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RELATED CORRESPONDENCE

LILCO, June 21, 1984

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
LONG ISLAND LIGHTING COMPANY	)	Docket No. 50-322-OL-4
	)	(Low Power)
(Shoreham Nuclear Power Station, Unit 1)	)	
	)	

MOTION FOR PROTECTIVE ORDER

Long Island Lighting Company (LILCO), by counsel, moves for a protective order prohibiting the deposition of George J. Sideris or any other LILCO employee or consultant concerning the issues of LILCO's financial qualifications to operate the Shoreham Nuclear Power Station, whether it is prudent to engage in low power testing absent assurance that a full power license will be granted and possible uncertainties concerning LILCO's financial health. In support of this motion, LILCO says as follows:

1. Among the "public interest factors" which LILCO enumerated in support of its Application for Exemption was the potential savings to the Company from advancing the eventual date of commercial operation by concluding low power testing

add'.
J. Gorn OGA

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early.1/ The sole issue involved in this consideration is whether there will be any potential economic benefit from performing the requested low power testing in advance of the ultimate licensing of TDI diesels or other emergency diesel generators at Shoreham. Upon resolution of the diesel generator issue, LILCO would have the right to engage in low power testing as determined by the Partial Initial Decision in this case. Accordingly, there is no question of whether low power testing should be performed but only a question of the benefits of performing it earlier.

2. On June 11, 1984, Suffolk County served its Second Discovery Request to LILCO Relating to LILCO's Application for Exemption (Attachment A). This Second Discovery Request was objectionable in multiple respects, including the following:

1/ In its Application for Exemption, LILCO erroneously asserted that the savings may be $90,000,000 to $135,000,000. Although the actual cost of Shoreham to the Company will be approximately $90,000,000 to $135,000,000 over the two to three month period involved, further investigation has indicated that the actual savings will be less. The issue raised, however, is the same - whether substantial savings might potentially accrue if low power testing is permitted prior to licensing of the TDI diesels.

(a) The Second Discovery Request consisted mainly of interrogatories. In its Memorandum and Order Scheduling Hearing on LILCO's Supplemental Motion for Low Power Operating License dated April 6, 1984, at p. 16, the Licensing Board directed that discovery in this case consist of document requests and depositions only.

(b) All of the requests are not relevant to the subject matter of this proceeding and are not reasonably calculated to lead to the discovery of admissible evidence. The requests may generally be characterized as seeking all financial and/or economic information concerning LILCO's operations, cash flow and financial health. They appear to be calculated to address the question of LILCO's financial qualifications to operate the plant, whether it is prudent to engage in low power testing absent assurance that a full power license will be granted and possible uncertainties concerning LILCO's financial health.

(c) The discovery requests are burdensome and oppressive.

(d) The Second Discovery Request is not timely inasmuch as responses to document production under the applicable regulations are not due within the discovery period set by the Board.

These objections are more fully set forth in Objections to Suffolk County's Second Discovery Request to LILCO Relating to LILCO's Application for Exemption (Attachment B).

3. On June 14, 1984, LILCO deposed J.M. Madan and Michael Dirmeier, economic consultants from the Georgetown Consulting Group retained by Suffolk County. Although neither consultant had then reached any opinions, each testified that the focus of his inquiry was "financial considerations, economic considerations and public interest considerations." Upon further questioning, it became evident that the focus of their work is (a) whether it would be prudent to begin low power testing in the face of uncertainties concerning the issuance of a full power license and given the potential costs of decommissioning the plant if a full power license is not granted, (b) whether LILCO's financial condition renders it unqualified to operate Shoreham safely, and (c) the impact of

possible uncertainties concerning LILCO's financial health and the perceived threat of reorganization.2/ Messrs. Madan and Dirmeier testified that they had reached no conclusions on these matters because they were waiting for LILCO's responses to the Second Discovery Request. They testified that they participated in the drafting of the Second Discovery Request and that each paragraph of the Second Discovery Request was relevant to the issues into which they intended to inquire as described above.3/

2/ There were other, more particular, potential areas of inquiry subsumed in these three issues.

