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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges
Marshall E. Miller, Chairman
Glenn O. Bright
Elizabeth B. Johnson

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

Docket No. 50-322-OL-4
(Low Power)
June 20, 1984

ORDER GRANTING LILCO'S MOTION IN LIMINE

On June 2, 1984, LILCO filed a "Motion for Protective Order and Motion in Limine" to preclude discovery upon or consideration of security issues in this proceeding. Suffolk County and the State of New York filed a joint response in opposition to the LILCO motion on June 14, 1984. The NRC Staff responded on June 19, 1984, saying, "the NRC Staff supports this motion in the present posture of this proceeding" (Response at 1). Also on June 19, LILCO moved pursuant to 10 CFR §2.730(c) for leave to file a reply to the County and the State's opposition to its motion.¹

¹In view of our disposition of LILCO's motion in limine, we do not address nor rely upon LILCO's motion for leave to file a reply.

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Add:
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Our disposition of LILCO's motion in limine is based upon the record before us regarding a prior security settlement agreement entered into by Suffolk County on November 24, 1982. A Memorandum and Order Canceling Hearing, Approving Final Security Settlement Agreement, and Terminating Proceeding, was entered on December 3, 1982, by a Licensing Board specially established to rule upon such security planning issues (copy appended hereto as Attachment A).

The Order of December 3, 1982, stated:

Suffolk County (hereinafter "the County") and Long Island Lighting Company (hereinafter "LILCO") held numerous meetings and negotiations concerning the security contentions of the County. Periodic reports were filed by the parties. Finally, on November 24, 1982, all parties herein filed the "Final Security Settlement Agreement."

II. FINAL SECURITY SETTLEMENT AGREEMENT

The Final Security Settlement Agreement signed by LILCO, the County, and NRC Staff contains safeguards information which is protected and will not be restated here. 10 CFR §73.21. As pertinent here, the Agreement provides that the agreed upon actions "respond to and satisfy the County's security concerns.... Accordingly, the County finds that its nine security contentions are resolved." Id. at 4-5. The Agreement concludes as follows: "Based on the foregoing, the County, LILCO and the Staff jointly urge the Board to accept this Agreement and to terminate litigation of the County's nine security contentions." Id. at 33.

That Final Security Agreement, signed by Suffolk County and others, was approved, and thereby became final and binding upon all parties.² The State of New York could have contested such issues but did not do so at the time, and it is bound thereby. Accordingly, issues in regard to security no longer exist in this proceeding. It has also been held that an application for a low-power license "does not open the proceeding for a new round of contentions."³

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 20th day of June, 1984.

²A Memorandum and Order entered April 11, 1983, stated that the December 3, 1982 Order was a final appealable order, not subject to further consideration.

³Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-728, 17 NRC 777, 801 (1983).

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges

James A. Laurenson, Chairman
Dr. Walter H. Jordan
Dr. Jerry Harbour

In the Matter of)	Docket No. 50-322-OL-2
)	ASLBP No. 82-478-05-OL
LONG ISLAND LIGHTING COMPANY)	(Security Proceeding)
)	
(Shoreham Nuclear Power Station, Unit 1))	December 3, 1982

MEMORANDUM AND ORDER CANCELING HEARING, APPROVING FINAL
SECURITY SETTLEMENT AGREEMENT, AND TERMINATING PROCEEDING

I. JURISDICTION AND PROCEDURAL HISTORY

On August 24, 1982, at the request of the Atomic Safety and Licensing Board previously established to preside in the operating license proceeding, this Board was established "to continue to guide ongoing settlement efforts by the parties with respect to security planning issues and to preside over the proceeding on those issues only in the event that a hearing is required." Thereafter, Suffolk County (hereinafter "the County") and Long Island Lighting Company (hereinafter "LILCO") held numerous meetings and negotiations concerning the security contentions of the County. Periodic reports were filed by the parties. Finally, on November 24, 1982, all parties herein filed the "Final Security Settlement Agreement."

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II. FINAL SECURITY SETTLEMENT AGREEMENT

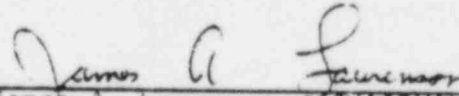
The Final Security Settlement Agreement signed by LILCO, the County, and NRC Staff contains safeguards information which is protected and will not be restated here. 10 CFR § 73.21. As pertinent here, the Agreement provides that the agreed upon actions "respond to and satisfy the County's security concerns.... Accordingly, the County finds that its nine security contentions are resolved." Id. at 4-5. The Agreement concludes as follows: "Based on the foregoing, the County, LILCO and the Staff jointly urge the Board to accept this Agreement and to terminate litigation of the County's nine security contentions." Id. at 33.

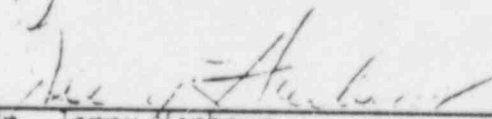
The Nuclear Regulatory Commission recognizes and encourages fair and reasonable settlement of contested issues. 10 CFR § 2.759. We have considered the nine security contentions of the County, the Agreement of all parties to resolve those contentions, and the Commission's policy encouraging settlement. Accordingly, we conclude that the Agreement is fair and reasonable and should be approved. The parties and their counsel are deserving of a special commendation for their outstanding efforts which led to a resolution of the security contentions in this proceeding. We find no need to compel further appearances by the parties, and, hence, the hearing scheduled for Monday, December 13, 1982, is canceled.

ORDER

WHEREFORE, IT IS ORDERED this 3rd day of December, 1982, at Bethesda, Maryland, that the Final Security Settlement Agreement is APPROVED; the joint request to terminate this proceeding is GRANTED; the hearing previously scheduled for Monday, December 13, 1982, is CANCELED; and this proceeding is hereby DISMISSED.

ATOMIC SAFETY AND LICENSING BOARD


James A. Laurenson, CHAIRMAN


Dr. Jerry Harbour

Dr. Walter H. Jordan concurs in this Memorandum and Order but was unavailable to sign it.