Ref EDO 4613-DEPR

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WRITER'S DIRECT DIAL NO.

(202) 857-2929

April 5, 1990

Dr. Thomas E. Murley
Director
Office of Nuclear Reactor Regulation
Mail Stop 12-G18
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Fifth Supplement to the Section 2.206 Request by the Shoreham-Wading River Central School District and Scientists and Engineers for Secure Energy, Inc. in USNRC Docket No. 50-322

Dear Dr. Murley:

This is a further supplement to the above-referenced Request for Immediately Effective Orders with respect to the issues and on the bases set forth in the original Request dated July 14, 1989, as previously supplemented by our letters of July 19, July 22, and July 31, 1989, and January 23, 1990.

The U.S. Nuclear Regulatory Commission ("NRC" or "Commission") in issuing, and the Long Island Lighting Company ("LILCO" or "licensee") in accepting, full power operating license NPF-82 committed LILCO to maintaining certain levels of staffing as detailed in the license, the Licensee's Updated Safety Analysis Report and the Operational Readiness Assessment Team Report (Shoreham ORAT Inspection 50-322/89-80 (3/11-27/89)) which was transmitted to the licensee by the Regional I Administrator's letter of April 4, 1989, and to maintaining

personnel training and replacement training programs, as specified in the licensing documents and other NRC guidance. By that license, the NRC also required, and LILCO committed itself to, maintaining, inspecting and operating plant equipment in accordance with the licensing documents and other NRC requirements consonant with full power operation.

Since the issuance of that license, LILCO has announced to the NRC, over and over again, by written communication and in management meetings with the NRC Staff that LILCO does not currently intend to operate the Shoreham Plant, but rather will seek to transfer its license for that plant to the Long Island Power Authority ("LIPA") for decommissioning.

We contend that LILCO has announced a unitary series of actions which it is improperly segmenting, but which together constitute a "major federal action" requiring the preparation of an Environmental Impact Statement pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations, and the Commission's own regulations (10 C.F.R. Part 51 (1989)).

Since the Shoreham plant is at the beginning of its life, not at the end of its life by virtue of age or accident, the generic environmental consideration of decommissioning options last year does not operate to remove such a decommissioning proposal from the mandatory requirements of 10 C.F.R. § 51.20(b)(5) (1988). In any event, the Commission should determine that this course of action proposed by LILCO and others constitutes a major Commission action significantly affecting the quality of the human environment. See 10 C.F.R. §§ 51.20(b)(13) and 51.22(b) (1989).

In these circumstances, the Commission's own regulations forbid it from giving LILCO any "form of permission" which may have adverse environmental effects or limit the choice of reasonable alternatives to be considered until after the NEPA process has been completed. See 10 C.F.R. §§ 51.100 and 51.101 (1989).

By this supplement, we incorporate in our Request the enclosed comment on an NRC notice regarding yet another segmented LILCO proposal in furtherance of its decommissioning proposal, namely, the proposed reduction of on-site property insurance.

NEPA demands that LILCO not be allowed to piecemeal or improperly segment this single course of action intended to lead

to decommissioning. Concomitantly, NEPA demands that the NRC cease and decease from piecemeal consideration of this unitary decommissioning proposal which has been before it over nine months now and which the NRC has, contrary to its own regulations, permitted to go forward until this point.

The Commission must recognize its responsibilities under NEPA and take appropriate actions to require LILCO to maintain a staff adequate to operate the Shoreham facility (including hiring and training) and to conduct inspections and maintenance of the physical plant in accordance with the requirements for a full power operating reactor, all in accordance with the responsibilities of the full power operating license, at least until NEPA review of the decommissioning proposal is completed and the proposed action is approved or denied. The proposed reduction in on-site property insurance should be denied or, at least, deferred until after publication of a Final Environmental Impact Statement on the decommissioning proposal. 10 C.F.R. § 51.100(a)(1989).

Yours sincerely,

James P. McGranery, Jr.
Counsel for Shoreham-
Wading River Central
School District and
Scientists and Engineers
for Secure Energy, Inc.

JPM:jmb
Enclosure

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WRITER'S DIRECT DIAL NO.

(202) 857-2929

April 5, 1990

BY HAND

Honorable Samuel Chilk
The Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: "Long Island Lighting Company; Environmental Assessment and Finding of No Significant Impact" (U.S.N.R.C. Docket No. 50-322) (55 Fed. Reg. 6566, February 23, 1990)

Dear Mr. Secretary:

These comments are presented on behalf of the Shoreham-Wading River Central School District ("School District") and Scientists and Engineers for Secure Energy ("SE_2"). The Shoreham Nuclear Power Station ("Shoreham") is located within the boundaries of the School District. Similarly, several members of SE_2, a nationwide organization of scientists dedicated to correcting the alarming degree of misunderstanding on fundamental, scientific and technological issues permeating the national energy debate, also live and/or work on Long Island in the vicinity of Shoreham and rely on electricity from its licensee, LILCO.

These comments are occasioned by the Nuclear Regulatory Commission's ("NRC") announcement that it "is considering issuance of an exemption from the required on-site primary property damage insurance requirement of 10 C.F.R. 50.54(W)(1) to the Long Island Lighting Company ("LILCO") the licensee, for operation of the Shoreham, located in Suffolk County, New York." 55 Fed. Reg. 6566 (February 23, 1990).

SUMMARY OF COMMENTERS' POSITION

Commenters urge the Commission to withdraw this proposal from consideration and deny or defer LILCO's request as violative of the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321 et seq. (1982), the Atomic Energy Act ("AEA"), 42 U.S.C. §§ 2011 et seq. (1982), and the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 551-559, 701-706 (1988), as well as the regulations of the Council on Environmental Quality ("CEQ"), 40 C.F.R. § 1500 et seq. (1988), and of the NRC, 10 C.F.R. Parts 2, 50, & 51 (1989).

These various violations are described in detail below. Commenters also note that the proposed exemption is in direct conflict with the actions requested by them pursuant to their pending Section 2.206 Requests, as amended. The comments herein should be considered also as a further supplement to those requests.

BACKGROUND

On May 31, 1988, the Commission granted LILCO an exemption from the requirements of 10 C.F.R. 50.54(w) based on the fact that LILCO was authorized to operate Shoreham at power levels no greater than five percent (5%) of full-rated power. 53 Fed. Reg. 21955 (June 10, 1988). This exemption was extinguished by its own terms on April 21, 1989 when LILCO was granted a full-power operating license.

In a letter to the Commission dated May 22, 1989, LILCO requested another exemption from the requirements of 10 C.F.R. § 50.54(w) arguing that because its Settlement Agreement prohibits operation of the plant, the risk of an accident is even lower than during the previous exemption period and, therefore, a new exemption is justified.

The Commission rejected LILCO's request in a letter dated July 7, 1989 explaining that, unlike the previous NRC imposed restriction limiting operating levels to 5% of full power which the NRC could enforce through civil and criminal penalties,

the current operating restriction is "self-imposed and for the convenience of LILCO."

LILCO renewed its request for the exemption by a letter dated September 8, 1989. It premised its renewal on two events which had occurred since the first request: approval by LILCO shareholders of the Settlement Agreement and transfer of fuel from the reactor to the spent fuel pool.

The details of these requests, proposals and decisions are discussed below.

On February 23, 1990, the Commission announced that it is "considering" issuance of the exemption requested in LILCO's September 8, 1989 letter. 55 Fed. Reg. 6566 (February 23, 1990). The Notice included an Environmental Assessment ("EA") and a Finding of No Significant Impact ("FONSI").

I. PREVIOUS EXEMPTIONS AS PRECEDENT

A. Yankee Nuclear

On June 28, 1982, the day before reactor licensees were to have complied with the requirements of 10 C.F.R. 50.54(w), Yankee Atomic Electric Co. ("Yankee"), licensee of the Yankee plant, applied for an exemption from the minimum on-site property insurance provision of that rule. Yankee maintained that it presently carried $ 460 million in property insurance coverage and requested an exemption from the required additional coverage. Yankee made several points in support of its request including representations that the insurable actual cash value of the then twenty year old 175 MW(e) plant was $69,000,000,[1] that the plant had no outstanding mortgage indenture, and that decontamination and cleanup of the plant following a TMI-type accident was estimated to cost $350,000,000 in 1982 dollars.

In a letter dated August 13, 1982, the NRC notified the licensee that additional information on the decontamination cost study mentioned in the licensee's request and a description of the licensee's efforts to secure the required amounts of coverage would be needed to evaluate the request. Yankee responded to the NRC's request for additional information in a letter dated April 22, 1983. Along with the letter, the licensee submitted the

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1/ This is in stark contrast to the situation at Shoreham, a brand new, $5.5 billion 805 MW(e) reactor.

referenced decontamination study and also a decommissioning study.

On June 10, 1983, the Commission granted Yankee an exemption from all but the $500 million primary layer of on-site property insurance. 48 Fed. Reg. 27860 (June 17, 1983). The NRC found that the decontamination study submitted by Yankee was based on conservative assumptions and that the assumptions and methodology used by the licensee were compatible with the findings of the worst case scenario of the accident cost study of light water reactors commissioned by the NRC and performed by Pacific Northwest Laboratories, Technology, Safety and Costs of Decommissioning at Reference Light Water Reactors Involved in Postulated Accidents; Pacific Northwest Laboratory; NUREG/CR-2601 ("Postulated Accidents"). Id. at 27861. The Commission concluded that "sufficient information is available to determine that decontamination costs occurring as a result of an accident at a reactor of Yankee's small size would, with a reasonable degree of assurance, be covered by $500 million insurance."2/ Id.

