



Commission's Order of April 30 which vacated the schedule adopted for that hearing by the Licensing Board.

2. The scheduling of any hearing on a LILCO exemption request should remain flexible pending a determination of the issues which would actually be put into controversy. The reason this is important is that the Commission does not now have the slightest idea of what LILCO might file and how the County and other parties might respond. The complexity of LILCO's filing would be one ingredient to be considered by the Board in setting a schedule. However, of equal importance would be the extent to which the County and other parties would present affirmative cases of their own under the criteria of Section 50.12 and other pertinent regulations. Obviously, major presentations of affirmative cases by other parties would increase pre-trial discovery needs and burdens of each of the parties. Therefore, the Commission should instruct the Board, in setting a schedule, to be flexible and sensitive to the actual situation which develops.

3. The Commission should make clear that a pre-hearing schedule should not begin to run until the Board makes a finding that any LILCO exemption request is sufficiently complete with requisite information and factual support to permit the proceeding to go forward. The County is concerned that a LILCO filing may be skeletal and may not contain sufficient information to permit the County to proceed promptly with meaningful discovery. If this were to occur, valuable and limited time


would be lost while the pre-hearing clock would nevertheless be running.

4. The Commission should make clear that any pre-hearing schedule should provide time for the County and other parties to file motions for disposition as a matter of law of any LILCO exemption request under Section 50.12(a). This Section specifically requires that an exemption be "authorized by law." In the event LILCO requests action not so authorized, the parties should be permitted to move for immediate disposition of LILCO's request, rather than being required to go through the process of compiling a factual hearing record which would not be germane to resolution of the legal issue.

5. The Commission should make clear that if LILCO requests an exemption, the "common defense and security" standard of Section 50.12(a) and the separate "high assurance" security standard of Part 73, which is applicable under Section 50.57(c), are to be appropriately treated as safeguards matters in accordance with the Commission's regulations. Moreover, such treatment would necessarily have a direct impact on the scheduling of both pre-hearing and hearing activities.

Respectfully submitted,

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May 21, 1984

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Commission

\_\_\_\_\_  
In the Matter of )  
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 )

LONG ISLAND LIGHTING COMPANY )

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

Docket No. 50-322-OL-4  
(Low Power)

CERTIFICATE OF SERVICE

I hereby certify that copies of the REQUEST FOR CLARIFICATION OF COMMISSION'S ORDER OF MAY 16, 1984, dated May 21, 1984, have been served to the following this 21st day of May 1984 by U.S. mail, first class, by hand when indicated by two asterisks, and by telecopier when indicated by one asterisk.

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