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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'83 APR -1 P3:38

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
LONG ISLAND LIGHTING COMPANY)	Docket No. 50-322 (OL)
)	Emergency Planning
(Shoreham Nuclear Power Station,)	
Unit 1))	

LILCO'S ANSWER TO
"PETITION OF SUFFOLK COUNTY
FOR LEAVE TO FILE A BRIEF IN REPLY"

On March 29, 1983, intervenor Suffolk County filed its "Petition of Suffolk County For Leave to File a Brief in Reply" and an accompanying "Suffolk County's Reply to LILCO's and the NRC Staff's Briefs in Opposition to Suffolk County's Motion to Terminate the Shoreham Operating Licensing Proceeding and the County's Motion for Certification."

LILCO does not oppose Suffolk County's petition. The County has already had two separate opportunities to make its case for terminating this proceeding, and LILCO does not object to a third, even though the County uses the three opportunities to argue that LILCO should not be heard even once on the factual issue of whether the public can be adequately protected.^{1/}

^{1/} LILCO does wish to reserve the right to object, if occasion arises in the future, to the practice of filing the unauthorized reply brief along with the request to file it.

(footnote continued)

The only respect in which the County's reply brief might cause some confusion is that it suggests, especially at page 19, that what we are now calling LILCO's offsite plan cannot be implemented because the County will not implement it. The fact that LILCO's offsite plan is written to include County personnel should not mislead anyone into thinking that LILCO's factual case before this Board will depend on proving that anyone from the County government will participate. Rather, as was stated in footnote 17 on page 64 of its brief of March 18, 1983, LILCO is developing alternative means for implementing the LILCO plan without the County's help. To litigate the implementation of the LILCO plan (the "second phase" mentioned on page 111 of LILCO's March 18 brief) will require additional information from LILCO, such as a table showing what persons or organizations will perform the functions that the County was originally to perform.^{2/} It may even be desirable to revise

(footnote continued)

See Public Service Co. of Oklahoma (Black Fox Station, Units 1 and 2), LBP-76-38, 4 NRC 435, 441 (1976). The tactic was apparently accepted in the case cited by the County, Metropolitan Edison Co. (Three Mile Island), CLI-80-19, 11 NRC 700, 701 (1980).

^{2/} As soon as the County's motion to terminate the proceeding is decided, LILCO will be prepared to suggest to the Board how best to avoid confusion in the substitution of new parties in the LILCO plan, or whether a rewritten plan should be the focus of the litigation.

the plan in substantive ways in order to better reflect the present reality of the County's refusal to participate. If the County thinks that it is impossible to implement an offsite plan without County personnel, it can submit a contention and present evidence to that effect. The issue, as we said in our brief, is one of fact, not law.

Respectfully submitted,

LONG ISLAND LIGHTING COMPANY

By Andrea S. Bear
James N. Christman
Andrea S. Bear

Hunton & Williams
P.O. Box 1535
707 East Main Street
Richmond, Virginia 23212

DATED: April 1, 1983

CERTIFICATE OF SERVICE

In the Matter of
LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Power Station, Unit 1)
Docket No. 50-322 (OL)

I hereby certify that copies of LILCO'S Answer to "Petition of Suffolk County For Leave to File A Brief in Reply" were served this date upon the following by hand, as indicated by two asterisks, by Federal Express, as indicated by one asterisk, or by first-class mail, postage prepaid.

Lawrence Brenner, Esq.**
Administrative Judge
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. Peter A. Morris**
Administrative Judge
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. James H. Carpenter**
Administrative Judge
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Secretary of the Commission
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Atomic Safety and Licensing
Appeal Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Daniel F. Brown, Esq.**
Attorney
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Bernard M. Bordenick, Esq.**
David A. Repka, Esq.
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Herbert H. Brown, Esq.**
Lawrence Coe Lanpher, Esq.
Karla J. Letsche, Esq.
Kirkpatrick, Lockhart, Hill,
Christopher & Phillips
8th Floor
1900 M Street, N.W.
Washington, D.C. 20036

Mr. Marc W. Goldsmith
Energy Research Group
4001 Totten Pond Road
Waltham, Massachusetts 02154

MHB Technical Associates
1723 Hamilton Avenue
Suite K
San Jose, California 95125

Mr. Jay Dunkleberger
New York State Energy Office
Agency Building 2
Empire State Plaza
Albany, New York 12223

David J. Gilmartin, Esq.
Attn: Patricia A. Dempsey, Esq.
County Attorney
Suffolk County Department of Law
Veterans Memorial Highway
Hauppauge, New York 11787

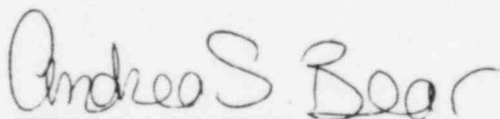
Stephen B. Latham, Esq.*
Twomey, Latham & Shea
33 West Second Street
P. O. Box 398
Riverhead, New York 11901

Ralph Shapiro, Esq.*
Cammer and Shapiro, P.C.
9 East 40th Street
New York, New York 10016

James Dougherty, Esq.*
3045 Porter Street
Washington, D.C. 20008

Howard L. Blau
217 Newbridge Road
Hicksville, New York 11801

Matthew J. Kelly, Esq.
State of New York
Department of Public Service
Three Empire State Plaza
Albany, New York 12223



James N. Christman
Andrea S. Bear

Hunton & Williams
707 East Main Street
P.O. Box 1535
Richmond, Virginia 23212

DATED: April 1, 1983