



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

ENCLOSURE 2

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATING TO ANNUAL UPDATE OF SAFETY ANALYSIS REPORT

LONG ISLAND LIGHTING COMPANY

SHOREHAM NUCLEAR POWER STATION

DOCKET NO. 50-322

1.0 INTRODUCTION

By letter dated December 5, 1989, Long Island Lighting Power Company (LILCO, the licensee), operator of the Shoreham Nuclear Power Station (SNPS), requested a schedular exemption from the safety analysis report update requirements of 10 CFR 50.71(e)(4). The exemption would postpone filing the update until June 1, 1990, and the update would contain all changes as of June 28, 1989, vice changes as of 6 months prior to filing.

LILCO's request for this schedular exemption was made pursuant to 10 CFR 50.12, Specific Exemptions, which states, in part, that the Commission may, upon application, "...grant exemption from the requirements of the regulations of this part, which are:

- (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and
- (2) The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever:
  - (v) The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation...."

2.0 DISCUSSION

LILCO requested a schedular exemption to delay filing Revision 3 to their Updated Safety Analysis Report (USAR) by approximately 6 months. In addition, they have requested that Revision 3 contain all changes as of June 28, 1989, vice 6 months prior to the date of filing, as is required by 10 CFR 50.71(e)(4). LILCO made this request pursuant to the provisions of 10 CFR 50.12, "Specific Exemptions", citing item (v) thereunder.

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The requirement to update the station safety analysis report (SAR) on a periodic basis is intended to assure that the information included in the SAR contains the latest material developed. Update submittals must contain all the changes necessary to reflect information and analyses submitted to the Commission by the licensee, or prepared by the licensee pursuant to Commission requirement since the last update of the SAR. SAR update revisions must also include the effects of: all changes made in the facility or procedures described in the SAR; all safety evaluations performed by the licensee either in support of requested license amendments or in support of conclusions that changes did not involve an unreviewed safety question; and all analyses of new safety issues performed by or on behalf of the licensee at Commission request.

On December 7, 1984 LILCO was granted a license authorizing fuel loading and cold criticality testing, with reactor power level not to exceed 24.36 kilowatts (thermal). On July 3, 1985, LILCO was granted a license authorizing power operation up to 121.8 megawatts (thermal), which is five percent of full rated power. On April 21, 1989 LILCO was granted a license authorizing power operation up to 2,436 megawatts (thermal), which represents 100 percent rated core power. On June 28, 1989 LILCO and New York State entered into a Settlement Agreement, under which LILCO agreed never again to operate Shoreham Nuclear Power Station. The plant was completely defueled the following month, with the entire core complement of fuel elements currently residing in the spent fuel storage pool.

Pursuant to 10 CFR 50.12, NRC staff is authorized to grant exemptions from specific requirements of the regulations. Such exemptions may be granted provided the exemption is authorized by law, does not result in an undue risk to the public health and safety, and is consistent with the common defense and security. LILCO cited the following special circumstances as applicable to its request:

- (1) Filing a Defueled Safety Analysis Report (DSAR) in lieu of updating the SAR will better serve the regulation's stated purpose, and
- (2) The exemption would provide only temporary relief and LILCO has made good faith efforts to comply with the regulation.

LILCO proposes to file Revision 3 to their Updated Safety Analysis Report (USAR) on or before June 1, 1990. This represents a six month extension to the required filing date. Further, LILCO proposes to include all changes as of June 28, 1989, the date the Settlement Agreement between LILCO and New York State became legally effective. (The regulation from which LILCO seeks exemption requires the update to include all changes up to 6 months prior to the date of filing.)

### 3.0 EVALUATION

#### 3.1 Serving the Purpose of the Regulation

LILCO contends that submitting a DSAR will better serve the regulation's stated purpose of providing a "reference document for recurring safety analyses performed by the...licensee and the Commission.", and cites 41 Fed. Reg. 49123

as their source. LILCO provides additional support for their exemption request by noting that apart from changes associated with defueling, no significant alterations have been made to the plant since the previous update (Revision 2) to the USAR. LILCO's review of this subject indicates that Revision 3 to the USAR will contain less than 40 changes, all of which are relatively minor. Since, under terms of the Settlement Agreement, LILCO will not operate Shoreham, submitting the DSAR will provide the Commission with the most pertinent information regarding the defueled Shoreham plant.

The staff finds that based on the above considerations, strict application of 10 CFR 50.71(e)(4) is not necessary to achieve the rule's underlying purpose. This finding is predicated on LILCO submitting the DSAR and Revision 3 to the USAR, including all changes as of June 28, 1989, on or before June 1, 1990.

### 3.2 Temporary Relief and Good Faith Efforts to Comply

In requesting this exemption, LILCO seeks not to be excused entirely from the requirements of 10 CFR 50.71(e)(4) to update their USAR. Rather, LILCO seeks temporary relief, in the form of a six month extension to their filing date.

In their letter requesting this exemption, LILCO notes that the initial update of their safety analysis report, as well as Revisions 1 and 2, were submitted on schedule. Having entered into a Settlement Agreement with New York State, LILCO now is not only responsible for meeting all its obligations under their operating license and NRC regulations, but currently is preparing a Defueled Safety Analysis Report (DSAR), technical and regulatory documents to support future license amendment and exemption requests, and an application to transfer Shoreham's license to an entity of New York State. The licensee notes that updating the Shoreham USAR, even under ordinary circumstances, is a time consuming task requiring intensive effort on the part of plant personnel. Plant personnel that would have been available to prepare Revision 3 to the USAR have spent considerable time and effort preparing the DSAR and related documents.

With submittal of the DSAR, the licensee believes that consideration of that document will be of significant regulatory interest. Further, the licensee states that the information contained in the DSAR and related submittals will be of paramount importance in determining the future of the Shoreham plant. Keeping these considerations in mind, the licensee believes it has made a good faith determination that developing the DSAR prior to completing the annual USAR update is an appropriate ordering of priorities and a prudent allocation of resources.

Based on the above, the staff finds that the exemption would provide only temporary relief from the required filing schedule and that the licensee has made good faith efforts to comply.

4.0 CONCLUSION

LILCO has stated it will submit a Defueled Safety Analysis Report on or before June 1, 1990. LILCO has also committed to filing Revision 3 to their Updated Safety Analysis Report on or before June 1, 1990. In addition, Revision 3 to the USAR will contain all changes as of June 28, 1989, the date the Settlement Agreement between LILCO and the State of New York became legally effective, vice changes in effect 6 months prior to the date of filing.

The staff finds that granting this exemption constitutes only temporary relief, and that the licensee has made good faith efforts to comply. Therefore the staff believes that special circumstance (v) of 10 CFR 50.12(a)(2) exists.

Therefore, LILCO's request for an exemption from the annual update requirement of 10 CFR 50.71(e)(4) should be granted to permit filing Revision 3 to the Shoreham USAR on or before June 1, 1990. In addition, Revision 3 will contain all changes as of June 28, 1989, the date the Settlement Agreement between LILCO and New York State became legally effective.

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Dated: April 25, 1990