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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BEFORE THE COMMISSION

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

Docket No. 50-322 OLA  
(Physical Security, Emergency  
Preparedness License Condition,  
Confirmatory Order)

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NRC STAFF'S RESPONSE TO SHOREHAM-WADING RIVER CENTRAL SCHOOL  
DISTRICT AND SCIENTISTS AND ENGINEERS FOR SECURE ENERGY INC.  
APPEAL OF THE MEMORANDUM AND ORDER OF NOVEMBER 19, 1990

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Senior Supervisory  
Trial Attorney

December 20, 1990

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NRC STAFF RESPONSE TO SHOREHAM-WADING RIVER CENTRAL SCHOOL  
DISTRICT AND SCIENTISTS AND ENGINEERS FOR SECURE ENERGY, INC.  
APPEAL OF THE MEMORANDUM AND ORDER OF NOVEMBER 19, 1990

INTRODUCTION

On November 9, 1990, the Shoreham-Wading River Central School District and Scientists and Engineers for Secure Energy, Inc. ("Petitioners") filed a motion for restraining order and other relief<sup>1</sup> in which it asked the Licensing Board to (1) restrain Long Island Lighting Company (LILCO) and alleged interested persons not party to the proceeding from meeting and communicating with any adjudicatory employees; (2) restrain such persons from allowing any visits by any Commission adjudicatory employees to the Shoreham site; (3) require the restrained persons to submit memoranda describing contacts with adjudicatory employees relating to the Shoreham docket since July 14, 1989 relating to particular types of meetings and notice of particular meetings. In a Memorandum and Order, dated November 19, 1990 (unpublished), the Licensing Board

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<sup>1</sup>Motion for Restraining Order and Other Relief by Petitioner-Intervenors Shoreham-Wading River Central School District and Scientists and Engineers for Secure Energy, Inc., dated November 9, 1990 ("Motion").

(1) memorialized Judge Margulies' previous denial of the request for urgent relief concerning Commissioner Curtiss' visit to the Shoreham facility<sup>2</sup> and (2) rejected Petitioners' request for additional relief as beyond the subject matter jurisdiction of the Board and stated its view that the Motion was misdirected.<sup>3</sup>

On December 5, 1990, the Petitioners filed, pursuant to 10 C.F.R. § 2.714a, a notice of appeal from the Board's November 19 Order and provided an accompanying appeal brief.<sup>4</sup> Therein, Petitioners ask the Commission to vacate the November 19 Order and remand the matter to the Licensing Board with instructions to issue the orders requested. Brief at 2. For the reasons stated below, the Commission should dismiss Petitioners' appeal as improper under the Rules of Practice or, in the alternative, affirm the Board's Order.

#### STATEMENT OF FACTS

The events leading to the instant appeal are as follows. Petitioners separately filed three sets of petitions to intervene and requests for hearing regarding NRC licensing actions concerning Shoreham. The actions contested are: (1) the March 29, 1990 Confirmatory Order Modifying License (Effective Immediately) prohibiting LILCO from placing nuclear fuel in the Shoreham reactor without prior NRC Staff approval (55 Fed. Reg. 12758, April 5, 1990); (2) the June 14, 1990 license amendment allowing LILCO to reduce the size of its security force at Shoreham (55 Fed. Reg. 25387, June 21, 1990);

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<sup>2</sup>November 19 Order at 5-7.

<sup>3</sup>November 19 Order at 7-12.

<sup>4</sup>Notice of Appeal, dated December 5, 1990; Shoreham-Wading River Central School District and Scientists and Engineers for Secure Energy, Inc. Brief in Support of the Appeal of the ASLBP Memorandum and Order of November 19, 1990, dated December 5, 1990 ("Brief").

and (3) the July 31, 1990 license amendment and related exemption regarding Shoreham's emergency preparedness requirements (55 Fed. Reg. 31914 and 31915, August 6, 1990).

On October 17, 1990, the Commission forwarded the petitions to the Licensing Board for further proceedings. CLI-90-08, 32 NRC \_\_\_\_, slip op. at 11. The following day, the Licensing Board below was designated to rule on the six petitions. 55 Fed. Reg. 43057, 43058 (October 25, 1990). To date, no prehearing or special prehearing conference has been held or scheduled.