3/ The lack of opinions by Messrs. Madan and Dirmeier was surprising in view of their having submitted an affidavit in support of Suffolk County's opposition to LILCO's summary dispositon motions. (Affidavit of Michael D. Dirmeir and Jamshed K. Madan). That affidavit contained a plethora of positive assertions about LILCO's financial qualifications to conduct Phase I and II low power activities. Yet, Mr. Dirmeier acknowledged, for example, that he had no knowledge of facts to support the assertion in paragraph 5 that "in order to conduct the proposed Phase I and Phase II activities, LILCO will certainly need to expend monies in addition to those which it currently is expending on Shoreham." In short, Mr. Dirmeier's "certainty" was no more than speculation and is representative of Suffolk County's willingness to construe loosely the oath taken by an affiant. As importantly, it depicts the fishing expedition which Suffolk County seeks to conduct into the financial qualifications issue.

4. At approximately 1:00 p.m. on June 20, LILCO received a telecopied letter from counsel for Suffolk County (Attachment C) advising of Suffolk County's intent to depose George J. Sideris, "LILCO's principal financial officer on July 21, July 22 or July 25. The basis for the request to depose Mr. Sideris is allegedly LILCO's objection to the Second Discovery Request.

5. The deposition of Mr. Sideris will not lead to the discovery of information relevant to the subject matter of this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. To the extent that deposition is being sought as a substitute means of discovery for the Second Discovery Request, it is being taken to inquire into issues which are simply not material here.

(a) LILCO's financial qualifications to engage in low power testing is not an issue in this proceeding. In its Financial Qualification Statement of Policy, 49 Fed. Reg. 24111 (June 12, 1984), the Commission has indicated that financial qualifications are not an issue for consideration in operating license proceedings.4/

4/ Moreover, any attempt to raise financial qualification issues in this proceeding is untimely. According to Messrs.

(cont'd)

(b) Similarly, the question of uncertainty concerning the ultimate licensing of Shoreham is not an issue in these proceedings. The Commission has on at least two occasions held that any uncertainty attendant to whether LILCO may receive a full power license for Shoreham does not preclude low power testing. Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), CLI-84-9, 19 NRC ____ (1984); Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), CLI-83-17, 17 NRC 1032 (1983).

(c) As importantly, any consideration of the uncertainty concerning the granting of a full power license and the possible costs of decommissioning the plant has no relevance to the economic potential benefit which LILCO described in its Application for Exemption. All issues germane to LILCO's low power operating license have been favorably resolved in the

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(cont'd)

Madan and Diermier, "[b]eginning in 1983, LILCO's financial condition and the perception of that condition by the financial community deteriorated rapidly." Affidavit of Michael D. Diermeier and Jamshed K. Madan, at 10.

Partial Initial Decision, but for issues concerning the diesel generators. Thus, once LILCO has qualified diesel generators, there will be no litigable issues pertinent to low power. By requesting the exemption, LILCO merely seeks to engage in low power testing in advance of resolution of the diesel generator issue. As stated above, the question is not whether LILCO will engage in low power testing -- it will as soon as the diesel generator issue is resolved -- but whether there is any advantage to commencing such low power testing early.

6. LILCO has identified Anthony Nozzolillo as its witness concerning the potential economic benefit. Suffolk County is scheduled to depose Mr. Nozzolillo on June 28. In contrast, Mr. Sideris will not be a witness and there has been no showing that Mr. Sideris has any unique knowledge of the potential economic benefit. Accordingly, there is no need for the County to depose Mr. Sideris concerning the limited issues raised by LILCO's Application for Exemption.

7. The request to depose Mr. Saderis is not timely in that it affords insufficient notice.

8. LILCO requests that the Board expedite its consideration of this matter because of the lateness of the County's request to depose Mr. Sideris and the impending June 29 discovery cutoff.

Respectfully submitted,

LONG ISLAND LIGHTING COMPANY

By _____
Robert M. Rolfe
Anthony F. Earley, Jr.

