

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board P3:30

In the Matter of)

LONG ISLAND LIGHTING COMPANY)

(Shoreham Nuclear Power Station,
Unit 1))

) Docket No. 50-322 (OL)

SUFFOLK COUNTY MOTION TO TERMINATE
THE SHOREHAM OPERATING LICENSE PROCEEDING

The NRC is considering the application of the Long Island Lighting Company ("LILCO") for a license to operate ("OL") the Shoreham Nuclear Power Station ("Shoreham"). This is to advise the NRC that necessary emergency preparedness to respond to a nuclear accident at Shoreham does not and will not exist. As a result, the County hereby moves the NRC to cease further consideration of LILCO's OL application and, accordingly, to terminate the Shoreham OL proceeding.

I. Offsite Emergency Preparedness Does Not
And Will Not Exist at Shoreham.

The Shoreham plant is sited within Suffolk County on the north shore of Long Island. Because of Shoreham's location and the unique local conditions of Long Island, Suffolk County in early 1982 instituted a comprehensive planning process to develop the best possible radiological emergency response plan. See Suffolk County Legislative Resolution No. 262-1982, March 3, 1982, Exhibit 1 hereto. Accordingly, the County assembled a

team of nationally recognized experts to perform various analyses, studies and surveys necessary to effective planning on Long Island. The cost to the County was approximately \$600,000.

In Resolution 262-1982, the County resolved that "said plan shall not be operable and shall not be deemed adequate and capable of being implemented until such time as it is approved by the Suffolk County Legislature" Id. By Resolution subsequently adopted in May 1982, the County resolved that the Legislature's review process would include public hearings and that, until a plan is approved by the Legislature, "Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant" See Resolution 456-1982, May 18, 1982, Exhibit 2 hereto.

The Draft County Plan commissioned by Resolution 262-1982 was transmitted on December 2, 1982 to the County Legislature for review and hearings in accordance with Resolution Nos. 262-1982 and 456-1982. Copies of the Draft County Plan were, for informational purposes, transmitted to the Shoreham Licensing Board and the parties in this proceeding.

During the weeks of January 17 and 24, the County Legislature held eight days of hearings on the Draft County Plan and in February 1983 travelled to the Three Mile Island area to meet with local government officials and members of the public. The Legislature's hearings resulted in 1600 pages of transcript, plus hundreds of additional pages of prepared statements and

other materials. LILCO presented its views on the Draft County Plan in writing and in person. ^{1/} Similarly, consultants who had prepared the Draft County Plan and performed the many analyses, studies and surveys during the planning process also testified. Finally, hundreds of members of the public, including representatives of the Intervenors in this proceeding -- the Shoreham Opponents Coalition and the North Shore Committee -- also presented testimony.

On February 17, 1983, the County Legislature adopted Resolution No. 111-1983, a copy of which is attached as Exhibit 3. By this Resolution, the Legislature determined and resolved:

[T]hat the Draft County plan submitted to the County Legislature on December 2, 1982, if implemented, would not protect the health, welfare, and safety of Suffolk County residents and thus is not approved and will not be implemented; and

[T]hat the document submitted by LILCO to the [State of New York Disaster Preparedness Commission] without the County approval or authorization, if implemented, would not protect the health, welfare and safety of Suffolk County residents and thus will not be approved and will not be implemented; and

[T]hat since no local radiological emergency response plan for a serious nuclear accident at Shoreham will protect the health, welfare and safety of Suffolk County residents, and since the preparation and implementation of any such plan would be misleading to the public by indicating

^{1/} During its oral presentation before the Legislature, LILCO's primary witness, Dr. Matthew Cordaro, was accompanied by seven experts who offered their views. LILCO submitted copies of its presentation before the County Legislature to this Licensing Board via a letter dated February 1, 1983.

to County residents that their health, welfare and safety are being protected when, in fact, such is not the case, the County's radiological emergency planning process is hereby terminated, and no local radiological emergency plan for response to an accident at the Shoreham plant shall be adopted or implemented; and

[T]hat since no radiological emergency plan can protect the health, welfare and safety of Suffolk County residents and, since no radiological emergency plan shall be adopted or implemented by Suffolk County, the County Executive is hereby directed to take all actions necessary to assure that actions taken by any other governmental agency, be it State or Federal, are consistent with the decisions mandated by this Resolution.

