

520

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'84 JUN -7 AIO:26

Before Administrative Judges
Marshall E. Miller, Chairman
Glenn O. Bright
Elizabeth B. Johnson

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

SERVED JUN 7 1984

In the Matter of
LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Generating Plant,
Unit 1)

Docket No. 50-322-0L-4

June 5, 1984

ORDER DENYING STAY MOTION OF SUFFOLK COUNTY
AND STATE OF NEW YORK

On June 1, 1984 there was filed, before the Commission and this Board, a self-styled "Joint Motion of Suffolk County and the State of New York For the Commission's Prompt Attention to and Ruling on Pending County and State Motions and For Stay of Inconsistent ASLB Orders in the Interim."

Apparently the Intervenors have file a number of motions with the Commission. This Joint Motion of June 1 is the first and only mction or other filing by the Intervenors with this Board, and the motion for stay is the only matter addressed to us or which we will consider under the applicable Rules of Practice. Incidentally, we do not commend the practice of filing concurrent motions by the contrived device of

8406070323 840605
PDR ADOCK 05000322
G PDR

add: J. Gorn
OCA

DS02

captioning filings as "Before the Commission and Before the Atomic Safety and Licensing Board." We do not have concurrent jurisdiction with the Commission, which is at the apex of NRC appellate jurisdiction.

On May 31, 1984 this Board entered two Orders, one of which established the schedule for the resumed hearing. No good cause has established by the Intervenor for staying this schedule in any respect, and the Order is reaffirmed. Time has already begun to run on this schedule, which gave the Intervenor slightly more time for discovery and preparation for trial than the Commission had suggested as guidance in its Order of May 16, 1984 (CLI-84-8, 19 NRC ___).

Similarly, no good cause has been shown for us to stay the Order Denying LILCO's Motion For Expedited Responses to Summary Disposition Motions, entered May 31, 1982. The Intervenor's Joint Motion to stay this resumed proceeding is denied. 10 CFR §2.730(g) provides:

Effect of filing a motion or certification of question to the Commission. Unless otherwise ordered, neither the filing of a motion nor the certification of a question to the Commission shall stay the proceeding or extend the time for the performance of any act.

It is so ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

Marshall E. Miller
Marshall E. Miller, Chairman
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland
this 5th day of June, 1984.