Radio System. The Staff objects to admission of this contention because the issue was capable of final resolution during Phase I of this proceeding. See LBP-83-22, at 63. Similar issues were in fact raised in Phase I. See Phase I EP Contention 11; see also "Supplemental Prehearing Conference Order," LBP-82-75, 16 NRC ____, slip op. at 48-52 (September 7, 1982).

8.B.7. The Staff objects to this contention for lack of specificity and basis. The contention asserts that all emergency personnel must be equipped with portable radios, but fails to provide any supporting rationale. Furthermore, the contention alleges the need for a backup frequency, but fails to provide any legal or technical basis for the assertion.

8.C.1. This contention states two concerns with respect to the fixed siren notification system. First, the contention relies on earlier contentions to provide a basis for an assertion of delay in activation of the siren system. The Staff opposes admission of this aspect of the contention as written for lack of adequate specification. Second, the contention alleges various reasons why the siren notification system will be insufficient. This is an issue which was capable of final resolution in Phase I of this proceeding. See Phase I EP Contention 1. Such contentions were dismissed for default. In addition, the precise deficiencies alleged are unsupported by a basis and appear to go beyond legal requirements. The contention may not be admitted.

8.C.2. This contention concerns the backup plan for possible failure of the LILCO siren system. This issue was capable of final resolution in Phase I of this proceeding. Such contentions were dismissed for default. This contention should not be admitted in Phase II. See Phase I EP Contention 1(B).

8.C.5. This contention concerns the adequacy of LILCO's reliance on the U.S. Coast Guard to provide notification to the public on the waters within the EPZ. The Staff opposes admission of this contention. The contention provides no technical or legal basis for concluding that an agreement with the Coast Guard is necessary, that the Coast Guard will not respond in a timely fashion, or that the Coast Guard will not have adequate boats and personnel. Further, this issue was subsumed in Phase I EP Contention 3, which was settled by stipulation. See Tr. 14,718 ff.

Related issues were dismissed for default. See LBP-82-115.

CONTENTION 9: PUBLIC NOTIFICATION/INFORMATION

9 To the extent any of these contentions are germane to low power licensing they were dismissed for default. See LBP-82-115.

9.A. This issue repeats the concern that the public will discount information from LILCO due to LILCO's lack of credibility. The issue raised here is no different from that raised in Contention 1.D and therefore this contention should not be admitted.

9.B. This issue broadly summarizes issues raised in both the time estimate and public education contexts. See Contentions 4.C.2(c), 4.C.2(d)(i), 10.C-10.F. There is no need to repeat them in the more generalized form in this context. The contention should not be admitted.

9.C. This issue is also more properly raised in the public education context. See Contention 10.E. This redundant contention should not be admitted.

9.D.1. This contention concerns possible public reaction to messages intended to inform the public of the low probability of releases with adverse public health effects. The contention is speculative, lacks basis, and should not be admitted.

9.D.2 and 9.E. These two contentions concern LILCO's credibility and are therefore redundant to Contention 1.D. The contentions should not be admitted.

9.F. The Staff does not object to the substance of this contention. However, the issue is duplicated in Contention 8.C.3 and there is no need to admit the contention twice.

CONTENTION 10: PUBLIC EDUCATION

10 To the extent any of these contentions are germane to low power licensing they were dismissed for default. See LBP-82-115.

10.A.2. This contention asserts that the brochure is erroneous in stating that emergency workers will be in place. The substance of the issue, however, is not public education, but the question of whether or not emergency workers will be in place. This question is covered in more specific detail by other contentions. This broadly stated summary of concerns should not be admitted as a discrete contention.

10.A.3. This contention asserts that the brochure is incorrect in stating that sheltering would be appropriate in most cases. The effectiveness and guidelines for a sheltering order are issues more appropriately raised in the context of Contention 4.B. The Intervenors have shown insufficient nexus between the issue and the subject of public education. For example, there is no basis asserted for the proposition that the statement in the

brochure adversely affects public education. This contention should not be admitted as an issue distinct from Contention 4.B.

10.A.4. This contention should not be admitted for lack of basis.

10.A.5. This contention asserts the need for inclusion of specific information in the brochure. The contention states that without the information the brochure is "incredible." The Staff objects to the admission of this contention. The County asserts no basis for its conclusion that the brochure will be incredible. Furthermore, there is no requirement that information of the type referenced in the contention be included in the brochure.

