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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

CF AVAIL

Before the Atomic Safety and Licensing Board

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

Docket No. 50-322

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APPLICANT'S OPPOSITION TO SUFFOLK COUNTY'S
MOTION FOR EXTENSION

1. Suffolk County (SC or County) in its Motion for Extension of Time to Respond to Interrogatories (Motion for Extension), dated September 19, 1978, requests an indefinite amount of additional time to answer certain interrogatories from Applicant's second set, dated December 8, 1977. For the reasons set out below, the Applicant opposes SC's Motion for Extension; but if that motion is granted, then the Applicant requests that the Board set a deadline of not later than October 16, 1978 for the County's response to the still-unanswered interrogatories.

2. The Motion for Extension should be denied for the following reasons:

a. The County has been in default of the Board Orders of March 2 and April 4, 1978^{1/} for more than six and

^{1/}The Motion for Extension failed to acknowledge the April 4, 1978 Order, which granted the Applicant additional relief beyond that in the Order dated March 2, 1978.

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five months,^{2/} respectively. No further delay can be justified.

b. SC's failure to respond to the unanswered interrogatories inhibits the Applicant's preparation of its case on the underlying contentions.

c. The County attempts to create the illusion that it has "timely and fully answered" the "vast majority of the Applicant's interrogatories." Motion for Extension at 4. First, regarding SC's claim of timeliness, to the extent that the interrogatories were answered on January 31, 1978, those answers came approximately five weeks after the fourteen-day deadline. See 10 CFR § 2.740(b). And as to the answers' fullness, the great majority of the responses were statements that further discovery and/or analysis of discovered material was necessary before the questions could be answered. See Applicant's Motion to Compel, dated February 10, 1978, at 1. Although such statements may have been legally sufficient near the beginning of the County's discovery effort, they were not "full answers." Nor have any additional answers been supplied in the subsequent eight months.

d. The Motion for Extension provides no assurance that responses to the unanswered interrogatories will be forthcoming any time soon. The County indicates that responses to

^{2/} These periods are based on the assumption that the Board intended SC to comply with its orders within three weeks after issuance, as it expressly required the Oil Heat Institute and the North Shore Committee against Thermal and Nuclear Pollution to do in its April 25 and June 19, 1978 Orders.

those interrogatories may be included in an MHB report, which it describes as "relative[ly] imminen[t]." Motion for Extension at 4. Although no firm completion date for the MHB report is specified in the Motion for Extension, the Applicant understands that a deadline of October 10, 1978 has been set. However, even if the report is completed by then, there is no guarantee that it will answer the outstanding interrogatories. See Applicant's August 31, 1978 letter to Mr. Hand at 1.

e. If the County had been serious about using the MHB report to answer the outstanding interrogatories, it would have obtained MHB's agreement to include the answers in the report.

f. The County claims that it lacks the technical capability to provide meaningful responses to the unanswered interrogatories. Motion for Extension at 4. However, it is obvious from the Applicant's second set of interrogatories, that they only seek to learn precisely what SC's contentions mean (and what issues they raise), as well as the bases for the contentions. Counsel for the County should be able to answer the outstanding interrogatories for the following reasons:

(1) Counsel ought to be able to explain the meaning of its own contentions.

(2) Counsel framed numerous contentions in the Jamesport NRC proceeding while relying only on the technical expertise of certain County employees -- a source which still should be available.

(3) The Applicant's interrogatories do not call for any in-depth or complicated technical analysis.

3. If the Board grants the Motion for Extension, the Applicant requests that any such action specify a deadline of not later than October 16, 1978. As indicated in ¶ 2.d above, SC has not committed to answering the outstanding interrogatories by any date certain. Thus, this request is made to ensure that the County's delay is not further protracted.

Respectfully submitted,
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DATED: October 2, 1978

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CERTIFICATE OF SERVICE

I hereby certify that copies of APPLICANT'S OPPOSITION TO SUFFOLK COUNTY'S MOTION FOR EXTENSION were served upon the following by first-class mail, postage prepaid, on October 2, 1978:

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