

LILCO, January 26, 1983

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Before the Atomic Safety and Licensing Board

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

LILCO'S MOTION FOR FURTHER SPECIFICATION
OF ISSUES ON SC 23 -- CONTAINMENT ISOLATION

Long Island Lighting Company (LILCO) moves that the Board issue an order today, requiring Suffolk County to state in writing, prior to the end of the hearing Thursday, January 27, whether it is willing to settle the issue of Containment Isolation -- SC Contention 23, on the terms memorialized in a memorandum forwarded to counsel for the County by counsel for LILCO on January 21 or on terms substantially similar thereto; and if it does not indicate such an intent, to require SC to state specifically, in writing, at that time, those aspects of SC Contention 23 which it intends to place into category (a) by direct testimony, and (b) by cross-examination only.

In support of this motion, LILCO states as follows:

1. SC has filed a contention, denominated SC 23, dealing with issues relating to containment isolation. That contention reads as follows:

SC 23: Containment Isolation

Suffolk County contends that LILCO and the NRC Staff have not adequately demonstrated that Shoreham meets the requirements of 10 CFR 50, Appendix A, GDC 54, 55, 56, and 57 regarding the adequacy of the containment isolation valves. Valve configuration and functionability relating to leak rate and intersystem leakage testing have not been sufficiently demonstrated. Further, LILCO has not fully complied with NUREG-0737, item II.E.4.2 (containment isolation dependability) in that the automatic isolation and operability of the containment purge valve have not been demonstrated. Further, LILCO has not demonstrated that the requirements of NUREG-0803 related to a postulated break in the scram discharge volume have been met.

2. Pursuant to this Board's instruction, LILCO has met with the Staff and Suffolk County, most recently on December 21, 1982, in efforts to provide SC with information which it would regard as sufficient to permit or preclude settlement of the issue. LILCO has also compiled and sent to SC on December 31, 1982, a set of answers to matters raised in telephone discussions growing out of the December 21 meeting. That package consists of a five-page single-spaced letter responding to eight specific requests, and attaching six items totaling approximately 100 pages. Copies of this material are not attached, even though they are classic discovery materials, lest they be misconstrued as invasions of the sanctity of the settlement process.

3. No response has been received by LILCO from SC counsel in response to the December 31 submittal, though

counsel for LILCO has inquired of counsel for SC on the matter more than once during the early and middle part of January. On or about January 19, 1982, Jeffrey Smith, one of LILCO's technical experts, directly contacted SC technical experts to discuss possibilities, on a technical level, for settlement of this issue. That day and the next, as the result of telephone conferences, Mr. Smith reached what he believed was a complete agreement with SC technical experts on a technical level, and forwarded the substance of that apparent agreement to counsel for LILCO. On January 21, counsel for LILCO sent by telecopier to counsel for SC a memorandum reciting the terms of that apparent agreement, and also sent copies of that apparent agreement directly to SC technical representatives. LILCO has requested, but has not received, any response to this communication.

4. LILCO, as it has stated frequently and as is clear from its efforts to date, would prefer to settle this issue in a mutually satisfactory manner than to litigate it. At the very least, LILCO has endeavored to construct a process which results in an informed decision on settlement. To date, LILCO has received neither a formal settlement offer, nor a response to its statement of the terms it understands to be mutually acceptable to its and SC's technical representatives, nor any indication of those issues, if any, which SC would intend to litigate in the event the issue is tried (as distinguished from those items on which SC has requested, and obtained, discovery).

5. In the absence of a settlement, testimony must be filed next Monday, January 31. SC Contention 23, as filed, is extremely broad, and in the absence of specification, LILCO will be forced to address it all in some detail. The process of informal discovery and discussion on this issue among the parties should have, by now, focused as well as informed SC's concerns on this contention. However, neither the subjects of discovery nor the topics of discussion at meetings provide any reliable indication of what specific issues SC actually intends to litigate. Without further specification by SC, LILCO will be subjected to burdensome preparation of testimony on areas which it has no way of knowing are no longer in contest, and risking inadequate detail on those which, to its surprise, turn out to be.

WHEREFORE, LILCO moves that the Board require SC to provide in writing, prior to the end of this Thursday's hearing session, the following information:

1. A statement whether the settlement proposal sent by LILCO to SC on January 21, is acceptable to SC, and if not, whether different terms would be, and if so, what those terms are (such terms need not be transmitted to the Board); and

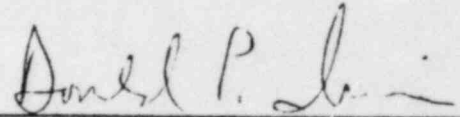
2. Unless SC indicates that the January 21 proposal substantially states the basis, in SC's view, for a complete settlement of the issue, a further specification of those aspects of SC Contention 23 which SC intends to contest. Such

specification should indicate, as to each issue which SC desires to litigate:

- a. a statement of the issue, including a statement of principal facts relevant to it;
- b. the portion of the contention to which it relates;
- c. SC's position on the issue;
- d. the documents on which SC's position relies; and
- e. whether SC intends to file direct testimony on the issue.

SC's direct testimony and cross-examination should be limited to these issues.

Respectfully submitted,



Donald P. Irwin
One of Counsel for
Long Island Lighting Company

HUNTON & WILLIAMS
Post Office 1535
Richmond, Virginia 23212

DATED: January 26, 1983

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

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I hereby certify that copies of LILCO'S MOTION FOR
FURTHER SPECIFICATION OF ISSUES ON SC 23 -- CONTAINMENT
ISOLATION were served upon the following by first class mail,
postage prepaid, on January 26, 1983, or by hand (as indicated
by an asterisk):

Lawrence Brenner, Esq.*
Administrative Judge
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. Peter A. Morris*
Administrative Judge
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. James H. Carpenter*
Administrative Judge
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Secretary of the Commission
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

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

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

Bernard M. Bordenick, Esq.*
David A. Repka, Esq.
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

David J. Gilmartin, Esq.
Attn: Patricia A. Dempsey, Esq.
County Attorney
Suffolk County Department of Law
Veterans Memorial Highway
Hauppauge, New York 11787

Howard L. Blau, Esq.
217 Newbridge Road
Hicksville, New York 11801

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

Mr. Mark H. Goldsmith
Energy Research Group
400-1 Totten Pond Road
Waltham, Massachusetts 02154

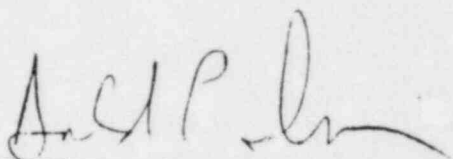
MHB Technical Associates
1723 Hamilton Avenue
Suite K
San Jose, California 95125

Ralph Shapiro, Esq.
Cammer and Shapiro, P.C.
9 East 40th Street
New York, New York 10016

Matthew J. Kelly, Esq.
New York State Energy Office
Agency Building 2
Empire State Plaza
Albany, New York 12223

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

Stephen B. Latham, Esq.
Twomey, Latham & Shea
33 West Second Street
P. O. Box 398
Riverhead, New York 11901


Donald P. Irwin

HUNTON & WILLIAMS
707 East Main Street
P.O. Box 1535
Richmond, Virginia 23212

DATED: January 26, 1983