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March 15, 1983

IN PITTSBURGH
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Mr. Harold R. Denton
Director of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Shoreham Nuclear Power Station - Unit 1 Construction
Permit No. CPPR-95; NRC Docket No. 50-322

Dear Mr. Denton:

By letter dated February 25, 1983 (SNRC-848), Long Island Lighting Company ("LILCO") requested that the Commission, pursuant to 10 C.F.R. Sec. 50.55(b), extend the completion date for the Shoreham plant stated on the subject Construction Permit ("CP") from March 31, 1983 to December 31, 1983. On behalf of our client, Suffolk County, New York, we submit that the LILCO request cannot lawfully be granted and the CP must expire on March 31, 1983, the completion date stated therein.

Both 10 C.F.R. Sec. 50.55, and the statutory provision which it implements, Section 185 of the Atomic Energy Act of 1954, as amended (the "Act") (42 U.S.C. Sec. 2235), require that each construction permit state the latest date for completion of construction, and that if construction is not completed by that date, the permit

. . . shall expire and all rights there-
under shall be forfeited: Provided, however,
that upon good cause shown the Commission
will extend the completion date for a
reasonable period of time. C.F.R. Sec.
50.55(b).

LILCO's letter of February 25 does not show, and LILCO cannot possibly show, "good cause" for extending the completion date for Shoreham, because no operating license for the Shoreham plant can lawfully be issued by the NRC. For the reasons set forth below, the Shoreham plant is ineligible to receive an operating license and, therefore, will not operate. Accordingly, there is no "good cause" for the NRC to authorize continued construction of

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the inoperable Shoreham plant. Indeed, to the contrary, there is now compelling good cause not to extend the Shoreham completion date.

The NRC's regulations, 10 C.F.R. Sections 50.33(g) and 50.47(a), expressly require, as a precondition to the issuance of an operating license for the Shoreham plant, that the NRC's findings on emergency preparedness be based, inter alia, on the radiological emergency response plan of the "local governmental entity," which in this instance is Suffolk County. However, after a comprehensive, year-long program of analyses, studies, and surveys, Suffolk County has resolved that it will not adopt or implement a local radiological emergency response plan. See Suffolk County Resolution No. 111-1983, attached hereto. Because there is and will be no radiological emergency response plan of Suffolk County, the regulatory prerequisites for issuance of an operating license for the Shoreham plant cannot and will not be met.

LILCO's February 25 letter does not even address this fundamental barrier to any showing of good cause for the extension of the Shoreham completion date. Instead, LILCO merely recites a list of factors which it alleges have caused and are causing completion delays. These factors, however, do not and, indeed, cannot constitute "good cause" for extending the completion date of a nuclear power plant whose construction has become an exercise in futility. Since Shoreham cannot operate, LILCO's CP "shall expire and all rights thereunder shall be forfeited" on March 31, 1983, as required by Section 185 of the Act and 10 C.F.R. Sec. 50.55(b).

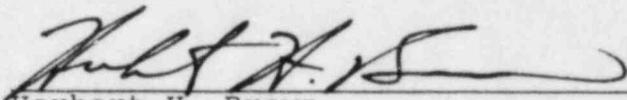
You may be aware that Suffolk County has filed a motion to terminate the Shoreham operating licensing proceeding, based upon the non-existence of a Suffolk County radiological emergency response plan, and has requested that the motion be certified for decision by the Commissioners. Because the expiration of the CP is related to matters discussed in the County's motion, it would seem appropriate for the Commissioners to address the issue raised in this letter. Accordingly, we would appreciate your forwarding this opposition to LILCO's request for an extension of its Shoreham completion date to the Commissioners for their early consideration.