In an October 24, 1990 memorandum to the petitioners and respondents in the *Shoreham* proceeding, Commissioner Curtiss' executive legal assistant informed the addressees that Commissioner Curtiss would visit the Shoreham facility on Tuesday, November 13, 1990.<sup>5</sup> Subsequently, on Friday, November 9, 1990, Petitioners filed their Motion requesting urgent relief restraining LILCO from receiving Commissioner Curtiss at the Shoreham site the following Tuesday.

The Licensing Board recounted, in its order, that Judge Margulies was not aware of the filing until Monday morning, November 12, 1990 (Veteran's Day), when he was contacted at his home by counsel for Petitioners. November 19 Order at 5. The Board noted that although Judge Margulies' office had been notified on November 7, 1990 that a motion would be faxed to the Board, the Motion was not transmitted to the Board until after business hours on Friday, November 9, 1990 and without prior notice that a document would be transmitted on that date. *Id.* at 6. Judge Margulies, still not in possession of the moving papers on Monday, November 12, 1990, concluded that the

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<sup>5</sup>Memorandum to the Petitioners and Respondents in [*Shoreham*] from J. R. Gray, NRC, dated October 24, 1990.



delays by the movant had helped to create the need for urgent action and rejected the Motion as untimely, stating that it would not be reviewed on its merits. *Id.* at 7.

When the Board subsequently reviewed the Motion, it determined that Petitioners also requested that (1) restrained persons<sup>6</sup> be required to submit memoranda under oath or affirmation describing any and all contacts they have had with Commission adjudicatory employees relating to Shoreham since July 14, 1989 and (2) restrained persons be required to serve Petitioners with (a) copies of submittals to the NRC after July 14, 1989 related to the proposal to decommission Shoreham and (b) a minimum of 14 days advance notice of any meeting to be held between the restrained persons and NRC personnel, including a full description of the subject matter of such meeting. Order at 7-8. The Board concluded that this request for additional relief was beyond its jurisdiction and indicated the Motion was misdirected. As the Board stated:

The Board rejects the motion at this time because of the patent lack of jurisdiction of the subject matter. It is done now without awaiting responses to the motion by the other parties to avoid undue delay should Petitioners seek to refile within the Commission.

Order at 8. The Board reasoned that the request to restrain the *ex parte* contacts with LILCO and nonparties to the proceeding, "inextricably involves behavior of NRC officials with that of the Licensee." Order at 9. In the Board's view:

Stripped to its essentials, Petitioners contend that the Commission and its staff engages [sic] in *ex parte* communications with the Licensee that are prohibited by the Commission's rules governing *ex parte* communications, 10 CFR 2.780 and 2.781 and the Government in the Sunshine Act, Pub. L. 94-409; 90 Stat. 264. They seek enforcement of the statute and regulations prohibiting *ex parte* communications to assure Petitioners a fair

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<sup>6</sup>The Motion defined "the restrained persons" as LILCO "and associated interested persons including the Long Island Power Authority ("LIPA") and the New York Power Authority ("NYPA") and all LILCO, LIPA and NYPA directors, trustees, officers, employees, agents, attorneys and contractors." Motion at 1-2.



hearing. As a consequence, Petitioners seek to restrain any future violations and to obtain reports of contacts that may evidence any violations.

*Id.* The Board reasoned that the issues raised by Petitioners "go far beyond the authority delegated by the Commission to the Board which was to review and resolve the six petitions to intervene and to hold hearings in regard to the subject amendments to the Shoreham operating license." Order at 9. The Board saw the fundamental issue raised as being whether the Commission and its staff are acting in accordance with the law and whether they should be enjoined to comply. Order at 10. Recognizing that the Commission and its staff communicate with licensees in a role other than as adjudicators, and the Commission's responsibility for the NRC's technical program, the Board concluded that the Commission had not delegated to the Board any authority to conduct an independent inquiry of a nature that would address the Petitioners' request. Lacking such plenary jurisdiction, the Board denied the Motion. Order at 11-12.<sup>7</sup>

Ignoring the Board's suggestion that Petitioners refile their Motion before the Commission,<sup>8</sup> Petitioners filed the instant appeal, requesting that the Commission vacate the Board's Order and remand with instructions to the Licensing Board to issue the orders requested. Brief at 2. Petitioners further argue that the Motion was denied without the requisite findings and conclusions and in violation of the Administrative Procedure Act; and request that, even if the Commission upholds the Board's ruling

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<sup>7</sup>The Board further observed that the conduct complained of would appear to also affect the proceeding before the Commission where Petitioners currently have intervention petitions pending regarding the amendment of the license to remove LILCO's authority to operate Shoreham, but that Petitioners had not chosen to pursue the matter before the Commission. Order at 11.