Hunton & Williams
Post Office Box 1535
Richmond, Virginia 23212

DATED: June 21, 1984

Attachment A

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of LONG ISLAND LIGHTING COMPANY (Shoreham Nuclear Power Station, Unit 1)	Docket No. 50-322-OL-4 (Low Power)

SUFFOLK COUNTY'S SECOND DISCOVERY REQUEST TO LILCO RELATING TO LILCO'S APPLICATION FOR EXEMPTION

Suffolk County hereby requests that LILCO respond to the discovery requests set forth below. The definition of the term "document" as used herein and other instructions concerning the response to the requests which follow, are the same as that set forth on pages 1 and 2 of Attachment A of the letter dated April 11, 1984 from Douglas J. Scheidt to T.S. Ellis, III, a copy of which is attached hereto for convenience. The documents requested below are to be produced at the offices of Kirkpatrick, Lockhart, Hill, Christopher & Phillips, 1900 M Street, N.W., Washington, D.C., or at such other location as the parties may agree.

1. Identify all periodic financial reports prepared by LILCO since January 1, 1983 (such as, for example, financial statements, budgets, cash reports, cash flow analysis, and

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operations reports) and set forth, with respect to each such report, the distribution to which such a report is subject (such as, for example, to Board of Directors; Chief Executive Officer; Chief Financial Officer; members of senior management; treasurer's office; public filings; lending banks etc., and furnish a copy of the most current version of each such report.

2. Without limiting the generality of the request contained in paragraph 1 hereof, produce copies of the following (on a monthly basis for the period January 1, 1984 through December 31, 1985, and on an annual basis thereafter):

(a) All financial runs, reports, statements, analyses, and other documents which show actual and projected cashflow, revenues, expenses, capitalized costs and capital expenses incurred or projected to be incurred by LILCO in connection with the following for Shoreham:

(i) The acquisition, installation, and all activities required prior to full operation of Colt diesels;

(ii) The acquisition of materials, construction and all activities related thereto, of Colt diesel building;

(iii) All other construction activities relating to the Shoreham plant;

(iv) Accomplishing each of the phases of LILCO's proposed fair part low power testing program;

(v) Allowance for Funds Used in Construction ("AFUDC");

(vi) Personnel costs (whether expensed or capitalized);

(vii) Deferred assets; and

(viii) Post-completion capital.

(b) The balance sheet accounts for Shoreham, including gross plant, depreciation reserve, and deferred investment tax credit;

(c) Income statements and supporting tax computations for Shoreham;

(d) Electric, gas, and combined (electric and gas) income statements, supporting tax computations, balance sheets, cashflow statements, together with applicable input sections, payroll and employee count;

(e) Interest and dividend coverage computations.

3. Produce all documents constituting, analyzing, referring, or in any way relating to actual or projected impact on LILCO's cashflow and/or its financial condition, of any existing interim, future interim, or permanent rate relief.

4. Identify all financial or economic models used by LILCO since January 1, 1983 (such as, for example, "Decom") in making financial projections or forecasts of LILCO's operations based on various assumptions, and describe the input variables which are capable of being manipulated by each such model.

5. With respect to the "austerity plan" which LILCO reportedly implemented in February 1984:

(a) Produce all documents referring or in any way relating to the austerity plan including, without limitation, all drafts of the plan, any

predecessors to the plan, all accounting work papers and computer data concerning the plan or any of its predecessors, and all financial projections based on the austerity plan, or any draft or predecessor thereof;

(b) Please furnish, in pro forma tabular form, a detailed comparison of the results of LILCO's operations for each of its fiscal quarters since February 1, 1984, together with projected year-end results, showing the effect of the presence and absence of the austerity plan on the results of LILCO's operations. The resulting tables should be sufficiently detailed to permit the County, or its experts, to gauge the impact of the austerity plan on each line on LILCO's pro forma balance sheet, income statement, and statement of source and application of funds which is affected by the austerity plan.

(c) Identify each component of the austerity plan as the plan is now being implemented.