In contrast, Shoreham is at the beginning of its life, with a value 75 times greater than Yankee, with five times the power of Yankee, and is yet seeking to maintain only 75% of the coverage required for Yankee. And the NRC has not even required LILCO to submit any detailed documentation studies or decommissioning studies, and appears to accept a conclusory scenario one analysis, instead of a severe accident analysis.

B. Big Rock Point

Consumers Power Company ("Consumers"), licensee of the 72 MW(e) Big Rock Point Nuclear Plant, is another small plant

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2/ Yankee, licensed to operate 175 MW(e), represents the upper limit of the small plants granted property insurance exemptions. The other small plants to receive exemptions have had significantly lower operating capacities. Big Rock Point, for instance is limited to 72 MW(e) and La Crosse and Humboldt Bay are authorized to operate at 50 MW(e) and 63 MW(e), respectively. Shoreham and Seabrook, the only two large plants to receive exemptions, had licenses below this range at the time exemptions were accorded their licensees. At the time of the Shoreham exemption, LILCO was authorized to operate the plant at only 5% of full-rated power (805 MWe), or approximately 40 MWe. The Seabrook exemption was based on the fact that the plant was not authorized to achieve criticality at all, that is, zero power.

licensee that requested an exemption soon after the final interim version of Section 50.54(w) was announced. On June 22, 1982, the licensee requested that it be exempt from carrying all but the primary layer of $500 million. Consumers' central argument in support of its request was that its study of decontamination and cleanup costs, following "the worst credible accident," concluded that such costs would total approximately $450 million and, therefore, the $500 million primary layer of coverage was sufficient.

On July 12, 1982, the Commission asked the licensee to provide additional information on topics including the results of premium negotiations, avenues of coverage apart from insurance, and the bases for assumptions contained in the licensee's decontamination study. NRC letter dated July 12, 1982. Consumers responded by letter dated August 10, 1982. The licensee explained that it had negotiated a reduction in premiums for the additional coverage, that lines and letters of credit had been investigated, and provided a detailed description of the bases for the assumptions contained in its study.

The Commission granted the exemption on November 3, 1982. 47 Fed. Reg. 50780 (November 9, 1982). In its grant, the Commission noted that the licensee's study was compatible with the findings of the worst case scenario of the Commission's own study, Postulated Accidents. The Commission also found Big Rock Point's size a significant factor weighing in favor of granting the exemption request noting both that while certain cleanup activities are not related to core size, the overall cleanup cost would be lower at a smaller plant and that the Big Rock Point plant "is below the limit used to exclude small plants from certain NRC requirements," namely, maximum coverage under the Price Anderson Act providing for third party liability insurance and indemnity in the event of an accident. Id. at 50781.

In contrast, Shoreham is at the beginning of its life, with a hugely greater value, with over 11 times the power, and yet LILCO is seeking only 75% of the coverage required for Big Rock Point. Further, the NRC has not required LILCO to detail support for its financial hardship argument although it did require Big Rock Point to do so.

C. La Crosse

On June 29, 1982, Dairyland Power Cooperative ("Dairyland"), licensee of the 50 MW(e) La Crosse plant, requested an exemption from the excess property insurance requirement of Section 50.54(w). Letter from Dairyland to NRC

dated June 29, 1982. Dairyland supported its request with assertions that the current $55 million of all-risk property insurance carried was sufficient to cover the decontamination and cleanup costs which it estimated to be less than $39 million, that the insurance amount required by the rule is nearly ten times the value of the plant, and that it had the financial capability, apart from insurance, to cover such costs. Id.

The NRC responded to Dairyland's request with letters dated August 12, 1982 and October 25, 1982 requesting additional information. Dairyland sought to provide this information in letters dated September 13, 1982, September 23, 1982, December 20, 1982, and March 7, 1983. In its letter dated September 13, 1982, Dairyland stated that "[a]s of September 1, 1982, we have bound insurance in the amount of $61,812,000 which represents 90 percent of the value at the site." In a letter dated March 29, 1983, Dairyland expressed its intention to maintain only this amount pending the NRC determination on the exemption request.

On September 12, 1983, the Commission partially granted Dairyland's exemption request. 48 Fed. Reg. 41832 (September 19, 1983). The Commission found that because the studies submitted by Dairyland as support for its request were based on faulty assumptions and failed to consider worst case accidents, they provided insufficient technical justification for a reduction to $65 million. Id. The Commission, however, did find the technical justification provided by the licensee to be sufficient to allow an exemption for amounts in excess of the primary layer of $500 million, consistent with both the exemption granted to Consumers Power Company in the "parallel situation" at Big Rock Point and with the findings in the PNL study, Postulated Accidents, supporting the proposition that a smaller reactor would have lower decontamination and cleanup costs. Id.

Dairyland requested a further reduction from $500 million to $180 million by letter dated July 26, 1985. The licensee asserted that carrying the full amount was an undue financial hardship and that the lower amount was adequate to "return the plant to a condition ready for decommissioning following an accident." 51 Fed. Reg. 24456, 24457 (July 3, 1986). In support of its new request, Dairyland prepared a new report on the decontamination and cleanup costs in the event of a worst case accident at the La Crosse plant ("Core damage equivalent in extent to what occurred at TMI-2 is conservatively assumed") which concludes that the "revised total recovery cost . . . is $152 million." Dairyland letter dated February 7, 1985. Other technical information submitted by Dairyland analyzed the costs associated with the most severe (scenario 3) accident as

evaluated in Postulated Accidents, and concluded that even with a 25% contingency the post-accident recovery costs would amount to $180 million. See Dairyland letter dated February 19, 1986. On June 18, 1986, the Commissioners met with Dairyland to discuss the staff recommendation that the exemption be granted. See Transcript of Commission Meeting/Briefing on La Crosse etc. dated June 18, 1986.

The Commission granted the exemption reducing the required primary coverage for La Crosse to $180 million on June 26, 1986. 51 Fed. Reg. 24456 (July 3, 1986). The staff found that the maximum credible accident cost studies submitted by Dairyland equivalent to those in Postulated Accidents upon which the amount requirement in Section 50.54(w) was based. Id. at 24457. The staff also found that "the low inventory of fissionable material and fission products" at the small La Crosse plant would confine the consequences of an accident to a smaller area and, thus, "it is not reasonable to project that the amount of damage for a 50 MW(e) plant would be the same as a much larger plant." Id.

On November 18, 1988, Dairyland also received the temporary exemption from the implementation deadline for the decontamination priority and trusteeship provisions added to Section 50.54(w). 53 Fed. Reg. 47780 (November 25, 1988). The Notice of this exemption notes that Dairyland has a license "which authorizes possession but not operation" and also that during the exemption period "the licensee will still be required to carry $180 million insurance." Id. at 47760-61.

In contrast, Shoreham is at the beginning of its life, with a dollar basis about 90 times greater than La Crosse, with over 16 times the power of La Crosse, and seeking only 75% of the coverage which the NRC initially required for La Crosse. Further, the NRC has not requested LILCO to detail its decontamination analysis, to present a decommissioning study, or to detail support for its financial hardship argument.

D. Humboldt Bay Unit 3

On May 28, 1982, PG&E, the licensee of the 63 MW(e) Humboldt Bay Unit 3, requested an exemption from the rule's minimum coverage requirement. PG&E argued that the exemption was warranted because Humboldt Bay Unit 3 had been in cold shutdown condition since July 2, 1976 (i.e., for approximately six years), and, therefore, (a) the health and safety risks associated with a reactor were low, (b) the presently maintained $100 million in all-risk property damage insurance was sufficient given the

remote risk of an accident resulting in damage to the unit, and (c) the additional premiums would constitute an unreasonable burden on the PG&E ratepayers. PG&E's Application for Exemption dated May 28, 1982.

The NRC responded by asking the licensee to provide more information on (1) PG&E's current premiums; (2) which other carriers PG&E had contacted and the quotes received; (3) PG&E's ability to negotiate premiums reflecting the perceived risk; (4) PG&E's consideration of alternative forms of protection including letters of credit and surety bonds; and (5) existing studies of the projected cleanup costs associated with an accident at the reactor while in the cold shutdown condition. NRC letter dated June 24, 1982. The Commission also granted PG&E a temporary exemption to be effective until the NRC had completed its evaluation of the request. Exemption dated June 29, 1982 (47 Fed. Reg. 30331 (July 13, 1982)).

PG&E responded to the NRC's questions in a letter dated July 28, 1982. The licensee indicated that (a) it presently paid $340,000 for $100 million dollars of coverage, (b) additional premiums totalling nearly $700,000 were anticipated given the quotations from the various nuclear insurers contacted, (c) the combined premiums of approximately $1,000,000 might be reduced by roughly $300,000 in light of the rate and shutdown negotiations, (d) lines of credit and surety bonds were not viable alternatives, and, finally, (e) while no directly pertinent studies, other than that submitted with the exemption request, had been performed, a decommissioning study revealed that decontamination and disposal of all materials would cost only $63 million in 1981 dollars.

