

11072

BEFORE THE UNITED STATES  
NUCLEAR REGULATORY COMMISSION

'90 OCT 10 P4:12

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of	)	
	)	
Consideration of Issuance of Amendment	)	USNRC Docket No.:
To Facility Operating License and	)	50-322
Proposed No Significant Hazards	)	License No. NPF-82
Consideration Determination and	)	
Opportunity for Hearing; Long Island	)	
Lighting Co. (Defueled Operating	)	
License)(55 Fed. Reg. 34098,	)	
August 21, 1990)	)	

SHOREHAM-WADING RIVER CENTRAL SCHOOL DISTRICT  
SUPPLEMENT TO COMMENTS ON PROPOSED  
NO SIGNIFICANT HAZARDS DETERMINATION,  
PETITION TO INTERVENE, AND REQUEST FOR HEARING

In Shoreham-Wading River Central School District's ("Petitioner") "Comment on Proposed No Significant Hazards Determination and Petition to Intervene and Request for Hearing" filed September 20, 1990, Petitioner argued, inter alia, that the proposed no significant hazards determination announced in the August 21, 1990 Federal Register Notice (55 Fed. Reg. 34098) regarding the application of the Long Island Lighting Company ("LILCO") for a "possession only" license was invalid given the statements elsewhere in the Notice which clearly indicate that the Staff had yet to complete its technical review of the many subparts of the application when the proposed determination was published. See Petition at 33-34. The Nuclear Regulatory Commission ("NRC") cannot validly make a proposed determination that the amendment poses no significant hazards before completing

D803

review of a proposed amendment. And Petitioner sought to intervene in a prior hearing on the proposed amendments.

Since September 20, 1990, other documents have become available from the NRC's Public Document Room which further confirm that the proposed no significant hazards determination is a nullity and that a prior hearing is needed. These documents, letters from LILCO to the NRC dated August 21 and August 30, 1990, were not available from the Public Document Room in time for Petitioner to reference them in its original submission. Therefore, it is necessary for Petitioner to file this supplement to draw the Commission's attention to the significance of these documents.

A proposed no significant hazards determination is an announcement that the proposed action, as it stands at the time of that proposed determination, meets the tests of 10 C.F.R. § 50.92. Thus, a priori, a subsequent change to the proposed action after such notice is given nullifies any possible validity of the preceding proposed determination and necessitates a new technical review followed by a new proposed determination with a new public notice and a new opportunity to comment.

SNRC - 1752

On August 30, 1990, nine days after the August 21, 1990 Federal Register Notice of the proposed no significant hazards determination relating to LILCO's request for a "possession only" license, LILCO submitted "LILCO's proposed revision to Shoreham's Technical Specifications to replace those provided in [the

original January 5, 1990 License Change Application]." Letter from John D. Leonard, Jr., LILCO Vice President Office of Corporate Services and Office of Nuclear, to NRC dated August 30, 1990 (SNRC-1752) at 2 (emphasis added). This constitutes a wholesale replacement of proposed change number "21" of the twenty-two proposed changes that compose LILCO's request for a "possession only" amendment as listed by the NRC in its August 21 Notice: "Appendix A, Technical Specifications; revise to reflect a possession only status". 55 Fed. Reg. at 34099 col. 3. In the August 21 Notice, the Commission "determined that the . . . significant hazards consideration analysis is applicable to each proposed change to the license, items 1 through 21 . . . ." *Id.* at 34100 col. 1-2 (emphasis added).

The proposed no significant hazards determination issued August 15, 1990 and published August 21, 1990 cannot possibly be apply to this proposed set of Technical Specifications since they were not formally submitted to the Commission until August 30, 1990.

Furthermore, the August 30, 1990 version of the Technical Specifications itself, is merely a "proposed revision." Until a final set of Technical Specifications have resulted from review by the Staff, the Staff cannot possibly determine whether or not those Technical Specifications pose significant hazards considerations. And more importantly, even if the Staff believes that the further revisions submitted on August 30 will not alter the no significant hazards determination analysis, the public,

including Petitioner, must be given the opportunity to evaluate such an analysis based on the final version. To deny the public, including Petitioner, the right to informed comment on this agency decisionmaking would be a denial of their rights under the Administrative Procedure Act and the Commission's regulations.

SNRC - 1745

By letter of August 21, 1990, LILCO submitted "License Change Application #8" requesting a license amendment "to modify the full power Technical Specifications . . . that [LILCO] presently holds for [the Shoreham Nuclear Power Station] by deleting the Independent Safety Engineering Group (ISEG) and its associated administrative controls." Letter from John D. Leonard, Jr., LILCO Vice President Office of Corporate Services and Office of Nuclear, to NRC dated August 21, 1990 (SNRC-1745) at 1.

LILCO explains that the deletion of this portion of the Technical Specifications is one part of its January 5, 1990 request for a "possession only" license amendment and that issuance of that amendment "would make this current license amendment moot," but "inasmuch as the review and approval schedule for [the "possession only" amendment] is indeterminable at this time, LILCO wishes to take advantage of the immediate relief available upon NRC approval of the this current license amendment request." Ij. Thus, "License Change Application #8" is merely a portion of the larger "Request for a Defueled Operating License" (more properly denoted as an application for a

"possession only" license). It is, also, interstitial to the change to the amendment application submitted nine days later on August 30.