6. With respect to statements reportedly made by Dr. Catacosinos at the LILCO Annual Meeting of Shareholders:

(a) Produce all documents (including, without limitation, financial projections, supporting accounting work papers, and computer data) constituting, referring or in any way relating to Dr. Catacosinos' reported statements to the effect that LILCO would have a cash deficit of (i) $20 million on or about September 1, 1984, and (ii) $65 million by the end of the current calendar year.

(b) If the projected cash deficits referenced by Dr. Catacosinos already take into account the austerity plan which LILCO announced in February 1984, identify the size of the projected deficits in the absence of the implementation of the austerity plan, and provide copies of all documents relating to such projections.

(c) Identify every communication between any officer, director, employee, or other agent or representative of LILCO (including, without limitation, LILCO's accountants and attorneys) and any other person concerning the reported willingness of any financial institution to "step forward"

if LILCO asks them for help, and produce all documents constituting, referring or in any way relating to such reported willingness.

(d) Set forth LILCO's basis for believing that any lender would "step forward" were LILCO to ask for help, and identify each lender as to which LILCO has formed such a belief.

7. With respect to LILCO's current outstanding debt obligations, provide the following:

(a) Copies of all debt instruments, loan agreements, revolving credit agreements, stand-by credit facilities; term loans; trust indentures, trust agreements; mortgages, or other evidence of liens or encumbrances, together with any amendments, modifications, extensions or waivers relating to any of the foregoing, including, without limitation:

(i) All documents setting forth LILCO's "arrangements" with Tri-Counties Resources Trust ("Resources Trust") and Tri-Counties Construction Trust ("Construction Trust"),

as described in Note 4 to LILCO's audited financial statements for fiscal year ending December 31, 1983 ("Note 4");

(ii) The first mortgage securing the Company's "First Mortgage Bonds," and all loan documentation pertaining to such bonds;

(iii) The mortgage securing the Company's "General and Refunding Bonds" (the "G&R Mortgage"), and all loan documentation pertaining to such bonds;

(iv) The Revolving Credit Agreements of both the Resources Trust and the Construction Trust;

(v) The Revolving Credit Agreement referred to in Note 5 to the Company's audited 1983 financial statements ("Note 5"), and all documents pertaining to such an agreement;

(vi) The Eurodollar Revolving Credit Agreement referred to in Note 5, and all documents pertaining to such an agreement;

(vii) All documents pertaining to the "intermediate term notes" referred to in Note 5;

(viii) All documents pertaining to any unsecured short-term notes or commercial paper which LILCO may have issued since December 31, 1983.

(b) Identify each of the Company's lenders and the principal amount of debt outstanding to each such lender, including, without limitation:

(i) The banks who are lenders to

(A) The Resources Trust; and

(B) The Construction Trust

(ii) The trustees, if any, of the First Mortgage and the G&R Mortgage

(iii) The banks who are lenders under the Revolving Credit Agreement referred to in Note 5 to the Company's audited 1983 financial statements;

(iv) The banks who are lenders under the Eurodollar Revolving Credit Agreement referred to in Note 5;

(v) The banks who are lenders under the "intermediate term notes" referred to in Note 5.

(c) The amount of all debt outstanding, as of:

(i) December 31, 1983;

(ii) the most recent date for which such information is available.

8. With respect to such of LILCO's preferred stock oustanding which carries mandatory redemption features (e.g., Par Value $100 per share, Series L, M, Q, R, and S, and Par Value $25 per share, Series O, T, U, V and X), furnish copies of all documents which describe, set forth, or otherwise relate to the rights and preferences of the holders of such preferred stock.

9. Produce all documents constituting, referring or in any way relating to any communication between LILCO, or any of its agents or representatives (including, without limitation, its attorneys, accountants, consultants or experts)

and any of LILCO's lenders (including, without limitation, the persons whose identity is sought in paragraph 7 hereof) and their respective agents or representatives (including, without limitation, their attorneys, accountants, consultants or experts), since January 1, 1982 to date.