On November 3, 1982, over 6 years after the plant had last operated, the Commission granted PG&E an exemption allowing the licensee to maintain only $100 million in property coverage unless and until the plant resumes operation. 47 Fed. Reg. 50785 (November 9, 1982). In the explanation of the exemption decision provided in the Notice, the Commission adopted most of the arguments advanced in the licensee's request. The Commission noted that PNL's accident cost study of light water reactors, Postulated Accidents, considers three loss of coolant accident scenarios of varying severity because they "present the greatest potential for excessive contamination requiring significant cleanup expense." Id. The Commission concluded that because a loss of coolant accident is not a credible event at Humboldt Bay, $100 million in all-risk property insurance is sufficient to cover any decontamination costs that might arise. Id.

The NRC modified PG&E's license for Humboldt Bay to "possess but not operate" status on July 16, 1985. On July 19, 1988, the Commission approved the decommissioning plan submitted by PG&E. 54 Fed. Reg. 34266 (August 18, 1989).

On June 9, 1989, PG&E requested its on-site property insurance be further reduced from $100 million to $63,160,000. The licensee maintained that this further reduction would reduce its premium payments by $94,000 annually. It also argued that the reduced minimum coverage amount would be "adequate to cover costs of on-site cleanup following accidents because the reactor may not be operated and all fuel is stored on-site such that a nuclear criticality accident is not credible." 54 Fed. Reg. 34266 (August 18, 1989). PG&E explained that the new minimum figure ($63,160,000) is the combined book value of the nuclear unit (Humboldt Bay Unit 3, $10,294,000) and two on-site fossil fuel units ($52,966,000)." 54 Fed. Reg. 35738, 35739 (August 29, 1989).

On August 22, 1989, the Commission granted PG&E's request for a further reduction. 54 Fed. Reg. 35738 (August 29, 1989). The NRC concluded that the plant, then licensed for "possession only," "is functioning as a spent fuel storage facility, that the risk of criticality is negligibly small, and that the proposed minimum amount of property damage insurance is adequate." Id. at 35739.

LILCO has focused upon the Humboldt Bay exemption. LILCO argues that the present cold shutdown condition at Shoreham compares to the cold shutdown condition that existed at Humboldt Bay when PG&E applied for its exemption, making the plants "similarly situated," and that LILCO,therefore, merits an exemption.

The Commission must reject this reasoning because the assertion that the two plants are similarly situated, is untenable. At the time of PG&E's initial exemption request, Humboldt Bay, a small plant of 63 MW(e) with a low book value of $10.3 million, had been in cold shutdown for six years, was clearly at the end of its useful life, and on its way to decommissioning. Shoreham, on the other hand, is a large plant of 805 MW(e) with a high cost of about $5.5 billion, has been in a shutdown condition for less than a year, is at the very beginning of its useful life, and, despite LILCO's representations to the contrary, decommissioning is not a foregone conclusion in this instance. Further, the NRC has not requested LILCO to detail support for its financial hardship

argument, or to present detailed documentation or decommissioning reports.

Rather, the decision as to whether the decommissioning of the $5.5 billion Shoreham plant will be permitted must be made by the Commission after preparation of an FEIS evaluating both the consequences of, and alternatives to, decommissioning.

E. Fort Saint Vrain

Public Service Company of Colorado ("PSC"), licensee of the 330 MW(e) Fort St. Vrain high temperature gas-cooled reactor, first made a request for an exemption from the excess property insurance requirement of 10 C.F.R. 50.54(w) on March 23, 1983. Because the Commission interpreted this initial request as merely an annual report, PSC clarified and supplemented its request in a letter dated June 30, 1983. PSC included a study with its March 23, 1989 request indicating that the "total damage insurance including decommissioning costs, clean-up costs and loss of the plant is conservatively estimated at $323,556,480 . . . ." See PSC's letter dated June 30, 1983, at 1. The licensee asserted that the required excess coverage, above the $500 million primary layer was, therefore, unnecessary to protect its ratepayers and investors against the loss of the plant and cleanup costs following an accident. Id. at 2.

On November 23, 1983, the NRC notified PSC by letter that its exemption request had been reviewed and that PSC had failed to provide an adequate basis for the grant of the exemption. The Commission explained that its conclusion was based primarily on the finding that the study submitted with the request was

> "not thorough enough to provide reliable conclusions regarding estimates of (1) likelihoods of plant accidents initiated by internal and external causes, (2) levels of in-plant radioactive contamination, and (3) costs of in-plant decontamination."

NRC letter dated November 23, 1983 at 1. The Commission also pointed out that

> "despite its unique HTGR design, Fort St. Vrain is somewhat larger (i.e., 330 MW(e)) than those water cooled plants granted exemptions previously -- i.e., La Crosse, Big Rock Point, Humboldt Bay, and Yankee Atomic."

Id. at 1-2. The Commission found this point relevant because Postulated Accidents, "found some relationship between reactor size and cleanup costs." Id. at 2. Nevertheless, the NRC concluded that, based on the design differences between Fort St. Vrain and water-cooled reactors, a rationale for granting the exemption might exist and invited PSC to provide additional information in support of its request.

PSC sought to provide additional justification for its request in a letter dated December 27, 1983. PSC first described various accident scenarios in support of the assertion that the unique HTGR design "leads to accident scenarios that are slow to develop and that result in relatively moderate consequences." PSC letter dated December 27, 1983, at 1-3. Next, PSC claimed that a conservative estimate of decontamination costs, additional decommissioning costs, and writeoff of present plant and fuel book value amounts to a maximum exposure to financial loss of $323,558,480. PSC added that the $500 million presently carried "consists of solid, commercial coverage by ANI/MAERP and is not subject to retrospective agreements or other qualifications." Id. at 3. Finally, PSC listed examples of exemptions from other regulations which have been based on the "inherent safety advantages of the HTGR design" and urged the Commission to grant the on-site property insurance exemption on the same ground.

On March 2, 1984, the NRC concluded that adequate justification had not yet been provided. See Memorandum from P.C. Wagner Summarizing the NRC / PSC meeting of April 5, 1984, Attachment 2. On April 5, 1984, PSC met with the NRC staff to discuss the exemption request. At the meeting the staff explained that the exemptions given to small, low power LWRs were based on studies which evaluated both internal and external events and indicated that such reactors do not necessarily require excess property insurance and that such extensive studies on Fort St. Vrain, or HTGR plants in general, do not exist. Id. at 1. The Staff urged PSC to decide whether it would pursue the request by providing the necessary justification in the near future or simply withdraw the request because compliance with the rule could not be held in abeyance much longer. Id. at 2.

In a letter dated April 25, 1984, PSC indicated that it was planning to prepare additional documentation to meet the Staff's concerns. PSC met with the NRC Staff again on May 2, 1984 at which time the Staff advised PSC to obtain the excess insurance required unless the exemption request could be finalized in sixty days. See PSC letter dated May 29, 1984. Having concluded that sixty days was not enough time, PSC

purchased $85 million excess property insurance bringing the total coverage up to $585 million. Id.

Despite its continued representations that it would be submitting additional information, PSC seems to have abandoned its exemption request. In its 1985 annual report on property insurance, dated April 4, 1985, PSC indicated that it had $585 million in effect and that it was "actively arranging for additional property damage insurance . . . ." From 1986 to the present, PSC has indicated in its annual reports that it has carried the full amount of on-site property insurance required, $1.02 billion in 1986 and 1987, and $1.06 billion in 1988 and 1989. Thus, PSC has never been granted any exemption from the excess property insurance requirements of § 50.54(w). The only exemption from Section 50.54(w) that PSC has received was one temporarily delaying the implementation of the decontamination priority and trusteeship provisions of 10 C.F.R. 50.54(w)(5)(1) on September 30, 1988. 53 Fed. Reg. 39688 (October 11, 1988).

In contrast, Shoreham is at the beginning of its life, with a value much greater, with about two and a half times the power, and is seeking to maintain less of the coverage than PSC sought and was denied. And the NRC has not even required LILCO to submit any detailed documentation studies or decommissioning studies, and appears to accept a scenario one conclusory analysis. Further, the NRC has not requested LILCO to detail support for its financial hardship argument.

F. Seabrook

On October 17, 1986, Public Service Company of New Hampshire ("PSNH") was issued a license restricting activities at Seabrook Station to fuel loading and precriticality testing only. See 53 Fed. Reg. 19361 (May 27, 1988). On October 1, 1987, just days before an amendment to 10 C.F.R. § 50.54(w) raising the required property insurance from $620 million to $1.06 billion was to become effective, PSNH requested an exemption from carrying amounts in excess of $620 million until a low power operating license is granted. Id. PSNH pointed out that because criticality had not yet been approved, the primary system was not radioactive and that given the boron concentration maintained in the reactor, criticality could not be achieved. Given these facts, the licensee argued, "the consequences of any credible accident would not include any significant radiological hazards and the existing insurance coverage should be adequate to compensate for any conceivable condition." Id. The licensee also argued that the extra insurance expense included not only the extra premium, but also would expose the licensee to

retrospective premium liability (up to 7.5 times the annual premium) in the event of an accident at any insured site. Id. at 19361-62.

On May 11, 1988, the Commission granted the temporary exemption request. In the exemption notice, the Commission emphasized the fact the reactor did "not contain any significant inventory of fission products" having never been allowed to operate at any level. Id. at 19362. The Commission also made it clear that the exemption was only temporary, to last "only until such time as [the licensee] may be allowed to make the reactor critical and operate at low power." Id. (emphasis added). The exemption, itself, limits the exemption to the time period prior to receipt of an operating license. Id. That is, the Commission focused on the absence of authorization to operate.

