

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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USNRC

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Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

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

SUFFOLK COUNTY'S RESPONSE TO
LILCO'S MOTION TO SUBMIT SUPPLEMENTAL
EXHIBIT OR TO STRIKE NEW YORK EXHIBIT 3

On May 22, 1984, LILCO moved this Board to admit into evidence a letter dated April 18, 1984 from Frank Mancuso (apparently the State Director of the Office of Civil Preparedness for the State of Connecticut) to Dr. David Axelrod, the New York State Commissioner of Health. (LILCO's Motion To Submit Supplemental Exhibit or to Strike New York Exhibit 3, May 22, 1984 [hereinafter "motion"]). That letter admits that there is no letter of agreement between the State of New York and Connecticut concerning the Shoreham plant.

The County fully supports the State of New York's opposition to LILCO's motion (Response of Governor Mario M. Cuomo, Representing the State of New York, in Opposition to "LILCO's Motion to Submit Supplemental Exhibit or to Strike New York Exhibit 3") and submits that LILCO's motion should be denied on the grounds asserted by the State. The County also makes the following addi-

tional observations. First, LILCO's motion appears to be founded on the baseless assumption that a party can introduce and move exhibits into evidence based solely on arguments of counsel contained in a motion. There is absolutely no precedent for such a procedure, nor is it supported by any existing NRC regulation or caselaw. Indeed, LILCO's motion failed to cite any support for the curious procedure it proposes. The arguments of counsel contained in a motion do not constitute a proper foundation for the admission of evidence and LILCO's attempt to circumvent the requirement for a proper evidentiary foundation should be rejected out of hand.

In addition, LILCO's proposed supplemental exhibit provides no additional information which is not already in the record. The record reflects that there is no existing agreement with the State of Connecticut regarding the Shoreham plant. The letter LILCO proposes to offer into evidence is therefore cumulative and should be rejected by this Board. 10 CFR Section 2.743(c).

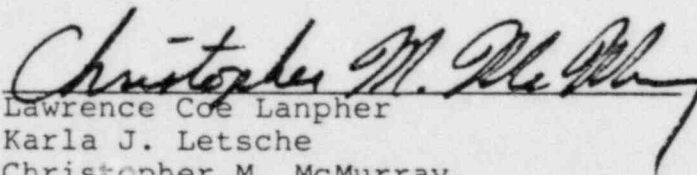
Finally, LILCO's alternative motion to strike New York's exhibit EP-3 is without basis. Not only is LILCO's motion in this regard untimely, but New York's exhibit EP-3 is clearly relevant and not cumulative. LILCO does not argue otherwise. Thus, LILCO has not shown good cause for striking New York's exhibit EP-3.

Conclusion

For the reasons stated above, LILCO's Motion to Submit Supplemental Exhibit Or To Strike New York Exhibit 3 should be denied.

Respectfully submitted,

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Dated: June 4, 1984

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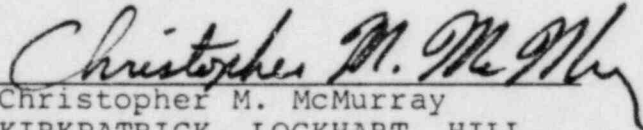
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* By Hand
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By Federal Express