10. With respect to LILCO's participation in Nine Mile Point 2, produce all documents constituting, referring, or relating in any way to any agreements or understandings between LILCO and other cotenants in Nine Mile Point 2, including, without limitation:

(a) All documents referring or in any way relating to the suspension of payments by LILCO for construction of Nine Mile Point 2;

(b) All documents constituting, referring, or in any way relating to (i) the notification by Niagara Mohawk (or any other cotenant) that it considers the Company to be in default of its obligations to other cotenants (including all the documents constituting the alleged obligations); and (ii) Niagara Mohawk's (or any other cotenant's)

advice to the Company that it may institute litigation;

(c) All studies, analyses, reports, communications or other documents relating to any relationship between (i) LILCO's suspension of payments for Nine Mile Point 2, and (ii) LILCO's relationship with any of its creditors, or actions or responses by any such creditors;

(d) All documents constituting, referring or in any way relating to communications with other cotenants concerning LILCO's suspension of payments for Nine Mile Point 2.

11. Provide copies of all documents analyzing, discussing, referring or in any way relating to any voluntary or involuntary bankruptcy of LILCO including, without limitation, the effect of such a proceeding on LILCO's pending Application for Exemption, or all or any portion of its request for a low power license.

12. Unless otherwise being produced in response hereto, produce all documents constituting, referring or in any way relating to, the advice by the banks, referenced in

Note 4, that advances by LILCO to the Construction Trust in excess of the $500,000,000 advanced by the banks violated provisions of the Trust agreements referred to in Note 4, and provide the following information for the period January 1, 1983 to date:

(a) The amounts of all LILCO advances to the Construction Trusts;

(b) The dates on which each such advance was made; and

(c) The purpose for which each such advance was made.

13. With respect to the amendments to the Trust agreements referred to in Note 4, and unless otherwise being produced in response hereto, provide copies of: all documents constituting, referring or in any way relating to such amendments and provide the following information:

(a) With respect to each payment by either Trust of interest payments under the pertinent Credit Agreement, identify

(i) the amount of the payment;

(ii) the date of the payment; and

(iii) the source of funds used for the payment.

(b) Identify the date, the amount, and the source of funds for each payment of (i) interest and (ii) principal, which became due, or will become due, under the Revolving Credit Agreements for both Trusts for the period January 1, 1983 through December 31, 1985.

14. With respect to the amendments to the Trust agreements referred to in Note 4, provide copies of the following:

(a) All documents constituting, referring or relating in any way to any communications with or from any bank since April 27, 1984 concerning such amendments; and

(b) All documents constituting, referring or relating in any way to studies, analyses or reports concerning the relationship between any potential default under the Trust agreements and LILCO's relationships with any of its creditors.

15. With respect to the statements made by LILCO in its Position Paper dated May 30, 1984 (at pages 47-48), state the bases for, and provide copies of all documents constituting, referring or relating in any way to, any

studies, analyses or reports concerning the severity and breadth of the impact of a possible LILCO bankruptcy, including without limitation, the impact of such a possible bankruptcy on:

(a) The credit of utilities throughout New York, any possible higher financing costs, any possible higher prices of energy, and any possible higher costs of living and conducting business in New York State;

(b) Utilities outside New York;

(c) Alleged increases or interruption of services that consumers and businesses in Long Island would face;

(d) The credit of New York State, its municipalities and its agencies, as well as the allegedly resulting increase in borrowing costs of the State; and

(e) The allegedly precarious banking system and the allegedly national and worldwide implications LILCO contends would result.

16. With respect to LILCO's needs for financing during fiscal years ending 1984 and 1985, provide copies of the following:

(a) All documents constituting, referring, or relating in any way to such needs including, without limitation, internal LILCO communications as well as communications with any lending institutions, investment bankers, investment advisers, and any governmental agencies; and

(b) All documents constituting, referring or relating in any way to the relationship, if any, between LILCO's obtaining a low power license for all or any phases of LILCO's proposed low power testing program and its ability to obtain financing.

17. With respect to the statement in LILCO's Form 8-K dated February 21, 1984, that "the Company is evaluating the impact which any disallowance of the Shoreham costs will have on the Company's financial condition and operating results," produce all documents which constitute, refer or relate in any way to such an evaluation.