II. The NRC Proceeding on LILCO's OL Application Must Be Terminated.

Undisputed facts require the NRC to terminate this proceeding because there is no way for Shoreham to comply with the NRC's regulations and no basis upon which the NRC could approve LILCO's OL application:

1. Effective offsite emergency preparedness by local governmental authorities is a prerequisite to issuance of an OL for Shoreham. Without such preparedness, the NRC could not find the requisite reasonable assurance that Shoreham can be operated without undue risk to public health and safety. Thus, in adopting 10 C.F.R. Section 50.47, the NRC stated:

The Commission's final rules are based on the significance of adequate emergency planning and preparedness to ensure adequate protection of the public health and safety. It is clear, based on the various official reports described in the proposed rules (44 FR 75169) and the public record compiled in this rulemaking, that onsite and offsite emergency preparedness as well as proper siting and engineered design features are needed to protect the health and safety of the public. 45 Fed. Reg. 55,403 (1980). [Emphasis added]

2. NRC regulations require that offsite planning and preparedness for a nuclear plant consist of both State plans and local government plans. Thus, under 10 C.F.R. Section 50.33(g), "the applicant shall submit radiological emergency response plans of State and local governmental entities" (emphasis supplied). ^{2/} Under 10 C.F.R. Section 50.47(a)(2), in turn, FEMA must determine "whether State and local emergency plans are adequate and capable of being implemented" (emphasis supplied).

3. As documented by Suffolk County in Resolution No. 111-1983, there can be no offsite radiological emergency response plan in Suffolk County which, if implemented, would protect the health, safety, and welfare of Suffolk County's residents. Thus, Suffolk County will not adopt or implement any such plan. Therefore, there is and will be no local offsite emergency plan or preparedness to respond to a Shoreham radiological emergency.

4. Since there can be no local emergency plan or preparedness, the NRC cannot find: (a) compliance with 10 C.F.R. Sections 50.33(g) or 50.47; or (b) reasonable assurance that Shoreham can be operated without endangering the health and safety of the public. Accordingly, the LILCO OL application must be rejected and this proceeding terminated.

^{2/} It is impossible for LILCO, the applicant here, to submit the radiological emergency response plan of Suffolk County, the "local governmental entity." There is no such plan and there will be no such plan. See County Resolution No. 111-1983.

The NRC has recognized in its regulations ^{3/} that deficiencies in emergency preparedness may require denial of an OL. Indeed, Section 50.47(c) (1) expressly provides that failure to meet the standards of Section 50.47(b) "may result in the Commission declining to issue an Operating License." Given this provision, it is obvious, a fortiori, that the non-existence of offsite planning and preparedness -- the categorical failure to satisfy any of the Section 50.47(b) standards -- requires the denial of an operating license. That situation is precisely what is presented here.

Section 50.47(c) (1) is thus intended to deal with manageable situations where, for example, an isolated particular problem with local preparedness would stand in the way of giving effect to an otherwise adequate local plan. In such limited situations, the Commission has expressed its intent to examine whether a feature of the State plan or the utility onsite plan can compensate for the deficiency of the local plan, thereby curing the deficiency and establishing the requisite level of workable offsite preparedness. ^{4/}

^{3/} By law, the NRC is bound to apply and follow its own regulations. Nader v. NRC, 513 F.2d 1045, 1051 (D.C. Cir. 1975); see 10 C.F.R. Section 50.57(a) (2).

^{4/} The NRC has stated that it "will examine State plans, local plans, and licensee plans to determine whether features of one plan [i.e., an existing and workable plan] can compensate for deficiencies in another plan." 45 Fed. Reg. 55403 (1980) (emphasis supplied). For instance, Section 50.47(c) (1) might permit a utility's onsite plan to compensate for deficiencies in a State or local plan in a specific area such as radio communication, Cincinnati Gas & Electric Co. (Zimmer), LBP-82-48, 15 NRC 1549, 1573 (1982), or offsite radiation monitoring. Southern California Edison Co. (San Onofre), LBP-82-39, 15 NRC 1163, 1249 (1982).

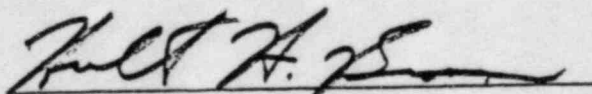
Section 50.47(c) (1) is not intended to be -- and in reality never could become -- a device for devining the wholesale creation of a local plan and local preparedness where they do not exist. NRC regulations require offsite emergency preparedness in fact, not by illusion. Therefore, the truth must be faced: when there is no local preparedness, there simply is none. And when there is none, the NRC cannot license a plant. That is the case at Shoreham, and compels the termination of this OL proceeding. 5/

III. Conclusion

For the foregoing reasons, Suffolk County moves the NRC to grant this motion expeditiously.

