

LILCO, September 19, 1983

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)
)
LONG ISLAND LIGHTING COMPANY) Docket No. 50-322-OL-3
) (Emergency Planning Proceeding)
(Shoreham Nuclear Power Station,)
Unit 1))

LILCO'S RESPONSE TO SUFFOLK COUNTY'S
MOTION FOR A PROTECTIVE ORDER

On September 7, 1983, Suffolk County filed a Motion for a Protective Order barring the depositions of Mr. Frank Jones and Dr. Lee Koppelman. Suffolk County has taken the position that these depositions will not lead to the discovery of admissible evidence because the areas of inquiry identified in LILCO's Notices of Deposition relate only to the County's planning process, which the County argues is not relevant to this proceeding. For the reasons detailed below, LILCO believes that Mr. Jones and Dr. Koppelman have knowledge of information relevant to the LILCO Transition Plan. Accordingly, LILCO requests this Board to deny the County's Motion for a Protective Order and to order Suffolk County to produce Mr. Frank Jones and Dr. Lee Koppelman for depositions.

I. BACKGROUND

To appreciate fully the relevance of the information sought

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by LILCO, a brief review of the history of offsite emergency planning for Shoreham is required. That history begins with a Suffolk County Executive Order in February 1973 directing the Department of Emergency Preparedness to develop a "Response Plan -- Specific Operating Procedures for Major Radiation Incidents." Subsequently, in early 1975, the State, County and LILCO met to define the roles and responsibilities of each body. In 1977, the Suffolk County Department of Transportation was directed to develop an evacuation plan. Its work culminated in the release of Suffolk County's "General Radiation Emergency Plan" that was approved by then-County Executive John Klein on August 30, 1978.

Additional NRC requirements in 1979, resulting from the Three Mile Island accident, prompted LILCO to begin discussions with private consulting firms to assist LILCO and Suffolk County in producing a more detailed and comprehensive plan. Ultimately, LILCO and the County signed a contract on March 15, 1981 in which the Suffolk County Planning Department, under the direction of Dr. Lee E. Koppelman, was to prepare the necessary offsite response plan.^{1/} The second clause of that contract states as follows:

^{1/} The Suffolk County Planning Department, rather than a private consulting firm, was chosen to produce the emergency plan, in part, because it was represented by the County as having the ability to prepare an emergency plan that would be the equivalent of any plan prepared by a private consultant.

The Department [of Planning] represents that it has read and is familiar with the applicable Federal Regulations...and that the Department believes it can develop a County Radiological Emergency Plan which complies with such requirements.

Dr. Koppelman signed the contract for the County, and clause 5(a) of the contract identified him by name as the supervisor of all work that would be performed under the contract.^{2/}

Through the remainder of 1981 and into 1982, the Suffolk County Department of Planning worked diligently on a plan. Abruptly, on February 19, 1982, Dr. Koppelman wrote LILCO that the County could not accept LILCO funds for emergency planning because of an "apparent conflict of interest" but that the County would continue, "as required by law, to develop a plan consistent with the requirements of law and its obligation to protect the health, safety and welfare of the public."^{3/} On February 20, 1982, Suffolk County Deputy Executive Frank Jones publicly announced the cancellation of the emergency planning contract with LILCO. From that point forward, LILCO and the County embarked on separate offsite emergency planning efforts.

Beginning in the spring of 1982, Suffolk County used a team of private consultants to prepare a new emergency plan

^{2/} A copy of the contract between LILCO and Suffolk County is attached to this pleading (Attachment 1).

^{3/} A copy of Dr. Koppelman's February 19, 1982 letter to Long Island Lighting Company is attached (Attachment 2).

("the County Plan") based on a 20-mile plume exposure pathway EPZ. The County's planning effort was directed by a five-member Steering Committee headed by Mr. Jones and including Dr. Koppelman. The County Legislature held hearings on the County Plan in January 1983 and rejected it in February 1983, on the basis of a resolution finding that no radiological response plan could protect public health and safety. See Suffolk County Motion for Protective Order, attached County Res. No. 111-1983 at 5.

As the basis for its planning effort, LILCO chose to use the Plan, by then well underway, that had been suddenly abandoned by Suffolk County. LILCO amended and completed the Plan, and submitted it to the State of New York Disaster Preparedness Commission on May 10, 1982 and again in the fall of 1982.^{4/}

^{4/} This plan was never submitted to FEMA. A hearing was scheduled for the December 8 for the entire DPC to consider the LILCO-submitted offsite plan and to determine whether to forward it to FEMA. The County was invited to attend. Rather than participate in the state administrative process, the County sought and obtained a temporary order in New York State Court restraining the DPC's December 8 meeting. The parties subsequently entered into a stipulation that provided that the DPC would refrain from further action on the LILCO-submitted plan until Suffolk County determined whether to accept its own draft plan then under development. Subsequently, the Governor of New York appointed a Commission, still in existence, to study the emergency-planning situation at Shoreham, and instructed the DPC not to act further on the LILCO-submitted plan.

The following year, having failed in its continuing efforts to enlist the County's cooperation, LILCO rewrote the plan abandoned by Suffolk County to provide for LILCO employees, various outside organizations, and volunteers to implement the plan, and submitted it (along with LILCO-drafted plans using New York State, FEMA, and NRC personnel) for litigation as the LILCO Transition Plan.