18. The LILCO Position Paper of May 30, 1984 (at page 35) states:

> "When the conclusions concerning Shoreham made by the PSC Staff for the Marburger Commission using a 60% capacity factor, are adjusted to 65% to achieve a valid comparison, the penalty for not operating Shoreham increases to $14.9 billion."

Please state the bases for such assertion and produce all studies, analyses, reports, computations, data, and other documents constituting, referring or relating in any way to such assertion.

19. With respect to the assumption contained in the Position Paper (at page 50), "that LILCO is relieved of its past and future obligation for Nine Mile Point 2 and that its cash investment in that plant is returned to the Company," provide copies of all documents constituting, referring or relating in any way to the potential assumption of LILCO's Nine Mile Point 2 obligations by any party other than LILCO.

20. With respect to the proposed settlement of the "prudency case," described in the May 30, 1984 Position Paper (at pages 50-51), state LILCO's bases for the conclusion that "LILCO arrived at this amount after careful assessment of the contribution the Company could make toward rate reduction considering the phase-in time and the rate increases proposed in this paper," and provide copies of all documents constituting, referring or in any way relating to the referenced "assessment".

21. Identify the number of full-time employee equivalents at Shoreham, by job title and employment shifts, necessary, or assumed to be available, to accomplish each of the four phases of low power testing identified in LILCO's Application for Exemption.

22. State the time at which, and the extent to which, LILCO began, or intends to commence, expensing (as opposed to capitalizing) personnel and other costs associated with Shoreham.

23. With respect to each of the four phases described in LILCO's Application for Exemption, identify:

(a) the monthly cashflow, capital expenditures and other expenses associated with each phase;

(b) the anticipated re-sale value of nuclear fuel assemblies were Shoreham to be abandoned at the end of each phase; and

(c) the cost, in real 1984 dollars, of decommissioning Shoreham at the end of each phase, and provide copies of all documents relating to the information sought in (a), (b), or (c).

24. LILCO's May 30, 1984 Position Paper (at p. 46) states that the "effects of LILCO's financial crisis are being suffered . . . by its customers, who are subject to longer service response times and reduced customer service under the austerity plan; . . ." State the basis for LILCO's assertion that its customers are being subjected to (a) longer service response times; and (b) reduced service, and provide copies of all documents constituting, referring or relating in any way to the effect of the austerity plan on (a) longer service response time; and (b) reduced service, or the relationship between the austerity program and (a) and (b).

25. Provide copies of all documents constituting, referring or relating in any way to:

(a) The purchase, sale, offer of purchase or sale of LILCO's gas system by Brooklyn Union Gas or any other person;

(b) The purchase, sale, or offers of purchase or sale of any other LILCO assets, during the period January 1, 1984 to date; and

(c) LILCO's suspension of property tax payments with respect to Shoreham.

26. Provide the following information as of January 1, 1982, and December 31, 1982:

(a) Anticipated completion date and cost (construction, AFUDC, total) for Shoreham.

(b) Anticipated completion date and LILCO share of the total cost for Nine Mile Point 2 (construction, AFUDC, total).

(c) Bond rating of LILCO.

(d) Cumulative-to-date expenditures for Shoreham (construction, AFUDC, total).

(e) Cumulative-to-date expenditures for Nine Mile Point 2 (construction, AFUDC, total).

(f) Capacity to issue additional long-term debt and preferred stock, based on coverage limitations.

(g) Common stock price and dividend payment rate.

27. Identify by name and title each officer (including each Vice President) and director of LILCO since January 1,

1983, to date, including date of office and, in the case of termination or resignation, the reason(s) therefor.

28. Provide copies of all insurance policies, agreements or other sources of financial protection, upon which LILCO relies for asserted compliance with 10 C.F.R. Part 140.

Respectfully submitted,

Martin Bradley Ashare
Suffolk County Department of Law
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Hauppauge, New York, 11788

Lawrence Coe Lanpher
Karla J. Letsche
Cherif Sedky

KIRKPATRICK, LOCKHART, HILL
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Attorneys for Suffolk County

DATED: June 11, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
LONG ISLAND LIGHTING COMPANY	)	Docket No. 50-322-OL-4 (Low Power)
(Shoreham Nuclear Power Station, Unit 1)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of Suffolk County's Second Discovery Request to LILCO Relating to LILCO's Application for Exemption have been served on the following this 11th day of June, 1984, by U.S. mail, first class, except as otherwise noted below.

Judge Marshall E. Miller, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Judge Glenn O. Bright
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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CHRISTOPHER & PHILLIPS
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Washington, D.C. 20036

DATE: June 11, 1984

ATTACHMENT A

The County hereby requests LILCO to produce the documents listed below. For purposes of this request, the word "documents" is to be given its broadest meaning to include, without limitation, correspondence, memoranda, reports, notes, computer printouts and other forms of written data and material, all whether in draft or final form. Furthermore,

(i) If a document has been prepared in several copies, or additional copies have been made that are not identical (or are no longer identical by reason of any subsequent notation on or other modification of a copy), each nonidentical copy is to be construed as a separate document if the notations or other modifications thereon are significant to the substance of the document. Identical copies need not be supplied.

(ii) If any document covered by these requests is withheld under a claim of privilege, furnish a list of such document(s) with the following information: data, author, addressee or recipient, persons to whom copies were furnished, subject matter, the privilege which is claimed, and the request which call for such document(s).

(iii) If any requested document was but is no longer in your possession or subject to your control, state what disposition was made of it.

Unless expressly limited, documents to be produced include not only those in the possession or subject to the control of LILCO, but also documents in the possession or subject to the control of LILCO's consultants, persons under contract with LILCO and vendors of equipment or services to LILCO.

ATTACHMENT B

LILCO, June 19, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
LONG ISLAND LIGHTING COMPANY	)	Docket No. 50-322-OL-4
	)	(Low Power)
(Shoreham Nuclear Power Station, Unit 1)	)	
	)	

OBJECTIONS TO SUFFOLK COUNTY'S
SECOND DISCOVERY REQUEST TO LILCO
RELATING TO LILCO'S APPLICATION FOR EXEMPTION

Long Island Lighting Company (LILCO), by counsel, objects as follows to Suffolk County's Second Discovery Request to LILCO Relating to LILCO's Application for Exemption (the Second Discovery Request).

1. In its Memorandum and Order Scheduling Hearing on LILCO's Supplemental Motion for Low-Power Operating License dated April 6, 1984, at page 16, the Licensing Board directed that discovery in this case consist of document requests and depositions only. It prohibited the use of interrogatories. Accordingly, to the extent that the Second Discovery Request seeks information not contained in documents properly discoverable from LILCO, they are interrogatories and beyond the scope of the permitted discovery in this proceeding.

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2. LILCO objects to all of the requests as not relevant to the subject matter of this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. The requests may be generally characterized as seeking all financial and/or economic information concerning LILCO's operations, cash flow and financial health. They appear to be calculated to address the question of LILCO's financial qualifications to operate the plant, whether it is prudent to engage in low power testing absent assurance that a full power license will be granted and possible uncertainties concerning LILCO's financial health. These matters bear no relevance to LILCO's exemption request and are not relevant to any unresolved contentions concerning LILCO's request for a low power license. The Partial Initial Decision in this proceeding has already determined that LILCO would be entitled to commence low power testing but for resolution of the diesel generator issue. The requested exemption would merely allow LILCO to commence low power testing prior to resolution of the diesel generator issue. Thus, there is no question as to whether low power testing ought to be allowed at all or concerning LILCO's financial qualifications to engage in it. See Financial Qualification Statement of Policy, 49 Fed. Reg. 24111 (June 12, 1984). Moreover, the Commission has on at least two occasions

held that any uncertainty attendant to whether LILCO may receive a full power license for Shoreham does not preclude low power testing. Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), CLI-84-9, 19 NRC ___ (1984); Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), CLI-83-17, 17 NRC 1032 (1983).