<sup>8</sup>Order at 8.

that the relief sought is beyond the Board's jurisdiction, the Commission should find the Board's failure to certify the matter an abuse of discretion. Brief at 5-6.

#### ARGUMENT

A. Petitioners' Appeal Should Be Dismissed As Improperly Filed Under 10 C.F.R. § 2.714a.

Petitioners wrongly file their appeal under 10 C.F.R. § 2.714a, asserting that they seek review of an "order of the presiding officer or the atomic safety and licensing board designated to rule on petitions for leave to intervene and/or requests for hearing." That provision, however, does not permit appeals of any and all rulings by the licensing board or presiding officer. Instead, it is limited to "[a]ppeals from licensing board rulings on petitions for intervention and or hearing in construction permit or operating license proceedings . . . in specified circumstances." 37 Fed. Reg. 28710, 28711 (December 29, 1972); *Public Service Co. of New Hampshire* (Seabrook Station, Units 1 and 2), ALAB-898, 28 NRC 27, 30 (1988). Thus, under this regulation, there is no right to appeal any ruling which does not rule on a petition for leave to intervene or request for hearing. See 10 C.F.R. § 2.714a. Since the Board's order denying the request for a restraining order and other relief is outside the scope of 10 C.F.R. § 2.714a, the appeal should not be entertained under that provision.<sup>9</sup>

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<sup>9</sup>In addition, the Petitioners' appeal brief incorporates by reference the Motion filed before the Licensing Board. Brief at 2. This filing does not meet the Commission's requirements for an appeal brief as an appellant is required to clearly identify the errors of fact or law that are the subject of the appeal. 10 C.F.R. § 2.762; *Public Service Electric & Gas Co.* (Salem Nuclear Generating Station, Unit 1), ALAB-650, 14 NRC 43 (1981). The Appeal Board has repeatedly stated that incorporation by reference is inappropriate in appellate briefs to the Commission and fails to meet the requirements of the Commission's Rules of Practice. *Kansas Gas & Electric Co.* (Wolf Creek Generating Plant, Unit 1), ALAB-424, 6 NRC 122, 127 (1977); *Tennessee Valley Authority* (Hartsville Nuclear Plant, Units 1A, 2A, 1B, & 2B), ALAB-367, 5 NRC 92, 104 n.59 (continued...)

The Petitioners' request constitutes an interlocutory appeal and is prohibited by 10 C.F.R. § 2.730(f). *E.g., Vermont Yankee Nuclear Power Corp.* (Vermont Yankee Nuclear Power Station), ALAB-876, 26 NRC 277, 280 (1987). Such prohibition has been broadly extended to a variety of rulings whose review may be deferred until the end of the case. *See e.g., Public Service Co. of Indiana* (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-339, 4 NRC 20, 22-23 (1976). Petitioners make no showing as to why Commission review of this matter is now appropriate.<sup>10</sup>

B. Petitioners Make No Showing That The Relief Denied Below Was Warranted

If the Commission decides to look beyond the procedural deficiencies of the instant appeal and address the merits of the Petitioners' claims, the Staff submits that

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<sup>9</sup>(...continued)  
(1977); *Texas Utilities Electric Co.* (Comanche Peak Steam Electric Station, Unit 1), ALAB-868, 25 NRC 912, 924 n.42 (1987).

<sup>10</sup>Discretionary review of an interlocutory appeal is granted only sparingly and only when a Licensing Board's actions either (a) threatens a party adversely affected with immediate and serious irreparable harm that could not be remedied by a later appeal or (b) affects the basic structure of the proceeding in a pervasive or unusual manner. *Houston Lighting & Power Co.* (Allens Creek Nuclear Generating Station, Unit 1), ALAB-635, 13 NRC 309, 310 (1981); *Public Service Co. of New Hampshire* Seabrook Station, Units 1 and 2), ALAB-858, 25 NRC 17, 20-21 (1987); *South Carolina Electric & Gas Co.* (Virgil C. Summer Nuclear Station, Unit 1), ALAB-663, 14 NRC 1140 (1981). Petitioners do not address or even mention these standards for discretionary review.