Respectfully submitted,

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February 23, 1983

5/ Section 5 of the NRC 1982 Authorization Act adopts a provision which originated in Section 109 of the NRC 1980 Authorization Act. This provision was implemented by the Commission through the promulgation of Section 50.47(c) (1). The discretionary NRC authority continued by Section 5 of the current Authorization Act, therefore, is confined to the content of Section 50.47(c) (1) which, as discussed above, provides no basis for continuing this licensing proceeding.

Introduced by the Presiding at the request of the County Executive

RESOLUTION NO. 262 - 1982, DIRECTING THE
COMPTROLLER AND COUNTY TREASURER TO REFUND
\$150,000 RECEIVED FROM LILCO AND TRANSFERRING
FUNDS IN CONNECTION WITH RADIOLOGICAL RESPONSE PLAN.

WHEREAS, Resolution No. 694-1981 authorized an agreement between LILCO and the Suffolk County Department of Planning for the preparation of a County radiological emergency response plan; and

WHEREAS, under the terms of the agreement, LILCO has paid the County of Suffolk \$150,000 with an additional \$95,000 due upon completion of the contract; and

WHEREAS, special counsel for the County in the Shoreham operating licensing proceedings has advised the County that it is in the best interest of the County to avoid any appearance of a conflict of interest by returning the \$150,000 received from LILCO for the radiological response plan; and

WHEREAS, it is the intention of the County to complete the radiological response plan at its own expense; now, therefore, be it

RESOLVED, that the County Comptroller and County Treasurer are directed to return \$150,000 to LILCO; and be it further:

RESOLVED, that the County Comptroller and County Treasurer are directed to cancel the unexpended balance in the following encumbrances;

- 01-8026-992
- 01-8026-993
- 01-8026-994

and be it further

RESOLVED, that the County Comptroller and County Treasurer be, and they hereby are authorized to transfer the following funds and authorization:

FROM

Employee Benefits Health Insurance	\$375,000
01-9060-836	

TO

Planning	
Radiological Response Plan (Office Supplies)	10,000
01-8026-301	
Planning	
Radiological Response Plan (Printing)	19,000
01-8026-304	
Planning	
Radiological Response Plan (Misc.)	40,000
01-8026-350	

Planning Radiological Response Plan (Adv.) 01-8026-377	1,000
Planning Radiological Response Plan (Mileage) 01-8026-433	5,000
Planning Radiological Response Plan (Fees for services for non-Employees 01-8026-456	300,000

and be it further

RESOLVED, that the County Planning Department shall prepare a County Radiological Emergency Response Plan to serve the interest of safety, health and welfare of the residents of Suffolk County; and be it further

RESOLVED, that said plan shall not be operable and shall not be deemed adequate and capable of being implemented until such time as it is approved by the Suffolk County Legislature; and

RESOLVED, that only after said plan is approved by the Suffolk County Legislature, shall it be submitted to the Federal Emergency Management Agency and the Nuclear Regulatory Commission for purposes of any findings, determinations, rulings, reviews, or hearings by such Federal agencies.

DATED: March 23, 1982

APPROVED BY:

Peter Lohman

County Executive of Suffolk County

Date of Approval: 3/25/82

SUFFOLK COUNTY
County Legislature
RIVERHEAD, N. Y.

This is to Certify that J. William H. Rogers, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on *March 23, 1982* and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

William H. Rogers

Clerk of the County Legislature

Intro. Res. No. 1516-82

Introduced by Legislators Blass, Rosso, Foley, Caracappa, Giese, Allgrove, Richards, Wehrenberg, Rizzo, Nolan, Hariton, Noto, Howard, Prospect, LaBua, Davine, Mrazek

RESOLUTION NO. 456 -1982, ESTABLISHING THE
RADIOLOGICAL EMERGENCY RESPONSE PLANNING
POLICY OF THE COUNTY OF SUFFOLK

WHEREAS, County of Suffolk has the primary responsibility for the protection of its residents in the event of a radiological emergency at the Long Island Lighting Company's Shoreham Nuclear Power Station; and

