LILCO, July 8, 1982

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
LONG ISLAND LIGHTING COMPANY	)	Docket No. 50-322 (OL)
	)	
(Shoreham Nuclear Power Station, Unit 1)	)	

MOTION TO STRIKE A PORTION OF
JAMES H. CONRAN'S REBUTTAL TESTIMONY
ON SC/SOC 7B AND SOC 19(b)

I.

On July 1, 1982, the NRC Staff filed testimony sponsored by James H. Conran, Sr. in rebuttal to LILCO's testimony on SC/SOC Contention 7B and SOC Contention 19(b) -- Systems Interaction and Safety Classification. As indicated below, a portion of that testimony is beyond the scope of the contentions and LILCO's testimony. Thus, the Staff raises for the first time an issue that is not before the Board, irrelevant both to the contention and testimony and, thus, appropriately struck.

II.

Mr. Conran's rebuttal testimony discusses the Staff's view of the "Denton Memorandum" which sets out definitions for the classification of systems. The testimony points out that there are certain differences in terminology between that used

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by LILCO and the NRC Staff for classification of systems. Testimony of LILCO and Staff witnesses demonstrates that the difference in terminology does not lead to any difference in result. In the rebuttal testimony, however, on pages 6-7, Mr. Conran discusses three implications of the different usage of the terminology. The third such implication, listed on page 7, states that "Under Applicant's construction of 'important to safety,' the obligations imposed by 10 CFR Part 21 might be more narrowly construed than would be the case under the Staff's broader definition of that term." This statement raises a new issue that is not within the scope of the contentions nor was it the subject of LILCO's testimony on these contentions.

SC/SOC Contention 7B raises the issue of whether LILCO and the Staff have applied an appropriate methodology for the classification of structures, systems and components. SOC Contention 19(b) involves the related issue of whether LILCO has complied with the classification scheme set out in Regulatory Guides 1.26 and 1.29. Neither contention raises any issue about the adequacy of LILCO's reporting procedures under 10 CFR Part 21. Thus, the Staff's testimony is not within the scope of the contentions as admitted by the Board.

In LILCO's pre-filed written testimony and the cross-examination on it, the methodology used for classifying structures, systems and components at Shoreham, including how LILCO used the term "important to safety" in such classification, was

discussed at length. The testimony was clearly limited to the use of "important to safety" in the context of systems classification. There was absolutely no evidence presented that suggested any link between the definitions discussed and the reporting requirements in 10 CFR Part 21. Thus, the Staff's testimony is not responsive to any issue raised in LILCO's testimony.

Moreover, LILCO does not believe that LILCO's testimony on its interpretation of "important to safety" indirectly raises an issue related to 10 CFR Part 21. The critical definition in Part 21 with respect to classification of systems is the definition of a "basic component." 10 CFR § 21.3(a)(2). That definition does not use the term "important to safety." In fact, "important to safety" is only used in 10 CFR § 21.3(a)(3) in relation to the elements (i.e., design, inspection, testing or consulting services important to safety) of a "basic component." Thus, the term is used in a very different context from that discussed in LILCO's testimony.

III.

For all of the foregoing reasons, the first paragraph on page 6 of the NRC Staff's rebuttal testimony on SC/SOC 7B and SOC 19(b) should be struck.

Respectfully submitted,

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I certify that copies of the "Motion to Strike a Portion of James H. Conran's Rebuttal Testimony on SC/SOC 7B and SOC 19(b)" were served upon the following by first-class mail, postage prepaid, on July 8, 1982, or by hand on July 8, 1982, as indicated by an asterisk:

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