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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'91 FEB -6 P2:53

Before Administrative Judges:

Morton B. Margulies, Chairman  
Dr. George A. Ferguson  
Dr. Jerry R. Kline

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

_____	)	
In the Matter of	)	Docket No. 50-322-OLA
	)	
LONG ISLAND LIGHTING COMPANY	)	ASLBP No. 91-621-01-OLA
	)	
(Shoreham Nuclear Power Station, Unit 1)	)	(Confirmatory Order Modification)
	)	
_____	)	

SCIENTISTS AND ENGINEERS FOR SECURE ENERGY, INC.  
AMENDMENT TO ITS REQUEST FOR HEARING AND  
PETITION TO INTERVENE

Pursuant to the Atomic Safety and Licensing Board's ("ASLB") Memorandum and Order of January 8, 1991 ("January 8 Order") in the above-captioned proceeding, Scientists and Engineers for Secure Energy, Inc. ("Petitioner") amends, by counsel, its request for hearing and petition to intervene in that proceeding by providing affidavits from the Executive Director and the members, Dr. John L. Bateman, Eena-Mai Franz, Andrew P. Hull, Dr. Stephen V. Masolino, Joseph Scrandis, John R. Stehn, requesting representation by Petitioner addressing the injury in fact to its organizational interests and the interests of the members who has authorized it to act for them (attached) as well as detailing further contentions to be raised in this proceeding, as specified below.

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In addition to those particular aspects of the Confirmatory Order as to which Petitioner originally specified an intent to intervene, Petitioner agrees with the ASLB January 8 Order that the overarching action that can be challenged in the confirmatory order modification proceeding is "whether the Confirmatory Order shall be sustained" and asserts that issue. January 8 Order at 6.

Petitioner further asserts that each and every particular aspect specified in Section III of its original petition are subsidiary issues to this overarching issue.

And as the Board further specified in the January 8 Order at 6, a specific aspect which Petitioner seeks to intervene on is the sustainability of the NRC's underlying determination "that the health and safety require that the commitment be confirmed by the Confirmatory Order" (emphasis added).

Further, Petitioner specifies that the failure of the Staff to issue any remedial orders or to provide a rational basis for not issuing such remedial orders constitutes an arbitrary and capricious action in violation of the Commission's responsibilities under the Atomic Energy Act of 1954 as further elucidated in 10 C.F.R. Part 2, Appendix C (1990) and that such arbitrary and capricious action constitutes a present and future danger to the health and safety of the represented members.

Also, given the absence of a categorical exclusion pursuant to 10 C.F.R. § 51.22(c) for the action, the lack of an

environmental assessment ("EA") or environmental impact statement ("EIS") on the Confirmatory Order modification violates both Petitioner's and its represented members' rights under the National Environmental Policy Act of 1969, 42 U.S.C. § 4332 et seq. (1988) ("NEPA") and 10 C.F.R. Part 51 (1990) because it deprives both Petitioner and its members of the information which NEPA requires to be developed by the Staff for the benefit of the general public and the decision-makers.


Petitioner further asserts that allowing the Shoreham plant to remain in a degraded safety condition while possessing an operating license creates an obvious potential for offsite radiological consequences for its represented members.

Also, the Settlement Agreement between the Long Island Lighting Company ("LILCO") and other entities and subsidiary agreements thereto (for example, the Amended Asset Transfer Agreement) establish a nexus between the circumstances leading to the Confirmatory Order, the Confirmatory Order itself, the alleged resultant construction of substitute oil burning plants, and the harm that would be created for Petitioner's represented members, thus establishing as part of the subsidiary issues of the proceeding, the resulting harm for Petitioner's represented members. See January 8 Order at 27.

WHEREFORE, Petitioner renews its request for the remedies noted in the original petition, contends that the injuries resulting from the action which is the subject of this proceeding are likely to be remedied by a favorable decision granting the relief sought (including such other relief as the ASLB deems appropriate), and requests that the action be set down for hearing after a pre-hearing conference and appropriate discovery.

Respectfully submitted,

February 4, 1991

  
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