

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges
James A. Laurenson, Chairman
Dr. Jerry R. Kline
Mr. Frederick J. Shon

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In the Matter of
LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Power Station,
Unit 1)

Docket No. 50-322-OL-3
(Emergency Planning Proceeding)
September 30, 1983

ORDER RULING ON OBJECTIONS TO
SPECIAL PREHEARING CONFERENCE ORDER

Suffolk County ("the County") and the Town of Southampton ("Southampton") filed objections to certain portions of our unpublished "Special Prehearing Conference Order" dated August 19, 1983. Both parties object to the failure of the Board to admit certain proposed contentions. The County objects to our decision to deny the following Contentions: 22.A-C, 12, 13, 26.B, 35-38, 43 and 85. Southampton objects to our denial of Contentions 22.A-C.

Contention 22

The County devotes ten pages of its "objections" to the Board's determination that Contentions 22.A-C were not admissible. Southampton's only separately stated objection is to that same ruling.

The County asserts that the Board mischaracterized the contents of the Contention and misapplied Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), LBP-82-9, 15 NRC 1163 (1982).

We note that in all the written and oral presentations since Contention 22 was submitted, the County has been attempting to show that it is not really challenging the NRC Regulation. The County fails. Contention 22 speaks for itself as follows: "Intervenors contend that LILCO's proposed 10-mile EPZ is inadequate in size. Under the site specific circumstances existing on Long Island, an EPZ larger than 10 miles and perhaps as large as 20 miles is necessary." Revised Emergency Planning Contentions at 38.

Contention 22.A states in pertinent part:

The radiological consequences of a severe accident at Shoreham are likely to be experienced at serious levels at distances greater than 10 miles from the plant. A Shoreham-specific consequence analysis (F.C. Finlayson and Edward P. Radford, "Basis for Selection of Emergency Planning Zones for the Shoreham Nuclear Power Plant, Suffolk County, New York," (Draft), October 1982) has been conducted which takes into account, among other things, the meteorological and topographic characteristics of the areas surrounding the Shoreham plant. This analysis based on local conditions demonstrates that in the event of a core-melt accident at Shoreham, there could be doses far in excess of PAG levels at the edge of the 10-mile EPZ proposed by LILCO.

In the event of an especially severe Shoreham accident, persons in areas beyond the LILCO 10-mile EPZ would have a 35 percent chance of receiving 200 rems and a 60 percent chance of receiving 30 rems. (200 rems represents the threshold level for early deaths; 30 rems is

the level at which detectable damage to the body occurs). Even in the event of a less severe accident, persons in areas beyond the LILCO 10-mile EPZ would have a 50 percent chance of receiving 10 rems, and a 20 percent chance of receiving 30 rems. These projected doses are well above PAG levels. At 20 miles from the plant, there is less than a one percent chance of receiving a 30 rem dose (detectable physical damage can result from such a dose) for the spectrum of representative core melt accidents. For more severe core melt accidents, at 20 miles there is less than a one percent chance of receiving 200 rems. . . .

Id. at 38-39.

The County submits no new authority in support of its arguments. Regarding Contentions 22, 22.A, and 22.C we find nothing in the County's objections that requires an answer. We ratify our original ruling and the reasons for it.

However, Southampton protests the exclusion of Contention 22.B and we find that a further explanation is in order. In essence, Contention 22.B asserts that advance planning, as opposed to ad hoc planning, is required beyond the 10-mile EPZ because of the eight alleged "distinguishing characteristics." To the extent that this contention asserts that ad hoc emergency response outside the 10-mile EPZ would be impossible, it must be rejected as a challenge to § 50.47(c)(2). To the extent that 22.B challenges the LILCO Plan in specific matters, viz. transient population, inadequate roads, adverse weather, etc., these concerns have already been asserted in other contentions which we have admitted. The concerns about the seasonal increase in the transient and dispersed population may be considered under Contentions 16, 59 and 61; the problems concerning inadequate roads and the lack of an exodus to

the east may be raised under Contention 65; the adverse weather problems may be considered under Contention 97; and the evacuation shadow phenomenon is addressed in Contention 23. Thus, we find that the alleged "distinguishing characteristics" asserted in Contention 22.B, at best, raise concerns already admitted in other contentions. Accordingly, we reaffirm our prior decision to deny admission to Contentions 22, 22.A, 22.B and 22.C.

Contention 12

Contention 12 covers two pages. We find the essence of this contention to be as follows: "LILCO personnel will not be able to exercise proper or effective command and control of response to a Shoreham emergency because" they "will not be adequately familiar with the site-specific conditions in Suffolk County; many of the command and control personnel do not reside or work in the Shoreham vicinity and thus will not have the day-to-day familiarity with conditions in Suffolk County; Intervenor do not believe that such familiarity can be taught to LILCO personnel" We denied this contention because of a lack of basis. The County requests an explanation.

First, Intervenor cite no requirement for the proposition that command and control emergency response personnel must live near the site. To the extent that the contention asserts that LILCO will be unable to adequately train its emergency personnel, the contention is

redundant to Contention 40 which asserts that LILCO's training of emergency personnel will not compensate for their lack of knowledge.

Contention 13

Contention 13 deals with the claim that LILCO will not be able to exercise effective command and control over non-LILCO organizations which have agreed to participate in the Plan. The Board rejected part of this contention because there was no basis for the assertion that indemnification was necessary to assure the proper response of non-LILCO support personnel. The County does not challenge that part of our ruling. However, the County claims that there is still merit in the contention and that it has established a proper basis and specificity for it. We disagree. The claims of conflicts with "normal chains of command" and that non-LILCO "organizations have their own emergency plans and procedures" fail for a lack of specificity and basis. It amounts to mere speculation.

Contention 26.B

This contention asserts that LILCO's reliance upon nondedicated commercial telephone lines for notification of emergency response personnel is inappropriate and "means that there can be no assurance that the Plan can or will be implemented." We denied admission of this contention for the reasons which follow:

The subject matter of this subcontention is the alleged inadequacy of nondedicated commercial telephone lines for notification

of emergency response personnel. Contention EP11 specifically addressed this issue during Phase I of this proceeding; that contention was dismissed as a sanction for the Intervenor's intentional failure to comply with orders of the Board, ("Memorandum and Order Confirming Ruling on Sanctions for Intervenor's Refusal to Comply with Order to Participate in Prehearing Examinations," LBP-82-115, 16 NRC 1923, December 22, 1982). We will not relitigate issues which were raised in Phase I.

Special Prehearing Conference Order at 15-16 (August 19, 1983). The County argues that this matter was not within the scope of Phase I and, in the alternative, that even if it was within the scope of Phase I, the "impact of such matters" concerning offsite emergency preparedness could not have been litigated during Phase I. The same arguments were made by the County in its "Suffolk County Response to LILCO's Objections, etc." at 78-79. We again reject the County's arguments and adhere to our prior ruling.

Contentions 35-38

We denied admission of Contentions 35, 36, 37 and 38 for the reason that they dealt with training of emergency personnel and the training materials are unavailable at this time. Thus, we found that these contentions were unacceptably vague or imprecise because of the absence of a licensing related document. The County objects to our ruling because the "late filed contention" standard will make it more difficult to submit such contentions when the documents become available and it is unfair to "saddle" the County with this requirement where the sole cause of this delay is LILCO's failure to file on time. Although we

sympathize with the County's argument, we are required to follow the Commission's precedent as articulated in Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), CLI-83-19, 17 NRC _____ (June 30, 1983). See also Public Service Co. of New Hampshire, (Seabrook Station, Units 1 and 2), CLI-83-23, 17 NRC _____ (September 19, 1983). Accordingly, the County's objections to this ruling are overruled.

However, we believe the Intervenor is entitled to prompt notice from LILCO upon completion of the training materials. LILCO is ordered to notify the Board when it considers its training materials to be complete. Within ten days of this Order, LILCO shall file its best estimate of the date on which its training materials will be completed and available.

Contention 43

This contention asserts that because many LILCO personnel are not area residents, they will be unfamiliar with local conditions in the EPZ and training cannot serve as a substitute for such experience. This contention is similar to Contention 12 which we discussed at length, supra. We denied the admission of this contention for a lack of basis. We adhere to our prior ruling for the reasons stated therein.

Contention 85

This contention asserts that the LILCO Plan is deficient because it merely states that a plan for recovery and reentry will be developed. The County claims that the absence of such a plan at this time is

contrary to the requirement of 10 CFR § 50.47(b)(13) that "general plans for recovery and reentry are developed," and to the provisions of NUREG-0654, Section II.M. We denied admission of this contention because we saw no basis for the contention. However, upon reexamination of the contention and the citations of authority, we conclude that our decision of August 19, 1983 on Contention 85 was in error. Accordingly, we allow the objection to our ruling on this contention and admit Contention 85.

ORDER

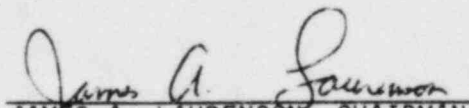
WHEREFORE, IT IS ORDERED that Intervenor's objections to the Board's Special Prehearing Conference Order of August 19, 1983 are DENIED as to the following Contentions: 22 (including A, B, and C), 12, 13, 26.B, 35-38 and 43.

IT IS FURTHER ORDERED that Intervenor's objection to the Board ruling on Contention 85 is GRANTED and Contention 85 is ADMITTED.

IT IS FURTHER ORDERED that LILCO notify the Board within 10 days of LILCO's best estimate of the date on which its training documents will be available.

IT IS FURTHER ORDERED that LILCO shall notify the Board upon completion of preparation of training materials.

ATOMIC SAFETY AND
LICENSING BOARD


JAMES A. LAURENSEN, CHAIRMAN
Administrative Law Judge

Bethesda, Maryland