3. The discovery requests are burdensome and oppressive.

(a) The number of documents requested is voluminous. Preliminary estimates indicate that more than 500 manhours would be required to search for and produce the documents requested. For requests 2 and 7 alone, it is estimated that a five-foot high stack of documents would have to be produced. Additional details concerning their number and location will be provided, if necessary. In the interest of expediting this response, however, LILCO is filing it before having complete details. Nevertheless, given the lack of relevance and materiality of these requests, such an extensive effort to research and produce these documents is unwarranted.

(b) It will further be unduly burdensome to produce all copies and drafts of the voluminous number of documents requested.

(c) It will also be unduly burdensome and oppressive to supply all documents "in the possession or subject to the control of LILCO's consultants, persons under contract with LILCO and vendors of equipment or services to LILCO." The number of such potential vendors and consultants might be large with respect to the subject matter of the requests.

4. Additionally and alternatively, LILCO objects to the production of any documents that subject to the work-product, trial preparation or attorney-client privileges. If LILCO's other objections are overruled and documents are produced, LILCO will identify those withheld as privileged at that time.

5. The Second Discovery Request is not timely. It was sent to LILCO by Federal Express on June 11 and, accordingly, LILCO's responses would not be due until after the close of discovery.

Respectfully submitted,

LONG ISLAND LIGHTING COMPANY

By _____
Robert M. Rolfe
Anthony F. Earley, Jr.

Hunton & Williams
Post Office Box 1535
Richmond, Virginia 23212

DATED: June 19, 1984

Attachment C

KIRKPATRICK, LOCKHART, HILL, CHRISTOPHER & PHILLIPS
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June 20, 1984

WRITER'S DIRECT DIAL NUMBER
(202) 452-7027

VIA TELECOPIER

Robert M. Rolfe, Esq.
Hunton & Williams
P.O. Box 1535
707 East Main Street
Richmond, VA 23212

Dear Bob:

We received today LILCO's Objections to Suffolk County's Second Discovery Request to LILCO Relating to LILCO's Application for Exemption (the "Objections"). The Objections state that "to the extent that the Second Discovery Request seeks information not contained in documents properly discoverable from LILCO, they are interrogatories and beyond the scope of the permitted discovery in this proceeding." (Objections, 1). We will be responding separately to your Objections.

In our view, the information sought in the Second Discovery Request is relevant to the "public interest" criterion which LILCO must meet in its pending Application for Exemption. We thought it would be easier for LILCO to respond to written requests for information than to require its management to become subject to deposition examination.

In light of LILCO's position concerning the "interrogatories," however, Suffolk County has determined to take the deposition of George J. Sideris, LILCO's principal financial officer. Furthermore, in order to be able to complete discovery by July 29, 1984, it is essential that Mr. Sideris' deposition commence on Thursday, July 21, Friday, July 22, or Monday, July 25. Suffolk County will need the time between July 25 and July 29 to obtain additional discovery of LILCO witnesses, if necessary as a

result of Mr. Sideris' testimony, or to access the licensing board, if necessary.

Please advise us by the close of business today whether LILCO will produce voluntarily Mr. Sideris on one of the days enumerated above. In the absence of hearing from you, we will have no recourse but to subpoena Mr. Sideris for a day of our choosing.

Sincerely yours,

Cherif Sedky

LILCO, June 21, 1984

CERTIFICATE OF SERVICE

'84 JUN 25 P12:12

In the Matter of
LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Power Station, Unit 1)
Docket No. 50-322-OL-4 (Low Power)

I hereby certify that copies of MOTION FOR PROTECTIVE ORDER were served this date upon the following by U.S. mail, first-class, postage prepaid, and in addition by hand (as indicated by one asterisk) or by Federal Express (as indicated by two asterisks).

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Atomic Safety and Licensing Board
U.S. NRC
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Fourth Floor (North Tower)
Bethesda, Maryland 20814

Judge Glenn O. Bright*
Atomic Safety and Licensing Board
U.S. NRC
4350 East-West Highway
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Judge Elizabeth B. Johnson**
Oak Ridge National Laboratory
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DATED: June 21, 1984