What is most revealing about this August 21 request is that this request for one minute (but significant) part of one of the twenty-two proposed changes is supported by a more detailed justification in terms of 10 C.F.R. § 50.92 than was previously provided for all twenty-two changes. LILCO's original significant hazards "analysis" was a mere conclusory parroting of the Section 50.92 standards devoid of factual discussion, much less actual technical analyses. As such, the original analysis did not provide any basis for NRC concurrence.

Nor does the added degree of detail for the interstitial change to the Technical Specifications satisfy the Section 50.92 standards. To the contrary, it clearly identifies that LILCO seeks to remove an independent engineering review group previously determined by the NRC to be essential to the safe conduct of licensed activities at Shoreham. By playing upon the word "operation" and asserting that the plant will not "operate" again (which Petitioner also contests), LILCO seeks removal of this important mechanism which is required to assure the safe conduct of all licensed activities, regardless of whether electricity is produced.

Flouting the fact that it is ignoring a great many of the NRC directives for full-power licensees, LILCO tries to turn this disregard for NRC directives into a justification for

removal of this important safeguard on the basis of the ISEG's reduced activities. Even if the Staff should concur with LILCO's abdication of some of its full power reactor licensee responsibilities, this would provide no basis for relieving the licensee of the responsibility to conduct ISEG review of those remaining licensed activities which the Staff considers important to safety. Safety review can never be considered "no longer prudent." SNRC-1745, Attachment 1 at 2.

The LILCO assertion that the deletion of this independent engineering review mechanism "does not involve a significant increase in the probability or consequences of an accident previously evaluated because the change is not related to any accident analysis and does not affect the function or operation of any system or equipment" is the equivalent of saying that safety engineering review is irrelevant to accident analysis and the function and operation plant systems and equipment. That is a patently absurd position, contradicting the core of the safety ethic which was the basis for the ISEG requirement in the first instance.

The same logic that describes elimination of the vital ISEG review mechanism as only "administrative in nature" might attempt to justify a proposal to abolish all NRC Staff review of license applications since that activity is also only "administrative in nature". See SNRC-1745, Attachment 1, Paras. 3.1 and 3.2. It is obvious that this change would "involve a significant reduction in a margin of safety" by removing an

engineering review safeguard determined to be essential as a result of the Three Mile Island experience. See SNRC-1745, Attachment 1, Para. 3.2.

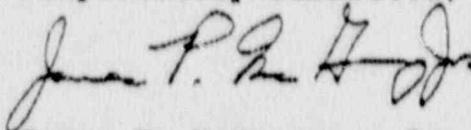
While the Petitioner contests, per se, the LILCO assertion that the deletion of the ISEG would not increase the risk of radiological (probability and consequences) of radiological exposure to the offsite general public, Petitioner also notes the limitation of this LILCO contention implies an increase in radiological risk to persons onsite in violation of Section 50.92. See SNRC-1745, Attachment 1, Para. 3.3.

CONCLUSION

Moreover, while the details provided in SNRC-1745 demonstrate that that particular application does not meet the Section 50.92 standards, SNRC-1745 also does a great deal more: It demonstrates that, if the Staff required detailed, rather than in haec verba conclusory, analysis of all elements of the January 5, 1990 application, it is more than likely that the LILCO analyses of those multitudinous other changes will be found to be equally specious and, therefore, not capable of favorable no significant hazards determinations.

The foregoing identifies additional bases for denial of a no significant hazards determination, demonstrates further the need for a prior hearing on the application, and specifies additional contentions to be considered in that hearing.

Respectfully submitted,



James P. McGranery, Jr.  
Counsel for Petitioner  
Shoreham-Wading River Central  
School District

JPM:jmb

CERTIFICATE OF SERVICE

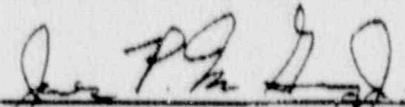
Pursuant to the service requirements of 10 C.F.R. § 2.712(c)&(d) (1989), I hereby certify that before 12:30 p.m. on October 10, 1990, one copy of the foregoing Shoreham-Wading River Central School District Supplement to Comments on Proposed No Significant Hazards Determination Issued in Connection with Consideration of LILCO's Request for a Possession Only License, Petition to Intervene and Request for a Hearing was served, via telefax upon the following:

The Honorable Samuel J. Chilk  
The Secretary of the Commission  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
ATTN: Docketing and Service Branch  
(301) 492-1672

Mitzi A. Young, Esq.  
Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
(301) 443-7725

W. Taylor Reveley, III, Esquire  
Hunton & Williams  
P.O. Box 1535  
Richmond, Virginia 23212  
(804) 788-8218 or 19

I further certify that the original and two (2) conformed copies of this document are also being filed by being mailed to the Secretary at the address shown above on October 10, 1990, in conformity with 10 C.F.R. § 2.708(f) (1990).

  
\_\_\_\_\_  
James P. McGranery, Jr.  
Counsel for Petitioner  
Shoreham-Wading River Central  
School District