10.A.6. This contention asserts that the public must be informed that LILCO is issuing information and making protective action decisions. Otherwise, the contention asserts, the public will not be able to "assess and evaluate" the information it is receiving. The Staff opposes admission of this contention. There is absolutely no basis asserted for concluding that dissemination of such information must be included in the emergency plan. The fact that LILCO will be making decisions under the LILCO Plan should already be public knowledge. Furthermore, the contention provides no basis for concluding that supplying this information will lead to more effective emergency response.

10.A.7 and 10.A.9. These contentions assert the need for distribution of the brochure outside the EPZ. The Staff opposes admission of the

contentions in that they would exceed the requirements of 10 C.F.R. § 50.47(c), which establishes the 10 mile EPZ as the planning basis.

10.A.10. This contention asserts that the brochure should inform all individuals to report to a relocation center for monitoring and decontamination. The Staff opposes admission of the contention. There is no basis asserted for concluding that such a measure is necessary. Furthermore, such a measure would exceed the legal requirements. See NUREG-0654, II.J.12. Finally, the substance of the issue is redundant to Contentions 4.B.3(e) and 4.C.5(h).

10.B. This contention again raises the issue of LILCO's credibility with the public. The contention asserts as a basis a survey of Long Island residents. The Staff believes, however, that the contention raises no issues not raised in Contention 1.D and should not be admitted separately.

10.C. This contention asserts the inadequacy of the proposed array of educational materials. The contention as written fails to specify particular alternatives, and fails to establish a basis for concluding that alternatives would be better. Instead the contention seems to focus on reasons why no public education campaign can be totally effective. Such an assertion would be in contradiction to the regulations and beyond the scope of this hearing. For these reasons the Staff opposes admission of this contention.

CONTENTION 11: TRAINING

11 The material in this Contention was included in Phase I EP Contention 6, and was settled. Tr. 14,718. These matters may not be raised again. Furthermore, these matters were encompassed in the Phase I default dismissal of emergency planning contentions. All parts of Contention 11 should therefore not be admitted. The following specific objections are also made to several of the contentions.

11.A.1. This contention asserts that the LILCO Plan fails to provide "adequate" training in four subject areas. The first three subjects deal with background in radiation and emergency planning. The contention provides neither a basis for asserting the necessity for such training nor a description of specific deficiencies in the LILCO Plan. Therefore, this part of the contention should not be admitted. The fourth subject area in which there are alleged training deficiencies is "specific tasks and duties under the Plan." A contention written in this manner is simply too broad to satisfy § 2.714. The contention should assert specific deficiencies in the LILCO training plan. This part of the contention also should not be admitted.

11.A.7. This contention raises the issue of role conflict and the adequacy of training to overcome the conflict. The issue has been raised in many other contentions. The Staff believes that training may be the most appropriate context for the role conflict contention. However, this contention (as all the other role conflict contentions) does not

provide a satisfactory basis for the allegation. The Staff therefore opposes admission.

11.A.9. and 11.A.10. These contentions reiterate an issue raised in Contention 1.B.1. concerning the familiarity of LILCO employees with local conditions. As in that case, the Staff opposes admission of the contentions on the grounds that they fail to provide adequate specificity and basis.

CONTENTION 12: RECOVERY AND REENTRY

12.A.-12.L. The NRC staff opposes admission of all the contentions included under this subject matter. The issue was raised and resolved in Phase I of this proceeding. See "Prehearing Conference Order," LBP-82-75, 16 NRC ____, slip op. at 59-60 (September 7, 1982). The issues are therefore inappropriately re-raised for litigation in Phase II of this proceeding. The NRC staff also has the following specific objections to some of these contentions.

12.G. This contention asserts that the LILCO Plan is deficient in failing to establish a long-term medical monitoring program. The contention makes no reference to the New York State Plan. This contention lacks basis. NUREG-0654, II.M.4 only requires that the emergency plans of the state and licensee "establish a method for periodically estimating total population exposure." There is no requirement that detailed long-term medical plans be developed in advance of an emergency.

12.H. This contention asserts that the LILCO Plan is deficient for failure to provide radiological cleanup procedures. No reference is made to the New York State Plan. The Staff opposes admission of this contention. There is no requirement in NUREG-0654 that detailed plans of the type mentioned in this contention be included in the licensee or state emergency plans. See NUREG-0654, II.M.1.

12.I. This contention asserts that the LILCO Plan is deficient for failure to address disposal and decontamination of radioactive waste. No reference is made to the New York State Plan. The Staff opposes admission of this contention. There is no requirement in NUREG-0654 that detailed plans of this type be included in the licensee or state emergency plan. See NUREG-0654, II.M.1.