In contrast, Shoreham has a full power license[3/], is at

3/ The Commission may now be trying to implement a "backdoor" license amendment for Shoreham. On March 29, 1990, the NRC announced that "public health and safety require that the licensee's commitment in its January 12, 1990 letter not to place nuclear fuel into the Shoreham reactor vessel without prior NRC approval be confirmed by this Order." This Confirmatory Order was made immediately effective. The NRC advanced two bases for this action:

> (1) the reduction in the licensee's onsite support staff below that necessary for plant operations, and (2) the absence of NRC-approved procedures for returning to an operational status systems and equipment that the licensee has decided to deactivate and protect rather than maintain until ultimate disposition of the plant is determined.

The NRC has acted in direct violation of its licensing hearing provisions in this instance. First, the Commission gave LILCO explicit permission to destaff the plant and "mothball" plant systems on the basis that those activities were consistent with safety under the operating license; now it decides that a license amendment prohibiting operation is immediately necessary because those actions are inconsistent with safe operation.

The Commission has turned the normal license amendment process on its head. LILCO should be required to apply for and

(continued...)

the beginning of its life, with a hugely greater value, with over 11 times the power, and seeking only 75% of the coverage required for Big Rock Point. Further, the NRC has not requested LILCO to detail support for its financial hardship argument.

G. Shoreham

Two days before the revised property insurance requirements were to become effective (raising the required minimum to $ 1.06 billion), on October 3, 1987, LILCO notified the Commission that it would be applying for an exemption from those requirements in the near future and that it would continue to maintain only $620 million until a decision on the exemption request was made. LILCO letter to the NRC, dated October 3, 1987. On November 23, 1987, LILCO submitted its completed request to the Commission. In its request, LILCO maintained that it presently held only a low power operating license (5% full-rated power, or approximately 40MW(e), for the 805 MW(e) plant)

3/ (...continued)
receive a "possession only" amendment prior to implementation of actions which are inconsistent with a full-power operating license. The Commission is aiding and abetting LILCO to perform an end run around the hearing requirements and NEPA, thus bringing the plant even further along the decommissioning path without any consideration of the environmental impacts of, or alternatives to, the decommissioning action.

Furthermore, this Order, as another interdependant part of the series of actions making up the larger decommissioning action, seeks to smooth the way for a grant of the instant exemption request. The Commission may think that this Order will avoid the need to justify a grant of the exemption on the unprecedented basis of the plant's "non-operational condition" as a function of the licensee's expressed intention to refrain from operating the plant. But the Confirmatory Order states that it "in no way relieves the licensee of the terms and conditions of its operating license . . . ." This assertion differentiates this license condition from a "possession only" amendment and thus defeats the argument that the exemption can be based on lack of a full-power license.

And this Order itself may be invalid since it is totally inconsistent with prior determinations that the reduced staff and layed-up equipment are consistent with a full power license and there is no reasoned analysis provided for the changed position, only conclusions.

and, due to the delays concerning emergency planning, the present licensing status might continue for some time. On the basis of this assertion, LILCO argued that it should be required to carry only $337 million in coverage because the full amount of insurance required, $1.06 billion, would constitute an undue economic burden "since, at low power, both the probability of, and damage from a postulated accident are significantly reduced." LILCO § 50.54(w) Exemption Request, dated November 23, 1987, at 4. In support of its request, LILCO attached an analysis discussing the technical aspects of low power operation and estimating actual damage estimates for accidents while operating at 5% power. In addition, the LILCO analysis evaluates the three accident scenarios presented in the Postulated Accidents. LILCO concluded that only Scenario 1, the least severe accident, was appropriate in determining the required insurance coverage for Shoreham operating at 5%.

On May 31, 1988, the Commission granted LILCO an exemption from the requirements of 10 C.F.R. 50.54(w).[4/] 53 Fed. Reg. 21955 (June 10, 1988). The exemption was accompanied by Safety Evaluation prepared by the Staff. The Safety Evaluation restated and concurred with the contentions contained in LILCO's request. The Commission allowed LILCO to carry $337 million of on-site insurance, as opposed to the $1.06 billion required by the rule, stating that "compliance with 10 C.F.R. 50.54(w)(1) would result in undue costs considering the current operational restrictions placed on the Shoreham facility . . .." Exemption dated May 31, 1988 at 4 (emphasis added). This exemption was extinguished by its own terms on April 21, 1989 when LILCO was granted a full power operating license.

In a letter to the Commission dated May 22, 1989, LILCO requested another exemption from the requirements of 10 C.F.R. 50.54(w). LILCO argued that because its Settlement Agreement with the State of New York prohibits operation of the plant, the risk of accident is even lower than during the previous exemption period when the plant was operated at up to 5% power and, therefore, a new exemption is justified while Shoreham is subject to the Agreement.

The Commission rejected LILCO's request in a letter dated July 7, 1989 explaining that unlike the previous NRC

4/ In recognizing this as one of the very few exemptions granted in this area, the commenters do not mean to imply that it is a valid precedent. In fact, commenters doubt that it would have withstood full judicial review.

imposed restriction limiting operating levels to 5% and subject to NRC enforcement through civil and criminal penalties, the current operating restriction is "self-imposed and for the convenience of LILCO." This judgment is still valid and no adequate justification has been presented to reverse it.

H. Analysis

Neither the fact that Shoreham is presently shutdown, nor the mere existence of the Settlement Agreement under which LILCO does not operate Shoreham, renders LILCO similarly situated to those licensees previously receiving exemptions. NRC consideration of Section 50.54(w) exemption requests to date has uniformly rested upon one of two circumstantial predicates, the plant's physical characteristics or possession of other than a full power operating license.

The licensees of Humboldt Bay, Yankee Atomic, La Crosse, and Big Rock Point, submitted detailed studies[5/] showing that because of their size, an accident of the severe scale

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5/ All of the small reactor licensees receiving exemptions submitted decontamination and decommissioning studies to support their requests. The Commission placed significant emphasis on the results of these studies in granting the requested exemptions. No such studies were required for the Seabrook or initial Shoreham exemptions. No detailed findings were necessary in the case of Seabrook because criticality had not been achieved nor was criticality authorized for the exemption period. LILCO submitted some technical justification in support of its exemption while the plant was authorized for only 5% power operation. While LILCO's cursory overview of the risk of accidents and the cost of decontamination following an accident might be sufficient while authorized for low power operation, a much more thorough study should be required when the licensee possesses a full power operating license. Despite the fast approaching July 26, 1990 deadline (10 C.F.R. § 50.33(k)(2)) for submission of the decommissioning report required under 10 C.F.R. § 50.75, LILCO has failed to meet the pre-approval requirement placed on other licensees requesting such exemptions in that it has not yet submitted a decontamination and decommissioning report in support of its exemption request.

examined in Postulated Accidents[6/], would not result in the same magnitude of contamination and thus could be cleaned up at a lower cost. Similarly, Fort St. Vrain, a high-temperature gas-cooled reactor, sought an exemption based on its unique design, but ultimately received no exemption. Both a plant's size and its design are immutable physical limitations which provide a sound foundation upon which to base an exemption.

The exemption granted for Seabrook represents, and the initial Shoreham exemption may represent, the second predicate upon which exemption consideration has been based. Consideration of these requests was predicated, in part, upon the fact that the NRC had not issued full power operating licenses.

LILCO has based its latest exemption request on neither of these two traditionally accepted predicates. The Shoreham plant is neither relatively small nor significantly unique in design and, more importantly, LILCO presently holds a full-power operating license.

LILCO points to its Agreement with New York State and argues that because that Agreement provides that LILCO will not operate Shoreham, the risk posed by the plant is significantly decreased, and, thus, an exemption is warranted. The NRC must, as it previously did, consider the Settlement Agreement between LILCO and New York State irrelevant to any consideration of an exemption.

Just as the Settlement Agreement is irrelevant to NRC consideration of LILCO's exemption request, so too is the present

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6/ The exemptions granted to those licensees authorized to operate at full-power were all based on studies submitted by licensees postulating the costs associated with a worst case accident. The worst case accident presented in Postulated Accidents, is designated Scenario 3. In granting previous exemptions, the Commission has uniformly made reference to the fact that the licensee had presented a report estimating the costs associated with a Scenario 3 accident or one of a comparable magnitude at the plant in question. Despite the fact that LILCO holds a full-power operating license which makes a Scenario 3 accident a possibility as a matter of law, LILCO argues that the costs associated with the much less serious Scenario 1 accident should be applied in this instance because of LILCO's voluntary cessation of normal operations. A licensee's authorization, rather than a licensee's expressed intent, should be the basis for worst case accident evaluation.

shutdown condition of the plant. The plant has been in cold shutdown for less than one year. Even if LILCO continues its self-imposed shutdown, mere shutdowns have never been recognized as a viable predicate for an exemption from the property insurance requirement imposed by Section 50.54(w).

Allowing coverage reductions based on operational status alone is unprecedented. Many plants have endured sustained outages of more than one,[7] two,[8] or even several years[9] without their licensees receiving an exemption from the coverage requirement of Section 50.54(w). The fact that Shoreham's is presently shutdown is, therefore, an insufficient basis for granting LILCO's exemption request.