WHEREAS, Suffolk County takes this responsibility seriously and intends, through good faith and sound planning efforts, to assure that the best possible emergency plan and preparedness are developed to protect the citizens of Suffolk County; and

WHEREAS, Suffolk County's Emergency Planning Task Force, composed of nationally recognized experts drawn from a range of pertinent disciplines, is now conducting a detailed planning effort in order to attempt to develop a viable radiological emergency plan for Suffolk County; and

WHEREAS, The Long Island Lighting Company, in an unwarranted and arrogant act, has gone beyond its powers as a private corporation in an attempt to usurp the rightful powers of Suffolk County by submitting county planning resource material to the New York State Disaster Preparedness Commission for its approval as the official radiological emergency response plan for Suffolk County; and

WHEREAS, said planning resource material developed in part by county personnel, is preliminary data which in no way constitutes the Suffolk County-approved RADIOLOGICAL EMERGENCY RESPONSE PLAN and will not in the future constitute such County plan; and

WHEREAS, Suffolk County will submit its RADIOLOGICAL EMERGENCY RESPONSE PLAN to the New York State Disaster Preparedness Commission only when that plan has been fully prepared and approved by Suffolk County and is thereby integrated with the planning efforts of both LILCO and New York State; therefore, be it

RESOLVED, that Suffolk County hereby established the following Radiological Emergency Response Planning Policy:

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been fully developed to the best of the County's ability.

Suffolk County shall not assign funds of personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been the subject of at least two public hearings, one to be held in Riverhead, and one to be held in Hauppauge.

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been approved, after public hearings, by the Suffolk County Legislature and the County Executive

and, be it further

RESOLVED, that copies of this resolution be sent to the Governor, the Speaker of the Assembly, the Majority Leader of the Senate and the Legislature of the State of New York.

DATED: May 18, 1982

APPROVED BY:

John J. Holm
County Executive of Suffolk County

Date of Approval: *5/19/82*

SUFFOLK COUNTY
County Legislature
RIVERHEAD, N. Y.

This is to Certify that *John J. Holm*, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on *May 18, 1982* and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

William H. Rogers
Clerk of the County Legislature

Resolution No. -1983,
Constituting the Findings and
Determinations of Suffolk County
on Whether A Level of Emergency
Preparedness To Respond to a
Radiological Accident At the
Shoreham Nuclear Power Station
Can Protect the Health, Welfare
and Safety of the Residents of
Suffolk County

WHEREAS, Suffolk County has a duty under the Constitution of the State of New York, the New York State Municipal Home Rule Law, and the Suffolk County Charter to protect the health, safety, and welfare of the residents of Suffolk County; and

WHEREAS, the Long Island Lighting Company ("LILCO") is constructing and desires to operate the Shoreham Nuclear Power Station ("Shoreham"), located on the north shore of Long Island near the town of Wading River, a location which is within the boundaries of Suffolk County; and

WHEREAS, a serious nuclear accident at Shoreham could result in the release of significant quantities of radioactive fission products; and

WHEREAS, the release of such radiation would pose a severe hazard to the health, safety, and welfare of Suffolk County residents; and

WHEREAS, in recognition of the effects of such potential hazard posed by Shoreham on the duty of Suffolk County to protect the health, safety, and welfare of its citizens, this Legislature on March 23, 1982, adopted Resolution No. 262-1982, which directed that Suffolk County prepare a "County Radiological Emergency Response Plan to serve the interest of the safety, health, and welfare of the citizens of Suffolk County ..";
and

WHEREAS in Resolution 262-1982, the Legislature determined that the plan developed by the County "shall not be operable and shall not be deemed adequate and capable of being implemented until such time as it is approved by the Suffolk County Legislature"; and

WHEREAS, in adopting Resolution 262-1982, the Legislature found that earlier planning efforts by LILCO and County planners (the "original planning data") were inadequate because they failed to address the particular problems posed by conditions on Long Island and further failed to account for human behavior during a radiological emergency and the lessons of the accident at Three Mile Island; and

WHEREAS, on March 29, 1982, Peter F. Cohalan, Suffolk County Executive, acting to implement Resolution 262-1982, by Executive Order established the Suffolk County Radiological Emergency Response Plan Steering Committee ("Steering Committee") and directed it to prepare a County plan for submittal to the County Executive and County Legislature; and

WHEREAS, the Steering Committee assembled a group of highly qualified and nationally recognized experts from diverse disciplines to prepare such County plan; and

