

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

JUL 30

COMMISSIONERS:

Nunzio J. Palladino, Chairman  
Victor Gilinsky  
John F. Ahearne  
Thomas M. Roberts  
James K. Asselstine

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SERVED JUL 30 1982

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

Docket No. 50-322-0L

ORDER

CLI-82-17

By letter dated July 25, 1982, Anthony F. Earley, counsel for applicant Long Island Lighting Company, requested that he and one other member of his law firm, T.S. Ellis, III, be given access to certain portions of the Appeal Board's opinion in the Diablo Canyon physical security proceeding, Pacific Gas & Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-653 (Restricted) (1981), and the record supporting it. Specifically, Mr. Earley requested access to those portions of the opinion dealing with the definition of the design basis threat and the interpretation of the Commission's regulations regarding the appropriate number of armed responders.

By letter dated July 2, 1982, Herbert H. Brown, counsel for intervenor Suffolk County, agreed with Mr. Earley's request. Mr. Brown further requested that security experts for the parties be granted

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access, and that both the experts and counsel be granted access to the entire Diablo Canyon physical security file. Mr. Brown specifically requested that Michael S. Miller, an attorney, and Dr. Brian Jenkins and Marc Goldsmith, consultants, be granted access.

The Commission agrees that it would be senseless to litigate issues already decided by the Appeal Board without access to the Appeal Board's opinion. The Commission therefore directs that Mr. Earley, Mr. Ellis and Mr. Miller be given access to those portions of ALAB-653 dealing with the definition of the design basis threat and the interpretation of the Commission's regulations regarding the appropriate number of responders. This material is to be edited to delete any classified information contained therein and access is conditioned on these individuals signing new affidavits of non-disclosure applicable to Diablo Canyon physical security information and substantially similar to those used in the Diablo Canyon proceeding. The Commission denies the request for access to the entire opinion in the absence of any showing of need for access to other parts of the opinion. The Commission also denies the request for access to the underlying record as the Commission believes that the Appeal Board opinion itself will provide sufficient guidance.

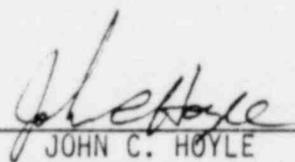
Intervenor Suffolk County's request for access by its consultants is referred to the Licensing Board. Such access should be granted only if Suffolk County demonstrates the requisite need to know. 10 CFR 73.21(c)(vi). See 46 Fed. Reg. 51718, 51719-20 (October 22, 1981).

PG&E is to be provided an opportunity to make a special appearance on the request if it so desires.

It is so ORDERED.\*



For the Commission

  
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JOHN C. HOYLE  
Acting Secretary of the Commission

Dated at Washington, D.C.,  
this 30<sup>th</sup> day of July, 1982.

\* Commissioner Gilinsky was not present when this Order was affirmed, but had previously indicated his disapproval. Had Commissioner Gilinsky been present he would have affirmed his prior vote.