II. LIKELIHOOD THAT DEPOSITIONS WILL LEAD TO DISCOVERY OF ADMISSIBLE EVIDENCE

On August 25, 1983, LILCO filed notices of deposition for Mr. Jones and Dr. Koppelman. Each notice states LILCO's intent to question the deponent on matters relating to his involvement in the Suffolk County planning effort, and lists six areas in which LILCO has a special interest. The areas are:

- (1) The aspects of radiological emergency response planning at Shoreham that led Suffolk County to the conclusion that it was infeasible,
- (2) The basis on which and the process by which Suffolk County reached that conclusion,
- (3) Dr. Koppelman's/Mr. Jones' views on the feasibility of radiological emergency response planning at Shoreham,
- (4) Dr. Koppelman's/Mr. Jones' views on the role of the Suffolk County government in the event of a radiological emergency at Shoreham assuming that the LILCO Transition Plan is in effect,
- (5) Suffolk County's emergency planning for non-radiological emergencies, e.g., hurricanes and blizzards, and

- (6) Suffolk County's emergency planning for radiological emergencies at other nuclear facilities, e.g., Brookhaven National Laboratory and Northeast Utilities' Millstone Station.

As this Board noted in its recent decision to grant Suffolk County's motion to compel the production of Thomas E. Potter and documents associated with the consequence analysis he performed for LILCO, "[t]he scope of discovery allowed by NRC rule is quite broad." Memorandum and Order at 2 (August 30, 1983). The operative language of 10 C.F.R. § 2.740(b) is whether "the information sought appears reasonably calculated to lead to the discovery of admissible evidence." The depositions of Mr. Jones and Dr. Koppelman could clearly lead to the discovery of admissible evidence on each of the six areas listed in LILCO's deposition notices. Each area is discussed in turn below.

A. Relevance of the LILCO/Suffolk County Cooperative Planning Effort

The genesis of the LILCO Transition Plan was the cooperative work of LILCO and Suffolk County during 1981 and early 1982. Large portions of this original planning effort remain virtually unchanged either in concept or important detail in the LILCO Transition Plan now before this Board.^{5/}

^{5/} The portions of the offsite plan that remain unchanged are outlined in the attached affidavit of Charles A. Daverio. A partial list of these plan features include the early dismissal of schools, the definition of evacuation zones, the use of

Accordingly, contentions addressing such issues as evacuation time estimates, boundaries of the 10-mile EPZ, communications, and public notification must necessarily focus on prior work performed by the Suffolk County Planning Department. To prepare effectively for litigation, and to attempt to limit the facts that remain at issue, it is important that LILCO understand the bases for Suffolk County's criticism and rejection of this early planning effort which forms the base of the LILCO Transition Plan.

Dr. Koppelman and Mr. Jones are uniquely qualified to discuss this early planning effort and Suffolk County's reason for discarding it. Both were members of the Steering Committee responsible for reviewing offsite emergency plans for Shoreham. Mr. Jones chaired the Steering Committee and was the person who publicly announced the County's rescission of the offsite emergency planning contract. As counsel for Suffolk County stated during a prehearing conference on Phase I emergency planning: "Mr. Jones is the only person who has actual facts and is Chairman of the Steering Committee of the County." Tr. 770 (April 14, 1982). Indeed, the Licensing Board ordered the deposition of Mr. Jones on August 5, 1983 during the Phase I

footnote continued

siren and tone alerts to notify special facilities and the public, and the use of the Long Island Railroad to move hospital patients.

litigation, over the objection of Suffolk County. If his testimony was relevant to Phase I planning, then it is a fortiori relevant to Phase II offsite planning.

Dr. Koppelman communicated to LILCO the County's rescission of the offsite emergency planning contract. (See Attachment 2.) He was the County official who negotiated the contract with LILCO and who was charged with preparing the County's plan during the period of cooperation between the County and LILCO on emergency planning. He supervised the work of two other County planners in this effort: Robert C. Meunkle and Laura Lynn Palmer. In depositions taken during Phase I of emergency planning litigation, both Mr. Meunkle and Ms. Palmer expressed their opinion that the Planning Department had formulated an excellent plan.^{6/} Thus, it is important to determine whether Dr. Koppelman shared this view; whether this view was presented to the Steering Committee; and why, in light of the views of County planning experts, the plan was rejected by the County.

^{6/} Palmer Deposition Tr. at 81-82; Meunkle Deposition Tr. Exhibit 15 at 2. Mr. Meunkle and Ms. Palmer were deposed by agreement of the parties after LILCO filed motions for subpoenas of Messrs. Jones and Meunkle and Ms. Palmer, and the Board granted the Jones subpoena. If the testimony of these subordinates of Dr. Koppelman was relevant to the planning issues of Phase I, then the testimony of their superior is relevant to the offsite planning issues of Phase II.