WHEREAS, such highly qualified experts worked in a diligent and conscientious effort at a cost in excess of \$500,000 to prepare the best possible plan for Suffolk County, and particularly to ensure that such plan took into account all particular physical and behavioral conditions on Long Island that affect the adequacy of the emergency response plan; and

WHEREAS, the analyses, studies, and surveys of such experts included:

- (a) Detailed analyses of the possible releases of radiation from Shoreham;
- (b) Detailed analyses of the radiological health consequences of such radiation release on the population of Suffolk County, given the meteorological, demographic, topographical, and other specific local conditions on Long Island;
- (c) A detailed social survey of Long Island residents to determine and assess their intended behavior in the event of a serious accident at Shoreham;
- (d) A detailed survey of school bus drivers, volunteer firemen, and certain other emergency response personnel to determine whether emergency personnel intend to report promptly for emergency duties, or instead to unite with their own families, in the event of a serious accident at Shoreham;

- (e) Detailed estimates of the number of persons who would be ordered to evacuate in the event of a serious accident at Shoreham, as well as the number of persons who intend to evacuate voluntarily even if not ordered to do so;
- (f) Detailed analyses of the road network in Long Island and the time required to evacuate persons from areas affected by radiation releases;
- (g) Detailed analyses of the protective actions available to Suffolk County residents to evacuate or take shelter from such radiation releases; and
- (h) Analysis of the lessons learned from the accident at Three Mile Island on local government responsibilities to prepare for a radiological emergency; and

WHEREAS, on May 10, 1982, LILCO, without the approval or authorization of the Suffolk County Government, submitted to the New York State Disaster Preparedness Commission ("DPC") two volumes entitled "Suffolk County Radiological Emergency Response Plan" and containing the original planning data, as further revised and supplemented by LILCO, and requested the DPC to review and approve such LILCO submittal as the local radiological emergency response plan for Suffolk County; and

WHEREAS, in Resolutions 456-1982 and 457-1982, the County further addressed the matter of preparing for a radiological emergency at Shoreham and emphasized that:

- (a) The LILCO-submitted document was not and will not be the County's Radiological Emergency Response Plan; and
- (b) The County's Radiological Emergency Response Planning Policy, as enunciated in Resolution 456-1982, is as follows:

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been fully developed to the best of the County's ability.

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been subject of at least two public hearings, one to be held in Riverhead, and one to be held in Hauppauge.

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been approved, after public hearings, by the Suffolk County Legislature and the County Executive; and

WHEREAS, on June 9, 1982, the DPC rejected the LILCO-submitted document for the reason that it was deficient; and

WHEREAS, on October 6, 1982, LILCO, again without the approval or authorization of the Suffolk County Government, submitted to the DPC an amended version of the previously submitted LILCO document which had been rejected by the DPC; and

WHEREAS, on December 2, 1982, the Draft County Radiological Emergency Response Plan authorized by Resolution 262-1982 was submitted to the County Legislature for review and public hearings as specified in Resolutions 262-1982, 456-1982, and 457-1982; and

WHEREAS, in January 1983, the Legislature held hearings on the Draft County plan, which hearings included:

- (a) More than 1,590 pages of transcripts;
- (b) Detailed written statements and oral testimony of County expert consultants who prepared the Draft County plan;
- (c) Detailed written statements and oral testimony of LILCO officials and expert consultants retained by LILCO;
- (d) Detailed written statements and oral testimony of the Suffolk County Police Department, the County Health Department, the County Social Services Department, and the County Public Works Department, all of which would have indispensable roles in responding to a radiological emergency at Shoreham;
- (e) Detailed written statements and oral testimony of organizations in Suffolk County concerned with radiological emergency preparedness; and
- (f) Extensive presentations by hundreds of members of the general public; and

WHEREAS, members of the Legislature also travelled to and held public hearings in the vicinity of the Three Mile Island Nuclear Power Plant to gain information on the lessons to be learned by local governments from the accident at Three Mile Island; and

WHEREAS, the Draft County plan identifies evacuation and protective sheltering as the two primary protective actions which would need to be implemented in the event of a serious accident at Shoreham; and

