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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION '84 JUN 11 P1:26

BEFORE THE COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

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

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

NRC STAFF RESPONSE TO JOINT MOTION OF
SUFFOLK COUNTY AND THE STATE OF
NEW YORK TO STRIKE THREE LILCO PLEADINGS

Robert G. Perlis
Counsel for NRC Staff

June 8, 1984

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| Unit 1) |) | |

NRC STAFF RESPONSE TO JOINT MOTION OF SUFFOLK COUNTY
AND THE STATE OF NEW YORK TO STRIKE THREE LILCO PLEADINGS

On May 22, 1984, LILCO filed before the Licensing Board a "Motion for Prompt Responses to LILCO's Summary Disposition Motions" along with Motions for Summary Disposition of Phases I and II of its application for a low power license. Two days later, Suffolk County and the State of New York filed with the Commission a Joint Motion to Strike LILCO's three motions. The Staff herein responds to the Joint Motion to Strike.

As to the request to strike LILCO's Motion for Prompt Responses, it should be noted that the Licensing Board has already denied the Motion.^{1/} It thus appears that this aspect of the Joint Motion is moot, and no Commission action is necessary.

^{1/} "Order Denying LILCO's Motion for Expedite Responses to Summary Disposition Motions, " May 31, 1984.

As to the request to strike LILCO's Motions for Summary Disposition, the Staff addressed this same subject in its Response of June 5, 1984 to various Motions for Clarification filed by the County and State (at pr. 6-7). It is clear from the Motion to Strike that the State and County believe LILCO's Motions for Summary Disposition must be denied as seeking a license unauthorized by law. What remains unclear, however, is why the County and State continue to believe some mechanism other than that provided by 10 C.F.R. § 2.749 is needed to press their claims. Motions for summary disposition can be opposed on legal as well as factual grounds; the Licensing Board in its May 31st Order has directed the parties to file responses to LILCO's Motions within the time period called for by Section 2.749. The Staff once again submits that there is simply no need for Commission involvement at this time; any issue sought to be raised in opposition to LILCO's Motions for Summary Disposition can be raised by the State and County in their responses to be filed with the Licensing Board in accordance with the Board's Order of May 31, 1984.

For the reasons presented herein, the Staff submits that the Joint Motion to Strike should be denied.

Respectfully Submitted,



Robert G. Perlis
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 8th day of June, 1984

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO JOINT MOTION OF SUFFOLK COUNTY AND THE STATE OF NEW YORK TO STRIKE THREE LILCO PLEADINGS" 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 8th day of June, 1984.

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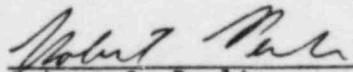
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