Moreover, none of the grounds asserted by Petitioners would satisfy these standards. Petitioners' bald claim that the restraining order and other relief was needed (1) to ensure that the Commission and its staff followed the *ex parte* rules and the Sunshine Act, (2) to protect Petitioners' due process rights, and (3) to avoid the "appearance" of impropriety with respect to NRC decisionmaking, Motion at 3, does not establish that Petitioners would suffer immediate, serious or irreparable harm. Further, the Board's failure to grant the relief sought has not affected the basic structure of the proceeding in a pervasive or unusual manner since Petitioners are still afforded the rights or opportunities of other citizens who seek admission in NRC proceedings. See section B, *infra*.

the Licensing Board's denial of the Motion was correct and Petitioners fail to show that the relief they requested below was warranted.

The relief sought by Petitioners was extremely broad and without a showing that such a prophylactic order was required in order to secure adherence to the Commission's *ex parte* rules, to protect their rights to a fair hearing and to avoid the appearance of partiality in government decisionmaking. Petitioners, by seeking to prohibit any and all impermissible contacts with NRC adjudicatory employees and to obtain sworn memoranda concerning all contacts that LILCO and the other named entities have had with NRC adjudicatory employees,<sup>11</sup> presumably seek to discover, prior to the admission of a single contention in this proceeding, supposed violations of the Commission's *ex parte* rules.<sup>12</sup> The sole basis offered for Petitioners' Motion was the perceived impropriety of contacts which would occur during Commissioner Curtiss' scheduled visit to Shoreham and the alleged implications of a September 21, 1990 letter from A. Randolph Blough, NRC to John D. Leonard, LILCO, forwarding a summary of a LILCO drop-in visit at the NRC, Region I Office ("September 21 Letter"). Motion at 3-4.

The Motion made no showing that the Commission's *ex parte* rules had been or would be violated by either event. The Motion similarly failed to show that extraordinary relief, in addition to the rules, was required to ensure that any contacts

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<sup>11</sup>See Motion at 2-3.

<sup>12</sup>*Cf. Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 and 2), ALAB-107, 6 AEC 188, 192, reconsid. den., ALAB-110, 6 AEC 247, aff'd, CLI-73-12, 6 AEC 241 (1973) (petitioners are not entitled to discovery to frame contentions).*

Commissioner Curtiss and NRC Staff would not be improper.<sup>13</sup> Commissioners certainly have a nonadjudicatory role in overseeing the activities of the technical staff. Moreover, not all NRC personnel who have duties related to Shoreham are adjudicatory employees.<sup>14</sup> Commissioner Curtiss could visit the site in a nonadjudicatory capacity and the summary of the drop-in visit at NRC Region I shows that the status report given during the visit was not a prohibited *ex parte* communication. 10 C.F.R. § 2.780(f)(1). Clearly the acts complained of were not done in any adjudicatory capacity. Consequently, no basis was shown to grant the extraordinary relief Petitioners requested.

The Board relied on *Duke Power Co.* (Catawba Nuclear Station, Units 1 and 2), ALAB-825, 22 NRC 785, 790 (1985), for the proposition that the Board did not have plenary jurisdiction but rather only the jurisdiction specifically delegated to it by the

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<sup>13</sup>10 C.F.R. § 2.780 states that "interested persons outside the agency may not make or knowingly cause to be made to any Commission adjudicatory employee, any *ex parte* communication." That section further states that Commission adjudicatory employees may not "request or entertain . . . *ex parte* communication relevant to the merits of the proceeding" and requires NRC adjudicatory employees who receive or make such prohibited communications "to ensure that it and any responses to the communication promptly are served on the parties and placed in the public record of the proceeding." 10 C.F.R. § 2.780(a), (b). That regulation specifically states that the prohibitions do not extend to, *inter alia*, (1) requests for and the provision of status reports, (2) communications specifically permitted by statute or regulation, and (3) communications regarding "generic issues involving public health and safety or other responsibility of the agency . . . not associated with the resolution of any proceeding . . . before the NRC." 10 C.F.R. § 2.780(f). Petitioners cannot reasonably be heard to complain about discussions held during Commissioners Curtiss' visit since a detailed summary of the visit was served on the participants in this proceeding and the other Shoreham proceeding pending before the Commission. See Memorandum to the Petitioners, Respondents and Other Persons on the Service Lists in *re* *Shoreham* from J. R. Gray, dated November 19, 1990.