WHEREAS, evacuation of Suffolk County residents in the event of a radiological emergency could take as much time as 14-30 hours because of various factors, including: the limited number of appropriate evacuation routes in Suffolk County; difficulties in mobilizing police and other emergency personnel; difficulties ensuing from spontaneous evacuation of large numbers of County residents, thus creating severe traffic congestion; and unavailability of alternate evacuation routes for persons residing east of Shoreham and thus the necessity for such persons during an evacuation to pass by the plant and possibly through the radioactive plume; and

WHEREAS, evacuation times in excess of 10 hours -- and certainly evacuation times in the range of 14-30 hours -- will result in virtual immobilization of evacuation and high exposure of evacuees to radiation such that evacuees' health, safety, and welfare would not be protected; and

WHEREAS, protective sheltering is designed to protect persons from excessive radiation exposure by such persons staying indoors until radiation with the greatest danger to health has passed; and

WHEREAS, if protective sheltering were ordered for Suffolk County residents, unacceptable radiation exposure would still be experienced by substantial portions of the Suffolk County population, thus making it impossible to provide for the health, welfare, and safety of these residents;

WHEREAS, the document submitted by LILCO to the DPC without County approval or authorization is deficient because it does not deal with the actual local conditions, physical and behavioral, on Long Island that would be encountered during a serious nuclear accident at Shoreham; and

WHEREAS, the document submitted by LILCO to the DPC without County approval or authorization does not ensure that effective protective action by persons subject to radiation exposure, in the form of evacuation or sheltering, would be taken in event of a serious nuclear accident at Shoreham, and thus such document, even if implemented, would not protect the health, safety, and welfare of Suffolk County residents; and

WHEREAS, the extensive data which the Legislature has considered make clear that the site-specific circumstances and actual local conditions existing on Long Island, particularly its elongated east/west configuration which requires all evacuation routes from locations east of the plant to pass within a zone of predicted high radiation, the ineffectiveness of protective sheltering, the severe traffic congestion likely to be experienced if a partial or complete evacuation were ordered, and the difficulties in ensuring that emergency personnel will promptly report for emergency duties, preclude any emergency response plan, if implemented, from providing adequate preparedness to protect the health, welfare, and safety of Suffolk County residents; therefore be it

RESOLVED, that the Draft County plan submitted to the County Legislature on December 2, 1982, if implemented, would not protect the health, welfare, and safety of Suffolk County residents and thus is not approved and will not be implemented; and

RESOLVED, that the document submitted by LILCO to the DPC without the County approval or authorization, if implemented, would not protect the health, welfare, and safety of Suffolk County residents and thus will not be approved and will not be implemented; and

RESOLVED, that since no local radiological emergency response plan for a serious nuclear accident at Shoreham will protect the health, welfare, and safety of Suffolk County residents, and since the preparation and implementation of any such plan would be misleading to the public by indicating to County residents that their health, welfare, and safety are being protected when, in fact, such is not the case, the County's radiological emergency planning process is hereby terminated, and no local radiological emergency plan for response to an accident at the Shoreham plant shall be adopted or implemented; and

RESOLVED, that since no radiological emergency plan can protect the health, welfare, safety of Suffolk County residents and, since no radiological emergency plan shall be adopted or implemented by Suffolk County, the County Executive is hereby directed to take all actions necessary to assure that actions taken by any other governmental agency, be it State or Federal, are consistent with the decisions mandated by this Resolution.

Resolution No. -1983,
Constituting the Findings and
Determinations of Suffolk County
on Whether A Level of Emergency
Preparedness To Respond to a
Radiological Accident At the
Shoreham Nuclear Power Station
Can Protect the Health, Welfare
and Safety of the Residents of
Suffolk County

WHEREAS, Suffolk County has a duty under the Constitution of the State of New York, the New York State Municipal Home Rule Law, and the Suffolk County Charter to protect the health, safety, and welfare of the residents of Suffolk County; and

WHEREAS, the Long Island Lighting Company ("LILCO") is constructing and desires to operate the Shoreham Nuclear Power Station ("Shoreham"), located on the north shore of Long Island near the town of Wading River, a location which is within the boundaries of Suffolk County; and

WHEREAS, a serious nuclear accident at Shoreham could result in the release of significant quantities of radioactive fission products; and

WHEREAS, the release of such radiation would pose a severe hazard to the health, safety, and welfare of Suffolk County residents; and

WHEREAS, in recognition of the effects of such potential hazard posed by Shoreham on the duty of Suffolk County to protect the health, safety, and welfare of its citizens, this Legislature on March 23, 1982, adopted Resolution No. 262-1982, which directed that Suffolk County prepare a "County Radiological Emergency Response Plan to serve the interest of the safety, health, and welfare of the citizens of Suffolk County ..";
and

