

July 7, 1983

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)

NRC STAFF RESPONSE TO THE PROPOSED CONTENTIONS
OF THE CITIZENS FOR AN ORDERLY ENERGY POLICY, INC.

I. INTRODUCTION

On June 23, 1983, the Citizens for an Orderly Energy Policy, Inc. ("Citizens, Inc.") filed draft contentions in support of the offsite emergency plan for Shoreham ("LILCO Transition Plan") submitted by the Long Island Lighting Co. ("LILCO" or "Applicant"). The NRC Staff provided a preliminary response to those draft contentions in its June 29, 1983 response to Citizens, Inc.'s petition to intervene in this proceeding. See "NRC Staff Response to Petition of the Citizens for an Orderly Energy Policy, Inc. to Intervene in the Emergency Planning Hearing," June 29, 1983, at 13, fn.3. The petition to intervene has not yet been ruled upon. In this pleading the Staff provides a further response to the draft contentions.

II. DISCUSSION

As stated in its previous response, the NRC staff has concluded that intervenors in support of a license application need not satisfy

DESIGNATED ORIGINAL

Certified By _____

[Handwritten signature]
1/1 0507

the "one admissible contention" rule of 10 C.F.R. § 2.714(b) to be granted party status in a proceeding. Instead, the contention requirement is fulfilled merely by initially asserting that the application is meritorious and should be granted. See Nuclear Engineering Company, Inc. (Sheffield, Illinois, Low-Level Radioactive Waste Disposal Site), ALAB-473, 7 NRC 737, 743 at fn.5 (1978). The petitioners in this case, however, have submitted five contentions to support their intervention petition. The Staff opposes admission of these five contentions as issues distinct from any admitted contentions of the other intervenors in this proceeding. If Citizens, Inc. is admitted to this proceeding it should present its evidence and make argument in opposition to those admitted contentions as is deemed appropriate. Furthermore, the Staff sets out below additional specific objections to the admissibility of the contentions of Citizens, Inc.

Contention 1

1(a) This contention asserts that there are "no unique geographical, meteorological, or population density features on Long Island" which preclude effectiveness of the LILCO emergency plan. This is exactly the type of broad issue in support of an application which illustrates the appropriateness of the Sheffield rule. Litigation of such an issue would necessarily be unfocused and would unduly delay the proceeding. Intervenors opposing the plan must assert with specificity those "unique features" which are believed to make the LILCO Plan deficient. Citizens, Inc. can then oppose those specific contentions. Otherwise, this contention must not be admitted for lack of adequate specificity.

1(b) This contention seeks to litigate the adequacy of a 10 mile EPZ. This contention seeks to raise a generic issue which was resolved in the rulemaking for 10 C.F.R. § 50.47(c). The issue is similar to Suffolk County Contention 2 and is likewise inadmissible in this proceeding. See Duke Power Co. (William B. McGuire Nuclear Station, Units 1 and 2), ALAB-128, 6 AEC 399, 400-401 (1973); Detroit Edison Co., et al. (Enrico Fermi Atomic Power Plant, Unit 2), LBP-78-37, 8 NRC 575, 584-85 (1978); see also 10 C.F.R. § 2.758.

Contention 2

This contention alleges conservatisms in the dose consequences assumed for the emergency planning regulations. This issue is similar to Contention 1(b) and to Suffolk County Contention 2. It is inadmissible in an individual licensing proceeding. The dose assumptions underlying the emergency planning regulations were considered as a generic matter in the rulemaking for 10 C.F.R. § 50.47 and the preparation of NUREG-0654, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," November 1980. Reevaluation of those assumptions in this proceeding would improperly revisit the generic undertakings.

Contention 3

This contention asserts the adequacy of the Suffolk County civil defense plan. If the contention seeks to litigate the adequacy of that plan, the contention is beyond the scope of this proceeding and should not be admitted. See "Order Limiting Scope of Submissions," (unpublished),

June 10, 1983. If the contention merely seeks to demonstrate the "feasibility" of emergency planning for Suffolk County by offering the civil defense plan as evidence, the contention lacks specificity and basis and should not be admitted. Contentions placing into issue the broad question of the possibility or impossibility of emergency planning on Long Island are too broad for this proceeding. See Philadelphia Electric Co. (Peach Bottom Atomic Power Station, Units 2 and 3), ALAB-216, 8 AEC 13, 20-21 (1974). Furthermore, the contention asserts no basis for alleging the relevance of a civil defense plan to the LILCO Transition Plan.

