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May 4, 1990

VIA TELECOPY

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

Re: Sixth Supplement to the Section 2.206 Requests by the Shoreham-Wading River Central School District ("School District") and Scientists and Engineers for Secure Energy, Inc. ("SE2") in USNRC Docket No. 50-322

Dear Dr. Murley:

This is a further supplement by the School District and SE2 to the above-referenced Requests 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, January 23, 1990, and April 5, 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... as detailed in the license, the Licensee's Updated

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Safety Analysis Report and the Operational Readiness Assessment Team Report (Shoreham ORAT Inspection 50-322/89-90 (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, the School District and SE<sub>2</sub> formally draw your attention to, and incorporate in their Requests, the enclosed supplemental comment on April 23, 1990 (with the attached LILCO letter of March 27, 1990 (SNRC-1705)) on

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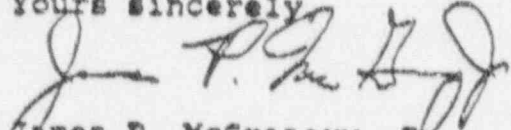
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an NRC notice regarding yet another segmented LILCO proposal in furtherance of its decommissioning proposal, namely, the then proposed, now final, exemption to allow a reduction of on-site property insurance at Shoreham. This formal submittal is deemed necessary because your letter of April 27, 1990 denying relief after "preliminary review" does not recognize the existence of this further comment although it was not only on file with the NRC but was also addressed to the member of your own Division with responsibility for the insurance issue at hand. In the interest of fair consideration, we also the enclose letters of April 17 and 27 to the NRC from LILCO's counsel responding to the School District and SE<sub>2</sub> letters of April 5 and 23, 1990, in this matter.

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 desist 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 10 C.F.R. Part 2, Subpart B and Appendix C, 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.

Enclosure

cc: Donald P. Irwin, Esq.  
(w/o encl.) (via telecopy)



DOW, LOHNES & ALBERTSON

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JAMES P. MCGRAHER, JR.

November 14, 1990

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VIA TELECOPY AND MAIL

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

Re: Sixth 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 Request for Immediately Effective Orders in the subject docket with respect to the issues and on the bases set forth in the original Request dated July 14, 1989, as supplemented by our letters of July 19, July 22, and July 31, 1989 and our letters of January 23 and April 5, 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 NPP-82 committed LILCO, among other things, both to maintaining certain levels of staffing as detailed in the license, the Licensee's Update 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.

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

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seek to transfer its license for that plant to the Long Island Power Authority ("LIPA") for decommissioning. And the Commission itself recently made finding that LILCO is pursuing this course of action. CLI-90-08 at 4-5 (October 17, 1990).

In particular, the Commission determined that "LILCO has disbanded a portion of its of technical staff and has begun training the remaining staff for 'defueled' operation only." *Id.* at 5.

This Commission finding recognizes that conditions exist at Shoreham as to both staffing and training that are in direct violation of 10 C.F.R. Part 55 and LILCO's full power operating license as specified in Section 6 of the Technical Specifications and Chapter 13 of the Updated Safety Analysis Report. See also, Safety Evaluation Report Related to the Operation of Shoreham Nuclear Power Station, Unit No. 1, Docket No. 50-322, Long Island Lighting Company (NUREG-0420, April 1981), Chapter 13 as supplemented by Supps. 1 (September 1981), 2 (February 1982), 3 (February 1983), 5 (April 1984), 6 (July 1984), 7 (September 1984), 8 (December 1984), 9 (December 1985) and 10 (April 1989).

Further, since LILCO has submitted various applications for license and technical specification amendments and other requests for relief from requirements of the license and technical specifications addressing these areas (which requests are currently pending), this finding by the Commission also recognizes that LILCO is in knowing violation of the current license and Technical Specifications by having implemented these reductions in staffing and training prior to NRC approval.

The purpose of enforcement actions is to ensure compliance with NRC regulations and license conditions, obtain prompt correction of violations, and adverse quality conditions which may effect safety and deter future violations and occurrences of conditions adverse to quality. 10 C.F.R Part 2, Appendix C.I. (1990). This state of affairs cries out for enforcement action pursuant to 10 C.F.R. Part 2, Subpart B & Appendix C.

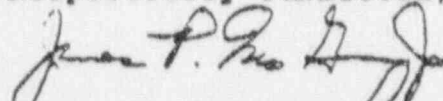
Given the Commission's finding, it is imperative that a Notice of Violation be issued, including a proposed civil penalty and a remedial action plan to bring Shoreham's staffing and training into compliance with Part 55 and its license, including the Technical Specifications and the Updated Safety Analysis Report.

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We also point out that insofar as the Commission has allowed such non-compliance with staffing and training requirements because of the existence of the proposal to decommission Shoreham, it is in violation of its own regulations which forbid it from giving the licensee any "form of permission" in such circumstances before issuance of a final environmental impact statement, especially when, as here, the permitted changes 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 & 51.101.

On behalf of the Shoreham-Wading River Central School District and Scientists and Engineers for Secure Energy, Inc., I urge the Commission to take prompt action pursuant to 10 C.F.R. Part 2, Subpart B & Appendix C, to correct the existing violations of both the Atomic Energy Act and the National Environmental Policy Act.

Respectfully submitted,



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

JPM:jab