Suffolk County's suggestion that this Board's Order Limiting Scope of Submissions, dated June 10, 1983, excludes inquiry into the joint LILCO/Suffolk County effort is without merit. That Order addresses the five alternatives contained in the emergency plan presented to the Board by LILCO. The Board's decision that at this juncture only the LILCO Transition Plan will be litigated was never intended to foreclose inquiries into the factual bases for that plan. Since the work directed by Dr. Koppelman, and reviewed by Mr. Jones, produced a large part of the factual material contained in the Transition Plan, inquiries about that work could clearly "lead to the discovery of admissible evidence."^{7/}

B. Relevance of Suffolk County Plan

Inquiries about Suffolk County's independent planning effort that produced the November, 1982 draft County Plan are also "reasonably calculated to lead to the discovery of admissible evidence." The County Plan is fundamentally different from the LILCO Transition Plan, in that it is based on the use of a 20-mile EPZ, rather than the 10-mile zone used in the LILCO Plan. However, since the County Plan encompasses the

^{7/} Contrary to Suffolk County's characterizations, LILCO is not attempting to litigate the earlier Suffolk County plan. LILCO seeks to examine (1) the factual predicates affecting the LILCO Transition Plan and (2) the opinions of qualified County officials who in 1981-82 felt that emergency planning in accordance with NRC regulations was possible.

10-mile zone used in the LILCO Transition Plan, individual details of that plan necessarily include planning for a 10-mile EPZ and, therefore, are relevant to assessing the adequacy of the LILCO plan.

For example, the recent deposition of Police Inspector Joseph L. Monteith revealed that the Fourth, Fifth and Sixth Precincts of the Suffolk County Police Department had been required, as part of the effort to produce the County Plan, to identify necessary traffic control points within the 20-mile EPZ and the number of police officers needed to man each post. Deposition of Joseph L. Monteith at 52-3. This information is relevant to contentions concerning LILCO's Transition Plan since Inspector Monteith also testified that one of his concerns about the LILCO Transition Plan was that the plan had not provided enough traffic posts and guides. Deposition of Joseph L. Monteith at 64. This opinion can be tested by comparing the information gathered during the County planning effort with that presented in the LILCO Plan. Thus, this information on traffic control posts could be admissible evidence in assessing the LILCO Transition Plan.

Unfortunately, LILCO can only speculate as to similar factual information that may be relevant to the LILCO Transition Plan, because the County has refused in interrogatories to provide any information on its planning effort. The depositions of Mr. Jones and Dr. Koppelman, who were aware of all facets of

the County's planning effort, will provide LILCO with this necessary discovery.^{8/} In addition, the Suffolk County Legislature's rejection of County Plan, and its conclusion that emergency planning is impossible for Shoreham, has a direct bearing on many contentions raised in this proceeding. Deposing Mr. Jones and Dr. Koppelman will provide LILCO with information regarding the basis for the County's actions.

C. Relevance of Suffolk County Actions If Transition Plan Is Accepted

In item (4) of the Notices of Deposition, LILCO states that it plans to inquire into the future actions of the Suffolk County government should the LILCO Transition Plan become effective. In its June 29, 1983 discovery requests, LILCO asked Suffolk County the following questions:

103. If emergency planning is deemed by the NRC to be possible for Long Island and a plan is approved by the NRC, will Suffolk County or any of Suffolk County's officials take action to prohibit county employees from responding in an emergency other than by appealing the NRC's decision to the courts?
104. If emergency planning is deemed by the NRC to be possible and a plan is approved by the NRC, will the County adopt regulations, ordinances, or provide LILCO with a permit to conduct any of the activities necessary to execute the emergency plan which the County, in its contentions, has classified as illegal?

^{8/} As was previously noted, see n.6 *supra*, LILCO does not seek to litigate the County's draft plan. Rather, LILCO seeks only to discover information which may prove useful in evaluating the LILCO Plan.

The County responded as follows:

This question is objectionable because it calls for speculation rather than for data relevant to whether the LILCO offsite plan meets NRC regulatory requirements. Indeed, the question talks only in general terms about whether "planning is deemed...to be possible" and if "a plan is approved by the NRC..." The County cannot describe what action(s) might be taken by a government when and if speculative future events take place. If events take place in the future, the County government will evaluate the events and take action(s) which are agreed to be appropriate in light of the events which in fact occur. We, of course, do not know what actions might be taken until those events occur. This question also is objectionable for the further reason that it does not pertain to the adequacy of the LILCO offsite plan which is the focus of the instant proceeding. See also Resolutions 262-1982, 456-1982, 457-1982, and 111-1983 which prohibit County involvement in implementing or adopting any plan other than one approved by the Legislature.

. . . .

Further, the County cannot speculate whether it will or it will not adopt any "regulations, ordinances or provide LILCO with a permit to conduct any of the activities necessary to execute the emergency plan which the County, in its contentions, has classified as illegal." The County, as a party in this proceeding, cannot possibly predict what action(s) its Legislature or executive agencies might take if LILCO asked for permits, etc.

The County now argues that "[t]here is no factual dispute on that issue." Id. at 5 (emphasis in original). As support, the County has pointed to County Resolutions 456-1982 and 111-1983, and has stated that:

These resolutions constitute County law: the County will not train for or respond to a Shoreham emergency. That law is binding conclusively upon the County and its employees.

Motion for Protective Order at 4.