<sup>14</sup>See *Long Island Lighting Co.* (Shoreham Nuclear Power Station, Unit 1), CLI-84-20, 20 NRC 1061, 1063 (1984) (Chairman denied recusal motion noting, in part, that the Commission monitors the agency's activities and exercises managerial functions under the Energy Reorganization Act).



Commission. Order at 11. The Board's finding was correct. The Commission did not delegate to the Board any jurisdiction to control the acts of nonparties (LIPA, NYPA, etc.). In addition, the request for all documents submitted to the NRC which are related to the proposal to decommission Shoreham, and the request that Petitioners be notified and invited to attend all meetings regarding the facility, whether or not related to the licensing actions before the Board, was overly broad and beyond the Board's jurisdiction to grant. Contrary to Petitioners' repeated assertion before the Commission,<sup>15</sup> every action taken with respect to the Shoreham facility does not constitute part of decommissioning the facility. See CLI-90-08, slip op. at 7-9.<sup>16</sup> The Commission should find that the Board's jurisdictional ruling was adequately supported; the Board clearly stated its view that the relief Petitioners had requested would necessitate an inquiry as to whether "the Licensee as well as the Commission and its staff were acting in accordance with the law and whether they should be enjoined to comply." Order at 10. Finding that the Commission and its staff have more than just an adjudicatory role, and that the Commission's delegation of the licensing actions to the Board did not extend to such matters as general investigation of the conduct of the Commission and its staff and the Board concluded it lacked jurisdiction. Order at 7-11.

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<sup>15</sup>See e.g., Shoreham-Wading River Central School District's Petition for Leave to Intervene and Request for Hearing, dated April 18, 1990, at 2; Scientists and Engineers for Secure Energy, Inc.'s Petition for Leave to Intervene and Request for Hearing, dated April 30, 1990, at 2.

<sup>16</sup>The Staff has maintained that the licensing actions contested in this proceeding are not part of the proposal to decommission the facility. E.g., NRC Staff Response to Petitions to Intervene and Requests for Hearing on Proposed Offsite Emergency Preparedness License Condition Amendment, Filed by Scientists and Engineers for Secure Energy, Inc. and by Shoreham-Wading River Central School District, dated May 21, 1990, at 15-18.

As the Commission is aware, Petitioners have claimed that the licensing actions at issue in this proceeding (the Confirmatory Order prohibiting the placement of fuel in the reactor with prior approval, the amendment allowing a reduction of the physical security force, and the amendment and related exemption consistent with Shoreham's nonoperating status) are part of activities to decommission Shoreham. See CLI-90-08, slip op. at 3. However, the licensing actions before the board have a utility independent of the possible decommissioning of Shoreham and are appropriate for a plant in a defueled condition, regardless of whether the plant is eventually decommissioned. Petitioners, however, sought relief beyond the limited actions before the Board.<sup>17</sup> Therefore, the Board correctly concluded that the matters were beyond its jurisdiction.

In addition, the Petitioners failed to make any showing as to why they could not obtain the correspondence they requested from the NRC Public Document Room which maintains copies all docket correspondence pursuant to 10 C.F.R. § 2.790. Similarly, the Petitioners' request that they be notified about, and invited to attend, meetings regarding the facility, at least with respect to licensing matters involving the NRC Staff, is already covered by the Commission's open meeting policy. *Domestic License Applications: Open Meeting and Statement of NRC Staff Policy*, 43 Fed. Reg. 28058 (June 28, 1978). That policy states that the Commission's regulations permit a licensee to confer informally with the NRC technical staff during reviews of domestic license or permit applications and

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<sup>17</sup>As noted in their Motion (at 12), Petitioners asked the Board to make its order concerning written and oral communications coincide with the date the Shoreham-Wading River Central School District filed its 10 C.F.R. § 2.206 petition, July 14, 1989. Scientists and Engineers for Secure Energy, Inc. filed its petition on July 26, 1989 and adopted and incorporated the July 14 petition. These petitioners have since been denied. *Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1)*, DD-90-8, 32 NRC \_\_\_\_ (Dec. 20, 1990).