II. A DECISION TO GRANT THE INSTANT EXEMPTION REQUEST WOULD VIOLATE THE ATOMIC ENERGY ACT.

A. Section 50.54(w)

In 1982, when the final interim version of Section 50.54(w) was adopted, 47 Fed. Reg. 13750 (March 31, 1982), the Commission was aware that in the experience of the industry several large reactors had entered significantly extended outages of more than one year and in some cases several years during which the fuel was taken out of the reactor and placed in the spent fuel pool. Despite this fact, neither the initial version of the rule nor any subsequent amendments to the rule, contain a provision excepting such licensees from carrying the full coverage required by the rule.

Section 50.54(w) does, however, anticipate that a licensee will either "resume operation" or "commence decommissioning" in the wake of an accident. 10 C.F.R. §§ 50.54(w)(3)(ii) & (iii) (1989). While the rule gives a licensee

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7/ Pilgrim 1 was out for all of 1987 and eleven months of 1988. Peach Bottom 2 was out all of 1988.

8/ Sequoyah 1 and 2 were both out for all of 1986 and 1987. Nine Mile Point 1 has been out from December 20, 1987 to the present. Peach Bottom 3 has been out for all of 1988, 1989, and up to the present.

9/ Three Mile Island 1 was out from 1979 through 1984. Both Browns Ferry 1 and 3 have been out from 1986 to the present. Browns Ferry 2 has been out from 1985 to the present.

the freedom to choose between these two paths after an accident, a licensee should not be permitted to choose decommissioning prior to an accident and then argue for an exemption based on the fact that the coverage sought is sufficient to "return the plant to a condition ready for decommissioning." Such an argument presumes that the plant is already headed for decommissioning and that, following an accident and regardless of its severity, no choice between repair and decommissioning would be necessary. Decommissioning is not a foregone conclusion in this instance, and, therefore, coverage to allow repair for the resumption of operation should not be discontinued.

Both the lack of a provision addressing those reactor licensees in extended outages and the existence of provisions anticipating the possibility of resuming operation following an accident support the conclusion that a decision by the Commission granting the instant exemption request would be at variance with the final rule and its purposes.

Furthermore, the regulations promulgated by the Commission provide generalized guidelines which, among other things, save the Staff from constantly reviewing the equities of each individual licensee's situation. If temporary outages and voluntary agreements not to operate a plant were found to be viable bases for exemptions, requests for such exemptions would become routine and the Staff would be forced to continually perform and evaluate studies reevaluating the risk of a serious accident as the risk fluctuated with equipment modifications and operational status. A decision to allow LILCO, a full power licensee, an exemption from the requirements of Section 50.54(w), would undermine its efficacy and set a dangerous precedent.[10/]

B. Section 50.12

1. The Exemption Is Not "Authorized By Law"

Section 50.12 addresses the criteria for the grant of an exemption. As a threshold matter, the Commission grants only those exemptions which are "[a]uthorized by law, will not present an undue risk to the public health and safety, and are consistent

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10/ Already the Commission has received an exemption request from another full power licensee predicated on nothing more than the defueled condition of the plant and the licensee's stated intention not to operate the plant. U.S.N.R.C. Docket No. 50-312, Letter from the Sacramento Municipal Utility District to the NRC dated March 5, 1990.

with the common defense and security." 10 C.F.R. § 50.12(a)(1) (1989).

In LILCO's September 8, 1989 letter, upon which the Commission bases its determination that there exists "technical justification" for the exemption, the licensee asserts that the

> action being requested is plainly authorized by law. The NRC has the legal authority to modify insurance requirements for licensees and has exercised that authority in the past.

LILCO's letter of September 8, 1989, at page 5. The threshold issue of authorization, however, is not merely an inquiry into the Commission's power to take an action, but also encompasses the question of whether that action would violate other pertinent laws. As the Commission states in the Statement of Consideration adopting the final version of Section 50.12:

> As in the existing rule, an exemption must be "authorized by law." Apart from the very fact of granting the exemption relief itself, the granting of the exemption cannot be in violation of other applicable laws, such as the Atomic Energy Act or the National Environmental Policy Act.

Specific Exemptions; Clarification of Standards, 50 Fed. Reg. 50764, 50776 (December 12, 1985)(emphasis added). Contrary to LILCO's assertion that this action is "plainly authorized by law," granting the requested exemption would violate both the AEA and NEPA as discussed elsewhere herein.[11/]

11/ LILCO's renewed request for an exemption also states that the request would "have no impact on the 'common defense and security' of the United States." LILCO's letter of September 8, 1989, at page 5. Once again LILCO has been too hasty in dismissing a threshold requirement for a specific exemption. Nothing in the history of the Atomic Energy Act precludes the Commission from considering the "energy security" of the nation. The region served by Shoreham is in dire need of the electric energy that the plant could provide. Given the current unavailability of access to significant new natural gas for Long Island, if Shoreham is not operated, oil burning plants will have to be constructed to meet the region's demand. The oil required by such plants will further undermine the nation's energy security by increasing dependence on foreign oil. Under these

(continued...)

2. No "Special Circumstances" Justifying This Exemption Are Present.

Even if an exemption meets the threshold requirements of subsection (a)(1) of Section 50.12, an exemption will not be granted unless one or more of the special circumstances listed in subsection (a)(2) of the rule are shown.

a. At least full insurance under Section 50.54(w) is necessary to serve the underlying purpose of the rule.

In its September 8, 1989 letter requesting this exemption, LILCO argued that its request should be considered under the special circumstance provision which reads:

> Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule;

10 C.F.R. § 50.12(a)(2)(ii) (1989). LILCO maintained that the purpose of the rule was merely to "ensure that sufficient funds would be available to stabilize and decontaminate a facility in the event of an accident," and that given the plant's "defueled condition," $337 million in coverage is adequate to meet this purpose. LILCO letter of September 8, 1989, at 9.

LILCO's contention that only $337 million in coverage is necessary to serve the underlying purpose of the rule in this case is not true. As long as LILCO is a full-power licensee, it must maintain insurance to ensure that sufficient funds will be available to meet the consequences of the worst accident possible in light of the authorization accorded by the operating license.

The Commission based the rule's determination of the minimum amount of onsite property insurance that would be required on the findings contained in Postulated Accidents. See 52 Fed. Reg. 28963 (August 5, 1987). As a plant licensed to

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11/ (...continued)
circumstances, the Commission should recognize that premature actions consistent only with the plan to decommission Shoreham as proposed by LILCO and the State of New York are inconsistent with the energy security of the United States.

operate at 805 MW(e) at full power, and, thus, capable of suffering a Scenario 3 (the most severe accident postulated in the PNL study) accident, LILCO must be required to maintain the full coverage.

Section 50.54(w) may also have the independent underlying purpose of ensuring the availability of funds to repair a reactor following an accident. The Commission has stated that "Because decontamination insurance is the Commission's only concern from the point of view of prote[illegible] public health and safety, coverage to replace the existi[illegible] facility on an "all-risk" basis is beyond the scope of Commission's authority." 47 Fed. Reg. 13750, 13752 ([illegible] 1982). This statement implies that replacement is wi[illegible] scope of the Commission's authority when the damage is [illegible]ed during a radiological accident. This implication is fur[illegible] supported by the fact that the 1987 version of the rule makes reference to the adequacy of the amount of the insurance to support the option of resuming operation after an accident 52 Fed. Reg. 28963 (August 5, (1987); also see, 55 Fed. Reg. [illegible] (April 2, 1990). And none of these pronouncements address t[illegible] issue of what type(s) and/or amounts of insurance the NRC could require licensees to carry pursuant to its responsibilities to protect the common defense and security or to provide f[illegible] a "program for Government control of the . . . production of atomic energy . . . so directed as to make the maximum contribution to the common defense and security and the national welfare . . . ." 42 U.S.C. § 2013(c) (emphasis added); also see, 42 U.S.C. § 2133(a). Commenters suggest that these purposes require at least the "minimum" insurance dictated in the regulations.

b. LILCO is not similarly situated to licensees previously granted exemptions from Section 50.54(w).

In it September 8, 1989 letter, LILCO also submitted that it has met the special circumstance provision which reads:

> Compliance would result in undue hardship or other costs that are . . . in excess of those incurred by others similarly situated;

10 C.F.R. § 50.12(a)(2)(iii) (1989). LILCO argued that given the present shutdown condition of the plant, it is an undue hardship to pay the premiums required of all other reactor licensees. In addition, LILCO claimed that it is similarly situated to other licensees (particularly PG&E, licensee of Humboldt Bay) which have received exemptions, and, that it would, therefore, be

inconsistent with the NRC's treatment of these licensees to deny LILCO's request.

On March 31, 1982, Notice of the Commission's decision to implement a final interim version of 10 C.F.R. § 50.54(w) was published in the Federal Register. 47 Fed. Reg. 13750 (1982). The final interim rule required licensees to obtain on-site property insurance by June 29, 1982 to cover decontamination costs in the event of an accident at a nuclear reactor. Between the time the final interim rule was announced and the implementation date, the licensees of four small reactors (Yankee Nuclear, Big Rock Point, La Crosse, and Humboldt Bay) each applied for exemption allowing them to carry less than the required minimum amount of such insurance. The arguments presented by these licensees and the rationales announced by the NRC in granting the requested exemptions belie LILCO's claim that it is presently "similarly situated" and should, therefore, also receive an exemption.