To the contrary, the purpose for LILCO's inquiries is the belief that significant factual issues exist regarding the response of County employees if an emergency should occur. For LILCO behavioral experts Dr. Russell R. Dynes and Dr. Dennis S. Miletic have testified that a number of police would respond during a radiological emergency, regardless of the legal impediments raised by the County. In addition, the intentions of Mr. Jones, Dr. Koppelman, or any other high-ranking Suffolk County official to order Suffolk County employees to take part in the emergency response (or refrain from participating) should an accident occur is relevant to the possible public perception of and reaction to any accident at Shoreham. Accordingly, inquiries in these areas could lead to the discovery of admissible evidence.

D. Relevance of Other Suffolk County Emergency Plans

Finally, in items (5) and (6), LILCO seeks to question Mr. Jones and Dr. Koppelman on Suffolk County's emergency planning for nonradiological emergencies, and for radiological emergencies at other nuclear facilities such as Brookhaven National Laboratory and the Millstone Station. In response, the County has argued that information on these matters is

irrelevant to this proceeding, since that planning involves the County's rather than LILCO's planning.^{9/} The County made this argument before in this proceeding, and it was rejected by the Licensing Board in Phase I, where the Board explicitly ordered the County to produce documents related to County planning for non-radiological emergencies and emergencies at other nuclear facilities in the vicinity. Board Order of July 27, 1982 at 24-25. It is therefore improper for Suffolk County to assert this argument in Phase II discovery.

Information regarding nonradiological emergency plans has a direct relationship to issues being litigated in this proceeding. Those plans may include evacuation procedures that require traffic control, communications, and command and control functions. Information about the specifics of these plans and the assumptions underlying them can be used to test the consistency of the County's position regarding a radiological emergency at Shoreham. Similarly, the County's planning for radiological emergencies at Brookhaven and Millstone may establish inconsistencies with the County's views on radiological emergency planning for Shoreham. Hence, inquiry into existing

^{9/} The County goes so far as to suggest that if LILCO views the County's emergency plans as relevant, then it has an obligation to submit contentions on them. Motion for Protective Order at 6. This argument is without basis in NRC law. The regulatory section that discusses the need to file contentions, § 2.714, relates to them as a component of intervention petitions in licensing proceedings and clearly does not apply to an applicant.

County emergency plans can lead to the discovery of admissible evidence.

III. RELIEF

For the reasons stated above, LILCO moves this Board to deny Suffolk County's Motion for a Protective Order and to require the County to make Mr. Frank Jones and Dr. Lee Koppelman available for deposition.

Respectfully submitted,
LONG ISLAND LIGHTING COMPANY

Kathy E. B. McCleskey
Donald E. Irwin
Lee B. Zeugin
Kathy E. B. McCleskey

Hunton & Williams
Post Office Box 1535
Richmond, Virginia 23212

DATED: September 19, 1983

LILCO, September 19, 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 Response to Suffolk County's Motion for A Protective Order were served this date upon the following by first-class mail, postage prepaid, or (as indicated by one asterisk) by hand, or (as indicated by two asterisks) by Federal Express.

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707 East Main Street
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Richmond, Virginia 23212

DATED: *September 19, 1983*

THIS AGREEMENT, as entered into as of this 15th day of September, 1981, by and between the Long Island Lighting Company (hereinafter referred to as "LILCO") and the County of Suffolk, acting through its Department of Planning (hereinafter referred to as the "DEPARTMENT").

WITNESSETH THAT:

WHEREAS, LILCO desires to enter into a contract with the DEPARTMENT to render certain technical and professional services hereinafter described,

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. Employment of Contractor. LILCO hereby agrees to engage the DEPARTMENT and the DEPARTMENT hereby agrees to perform the services hereinafter set forth. The relationship of the parties hereto shall be that of client and independent contractor; neither the DEPARTMENT nor any person hired by the DEPARTMENT shall be considered employees of LILCO for any purpose.

2. Scope of Services. The DEPARTMENT shall prepare a County Radiological Emergency Response Plan, as required by Federal Regulations in effect on the date of this Agreement for the LILCO Shoreham Nuclear Power Station. Said Plan shall be prepared in accordance with the description contained in clause 3 "Work Statement". The DEPARTMENT represents that it has read and is familiar with the applicable Federal Regulations set forth in Exhibit B attached hereto and that the DEPARTMENT believes it can develop a County Radiological Emergency Response Plan which complies with such regulations. If revisions to the aforesaid Federal Regulations shall be made during the period of this Agreement, calling for changes in the scope of work, then the provisions of clause 10 "Changes in Scope" of this Agreement shall apply.

3. Work Statement.

a. The DEPARTMENT shall perform the activities described in the SCOPE OF WORK appended hereto as Exhibit A.

b. The DEPARTMENT shall conform to the Federal Regulations and guidelines listed in Exhibit B, appended hereto, in the formation of outputs of activities described in Exhibit A.

c. Wherever specialized technical and scientific inputs are necessary, the DEPARTMENT will retain, after consultation with LILCO, the services of appropriate experts, at the DEPARTMENT's expense.