12.K. This contention asserts that the LILCO Plan is deficient in its failure to prescribe criteria for evaluating decontamination costs. The Staff opposes admission of this contention for lack of basis and specificity. The contention asserts no legal support for the proposition that the emergency plan should include an analysis of costs of decontamination. Furthermore, the contention is vague as to exactly what the purpose of the cost analysis would be, what the analysis would involve, and how the analysis would relate to improved emergency response.

12.L. This contention asserts that LILCO has failed to demonstrate that it has the necessary financial resources to compensate for the consequences of an emergency at the Shoreham plant. The Staff opposes

admission of this contention. There is no requirement that LILCO make such a demonstration in its emergency plan.

CONTENTION 13: STATE EMERGENCY PLAN

This contention asserts the fact that the New York State emergency plan is not presently before this Board. Such an assertion is not an admissible contention in this proceeding at this time. See "Order Limiting Scope of Submissions," (unpublished), June 10, 1983, directing that contentions be limited to the LILCO Transition Plan. In addition the contention fails to show with sufficient specificity alleged instances of lack of "coordination" between the LILCO and State emergency response plans. Without further detail, this contention lacks the specificity necessary for admission.

B. SOC Contentions

CONTENTION 1: PROTECTION OF DISADVANTAGED AND MINORITY POPULATIONS

1.A.1 This contention asserts that the brochure and educational material provided to school children will not be read or understood. This contention should not be admitted. It fails to specify any basis for its assertions, and fails to specify any proposed alternative means to educate school children on the "mechanics of nuclear emergency planning."

1.A.2(a) This contention would require that each school's early dismissal plan be incorporated into the LILCO Plan. The contention should not be admitted. There is no requirement for such a measure and the contention fails to provide adequate basis for believing the measure to be necessary or beneficial.

1.A.2(b) This contention asserts that under certain circumstances early dismissal will result in children being exposed to "potentially huge radiation doses." The contention fails to specify, however, what those circumstances might be. The contention also fails to relate the alleged consequences to the LILCO Plan protective action guidelines. For these reasons, the Staff opposes admission of the contention.

1.B This contention asserts that the public education materials cannot be read by illiterate and blind individuals and therefore that the LILCO Plan is deficient. The contention fails to demonstrate, however, how the deficiency violates NUREG-0654, II.B.1 which is cited in the contention. Furthermore, the contention fails to provide a basis for concluding that the alleged education deficiencies will result in insufficient evacuation of illiterate and blind individuals.

1.C This contention asserts that the LILCO Plan backup system for notification of hearing-impaired individuals is deficient. The contention relies on the fact that the Plan would notify these individuals by commercial telephone. The Staff opposes admission of the contention for lack of a reasonable basis. Telephone contact to some individual close to a deaf or hearing impaired individual (if not that individual) is arguably the best means possible for notifying these people. If SOC can think of a better way, the contention should specify that idea. This litigation should not focus on the abstract concept of "perfect" emergency preparedness and response.

CONTENTION 2: LOSS OF OFFSITE POWER

These contentions hypothesize an accident at the Shoreham plant coupled with a loss of offsite power. The contentions present a series of emergency planning difficulties which could result from the scenario. The Staff opposes admission of all the contentions. There is nothing in the regulations which would require planning for such a low probability event. See generally Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 1 & 2), CLI-81-83, 14 NRC 1091 (1981). Any contention dealing with loss of offsite power should have been raised with the general equipment safety contentions. It is too late to raise this issue now. The contention implies that the loss of offsite power may be a result of the accident at the plant. The Staff believes, however, that there is an inadequate basis asserted for this proposition. Further, much of the material raised here was covered by Phase I of this proceeding. See Phase I Contentions EP 1, 11 and 12. See LBP-82-115; see also Tr. 14,718 ff.

CONTENTION 3: LOSS OF RELIABLE TELEPHONE SERVICE

These contentions hypothesize possible complications in emergency response due to loss or impairment of commercial telephone service on Long Island. These complications would involve public notification (3.A), notification of LERO personnel (3.B), and implementation of the emergency protective actions (3.C). The Staff believes that contentions 3.A, 3.B, and 3.C.1 are redundant to issues raised in Suffolk County Contentions

8.A.2 and 8.A.4. The Staff has opposed admission of those contentions on the grounds that the issues were capable of resolution in Phase I of this proceeding and are barred by the dismissal of Phase I contentions. See Phase I EP Contention 11. SOC Contention 3.C.2 repeats the issue of phone notification to the public and to special facilities raised in Suffolk County Contention 8.C.4. There is no need to admit a separate SOC contention on the subject.