LILCO's reliance on "undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated" is without basis. See 10 C.F.R. § 50.12(a)(2)(iii)(1989). In all other instances where the Commission has addressed the reasonableness of the cost of providing the insurance, it has required the licensee to document those costs for the Commission's consideration. LILCO has made no proffer as to those costs in these circumstances, and the Commission has not asked for any documentation of those costs. As part of the licensees' presentation on the reasonableness of the costs in other dockets, licensees have addressed the relationship between the current value of facility and the amount of insurance to be carried. LILCO has made no such presentation in this case, nor has the NRC even asked for any presentation. In fact, the amount of insurance required by the rule ($1.06 billion) is less than one-fifth of the cost of Shoreham and, therefore, a low (not high) amount of insurance to carry on the facility in its virtually undepreciated state. Many licensees carry much more than the required minimum; in some cases, well over $2 billion.

Further, the nuclear insurers take account of the actual operating status (as opposed to license status) of a plant in establishing the premium: In the case of a plant such as Shoreham with no fuel in the core, those insurers may offer a discount of 50% or more on the premium for the basic insurance. This, in itself, assures that there is no "undue burden" in cost. The real world prices that insurance in the comparison to the

risk. Also, if relative economic burden is to be considered, consideration must be given the comparative costs per kilowatt of installed capacity, energy production potential (lifetime), and other factors.

Further, given the existence of a proposal in fact to decommission Shoreham, the NRC is barred by 10 C.F.R. § 51.100 (1989) from giving this permission to LILCO prior to the publication of an FEIS on that decommissioning proposal, as we have discussed above. The existence of this proposal also defeats the allegation of "similarly situated". Such a permission would also violate 10 C.F.R. § 51.101 by adversely affecting the ability of LILCO to repair Shoreham in the event of an accident, and thus, would also limit the reasonable alternatives to decommissioning to be considered in the decision-making process.

C. A Grant of LILCO's Exemption Request Would Violate the Commission's Rules for License Amendment Proceedings.

The exemption, in effect, amends LILCO's operating license. As a license amendment, the Commission should have found that it was in the public interest to provide for a hearing on the proposed exemption. 10 C.F.R. § 2.104(a) (1989). Under the provisions of Section 2.714 and Appendix A of Part 2 of the Commission's regulations interested parties should have the opportunity to intervene in this matter. 10 C.F.R. § 2.714 (1989).

In the Discussion and Comment portion of the announcement of the final rules on "General Requirements for Decommissioning Nuclear Facilities," the NRC answered commenters' concerns that the rule violated NEPA stating:

> In response to the concern that decisions on decommissioning will be made without public input, decommissioning involves amendment of the operating license and the NRC rules provide an avenue for public input with respect to license amendment.

53 Fed. Reg. 24039 (June 27, 1988)(emphasis added). One such amendment in the chain of actions leading to decommissioning is the grant of a "possession only" amendment which eliminates many of the responsibilities imposed upon operating licensees under the Commission's regulations. By granting LILCO an exemption

from the requirement of Section 50.54(p) rather than requiring LILCO to first request and obtain a "possession only" license, the Commission would allow LILCO to circumvent the NRC's announced policy and cut off the "avenue for public input."

III. THE PROPOSED EXEMPTION WOULD BE IN DIRECT VIOLATION OF NEPA AND THE NEPA REGULATIONS PROMULGATED BY THE CEQ AND NRC.

The NRC has admitted that an EIS must be prepared before Shoreham may be decommissioned.[12] See Letter from Thomas Murley, Director, Office of Nuclear Reactor Regulation to James P. McGranery, Jr. dated July 20, 1989. The NRC has also indicated, however, that it doesn't believe that the environmental review must take place until a formal application for a license amendment to allow decommissioning is received. Id. This contention, that a formal application is needed to trigger the NEPA process, is untenable. The Commission's NEPA responsibilities must be continually met as long as AEA mandated supervision of a facility endures.[13] 10 C.F.R. § 51.10(b)(1989).

12/ Independent of this admission, an EIS would be necessary in this instance because the scope of the Final GEIS on Decommissioning of Nuclear Facilities does not cover the present situation at Shoreham. The GEIS "addresses only those activities carried out at the end of a nuclear facilities useful life which permit the facility to be removed safely from service and the property to be released for unrestricted use." USNRC, Office of Nuclear Reactor Research, GEIS on Decommissioning, viii (August 1988)(emphasis added). Thus, the GEIS, which addresses the various acceptable methods of decommissioning a reactor at the end of its useful life, does not cover the case at hand, where the decommissioning of a facility at the very beginning of its useful life is to be considered. Because operation of Shoreham is a viable alternative, the initial issue is not how decommissioning should be accomplished, but rather whether decommissioning should take place at all. This issue must be the subject of an EIS.

13/ The Commission's NEPA responsibilities cannot be dictated by formalities such as the receipt of applications. 10 C.F.R. § 51.100(a) (1989); 40 C.F.R. § 1508.23 (1988) ("proposal . . . in fact"). LILCO has clearly spelled out its intentions, and yet the Commission permits the piecemeal implementation of the plan prior to completion of NEPA review.

LILCO has not only repeatedly made known to the NRC its intention to cooperate with the State of New York in a course of action to decommission Shoreham, but has also begun to take actions pursuant to this goal, including destaffing the plant and "mothballing" plant systems. The CEQ definition of "proposal" includes the statement: "A proposal may exist in fact as well as by agency declaration that one exists." 40 C.F.R. § 1508.23 (1988). Both LILCO's representations to the Commission concerning its intent to transfer the plant to the State of New York for decommissioning and its actions and proposed actions pursuant to this decommissioning goal make it abundantly clear that a proposal for a major federal action exists "in fact" in this instance.

At the time Section 50.54(w) was promulgated, the Commission was aware of the fact that several full-power licensees had undergone extended outages lasting from one to several years during which time the fuel was stored in the spent fuel pool, and yet the Commission did not consider such circumstances to be significant enough to make a separate provision in the rule for such reactors. Furthermore, no full-power licensee in such an extended outage has ever, to the best of our knowledge, received an exemption on the basis of such an outage in the eight years since the final interim version of Section 50.54(w) was announced.

Nonetheless, in the Notice of the proposed exemption, the Commission attempts to justify consideration of LILCO's renewed exemption request on the basis of the current non-operational condition of the plant with the reactor defueled and the fuel in the spent fuel pool. 55 Fed. Reg. 6566 (February 23, 1990). Given the fact that a plant's "non-operational condition" is, by itself, an unprecedented basis for an exemption from the property insurance requirements, an exemption under these circumstances must have as its unspoken premise the proposal not to return to operation but to decommission Shoreham has been made. It implicitly recognizes as inevitable LILCO's intentions both to refrain from operating the plant and to transfer the plant to an entity of New York State for decommissioning.

The Supreme Court has declared that in some situations an agency must consider several related actions in a single EIS. Kleppe v. Sierra Club, 427 U.S. 390, 409-410, 96 S.Ct. 2718, 2730-31, 49 L.Ed. 576 (1976). The Ninth Circuit has stated that "[n]ot to require this would permit dividing a project into multiple 'actions,' each of which individually has an insignificant environmental impact, but which collectively have a substantial impact." Thomas v. Peterson, 753 F.2d 754, 758 (9th

Cir. 1985). The CEQ regulations identify such situations: Section 1508.25 defines "connected actions" as those which

> are closely related and therefore should be discussed in the same impact statement. Actions are connected if they: . . . Are interdependent parts of a larger action and depend on the larger action for their justification.

40 C.F.R. § 1508.25(a)(1)(iii) (1988). The proposed exemption here is one part of the larger decommissioning action and clearly relies upon the decommissioning proposal for its justification. Thus, the exemption cannot be considered independent from the overarching decommissioning proposal which requires preparation of an EIS.

The timing of decisions on proposals requiring preparation of an EIS is controlled by the NRC's regulation providing that "no decision on a proposed action, including the issuance of a permit, license, or other form of permission . . ." will be issued until the NEPA process is complete. 10 C.F.R. § 51.100 (1989) (emphasis added). LILCO's exemption request is in furtherance of its decommissioning proposal in that the exemption is another step towards decommissioning, relies on the decommissioning proposal for its justification, and is inconsistent with the scope of a license to operate. Thus, a grant of the requested exemption would violate Section 51.100 because it would constitute a "form of permission" inconsistent with the existing license and consistent only with the "proposal . . . in fact" to decommission Shoreham.

The actions which may be taken on a proposal prior to the preparation of a required EIS and a final decision are limited by the NRC's regulations: Section 51.101 prohibits the Commission from taking any action concerning the proposal "which would (i) have an adverse environmental impact, or (ii) limit the choice of reasonable alternatives." 10 C.F.R. § 51.101(a)(1) (1989). A decision to grant LILCO's exemption request would do both.

Shoreham constitutes an existing benefit to society in that it is fully licensed and capable of generating 805 megawatts of electricity in a region where electricity is in short supply and reliance on imported oil for electric generation is heavier than any place else in the Nation. The adverse environmental impact at issue here is two-fold: First, any action in furtherance of the decommissioning scheme has an adverse

environmental impact by making the intended purpose and benefit of the license, the supply of electricity in full power operation, more remote in time and less likely in fact. Second, because the exemption is in furtherance of the decommissioning proposal, and no final decision on that proposal has been made, it constitutes irreparable harm to the environment by presenting a risk to the environment in prejudicing the decision-making process, that is, in creating a momentum in favor of the proposal which may become irreversible. See Sierra Club v. Marsh, 872 F.2d 497 (1st Cir. 1989).