4. Time of Performance.

a. The DEPARTMENT will make every effort to complete the tasks listed in Exhibit A within 6 months from the date of execution of this Agreement, subject to the timely response by Federal and State agencies to requests for information, and the timely receipt of Federal and State concurrence with the draft and final Emergency Radiological Response Plans. In the event the DEPARTMENT fails to receive timely response from Federal and State agencies to requests for information, the DEPARTMENT shall promptly notify LILCO in writing of such failure.

b. The DEPARTMENT will issue monthly progress reports, and distribute them to LILCO, the Nuclear Regulatory Commission, the Federal Emergency-Management Agency, the New York State Department of Health, the Suffolk County Legislature, and other involved and interested agencies as specified by LILCO and agreed to by the DEPARTMENT. The DEPARTMENT agrees to provide LILCO with reasonable access to all memoranda, correspondence, professional qualification records of employees performing under the contract, papers, reports, studies and similar documents prepared by or obtained by the DEPARTMENT in connection with the performance of its obligations under this contract. LILCO shall give the DEPARTMENT 7 days' notice of its intention to exercise its rights under this paragraph.

5. Supervision and Personnel.

a. All work performed by the DEPARTMENT shall be under the direct supervision of Lee E. Koppelman.

b. The DEPARTMENT represents that it has, or will secure at its own expense, all personnel required to perform the services covered by this Agreement. Such personnel shall not be employees of, or have any contractual relationship with, LILCO.

6. Compensation. LILCO agrees to reimburse the DEPARTMENT on a fixed price basis; total compensation shall be TWO HUNDRED AND FORTY-FIVE THOUSAND (\$245,000.00) DOLLARS for the services described in clause 3 "Work Statement" of this Agreement unless this Agreement is amended as provided herein. The DEPARTMENT shall be compensated according to the following payment schedule:

\$150,000.00 on execution of this Agreement;

Balance on Completion.

7. Nondiscrimination. The DEPARTMENT shall not discriminate, directly or indirectly, on the grounds of race, color, religion, sex, age, national origin, or physical handicap in its employment practices related to this Agreement. The DEPARTMENT shall take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, or national origin.

8. Interest of Contractor. The DEPARTMENT represents that it presently has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The DEPARTMENT further represents that, in the performance of this Agreement, no person having any such interest shall be employed.

9. Title of Property. Title to property acquired under this Agreement vests with the DEPARTMENT.

10. Changes in Scope. If during the period of this Agreement, any change in the relevant Federal regulations causes an increase or decrease in the DEPARTMENT's cost of, or the time required for, the performance of any part of the work under this Agreement, an equitable adjustment shall be made and this Agreement modified in writing accordingly. No charge shall be made to LILCO for any change or increase in the obligations of the DEPARTMENT requiring extra work under this Agreement, unless the parties execute such an Agreement specifying the work to be done thereunder and the cost thereof. Disputes over such an adjustment shall be resolved as provided in clause 11 "Remedies" of this Agreement.

11. Remedies. This Agreement shall be interpreted according to to the laws of the State of New York. All claims, counter-claims, disputes and other matters in question between LILCO and the DEPARTMENT arising out of or relating to this Agreement or the breach thereof shall be decided by arbitration in accordance with the rules for commercial disputes of the American Arbitration Association in the City of New York. The parties hereto agree that the determination of said arbitration shall be final and binding upon the parties hereto and that a judgment on said award may be entered as a judgment of record in the Supreme Court of the State of New York. The fees and expenses of the arbiters shall be borne equally by the parties. Claims and disputes shall be defined as any formal written complaint which remains unresolved between the parties after reasonable efforts to resolve such matters have failed.

IN WITNESS WHEREOF, LILCO and the COUNTY have executed this Agreement as of the date first above written.

- APPROVED
E. M. BARRETT
GEN'L COUNSEL
By E. M. Barrett Date 9/2/77

LONG ISLAND LIGHTING COMPANY

By: Matthew C. Cordaro
Matthew C. Cordaro, Vice-President

SUFFOLK COUNTY DEPARTMENT OF PLANNING

By: Lee E. Koppelman
Lee E. Koppelman, Director

COUNTY OF SUFFOLK

APPROVED AS TO FORM,
NOT REVIEWED AS TO EXECUTION By:

By: John C. Callagher
John C. Callagher
Chief Deputy County Executive

Alfred Jackson, Jr.
Alfred Jackson, Jr. 8/2/81
Deputy County Attorney

STATE OF NEW YORK)
COUNTY OF MASSACHUSETTS)

On this 18th day of September, 1981, before me personally came MATTHEW C. CORDARO, to me known, and known to me to be the person described in and who executed the foregoing instrument as Vice-President of the LONG ISLAND LIGHTING COMPANY, and he duly acknowledged to me that he executed the same.

Graceann Powers
Notary Public

STATE OF NEW YORK)
COUNTY OF SUFFOLK)

On this 28th day of August 1981, before me personally came LEE E. KOPPELMAN, to me known, who being by me duly sworn did depose and say: That he resides at Suffolk County, New York; that he is the Director of the SUFFOLK COUNTY DEPARTMENT OF PLANNING, described herein, and which executed the above instrument, and that it was executed by order of them, and that he signed his name thereto by like order.