C. Town of Southhampton Contentions

CONTENTION 1

This contention asserts that there is inadequate planning to deal with evacuation of individuals to the east and outside the EPZ. To the extent the contention seeks to broaden the planning basis beyond the 10 mile EPZ, the contention constitutes a challenge to the Commission's regulations. To the extent the contention alleges deficiencies in the LILCO Plan to deal with problems inside the EPZ, the contention lacks requisite specificity for admission. For example there must be a more detailed statement of alleged deficiencies in perimeter, traffic, or security controls, and a supporting basis for the alleged deficiencies in order to properly focus these concerns for litigation.

CONTENTION 2

This contention asserts that the LILCO Plan is deficient in failing to plan for the contingency in which emergency response beyond the 10 mile zone may be necessary. The Staff opposes admission of this contention as a challenge to the agency's regulations. As stated above

in response to Suffolk County Contention 2, the Commission specifically found that a 10 mile EPZ is a sufficient planning basis to support ad hoc response outside the EPZ should it ever be necessary. See 45 Fed. Reg. 55402, 55406, at col. 2 (1980). The contention would revisit the rulemaking that resulted in promulgation of 10 C.F.R. § 50.47(c).

CONTENTION 3

This contention seeks to litigate the so-called "evacuation shadow phenomenon" and the impact of that phenomenon outside and to the east of the EPZ. Four specific effects outside the EPZ are listed. The Staff opposes admission of this contention. The contention specifically seeks to require planning and response in excess of the 10 mile zone. As stated above, such a contention is an inadmissible attack on 10 C.F.R. § 50.47(c).

CONTENTION 4

This contention does not raise any issue different from that raised in Contention 3. The contention merely asserts that traffic congestion outside the EPZ, alleged in Contention 3, will result in radiological exposure outside the EPZ. The Staff opposes admission of the contention for the reasons stated above.

CONTENTION 5

This contention raises only one specific issue: whether local police and fire departments will perform normal security functions during the course of an actual emergency. That issue has also been set out in

Suffolk County Contention 6.E. The Staff opposes admission of that contention and this contention because they are speculative and based on the premise that Suffolk County or local governments would not approve or condone any emergency plan for Shoreham and therefore will not perform their normal security duties. Such a contention is outside the scope of this proceeding. See LBP-83-22, at 62.

CONTENTION 6

This contention concerns the 50 mile ingestion pathway EPZ. It is largely redundant to Suffolk County Contention 4.D. The Staff further opposes this contention for lack of basis and specificity. The first part of the contention lists several "assumptions" allegedly made in the LILCO Plan. However, the contention does not specify how these assumptions are incorrect. The second part of the contention alleges that the LILCO Plan "does not provide for personnel, facilities, equipment, or even a communications network" to implement the 50 mile emergency plan. The Staff believes this part of the contention fails to adequately specify the issues for litigation. Furthermore, there is no legal basis asserted for the proposition that the listed items must be provided at this time. See NUREG-0654, II.J.11. Finally, the 50 mile EPZ is generally a state responsibility and no reference is made to the New York State emergency plan.

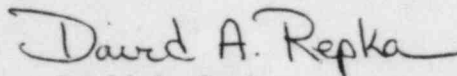
CONTENTION 7

This contention generally concerns the availability of medical and health services. The contention is similar to Suffolk County

Contention 7. The Staff opposes admission of that contention on the grounds that the Commission does not require that localities provide additional hospitals or emergency personnel to deal with potential nuclear plant accidents. See Southern California Edison Co., et al. (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-83-10, 17 NRC ____ (April 4, 1983). Likewise, the Southampton contention has no legal basis.

Contention 7(b) is a traffic congestion issue which is redundant to many other proposed contentions. Taken alone, however, this particular contention also lacks specificity and basis and should not be admitted.

Respectfully submitted,



David A. Repka
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 7th day of July, 1983

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-OL-3
(Shoreham Nuclear Power Station,)	(Emergency Planning)
Unit 1))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO DRAFT EMERGENCY PLANNING CONTENTIONS" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, by deposit in the Nuclear Regulatory Commission's internal mail service, or, as indicated by a double asterisk, by hand delivery, or as indicated by a triple asterisk, by Express Mail, this 7th day of July, 1983:

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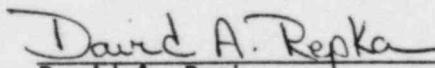
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