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Page Three

Respectfully submitted,

David J. Gilmartin
Patricia A. Dempsey
Suffolk County Department of Law
Hauppauge, New York 11788



Herbert H. Brown
Lawrence Coe Lanpher
Alan Roy Dynner
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Washington, D.C. 20036

cc: NRC Commissioners
Service List

Intro. Res. No. 1196-83

Introduced by Legislators Wehrenberg, Caracappa, D'Andre, Geise, Allgrove, Bachet, Prospect, Foley, Nolan, Blass, Rizzo, LaBua, Devine, Hariton, 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 problems 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 such 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, 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

(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, 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 certainly 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 by 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 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, be 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 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:

Robert Lohman
County Executive of Suffolk County

Date of Approval: 2/23/83

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March 28, 1983

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Mr. Harold R. Denton
U.S. Nuclear Regulatory Commission
7920 Norfolk Avenue
Room P-404
Bethesda, Maryland 20814

Re: Shoreham Nuclear Power Station, Unit 1, Construction
Permit No. CPPR-95; NRC Docket No. 50-322

Dear Mr. Denton:

On behalf of our client, Suffolk County, we are responding to the March 22 letter of Mr. W. Taylor Reveley, III, which disputes the need for the NRC immediately to rule that LILCO's Construction Permit for the Shoreham plant cannot lawfully be extended.

1. Mr. Reveley's letter overlooks the basic legal issue raised in our March 15 opposition to LILCO's request to extend the subject construction permit ("CP") -- whether "good cause" for extension of the CP can be shown where no operating license for the plant can be issued.

Contrary to Mr. Reveley's assertion, LILCO has no legal "right" to an extension under 10 C.F.R. Sec. 50.55(b). Both that regulation and Section 185 of the Atomic Energy Act provide that the CP "shall expire" by the construction completion date unless LILCO can show "good cause." The question, therefore, is whether there is "good cause" on the present facts for the NRC to take the extraordinary action of permitting further construction work on the now inherently inoperable Shoreham plant. The County contends that there is not. Indeed, LILCO cannot meet its burden of showing that there is such good cause. As stated in our letter of March 15, the fact that Shoreham cannot be licensed makes its continued construction a mere exercise in futility. Congress clearly did not intend to sanction Federal support for such a futile endeavor and thus specified CP termination unless the requisite good cause is shown.

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2. Mr. Reveley's letter mischaracterizes Suffolk County's position by fashioning and responding to what Mr. Reveley calls the County's "theory" of a "prerogative to veto Shoreham." Suffolk County is not pursuing a mere "theory" as to whether Shoreham can lawfully be issued an operating license. Instead, the County has placed the weight of its argument on the NRC's regulations, and those regulations explicitly provide that Shoreham cannot operate under the present circumstances. Therefore, the County is asking for a ruling from the NRC that recognizes Shoreham will not operate and that brings its costly construction to a stop. As stated in our March 15 letter, these two issues are closely related and can best be dealt with by the Commission, preferably under an expedited decisionmaking schedule that takes cognizance of the need to end the current state of uncertainty over Shoreham's future.

3. Mr. Reveley's letter mischaracterizes the nature and effect of Suffolk County's determination (in County Resolution No. 111-1983) that the County will not adopt or implement a local radiological emergency response plan. The County took this action, as the Resolution explicitly provides, so as to avoid misleading the public into believing that they were being protected when in fact they were not. It is thus not, as Mr. Reveley states, a matter of the County "saying it won't cooperate in emergency preparedness." Rather, it is a matter of the County taking the only responsible action it could take under its constitutional obligation to protect the health, safety, and welfare of its own citizens. Were the County to do otherwise, it would, as the County Executive has repeatedly stated, betray the public trust of those whose safety the government of Suffolk County was established to protect.

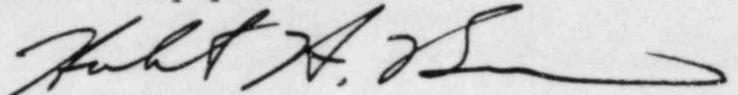
The March 15 opposition of Suffolk County to an extension of LILCO's CP for Shoreham is viewed by the County as a most serious matter. Officials of Suffolk County are prepared to meet with you and your colleagues in order to set the record straight as to what actually has happened at the local level and what must now be done by all other affected parties. Mr. Reveley's letter portrays on LILCO's behalf a self-serving and inaccurate characterization of Suffolk County's governmental activities. This is unfortunate, because it might tend to mislead the Staff into not appreciating the hard work and good faith of the government of Suffolk County. The fact is that Suffolk County has acted to

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effectuate its legal obligations and it has done so with vigor and spirit befitting public officials who were elected to protect the public welfare.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Herbert H. Brown", with a long, sweeping horizontal flourish extending to the right.

Herbert H. Brown
Counsel for Suffolk County

cc: NRC Commissioners
Service List