that meetings conducted by the NRC technical staff as part of its review of an application "will be open to attendance by all parties or petitioners for leave to intervene in the case;" however, those individuals would attend as observers.<sup>18</sup> The policy provides that the Staff will prepare a summary of the unclassified and nonproprietary portions of its meetings and will forward the summary to interested persons unable to attend. It further provides that the NRC Staff, when asked, will make reasonable efforts to inform parties or petitioners about forthcoming meetings conducted by the Staff, but that the need for prompt meeting may make it impossible or impracticable to notify all parties and petitioners. *Id.*

The Staff's open meeting policy applies to meetings for the exchanges of technical information between NRC technical staff personnel and other parties or petitioners. 43 Fed. Reg. 28058. It does not appear that any substantive technical issues were discussed during the drop-in visit. See Motion at September 21 Letter, Enclosure. Nor do Petitioners give any basis to suppose that such issues were discussed. See Petition, at 10-11. In addition, Petitioners were not harmed by not being provided an opportunity

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<sup>18</sup>Specifically, the policy states:

As a general matter, the Commission and staff try to involve concerned citizens in any Commission activity in which they have expressed an interest. All meetings conducted by the NRC technical staff as part of its review of a particular domestic license or permit application (including an application for an amendment of a license or permit) will be open to attendance by all parties or petitioners for leave to intervene in the case. These are intended by the NRC technical staff to facilitate an exchange of information between the applicant and the staff. It is expected that the NRC technical staff and the applicant will actively participate in the meeting. Others may attend as observers.

to observe the meeting, given that the September 21, 1990 letter contained a summary of the visit and the letter was placed in the NRC Public Document Room.

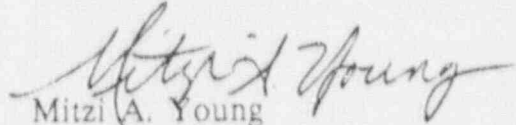
Finally, Petitioners' request that the Commission find the Board's failure to certify the matter to the Commission, was an abuse of discretion should be rejected. *See* Motion at 5-6. The Board succinctly stated that Petitioners' request would be more appropriately raised before the Commission and that it was denying the Motion on an expedited basis to enable Petitioners to refile with the Commission. Order at 8. The Board's ruling was not an abuse of discretion as it reasonably enabled Petitioners to seek, at their own convenience, a more appropriate forum. Petitioners chose not to refile but to appeal the matter and persuade the Commission to direct the Board to grant the extraordinary relief. Petitioners certainly cannot fault the Board for failing to certify the matter to the Commission pursuant to 10 C.F.R. § 2.718(i), since Petitioners never asked the Board below to take such action below and Petitioners did not follow the the Board's suggestion.

#### CONCLUSION

The Petitioners' appeal should be rejected as improperly filed under 10 C.F.R. § 2.714a or as failing to satisfy the standards for interlocutory review. If the Commission should decide to review the matter on the merits, the Commission should affirm the

Licensing Board's rulings below and determine that no basis was offered to justify granting the Motion.

Respectfully submitted,

  
Mitzi A. Young  
Senior Supervisory Trial Attorney

Dated at Rockville, Maryland  
this 20th day of December, 1990

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

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BEFORE THE COMMISSION

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of )  
 )  
LONG ISLAND LIGHTING COMPANY ) Docket No. 50-322 OLA  
 ) (Physical Security, Emergency  
(Shoreham Nuclear Power Station, ) Preparedness License Condition,  
Unit 1) ) Confirmatory Order)

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO SHOREHAM-WADING RIVER CENTRAL SCHOOL DISTRICT AND SCIENTISTS AND ENGINEERS FOR SECURE ENERGY, INC. APPEAL OF THE MEMORANDUM AND ORDER OF NOVEMBER 19, 1990" in the above captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, by deposit in the Nuclear Regulatory Commission's internal mail system, this 20th day of December, 1990:

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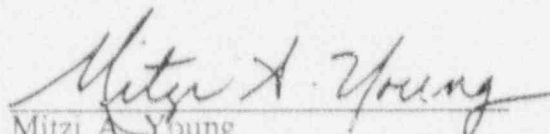
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