Lucille Grassella
Notary Public

LUCILLE GRASSELLA
NOTARY PUBLIC, STATE OF NEW YORK
No. 44-453423
Qualified in Suffolk County
Commission Expires March 28, 1982

STATE OF NEW YORK)
COUNTY OF SUFFOLK)

On this 28th day of August 1981, before me personally came JOHN C. GALLAGHER, to me known, who being by me duly sworn did depose and say: That he resides at Suffolk County, New York; that he is the Chief Deputy County Executive of Suffolk County, and that he executed the within instrument, and that he signed his name thereto by order of the County Executive of Suffolk County.

Lucille Grassella
Notary Public

LUCILLE GRASSELLA
NOTARY PUBLIC, STATE OF NEW YORK
No. 44-453423
Qualified in Suffolk County
Commission Expires March 28, 1982

EXHIBIT A

SCOPE OF WORK

The preparation of the County Radiological Emergency Response Plan consists of nine phases. In carrying out the nine phases, the Suffolk County Department of Planning (the DEPARTMENT) will provide overall management and technical direction, and will be responsible for preparing document draft input (or modifications to existing documents), typing, printing, and distribution. In the development and effectuation of the Emergency Radiological Response Plan, the DEPARTMENT may utilize and employ the responsible County agencies and Departments to the maximum degree possible. The work already performed by LILCO, Suffolk County emergency planning organizations, the State of New York, and other New York counties surrounding operating nuclear plants in New York State will be utilized to the fullest extent practicable.

Each phase and its associated tasks is discussed below:

Phase I - Assess Suffolk County Emergency Planning Needs

The purpose of this phase is to review and assess the present status of the County emergency preparedness program and to make recommendations for a detailed program concerning schedules for both the County Radiological Emergency Response Plan and its Implementing Procedures. Based upon the results of this analysis, Suffolk County would have clear understanding of how best to accomplish its emergency planning responsibilities and could add to or modify the further phases and tasks described below. The specific tasks to be performed follow.

Task No. 1

Review and evaluate existing Suffolk County plans and procedures and determine the level of effort needed to bring them into compliance with existing regulations. Develop a schedule and an action plan that would accomplish this.

Task No. 2

Review existing evacuation plans, evacuation time estimates and public notification/communication systems with those parties involved. Develop a detailed program for upgrading or developing these plans and systems in order to meet existing requirements.

Task No. 3

Evaluate Suffolk County's independent environmental radiological monitoring capabilities and determine steps necessary to bring this capability up to the level required by Suffolk County to meet applicable Federal and State requirements. This task shall be coordinated with other work in this area done by LILCO and New York State. Methods and equipment required to perform radiological assessments to a degree desired by County officials in order to meet applicable laws and regulations will be determined.

Task No. 4

Prepare a needs analysis report which would address each aspect of Tasks 1-3; develop a detailed recommended approach to meet these needs; and provide a refined schedule for both the plan and its respective implementing procedures.

Phase II - Development of Draft Suffolk County Radiological Emergency Response Plans

The purpose of this phase would be to develop a County RERP that incorporates all necessary information and which is suitable for review by all appropriate agencies. The specific tasks to be performed follow.

Task No. 1

Perform an in-depth review of participating County government organizations and their existing radiological emergency response plans.

Task No. 2

Identify County agencies involved in emergency planning, define the authorization and responsibilities of these agencies, and identify the cognizant individuals within each agency.

Establish technical and managerial liaison with the responsible individuals in the County preparedness agency, LILCO, New York State, the Nuclear Regulatory Commission, and the Federal Emergency Management Agency.

Task No. 3

The DEPARTMENT will conduct familiarization meetings with the cognizant individuals in the County emergency preparedness agencies. The DEPARTMENT will provide guidance and background concerning the role and contribution of each agency in the emergency planning process, and recommend measures which will result in the most efficient planning activity.

Task No. 4

Identify a list of available County resources so that the overall emergency plan will make maximum use of these resources. The DEPARTMENT will develop checklists and prepare discussion agenda to ensure that the initial survey information is obtained in an orderly fashion, is properly documented, and is complete. These discussions will help determine assignment of various responsibilities to applicable emergency preparedness agencies and will also provide an effective format for identifying special emergency planning situations and/or problems.

Task No. 5

Manage the RERP development effort. The DEPARTMENT will identify individual agency tasks, responsibilities and interfaces to ensure maximum coordination and to facilitate the preparation of the draft plan.

The execution of Task No. 5 will require the completion of the following Sub-tasks.

Subtask No. 5.1

Building on the work done in Phase 1, Task 3, those agencies or organizations having some radiological assessment role during the emergency will be identified and their responsibilities will be delineated. Discussions will be held with the Department of Energy Regional Coordinating Office to determine their assistance role. The specifications, procurement and installation of this equipment is not included as part of this program.

Subtask No. 3.2

Review the existing or proposed communications network between the responsible Federal agencies, State and local officials, LILCO and field survey teams to ensure that the system is effective and reliable.

Subtask No. 3.3

Review and outline existing development of an early warning system for the general public. Individuals responsible for maintaining and actuating this system will be identified and their specific roles will be determined. Twenty-four (24) hour per day operational capability of the system shall be a program requirement.