Contention 4

The first sentence of this contention asserts the adequacy of training of emergency volunteer forces. The issue is similar to Suffolk County Contention 11. The proposed contention lacks specificity and basis and cannot be admitted. The second portion of the contention refers to available resources which "could be trained, drilled, and mobilized in the event of a radiological emergency." (Emphasis added.) This portion of the contention is speculative and fails to adequately illustrate relevance to the LILCO Transition Plan. The issue should not be admitted.

Contention 5

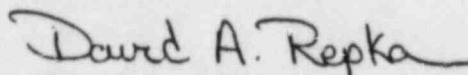
The contention asserts the "unique advantage" of Shoreham for emergency planning due to the presence of the Brookhaven National Laboratory (BNL). This contention also should not be admitted for lack of specificity and basis. The LILCO Transition Plan does make specific

provision for utilization of BNL employees. However, this contention is broadly stated and fails to focus on those specific provisions.

III. CONCLUSION

For the reasons stated above, the NRC staff concludes that the proposed contentions of Citizens, Inc. should not be admitted in this proceeding. However, the Staff continues to believe that contentions are not required in order to grant the intervention petition of a party in support of a license application. Therefore, if Citizens, Inc. is found to meet the other requirements for intervention, the lack of admissible contentions should not prevent their participation in this proceeding.

Respectfully submitted,



David A. Repka
Counsel for NRC Staff

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

Stephen B. Latham, Esq.***
John F. Shea, III, Esq.
Twomey, Latham & Shea
Attorneys at Law
P.O. Box 398
33 West Second Street
Riverhead, NY 11901

Atomic Safety and Licensing
Board Panel*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing
Appeal Board Panel*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Docketing and Service Section*
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Spence Perry, Esq.
Associate General Counsel
Federal Emergency Management Agency
Room 840
500 C Street, S.W.
Washington, D.C. 20472

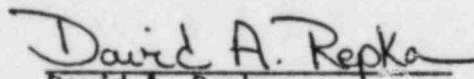
Herbert H. Brown, Esq.**
Lawrence Coe Lanpher, Esq.
Karla J. Letsche, Esq.
Kirkpatrick, Lockhart, Hill,
Christopher & Phillips
1900 M Street, N.W.
8th Floor
Washington, D.C. 20036

Eleanor L. Frucci, Esq.*
Attorney
Atomic Safety and Licensing Board
Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

James B. Dougherty, Esq.**
3045 Porter Street, N.W.
Washington, D.C. 20008

Stewart M. Glass, Esq.
Regional Counsel
Federal Emergency Management
Agency
26 Federal Plaza
Room 1349
New York, NY 10278

Lucinda Low Swartz, Esq.
Pacific Legal Foundation
1990 M Street, N.W.
Suite 550
Washington, D.C. 20036


David A. Repka
Counsel for NRC Staff

COURTESY COPY LIST

Edward M. Barrett, Esq.
General Counsel
Long Island Lighting Company
250 Old County Road
Mineola, NY 11501

Mr. Brian McCaffrey
Long Island Lighting Company
175 East Old Country Road
Hicksville, New York 11801

Marc W. Goldsmith
Energy Research Group, Inc.
400-1 Totten Pond Road
Waltham, MA 02154

David H. Gilmartin, Esq.
Suffolk County Attorney
County Executive/Legislative Bldg.
Veteran's Memorial Highway
Hauppauge, NY 11788

Ken Robinson, Esq.
N.Y. State Dept. of Law
2 World Trade Center
Room 4615
New York, NY 10047

Mr. Jeff Smith
Shoreham Nuclear Power Station
P.O. Box 618
North Country Road
Wading River, NY 11792

MHB Technical Associates
1723 Hamilton Avenue
Suite K
San Jose, CA 95125

Hon. Peter Cohalan
Suffolk County Executive
County Executive/Legislative Bldg.
Veteran's Memorial Highway
Hauppauge, NY 11788

Mr. Jay Dunkleberger
New York State Energy Office
Agency Building 2
Empire State Plaza
Albany, New York 12223

Ms. Nora Bredes
Shoreham Opponents Coalition
195 East Main Street
Smithtown, NY 11787