

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 73-2266

September Term, 19 78

Lloyd Harbor Study Group, Inc.,  
Petitioner

United States Court of Appeals  
for the District of Columbia Circuit

v.

FILED NOV 29 1978

Nuclear Regulatory Commission  
and the United States,  
Respondents

GEORGE A. FISHER  
CLERK

The Long Island Lighting Co., Intervenor

Before: McGowan and MacKinnon, Circuit Judges, and Van Pelt,\* United  
States Senior District Judge for the District of Nebraska

## O R D E R

-- The order of this Court of November 9, 1976, held that there was no merit to petitioner's challenge to the Commission's consideration of "Class 9" accidents but that there was merit to its assertion about the nuclear fuel cycle. The basis of the latter determination was this Court's decisions in Natural Resources Defense Council, Inc. v. United States Nuclear Regulatory Commission, Nos. 74-1385 and 74-1586, Aeschliman v. United States Nuclear Regulatory Commission, Nos. 73-1776 and 73-1667. The Supreme Court subsequently granted the petition of The Long Island Lighting Company for a writ of certiorari, vacated our judgment, and remanded for further consideration in light of Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, 435 U.S. 519 (1978).

The action of the Supreme Court did not disturb our determination that petitioner's "Class 9" accident contention is without merit. Accordingly, the petition is denied in that respect.

\*Sitting by designation pursuant to 28 U.S.C. § 294(d).

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The remainder of the petition, as it relates to the environmental impact of the nuclear fuel cycle, shall remain in abeyance pending the issuance of a final fuel cycle rule. Respondents are directed to report to the court on the status of the rulemaking in accordance with the schedule established in Nos. 73-1776 and 74-1385, and the cases consolidated with them.

Per Curiam

FOR THE COURT:

*George A. Fisher*

GEORGE A. FISHER  
Clerk