Similarly, the exemption would limit the choice of reasonable alternatives. Nuclear reactor licensees typically seek to protect their investment and limit the risk of financial losses from an accident; therefore, they maintain the fullest on-site property insurance available at all times. This $5.5 billion asset, licensed for full power operation, warrants coverage sufficient to bring the plant back to a condition ready for full power operation, not merely a condition ready for decommissioning. Otherwise, should an accident occur, the alternative of operating the plant could be prejudiced to the extent that the cost of returning the plant to operating condition exceeds the limited coverage sought by LILCO. LILCO, however, plans to transfer Shoreham to New York State for one dollar and, therefore, has no incentive to protect the asset. LILCO's actions, including seeking the present exemption, ignore the reasonable alternative of operating the plant. In order to preserve this alternative, the asset must be protected by at least the $1.06 billion of required insurance.

The Commission has stated that it "recognizes a continuing obligation to conduct its domestic licensing and related regulatory functions in a manner which is both receptive to environmental concerns and consistent with the Commission's responsibility as an independent regulatory agency for protecting the radiological health and safety of the public." 10 C.F.R. § 51.10(b). In order to meet this self-recognized obligation in this instance, the Commission must recognize its NEPA responsibilities and deny LILCO's request for this unprecedented exemption, at least until a final EIS on the decommissioning proposal has been published.

Besides circumventing its own announced procedures for license amendments in connection with decommissioning, the Commission has violated NRC and CEQ regulations calling for preparation and distribution of a draft Finding of No Significant Impact in these circumstances.

On February 23, 1990 an Environmental Assessment ("EA") and Finding of No Significant Impact ("FONSI") for the proposed exemption was published in the Federal Register. 55 Fed. Reg 6566 (February 23, 1990). In violation of the NEPA regulations promulgated by the CEQ and the NRC, this Notice made no provision for public comment on the proposed action or the FONSI. 40 C.F.R. § 1501.4(e)(2) (1988); 10 C.F.R. § 51.33(b) (1989).

Section 1501.4(e)(2) of the CEQ regulations provide that when a proposed action is "one which normally requires an environmental impact statement" or is "without precedent" an "agency shall make the finding of no significant impact available for public review for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin." 40 C.F.R. § 1501.4 (e)(2) (1989) (emphasis added). The NRC's NEPA regulations echo its mandate but couch it in permissive terms.[14/] 10 C.F.R. § 51.33(b) (1989). The proposed exemption action meets both of the circumstances listed by the CEQ and the NRC regulations as indicative of the need for a draft FONSI.

The exemption sought by LILCO in this instance is unlike any previously granted in that it is predicated upon an agreement with a third party not to operate the plant and the present shutdown condition of the plant. In the EA, the Commission makes no mention of the Settlement Agreement except in relating the licensees contentions, and instead repeatedly mentions the present "defueled condition" of the plant as justification for the action. As was previously noted, consideration of an exemption from the on-site property insurance coverage rule predicated on the mere fact that a plant is in the cold shutdown condition is "without precedent."

The proposed exemption action would also require preparation of a draft EA as a proposed action which normally

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14/ While the NRC attempts to back away from the mandatory wording of the CEQ version of the regulation, the CEQ's mandatory language is controlling. The CEQ regulations implement the "action-forcing" provisions of NEPA. 40 C.F.R. § 1500.1 (1988). The CEQ states that its regulations are "applicable to and binding on all Federal Agencies for implementing the procedural provisions of [NEPA], except where compliance would be inconsistent with other statutory requirements." 40 C.F.R. § 1500.3 (1988) (emphasis added). No statutory conflict exists in this case, and, thus the CEQ regulations are binding on the NRC.

requires preparation of an EIS. As one part of the overarching decommissioning proposal, a proposal requiring the preparation of an EIS, a draft EA should have been prepared and published.

The NRC version of the regulation on when a draft FONSI should be prepared adds to that of the CEQ by urging preparation of a draft finding when it "will further the purposes of NEPA." 10 C.F.R. § 51.33(b)(2) (1989). NEPA seeks to ensure that adequate consideration is given to the environmental impacts of agency actions and that the decision-making process is structured in such a way that environmental consideration is meaningful. If for no other reason, a draft FONSI should have been prepared in this instance in furtherance of these purposes. Instead, the NRC appears to be allowing the decommissioning action to be divided into discreet steps which purportedly have no significant impact individually. Rather than furthering the purposes of NEPA, the NRC is playing a significant role in undermining those purposes in this case.

As a discreet action, the exemption proposal is without precedent. As a part of the larger decommissioning action, the exemption is part of an action which requires preparation of an EIS. And as an action with important NEPA implications, the exemption merits comment in furtherance of the purposes of NEPA. For all of these reasons, a draft finding of no significant impact should have been prepared in this instance. Under the terms of the NRC regulation, that draft should have been "accompanied by or include[d] a request for comments on the proposed action and on the draft finding within thirty (30) days, or such longer period as may be specified in the notice of the draft finding . . . ." 10 C.F.R. § 51.33(c) (1989); see also 10 C.F.R. § 51.119(a) (1989).

The environmental assessment of this exemption request was inadequate. First of all, the scope of the EA was improper in that the Commission focused only upon the proposed property insurance exemption and failed to recognize that proposal as an interdependent part of the larger decommissioning proposal. The Commission is allowing the decommissioning proposal to be divided into several purportedly discreet actions which, when considered alone, have no significant impact. The proposed exemption, however, cannot be considered in a vacuum. It has no independent utility; only in the context of the decommissioning proposal does it make any sense. Thus, although the proposed exemption standing alone might arguably have no tangible environmental impact, any such argument is untenable because the exemption cannot stand alone. Rather, the exemption is just one more step in the inching implementation of the decommissioning proposal.

An EIS covering the decommissioning proposal is required before any actions constituting a part of, or limiting the alternatives to, that proposal are implemented. The EA prepared in connection with this exemption request is insufficient in its scope and cannot justify a finding of no significant impact.

The EA provides no discussion of the context of this exemption, namely, the decommissioning proposal. The EA merely contains a series of conclusory statements all based on the Staff determination that "337 million dollars is commensurate with the clean-up cost associated with a postulated accident while the reactor is defueled and the fuel is in the spent fuel pool." 55 Fed. Reg. 6566 (February 23, 1990). The mere finding that $337 million will fund the cleanup of Shoreham after an accident in the defueled condition begs the question: Why is a plant licensed for full power operation in a defueled condition and why does the Commission believe that it will remain in that condition? Only the decommissioning plans outlined in the Settlement Agreement have brought the plant to its present defueled and non-operational condition. Only the existence of the Settlement Agreement allows the Commission to presume that the defueled condition will continue long enough for an exemption to be practical. The EA makes no mention of these facts, however, because a discussion of these issues would make it abundantly clear that this exemption is to be premised on the decommissioning proposal.

Second, neither the basis for the proposed action nor the environmental impacts of that action are explained in adequate detail to allow for a meaningful evaluation of the action or its consequences.

Third, the EA conveniently neglected to mention that LILCO had previously made an almost identical exemption request which was rejected. That rejection stated that "the insurance requirements of 10 C.F.R. 50.54(w) are appropriate for plants that possess full power operating licenses." Letter from NRC to LILCO dated July 7, 1989. LILCO still holds an full-power operating license, and yet the EA contains no explanation as to

why the finding presented in the previous denial is not still valid.[15/]

In the previous denial, the NRC noted that "no Federal restriction exists preventing full power operation of the Shoreham plant" and described the Settlement Agreement as a "non-operating restriction" that is "self-imposed and for the convenience of LILCO." NRC Letter to LILCO, dated July 7, 1989. The Commission now seems to have taken the anomalous position that while a Settlement Agreement purportedly prohibiting a licensee from operating a plant cannot serve as the basis for an exemption, the direct result of that Agreement, the defueled condition of the plant, may provide that basis. Will any defueled condition, regardless of its impetus and the utility's licensing status, now be considered an acceptable basis for an exemption? If the answer to this question is yes, as it must be in order to be consistent with the NRC's previous denial, the basis for such an unprecedented new policy should be explained in sufficient detail to allow informed comment.

Fourth, along with its failure to adequately explain the basis for the proposed action, the EA provides an inadequate basis for the finding of no significant impact. In evaluating the "Environmental Impacts of the Proposed Action," the NRC disingenuously states that "[t]he proposed exemption affects only the amount of on-site primary property damage insurance coverage and <u>does not affect the manner of normal facility operation</u>." 55 Fed. Reg. 6566 (February 23, 1990)(emphasis added). LILCO holds a full-power license and, therefore, "normal facility operation" would mean running the plant at between sixty or more percent capacity. The proposed exemption, however, would necessarily prohibit any operation of the plant. Thus, contrary to the NRC's representation, the exemption <u>would</u> affect "normal facility operation."

15/ LILCO renewed its request on the basis of the adoption of the Settlement Agreement by the LILCO shareholders and the transfer of the fuel from the reactor to the spent fuel pool. The Commission's denial, however, in no way indicated that LILCO's request was inadequate because the Settlement Agreement was not yet effective. Furthermore, the adoption of the Settlement Agreement by the shareholders took place on June 28, 1989, over a week <u>before</u> the NRC denied the request on July 7, 1989. Consideration of the renewed request, therefore, seems to be predicated upon nothing more than the fact that the fuel is now in the spent fuel pool.

