

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)
(Shoreham Nuclear Power Station,	)	
Unit 1)	)	

NRC STAFF RESPONSE TO "SUFFOLK COUNTY'S MOTION  
FOR RECONSIDERATION OF ORDER SCHEDULING  
DOCUMENT DISCOVERY REQUESTS ON SUFFOLK COUNTY  
PROPOSED SUPPLEMENTAL DIESEL GENERATOR CONTENTIONS"

I. INTRODUCTION

In an Order dated February 2, 1984,<sup>1/</sup> the Licensing Board noted that, in the event some or all of Suffolk County's supplemental diesel generator contentions are admitted as issues in controversy, it would assist the efficiency of the proceeding to have all additional discovery requests for documents made by a received date of February 17, 1984.

Suffolk County in a motion dated February 8, 1984,<sup>2/</sup> has moved the Licensing Board to reconsider and vacate the Discovery Order on the basis of matters and information discussed in the County's motion which,

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- 1/ "Order Scheduling Document Discovery Requests on Suffolk County Proposed Supplemental Diesel Generator Contentions." (Discovery Order)
- 2/ "Suffolk County's Motion for Reconsideration of Order Scheduling Document Discovery Requests on Suffolk County Proposed Supplemental Diesel Generator Contentions."

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according to the County, the Board may not (and in some cases, would not have) considered before issuing said Order. Pursuant to the Licensing Board's Order of February 9, 1984,<sup>3/</sup> and for the reasons noted below, the NRC staff supports the County's Motion for Reconsideration.

## II. DISCUSSION

The County sets forth three bases for its argument that the February 17, 1984 deadline for document requests is not only extremely inefficient and wasteful for the County but would significantly prejudice the County's ability to obtain information relevant to the proposed supplemental diesel generator contentions and to prepare for litigation.

First, the County states that the Discovery Order in question requires the County to spend considerable time, effort and money to have its attorneys and consultants review and analyze all documents known to exist and to anticipate all documents which may exist before the supplemental contentions proffered by the County have been admitted and before the Conference of Counsel scheduled by the Board to be held on February 22, 1984. Secondly, the County asserts that even assuming that all its proposed supplemental contentions are admitted and the County has adequately identified all the issues, the Discovery Order does not allow the County sufficient time to prepare a comprehensive document

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<sup>3/</sup> "Order for Responses to Suffolk County's Motion for Reconsideration of Order Scheduling Document Discovery Requests on Suffolk County Proposed Supplemental Diesel Generator Contentions."

discovery request. Lastly, the County notes that the Discovery Order, while it does not bar discovery of documents prepared in the future, fails to recognize that the County will be unable to identify and request many relevant existing documents except by reference to other documents produced upon request. The Staff is of the view that all of the County's concerns are well taken under the circumstances of this proceeding.<sup>4/</sup>

### III. CONCLUSION

For the reasons noted above, the NRC staff supports the County's Motion for Reconsideration of the Board's Discovery Order dated February 2, 1984. The Staff further suggests that the setting of schedules, including requests for production of documents, be fully discussed at the Conference of Counsel presently scheduled for February 22, 1984.

Respectfully submitted,

*Bernard M. Bordenick*

Bernard M. Bordenick  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 13th day of February, 1984

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<sup>4/</sup> Because of the unique nature of the Staff's review of an operating license application, and the fact that many of the matters under consideration during this review frequently do not relate to contested issues, the Staff traditionally does not utilize the formal discovery procedures of 10 C.F.R. 2.740a, 2.740b or 2.741 in seeking and obtaining information from an applicant. However, the Staff's review of the emergency diesel generators is continuing, and during the course of this review the Staff will also, in all likelihood, be obtaining further documents from the applicant and Transamerica Delaval, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO SUFFOLK COUNTY'S MOTION FOR RECONSIDERATION OF ORDER SCHEDULING DOCUMENT DISCOVERY REQUESTS ON SUFFOLK COUNTY PROPOSED SUPPLEMENTAL DIESEL GENERATOR CONTENTIONS" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 13th day of February, 1984.

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