WHEREAS in Resolution 262-1982, the Legislature determined that the plan developed by the County "shall not be operable and shall not be deemed adequate and capable of being implemented until such time as it is approved by the Suffolk County Legislature"; and

WHEREAS, in adopting Resolution 262-1982, the Legislature found that earlier planning efforts by LILCO and County planners (the "original planning data") were inadequate because they failed to address the particular problems posed by conditions on Long Island and further failed to account for human behavior during a radiological emergency and the lessons of the accident at Three Mile Island; and

WHEREAS, on March 29, 1982, Peter F. Cohalan, Suffolk County Executive, acting to implement Resolution 262-1982, by Executive Order established the Suffolk County Radiological Emergency Response Plan Steering Committee ("Steering Committee") and directed it to prepare a County plan for submittal to the County Executive and County Legislature; and

WHEREAS, the Steering Committee assembled a group of highly qualified and nationally recognized experts from diverse disciplines to prepare such County plan; and

WHEREAS, such highly qualified experts worked in a diligent and conscientious effort at a cost in excess of \$500,000 to prepare the best possible plan for Suffolk County, and particularly to ensure that such plan took into account all particular physical and behavioral conditions on Long Island that affect the adequacy of the emergency response plan; and

WHEREAS, the analyses, studies, and surveys of such experts included:

- (a) Detailed analyses of the possible releases of radiation from Shoreham;
- (b) Detailed analyses of the radiological health consequences of such radiation release on the population of Suffolk County, given the meteorological, demographic, topographical, and other specific local conditions on Long Island;
- (c) A detailed social survey of Long Island residents to determine and assess their intended behavior in the event of a serious accident at Shoreham;
- (d) A detailed survey of school bus drivers, volunteer firemen, and certain other emergency response personnel to determine whether emergency personnel intend to report promptly for emergency duties, or instead to unite with their own families, in the event of a serious accident at Shoreham;

- (e) Detailed estimates of the number of persons who would be ordered to evacuate in the event of a serious accident at Shoreham, as well as the number of persons who intend to evacuate voluntarily even if not ordered to do so;
- (f) Detailed analyses of the road network in Long Island and the time required to evacuate persons from areas affected by radiation releases;
- (g) Detailed analyses of the protective actions available to Suffolk County residents to evacuate or take shelter from such radiation releases; and
- (h) Analysis of the lessons learned from the accident at Three Mile Island on local government responsibilities to prepare for a radiological emergency; and

WHEREAS, on May 10, 1982, LILCO, without the approval or authorization of the Suffolk County Government, submitted to the New York State Disaster Preparedness Commission ("DPC") two volumes entitled "Suffolk County Radiological Emergency Response Plan" and containing the original planning data, as further revised and supplemented by LILCO, and requested the DPC to review and approve such LILCO submittal as the local radiological emergency response plan for Suffolk County; and

WHEREAS, in Resolutions 456-1982 and 457-1982, the County further addressed the matter of preparing for a radiological emergency at Shoreham and emphasized that:

- (a) The LILCO-submitted document was not and will not be the County's Radiological Emergency Response Plan; and
- (b) The County's Radiological Emergency Response Planning Policy, as enunciated in Resolution 456-1982, is as follows:

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been fully developed to the best of the County's ability.

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been subject of at least two public hearings, one to be held in Riverhead, and one to be held in Hauppauge.

Suffolk County shall not assign funds or personnel to test or implement any radiological emergency response plan for the Shoreham Nuclear Plant unless that plan has been approved, after public hearings, by the Suffolk County Legislature and the County Executive; and

WHEREAS, on June 9, 1982, the DPC rejected the LILCO-submitted document for the reason that it was deficient; and

WHEREAS, on October 6, 1982, LILCO, again without the approval or authorization of the Suffolk County Government, submitted to the DPC an amended version of the previously submitted LILCO document which had been rejected by the DPC; and

WHEREAS, on December 2, 1982, the Draft County Radiological Emergency Response Plan authorized by Resolution 262-1982 was submitted to the County Legislature for review and public hearings as specified in Resolutions 262-1982, 456-1982, and 457-1982; and

WHEREAS, in January 1983, the Legislature held hearings on the Draft County plan, which hearings included:

- (a) More than 1,590 pages of transcripts;
- (b) Detailed written statements and oral testimony of County expert consultants who prepared the Draft County plan;
- (c) Detailed written statements and oral testimony of LILCO officials and expert consultants retained by LILCO;
- (d) Detailed written statements and oral testimony of the Suffolk County Police Department, the County Health Department, the County Social Services Department, and the County Public Works Department, all of which would have indispensable roles in responding to a radiological emergency at Shoreham;
- (e) Detailed written statements and oral testimony of organizations in Suffolk County concerned with radiological emergency preparedness; and
- (f) Extensive presentations by hundreds of members of the general public; and

WHEREAS, members of the Legislature also travelled to and held public hearings in the vicinity of the Three Mile Island Nuclear Power Plant to gain information on the lessons to be learned by local governments from the accident at Three Mile Island; and

WHEREAS, the Draft County plan identifies evacuation and protective sheltering as the two primary protective actions which would need to be implemented in the event of a serious accident at Shoreham; and

WHEREAS, evacuation of Suffolk County residents in the event of a radiological emergency could take as much time as 14-30 hours because of various factors, including: the limited number of appropriate evacuation routes in Suffolk County; difficulties in mobilizing police and other emergency personnel; difficulties ensuing from spontaneous evacuation of large numbers of County residents, thus creating severe traffic congestion; and unavailability of alternate evacuation routes for persons residing east of Shoreham and thus the necessity for such persons during an evacuation to pass by the plant and possibly through the radioactive plume; and

WHEREAS, evacuation times in excess of 10 hours -- and certainly evacuation times in the range of 14-30 hours -- will result in virtual immobilization of evacuation and high exposure of evacuees to radiation such that evacuees' health, safety, and welfare would not be protected; and

WHEREAS, protective sheltering is designed to protect persons from excessive radiation exposure by such persons staying indoors until radiation with the greatest danger to health has passed; and

WHEREAS, if protective sheltering were ordered for Suffolk County residents, unacceptable radiation exposure would still be experienced by substantial portions of the Suffolk County population, thus making it impossible to provide for the health, welfare, and safety of these residents;

WHEREAS, the document submitted by LILCO to the DPC without County approval or authorization is deficient because it does not deal with the actual local conditions, physical and behavioral, on Long Island that would be encountered during a serious nuclear accident at Shoreham; and

WHEREAS, the document submitted by LILCO to the DPC without County approval or authorization does not ensure that effective protective action by persons subject to radiation exposure, in the form of evacuation or sheltering, would be taken in event of a serious nuclear accident at Shoreham, and thus such document, even if implemented, would not protect the health, safety, and welfare of Suffolk County residents; and

WHEREAS, the extensive data which the Legislature has considered make clear that the site-specific circumstances and actual local conditions existing on Long Island, particularly its elongated east/west configuration which requires all evacuation routes from locations east of the plant to pass within a zone of predicted high radiation, the ineffectiveness of protective sheltering, the severe traffic congestion likely to be experienced if a partial or complete evacuation were ordered, and the difficulties in ensuring that emergency personnel will promptly report for emergency duties, preclude any emergency response plan, if implemented, from providing adequate preparedness to protect the health, welfare, and safety of Suffolk County residents; therefore be it

RESOLVED, that the Draft County plan submitted to the County Legislature on December 2, 1982, if implemented, would not protect the health, welfare, and safety of Suffolk County residents and thus is not approved and will not be implemented; and

RESOLVED, that the document submitted by LILCO to the DPC without the County approval or authorization, if implemented, would not protect the health, welfare, and safety of Suffolk County residents and thus will not be approved and will not be implemented; and

RESOLVED, that since no local radiological emergency response plan for a serious nuclear accident at Shoreham will protect the health, welfare, and safety of Suffolk County residents, and since the preparation and implementation of any such plan would be misleading to the public by indicating to County residents that their health, welfare, and safety are being protected when, in fact, such is not the case, the County's radiological emergency planning process is hereby terminated, and no local radiological emergency plan for response to an accident at the Shoreham plant shall be adopted or implemented; and

RESOLVED, that since no radiological emergency plan can protect the health, welfare, safety of Suffolk County residents and, since no radiological emergency plan shall be adopted or implemented by Suffolk County, the County Executive is hereby directed to take all actions necessary to assure that actions taken by any other governmental agency, be it State or Federal, are consistent with the decisions mandated by this Resolution.