Subtask No. 3.4

Incorporate into the County RERP the emergency action levels developed for the Shoreham Nuclear Power Station in accordance with NUREG-0610.

Subtask No. 3.5

Incorporate the prepared evacuation plans and associated time estimates into the County Plan.

Task No. 6

This task will be performed in parallel with Task No. 5, and will comprise the following subtasks:

Subtask No. 6.1

The RERP will also include the use of protective measures other than general evacuation. The following protective action response options will be developed

- Initial Precautionary Operations (i.e., institution of road blocks, etc.)
- Selective Evacuation
- Selective Sheltering
- General Sheltering
- Radioprotective Drug Administration
- Isolation of Ingestion Pathways and Sources

Subtask No. 6.2

The emergency planning needs for special facilities and/or problems will be addressed in this subtask along with the development of preliminary approaches for dealing with them. Facilities having special emergency planning needs and/or problems include, but are not limited to, the following:

- Hospitals
- Nursing/Retirement Homes
- Jails
- Recreational Areas
- Airports

Task No. 7

Prepare and issue the draft RERP for Licensee, State and local agency review and comment. This RERP shall emphasize proper and effective coordination between the responsible emergency preparedness agencies. All authorities and responsibilities, as determined in Task No. 2, will be clearly delineated in the plans.

Phase III - Preparation of Final Emergency Response Plan

The objective of this phase would be to finalize the emergency plan for submission to the Nuclear Regulatory Commission and to the Federal Emergency Management Agency. The following tasks will be completed during this phase.

Task No. 1

Conduct meetings with the responsible County emergency planning officials, the Licensee, and New York State officials to discuss their comments on the draft plan and to secure action, where necessary, to resolve outstanding concerns.

Task No. 2

Gather inputs and other information from County and State planning representatives and the Licensee as necessary to resolve outstanding differences.

Task No. 3

Finalize the County and State emergency plans by incorporating the information developed in Task No. 2. The DEPARTMENT will print and distribute the finalized plans to all parties.

Task No. 4

Coincident with Task No. 1 above, the DEPARTMENT and the cognizant emergency planning agencies will finalize the development of plans for the previously identified special emergency planning situations and/or solutions to problems.

Task No. 5

Coordinate final plan sign-off meetings, print and distribute final plans to the Licensee, State and local agencies and other organizations as designated by the County.

Phase IV - Assist in Obtaining Federal Agency Staff Concurrence With Emergency Plans

The objective of this phase is to confer with the reviewing Federal agency staffs to discuss their comments and to develop a program for obtaining agency concurrence with the plans developed in Phases I through III.

Task No. 1

Participate in meetings with the NRC, FEMA, DOT and other responsible agency staffs to discuss the plans and, to the extent possible, resolve commission and agency concerns.

Task No. 2

Discuss agency comments with the County and State emergency planning representatives and the Licensee to develop a program to resolve outstanding differences.

Phase V - Preparation of RERP Implementing Procedures

The objective of this phase is to develop detailed implementing procedures for the County Radiological Emergency Response Plan.

Task No. 1

Develop a listing of all necessary implementing procedures for the County emergency response plan. Any available local specific operating procedures will be utilized to the maximum extent feasible.

Task No. 2

Hold discussions with the County emergency planning organizations to ensure that they are fully aware of the latest Federal requirements for preparing satisfactory implementing procedures. Develop detailed outlines for each implementing procedure in cooperation with County emergency planning coordinators.

Task No. 3

The DEPARTMENT will prepare drafts of the implementing procedures and distribute them to the respective agencies for review and approval.

Task No. 4

Coordinate comments from the agencies and prepare final drafts of the procedures.

Task No. 5

The DEPARTMENT will assist the County agencies in meetings held with the NRC, FEMA, New York State, or other reviewing agencies as necessary to obtain final approval of the procedures.

Phase VI - Notification System Integration

In cooperation with LILCO and work which LILCO contracted to an independent consultant experienced in site evaluation, system design and system specification, the DEPARTMENT shall determine the resources, both administrative and physical, that are required to comply with the NRC 15-minute EPZ notification regulation and assist in review of the preparation of specification and procurement of the necessary hardware. Installation and test procedures would also be developed upon selection of a vendor. Actual installation would be accomplished by others.

Task No. 1

Review survey of the 10-mile EPZ; including demographic, topographic and geographic considerations that determine the characteristics of the required warning/notification system. Also, review the evaluation of existing notification capabilities, such as town and village fire department sirens.

Task No. 2

The DEPARTMENT will work jointly with LILCO to:

- i. select the notification system(s) that will be utilized;
- ii. review list of commercially available equipment and vendor selection/qualification; and
- iii. develop system installation and test procedures.