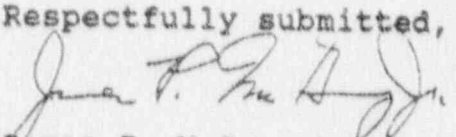
Fifth, in the same section of the EA, the NRC makes the equally paradoxical assertion that "the possibility that the environmental impact of licensed activities would be altered by changes in insurance coverage is extremely remote." Id. The "licensed activities" include full-power operation of the plant. By ensuring that the plant may not be operated, the exemption does, indeed, have an impact on the environment.

Finally, the EA is also flawed to the extent that the Staff "did not consult other agencies or persons." Id. Given the urgent need for energy in the area which would be served by the plant, any decisions inconsistent with the full power operation of Shoreham should be made only after consultation with interested agencies on the federal and state level. For instance, the U.S. Department of Energy ("DOE"), the Federal Energy Regulatory Commission, and pertinent New York State agencies should all have been consulted. Any of these agencies might very well have disagreed with the NRC's finding that this exemption which effectively takes away LILCO's ability to legally operate the plant has no environmental impact. The Commission's failure to consult these agencies (or at least DOE given the strong expressions of interest in Shoreham by both the DOE Secretary and Deputy Secretary) further invalidates the finding of no significant impact which rests upon the conclusions contained in the environmental assessment.

Conclusion

For all of the foregoing reasons, the Commission should either (1) withdraw its proposal to approve the requested exemption and deny that request, or (2) announce its intention to defer decision until after publication of a Final Environmental Impact Statement on the decommissioning proposal.

Respectfully submitted,



James P. McGranery, Jr.
Counsel for
Shoreham-Wading River
Central School District and
and Scientists and Engineers
for Secure Energy, Inc.

Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption amendment.

Alternative to the Proposed Action

Because the Commission's staff has concluded that there is no significant environmental impact associated with the proposed exemption amendment, any alternative to this amendment will have either no significantly different environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption amendment. This would not reduce environmental impacts as a result of plant operations.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement related to the operation of the Vogtle Electric Generating Plant, Units 1 and 2" dated March 1985.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request that supports the proposed exemption amendment. The staff did not consult other agencies or persons.

Finding Of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for the exemption amendment dated September 28, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Dated at Rockville, Maryland, this 20th day of February 1990.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Project Directorate II-3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-4280 Filed 2-22-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322]

Long Island Lighting Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the required on-site primary property damage insurance requirement of 10 CFR 50.54(w)(1) to the Long Island Lighting Company (LILCO) the licensee, for operation of the Shoreham Nuclear Power Station (SNPS), located in Suffolk County, New York.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from the requirements of 10 CFR 50.54(w)(1) to reduce the full amount of required on-site primary property damage insurance. By letter dated September 8, 1989, the licensee requested an exemption to reduce the amount of primary property damage insurance from 1.06 billion dollars to 337 million dollars until such time as the NRC should approve the transfer of Shoreham to the Long Island Power Authority or some other entity of New York State. The reduction in the amount of required on-site primary property damage insurance is the proposed action being considered by the staff.

The Need for the Proposed Action

The licensee's September 8, 1989 letter provided technical justification that 337 million dollars of primary property damage insurance provides an adequate level of coverage to return the SNPS plant to a condition ready for decommissioning following an accident considering the current non-operational condition. Granting the exemption request relieves the licensee from the unnecessary financial burden of carrying insurance coverage of 1.06 billion as required by 10 CFR 50.54(w)(1).

Environmental Impacts of the Proposed Action

The proposed exemption affects only the amount of on-site primary property damage insurance coverage and does not affect the manner of normal facility operation or the risk of facility accidents. While the change in insurance coverage may affect the financial arrangements of the licensee and have some economic consequences, the possibility that the environmental impact of licensed activities would be altered by changes in insurance coverage is extremely remote. The staff has determined that a reduction in the amount of required on-site damage insurance, from 1.06 billion dollars to 337 million dollars is commensurate with the clean-up cost associated with a postulated accident while the reactor is defueled and the fuel is in the spent fuel pool. Thus, the reduced coverage authorized by the proposed exemption is sufficient to fund clean-up of radiological impacts associated with any accident in the defueled condition. In addition, the exemption in question would not authorize construction or operation, would not authorize a change in licensed activities nor effect changes in the permitted types or amounts of radiological effluents. Post-accident radiological releases will not differ from those determined previously, and the proposed exemption does not otherwise affect facility radiological effluents or occupational exposures. With regard to potential non-radiological impacts, the proposed exemption does not affect plant non-radiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no measurable environmental impacts associated with the proposed exemption, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternatives to the exemption are to require the licensee to carry 1.06 billion dollars of on-site primary property damage insurance or another amount greater than 337 million dollars. However, the NRC staff had determined that 337 million dollars is sufficient to fund clean-up of radiological impacts associated with any accident in the defueled condition. Requiring more than 337 million dollars would impose an unnecessary financial burden and would not enhance protection of the environment.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Shoreham Nuclear Power Station.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Findings of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's letter dated September 8, 1989. This letter is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786–9697.

Dated at Rockville, Maryland, this 15th day of February 1990.

For the Nuclear Regulatory Commission.

Walter Butler,

Director, Project Directorate I–2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–4176 Filed 2–22–90; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Proposed Meetings

In order to provide advance information regarding proposed public meetings of the Advisory Committee on Reactor Safeguards (ACRS) Subcommittees and meetings of the ACRS full Committee, and of the Advisory Committee on Nuclear Waste (ACNW), the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published January 25, 1990 (55 FR 2554). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS full Committee and ACNW meetings designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee and ACNW meetings begin at 8:30 a.m. and ACRS Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS full Committee and ACNW meetings and when ACRS Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the March 1990 ACRS and ACNW full Committee meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 301/492–4600 (recording) or 301/492–7288, Attn: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

ACRS Subcommittee Meetings

Advanced Pressurized Water Reactors, March 6, 1990, Bethesda, MD. The Subcommittee will continue its discussion and review of the Westinghouse RESAR (SP/90) design.

Mechanical Components, March 7, 1990, Bethesda, MD. The Subcommittee will review nuclear power plant valve concerns including: (1) Status of the MOV program, (2) the status of the check valve program, (3) the status of the diagnostics for check valves (4) programs on valves important to safety, i.e., butterfly valves, and (5) related valve concerns.

Severe Accidents, March 21, 1990, Bethesda, MD. The Subcommittee will discuss the staff's Severe Accident Research Plan (SARP).

Advanced Pressurized Water Reactors, March 22, 1990, Bethesda, MD. The Subcommittee will review the licensing review basis document being developed by Combustion Engineering for the system 80+ standard design.

Decay Heat Removal Systems, March 23, 1990 (tentative), Bethesda, MD. The Subcommittee will review the NRC staff's proposed resolution of Generic Issue 64, "CE PORVs."

Regulatory Policies and Practices, March 28, 1990, Bethesda, MD. The Subcommittee will review the NRC staff's Draft Rule for license renewal.

Joint Extreme External Phenomena and Severe Accidents, March 27, 1990, Bethesda, MD. The Subcommittees will review the Individual Plant Examination for External Events (IPEEE) program.

Joint Containment Systems and Structural Engineering, April 4, 1990, Bethesda, MD. The Subcommittees will discuss the development of a position or recommendations regarding new containment design criteria for future plants.

Occupational and Environmental Protection Systems, April 25, 1990, Bethesda, MD. The Subcommittee will reviews the Advance Notification of Proposed Rulemaking (ANPR) on hot particles.

Materials and Metallurgy, May 1, 1990, Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 29, "Bolting Degradation or Failure in Nuclear Power Plants," and matters relating to the integrity of reactor pressure vessels.

Thermal Hydraulic Phenomena, Date to be determined (March), Idaho Falls, ID. The Subcommittee will review the details of the modifications made to the RELAP–5 MOD–2 code as specified in the MOD–3 version.

Joint Thermal Hydraulic Phenomena and Core Performance, Date to be determined (March/April), Bethesda, MD. The Subcommittees will continue their review of boiling water reactor core power stability pursuant to the core power oscillation event at LaSalle County Station, Unit 2.

Quality and Quality Assurance in Design and Construction, Date to be determined (April) (tentative), Bethesda, MD. The Subcommittee will discuss the performance-based concept of quality—what it means, its implementation, and preliminary results.

Joint Severe Accidents and Probabilistic Risk Assessment, Date to be determined (May/June), Bethesda, MD. The Subcommittees will continue their review of NUREG–1150, "Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants".

Decay Heat Removal Systems, Date to be determined (June/July), Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 23, "RCP Seal Failures."

Decay Heat Removal Systems, Date to be determined, Bethesda, MD. The Subcommittee will explore the issue of the use of feed and bleed for decay heat removal in PWRs.

Auxiliary and Secondary Systems, Date to be determined, Bethesda, MD. The Subcommittee will discuss the: (1) Criteria being used by utilities to design Chilled Water Systems, (2) regulatory requirements for Chilled Water Systems design, and (3) criteria being used by the NRC staff to review the Chilled Water Systems design.

Reliability Assurance, Date to be determined, Bethesda, MD. The Subcommittee will discuss the status of implementation of the resolution of USI A–46, "Seismic Qualification of Equipment in Operating Plants," and other related matters.

Joint Regulatory Activities and Containment Systems, Date to be determined, Bethesda, MD. The Subcommittees will review the proposed final revision to Appendix J to 10 CFR Part 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors."