

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
1/19/82

ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges:
Lawrence Brenner, Chairman
Dr. James H. Carpenter
Mr. Frederick J. Shon

'82 FEB -8 P2:14

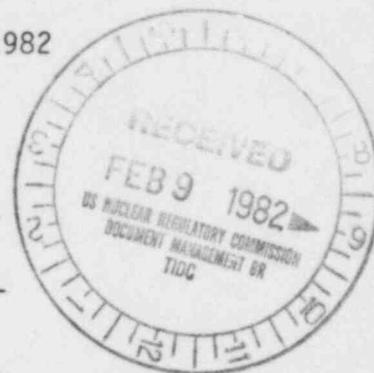
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In the Matter of
LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Power Station
Unit 1)

Docket No. 50-322 OL .
Docket No. 50-322 CPA
February 8, 1982

MEMORANDUM AND ORDER
APPROVING STIPULATIONS, DEFERRING RULINGS ON
SUMMARY JUDGMENT PENDING FURTHER PARTICULARIZATION,
SCHEDULING A CONFERENCE OF PARTIES AND SETTING AN
ESTIMATED SCHEDULE FOR THE FILING OF TESTIMONY



Approval of Stipulations

The parties to this proceeding are to be complimented for the spirit of cooperation they have demonstrated in their extensive efforts, by informal discussions, aimed at clarifying and resolving contentions in this proceeding.

The stipulation of December 2, 1981, proposed jointly by the Shoreham Opponents Coalition (SOC), LILCO and the NRC Staff regarding SOC Contentions 3, 6(a)(i), 7(a)(ii), 8, 9, 12 (Part 3), 15, 16, 17, and 19 is approved.

The stipulation of August 6, 1981, proposed jointly by SOC, LILCO and the NRC Staff conditionally resolving SOC Contention 12 (Part 2) is approved. The parties shall inform the Board, as part of their initial written filings

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below, whether SOC believes the assertions in the McCaffrey affidavit have now been confirmed, thereby removing the condition to which withdrawal of Contention 12 (Part 2) was subject.

The Board believes the above stipulations resolve the admissibility for litigation at the evidentiary operating license hearing of all SOC's contentions with the exception of Contentions 1a and 1b, 2 and renumbered Contention 7B. The Board will rule on the admissibility of these and other contentions advanced by all intervenors for which acceptability for litigation at a hearing is still in dispute, including SOC's proposed contentions relating to the requested extension of the construction permit, subsequent to the conference of parties scheduled below.

Summary Disposition

LILCO, supported by the NRC Staff, has moved for summary disposition of SOC Contentions 1a and b and 2 relating to emergency planning.^{*/} The Board defers ruling on these motions pending further particularization by SOC of the contentions. On the bases of the documents before us and the present vague wording of the contentions, we are unable to determine whether there is a genuine issue as to any material fact (including whether the contentions are an impermissible attack on the Commission's emergency planning regulations).

^{*/} See: (1) LILCO Motion for Summary Disposition of SOC Contention 1, dated July 13, 1981; (2) LILCO Motion for Summary Disposition of SOC Contention 2, dated July 13, 1981; (3) NRC Staff Response Supporting Applicant's Motion for Summary Disposition of SOC Contentions 1 and 2, dated September 18, 1981; (4) Response of Shoreham Opponents Coalition in Opposition to Applicant's Motion for Summary Disposition of SOC's Contentions 1 and 2, dated November 2, 1981.

SOC is directed to set forth the specific local conditions around the Shoreham facility (within the broad categories now alleged in Contentions 1a and b) that it alleges would require adjustments to and deviations from the general radii of 10 and 50 miles for the plume exposure pathway EPZ and ingestion pathway EPZ, respectively, set forth in the emergency planning regulations. As to each local condition specified, SOC shall include the approximate adjustment in the EPZ which it alleges is necessary and the reasons therefore.

As to SOC Contention 2, the Board directs SOC to specify how the effects of radioactive releases through the liquid pathway from the Shoreham facility would not be adequately considered by an approximately 50 mile radius ingestion pathway EPZ. SOC shall specify with greater precision the approximate adjustments it avers are necessary to provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

SOC shall make the above filings in the manner and time established below for initial filings. LILCO and the NRC Staff shall respond to SOC's specification of Contentions 1 and 2 in the manner and time established below for reply filings.

Consolidated Statement of Contentions

LILCO and the NRC Staff jointly shall file a statement consisting of these two parts: 1) a statement of the precise wording of all contentions which the parties have agreed are litigable; and 2) a statement setting forth

the precise wording of all contentions which Intervenors now advance for litigation and to which the NRC Staff and/or LILCO object (from the standpoint of litigability). Contentions advanced with respect to the CP extension shall be included.

With respect to part 2, the name of the objecting party and its objection or disagreement with the contention stated in summary form, shall be set forth. As to both parts of the listing of contentions, there shall be indicated the source documents from which each of the contentions and the objections have been extracted, including the date and page number.

In addition, LILCO and the NRC Staff shall include a summary cover index of the contentions in each part. This should list the contentions by intervenor and number, accompanied by a capsule label of the subject matter of each contention and major subpart.

Intervenors shall file replies to the listing of contentions and the summaries of objections setting forth any disagreements with the accuracy of the wording of the contentions and summary replies to the LILCO and NRC Staff objections to litigability of the contentions. Intervenors shall indicate the source documents from which their differing views of wording of the contentions, if any, and their summary replies to the objections, have been extracted.

Service of Papers

All initial filings required by this order shall be served by means which assure the receipt of them by February 19, 1982, by the Board and the lead attorneys for each active party. All reply filings shall be served by means which assure the receipt of the replies by March 1, 1982, by the Board and the lead attorneys for each active party. Other addressees on the service list may be served by first class mailing of the filings on the above dates.

Conference of Parties and Preparation of Testimony

A conference of the parties will be held on March 9 and 10, 1982, at the Port Jefferson Village Hall, 121 West Broadway, Route 25A, Port Jefferson Long Island. New York 11777. All parties are directed to attend. The conference shall begin at 9:30 AM on Tuesday, March 9, and continue on March 10, if necessary.

The purpose of the conference is to hear arguments on the admissibility of disputed contentions, and to discuss the filings of the parties, the present posture of the case and further remaining issues relating to the prehearing and hearing schedule.

With the exception of Emergency Planning Contentions, parties should commence preparing their direct testimony in anticipation of a schedule which

would require the filing of written direct testimony as early as mid-April 1982.

The parties are directed to pursue all remaining discovery of information presently available (for all contentions not objected to) prior to the conference of parties.

Order Confirming Prior Mailgram

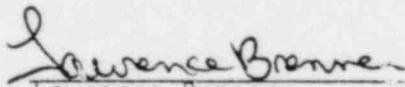
By mailgram transmitted November 5, 1981, the Board advised the parties as follows:

Applicant's Motion to establish hearing schedule is denied. Suffolk County shall report status of legislative action of Sixth Stipulation by November 25. Staff shall advise by November 25 when open items in SSER and ACRS letter will be closed. Confirmation will follow in order.

The foregoing mailgram is confirmed hereby and is so ordered.

Counsel for the NRC Staff, LILCO, and SOC were informed of the substance of this memorandum and order by telephone on February 4 and 5, 1982.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

 _____, Chairman
Lawrence Brenner
ADMINISTRATIVE JUDGE

Bethesda, Maryland
February 8, 1982