Phase VII - Public Education Program

Task No. 1 - Define Program Scope

During this task, the detailed scope and content of the public education information program will be identified after consultation with and concurrence by LILCO. Work completed or in progress by LILCO shall also be reviewed and evaluated. Examples of items which will be addressed include:

- brief factual information on radiation
- sources for additional information during emergency (i.e., Emergency Broadcasting System)
- guidance on respiratory protection
- protective action response options such as sheltering and evacuation
- emergency response planning areas (map)
- evacuation routes (map)
- reception center assignment and location
- provisions for identifying transit captives and those individuals requiring special handling who live in private residences
- ingestion exposure safeguards
- what plans and preparations can be made now
- things to take during evacuation (checklist)
- notification or alerting system details (sirens, etc.)
- method for notifying authorities that residents have left their homes (verification/confirmation)

Task No. 2 - Method of Dissemination

During this task, the means of disseminating the information to the public will be developed and supported by detailed procedures formulated jointly by the DEPARTMENT and LILCO. These methods could include:

- regional information centers
- periodic information in utility bills
- public service announcements (radio and TV)
- ads in periodicals (local newspapers and magazines)
- posting in public areas
- pamphlets distributed on a periodic basis
- information in the telephone book
- distribution to school children/PTA meetings
- local government/community meetings
- telephone information service

Task No. 3 - Program Implementation

During this task, the program will be implemented via procedures incorporating details developed in Tasks No. 1 and 2.

Phase VIII - Testimonial Services

At the request of Suffolk County or appropriate Federal or State agencies having jurisdiction or supervision over Emergency Response Plans, the DEPARTMENT will provide expert witness testimony before local, State and/or Federal regulatory agency boards concerning all emergency planning work performed by the DEPARTMENT.

EXHIBIT B

Guideline Documents

All finalized plans and procedures will be developed to meet NRC, FEMA, EPA and any other applicable regulatory requirements in effect at the date of the execution of this Agreement. It is the attention of the DEPARTMENT therefore, to utilize the following criteria as the basic guideline documents for the development of the appropriate plans and implementing procedures.

a. NUREG-0396

"Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants"
December, 1978

b. NUREG-0610

"Draft Emergency Action Level Guidelines for Nuclear Power Plants"
September, 1979

c. EPA-320/1-75-001

"Manual of Protective Action Guides and Protective Actions for Nuclear Incidents"
September, 1975

d. 10 CFR 50, Appendix E

"Emergency Plans for Production and Utilization Facilities"

e. NUREG-0654, FEMA-REF-1 Rev. 1

"Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants"
November, 1980.



DEPARTMENT OF PLANNING

LEE E. KOPPELMAN
DIRECTOR OF PLANNING

February 19, 1982

Long Island Lighting Company
Executive Offices
250 Old Country Road
Mineola, New York 11501

Re: Radiological Emergency Response Plan

Gentlemen:

We wish to inform you that based on current evaluation we believe an apparent conflict of interest exists in accepting your funds for the preparation of the County's Radiological Emergency Response Plan. Accordingly, we will return the funds you advanced and will not call for any further funds.

The County will continue, as required by law, to develop a plan consistent with the requirements of law and its obligation to protect the health, safety, and welfare of the people.

Very truly yours,

Lee E. Koppelman
Director of Planning

LEK:ej

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of

LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power Station,
Unit 1)

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Docket No. 50-322 (OL)-3
(Emergency Planning Proceeding)

AFFIDAVIT OF CHARLES A. DAVERIO

1. My name is Charles A. Daverio. I am Supervisor, Emergency Planning and Regulatory Services, in the Nuclear Operations Support Department of the Long Island Lighting Company (LILCO).

2. From about January 1980 until the spring of 1982, I was chairman of LILCO's Emergency Planning Task Force. In this capacity, I talked by telephone and met frequently with Robert C. Meunkle and Laura Palmer, of the Suffolk County Department of Transportation and, subsequently, the Suffolk County Planning Department, to discuss both Suffolk County's and LILCO's emergency plans. I also met with Lee E. Koppelman, Suffolk County Director of Planning, to discuss Suffolk County's plan.

3. In preparing the LILCO Transition offsite emergency plan, LILCO relied directly on certain of the County planning efforts. For example:

1) Evacuation Zones: The map of evacuation zones (Figure 3 in Appendix A of the County plan), developed by Suffolk County, was used by LILCO in developing its protective action recommendations.

2) Prompt Notification System: The concept of the use of sirens and tone alerts for public notification came from the original County plan. The placement of the sirens by LILCO was influenced by the County evacuation zone map (Figure 3 mentioned above). The original list of facilities that were to receive tone alerts was developed by the Suffolk County planners, and was used by LILCO in distributing tone alerts.

3) Schools. The concept of early dismissal of school children during an emergency to enable families to leave together, rather than evacuating children directly from schools to relocation centers, was taken from the County plan.

4) LIRR. The concept of using the Long Island Railroad to evacuate hospital patients was taken from the County plan.

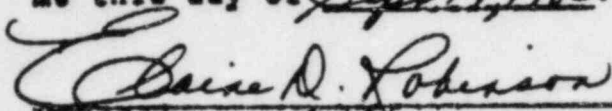
5) Hospitals. The assignment of certain hospitals for use in relocating hospital patients evacuated from the emergency planning zone was taken from the County plan.

6) Bus Transfer Points. The concept of using bus transfer points, and the specific location of those points, were taken from the County plan.



Charles A. Daverio

Subscribed and sworn to before
me this day of Sept. 19, 1983.



Notary Public

4624070 exp 03/30/84
Suffolk County